



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: May 6, 2024

RE: **CSI Review – Alternative Rate Plan; Exemptions (OAC 4901:1-19-01 through 4901:1-19-15)**

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 five amended rules and ten 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 January 24, 2024, and the public comment period was held open through March 8, 2024. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on January 24, 2024.

Ohio Administrative Code (OAC) 4901:1-19-01 contains definitions pertaining to alternative rate plans. OAC 4901:1-19-02 establishes the purpose and scope of the chapter as it relates to the exemption of natural gas company's commodity sales service or ancillary service from certain rules and statutory provisions, a natural gas company's exit from the merchant function, and a natural gas company's alternative rate plan. OAC 4901:1-19-03 outlines the filing requirements for an exemption application by a natural gas company. The rule is amended to update language. OAC 4901:1-19-04 establishes procedures for the consideration by the PUCO of a natural gas company's exemption application. OAC 4901:1-19-05 outlines the filing requirements for an application by a natural gas

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company to exit the merchant function and establishes procedures for the consideration by the PUCO of such an application. The rule is amended to update language and grammar. OAC 4901:1-19-06 outlines the filing requirements for an alternative rate plan application by a natural gas company. The rule is amended to update language as well as require an applicant to identify the ORC section(s) under which the application is filed and how the application complies with the section(s). OAC 4901:1-19-07 establishes procedures for the consideration by the PUCO of a natural gas company's alternative rate plan application.

OAC 4901:1-19-08 requires a natural gas company, upon issuance of a PUCO order granting approval of an application, to either file a notice of intent to implement or withdraw the application. The rule is amended to remove a provision that would consider failure to file a notice of intent to implement to be a withdrawal of an application. OAC 4901:1-19-09 provides for the implementation of an exit-the-merchant-function plan. OAC 4901:1-19-10 establishes consumer protections when retail natural gas suppliers are assigned choice-eligible customers due to exemptions and exit-the-merchant-function plans. OAC 4901:1-19-11 authorizes the PUCO to abrogate or modify an order granting an exemption, exit-the-merchant-function plan, or alternative rate plan under certain conditions. OAC 4901:1-19-12 authorizes the PUCO to request that a natural gas company provide progress reports during the term of its authorized alternative rate plan. OAC 4901:1-19-13 explains that a natural gas company's alternative rate plan to initiate or continue a revenue decoupling mechanism is considered an application not for an increase in rates if certain conditions are met. OAC 4901:1-19-14 declares that nothing in the chapter's rules limits the ability of the PUCO to obtain information deemed appropriate to monitor compliance with its orders or carry out its statutory responsibilities. OAC 4901:1-19-15 authorizes the PUCO to assess the costs of hearings or investigations upon non-consenting applicants and to prescribe such costs, restrictions, or other enforcement measures deemed necessary. The rule is amended to update language.

During early stakeholder outreach, the PUCO issued an Entry in Case No. 23-736-GA-ORD to seek feedback from interested parties and the public on the rules at a workshop held at its offices. The Entry was served upon regulated natural gas companies, pipeline companies, certified retail natural gas service suppliers, the Ohio Gas Association, the Ohio Petroleum Council, the Ohio Oil and Gas Association, the Ohio Consumers' Counsel, and the PUCO's gas-pipeline industry listserv. Several stakeholders attended the workshop, but none provided input at that time. No comments were received during the CSI public comment period.

The business community impacted by the rules includes natural gas companies. The adverse impacts created by the rules include the time and costs associated with filing requirements, complying with PUCO procedures and consumer protections, submitting progress reports and other information, hearings, investigations, and enforcement measures. According to the PUCO, the adverse impacts in most instances should be minimal. The PUCO states that the adverse impacts to business are justified

to implement statutory requirements and to provide a clear and consistent process for the filing of applications for exemptions, exit-the-merchant-function plans, and alternative rate plans.

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.