



Common Sense Initiative

Mike DeWine, *Governor*
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

MEMORANDUM

TO: Jeffrey Jones, Public Utilities Commission of Ohio

FROM: Michael Bender, Business Advocate

DATE: April 18, 2024

RE: CSI Review – Governmental Aggregation (OAC 4901:1-28-01, 4901:1-28-02, 4901:1-28-03, 4901:1-28-04, and 4901:1-28-05)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Commission as provided for in ORC 107.54.

Analysis

This rule package consists of two amended rules and three no-change rules proposed by the Public Utilities Commission of Ohio (PUCO) as part of the statutory five-year review process. This rule package was submitted to the CSI Office on September 8, 2021, and the public comment period was held open through October 22, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on September 8, 2021. The PUCO issued its Finding and Order for this rule package on February 21, 2024, and finalized its determination on April 17, 2024.

Ohio Administrative Code (OAC) 4901:1-28-01 specifies the definitions pertaining to governmental aggregation. Originally submitted as a no-change rule, the rule is amended to update language. OAC 4901:1-28-02 states that the rules in the chapter apply to a governmental aggregator's formation and operation of an opt-out governmental aggregation and to cooperation between natural gas companies and governmental aggregators. OAC 4901:1-28-03 provides for the process for the formation and operation of an opt-out governmental aggregation and the requirements for the adoption of an

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operation and governance plan by a governmental aggregator. OAC 4901:1-28-04 requires a governmental aggregator to provide opt-out disclosure notices to each eligible customer prior to including them in an aggregation and specifies the content of such notices. OAC 4901:1-28-05 provides for the cooperation between certified governmental aggregators, natural gas companies, and retail natural gas suppliers in the formation and functioning of governmental aggregations. Originally submitted as a no-change rule, the rule is amended to update language.

During early stakeholder outreach, the PUCO held a workshop on October 3, 2017, for interested stakeholders and the public to provide feedback on OAC 4901:1-28. Various stakeholders offered comments on OAC 4901:1-28, however no changes were made to the rules by the PUCO. During the CSI public comment period, the PUCO received comments from the Citizens' Utility Board of Ohio, Interstate Gas Supply, Inc. (IGS), the Retail Energy Supply Association (RESA), Constellation New Energy Inc. and Constellation NewEnergy – Gas Division, LLC, Industrial Energy Users – Ohio, Energy Harbor LLC, the Ohio Consumers' Counsel (OCC), SouthStar Energy Services LLC (SouthStar), Ohio Rural Electric Cooperatives, Inc., Mission:data Coalition, Columbia Gas of Ohio, Inc., the Northeast Ohio Public Energy Council (NOPEC), SFE Energy Ohio, Inc., Statewise Energy Ohio, Inc., the East Ohio Gas Company dba Dominion Energy Ohio (Dominion), the Ohio Power Company dba AEP Ohio, AEP Energy, Inc., as well as Reliant Energy Northwest LLC, Direct Energy Business Marketing LLC, Direct Energy Services LLC, XOOM Energy Ohio, LLC, Stream Ohio Gas & Electric, LLC, Energy Plus Holdings LLC, Energy Plus Natural Gas LLC, Green Mountain Energy Company, and Independence Energy Group LLC (collectively, the NRG Suppliers). Many commenters, specifically RESA, SouthStar, IGS, AEP Ohio, Dominion, NOPEC, OCC, and the NRG Suppliers, requested that the PUCO improve consistency between competitive retail electric service and competitive retail natural gas service rules. The PUCO assured the commenters that it would attempt to achieve further consistency between such rules in subsequent rulemaking. The PUCO rejected suggestions by commenters for changes that it considered to be outside the scope of the review but revised the rules to update language.

The business community impacted by the rules includes natural gas companies, retail natural gas suppliers, and governmental aggregators. The adverse impacts created by the rules include the time and resources used to formulate an operations and governance plan, the costs associated with providing information to governmental aggregators in order to provide written opt-out disclosure notices to eligible customers, and the costs associated with distributing such notices. The PUCO states that the adverse impacts to business are justified to establish standards required by ORC 4929.27 for establishing government aggregation and to amplify the requirements of ORC 4929.26 for ordinances and resolutions for automatic aggregation.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.