



Ohio Administrative Code

Rule 4901:1-38-03 Economic development arrangements.

Effective: July 25, 2021

(A) An electric utility, mercantile customer, or group of mercantile customers of an electric utility may file an application for commission approval for an economic development arrangement between the electric utility and a new or expanding customer or group of customers. The application shall include a copy of the proposed arrangement and provide information on all associated incentives, estimated annual electric billings without incentives for the term of the incentives, and annual estimated delta revenues for the term of the incentives.

(1) Each customer requesting to take service pursuant to an economic development arrangement with the electric utility shall describe the general status of the customer in the community and how such arrangement furthers the policy of the state of Ohio embodied in section 4928.02 of the Revised Code.

(2) The commission will consider the following verifiable information, submitted by each customer to the electric utility and the Commission, when analyzing an application under this section.

(a) The customer's business is acutely energy intensive or has a distinct energy profile.

(b) The customer has made a commitment to investing in Ohio either in a new investment or support of a new industry.

(c) Eligible projects will be for non-retail purposes.

(d) The economic impact of the customer's project on the region is expected to be significant and create or retain jobs. The average hourly base wage rate of the new, full-time or full-time equivalent jobs will be at least one hundred fifty per cent of the federal minimum wage.

(e) The customer has explored or taken advantage of other opportunities for both non-energy related operational savings such as basic cost management and energy related operational savings such as



shopping for or self-generating electricity, energy efficiency, and participation in utility or regional transmission organizations' conservation or reliability programs.

(f) The charges paid to the utility cover all incremental costs of service and contribute to the payment of fixed costs.

(g) The benefits to the community accruing from the project outweigh the costs imposed on the other retail customers because of the reasonable arrangement.

(h) The arrangement is for a set term.

(i) The customer demonstrates financial viability.

(j) The customer identifies local (city, county), state, or federal support in the form of tax abatements or credits, jobs programs, or other incentives.

(k) The customer identifies potential secondary and tertiary benefits resulting from its project including, but not limited to, local/state tax dollars and related employment or business opportunities resulting from the location of the facility.

(l) The customer agrees to maintain operations at the project site for the term of the incentives.

(3) An electric utility and/or mercantile customer or group of mercantile customers filing an application for commission approval of an economic development arrangement bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code, and shall submit to the commission verifiable information detailing the rationale for the arrangement and an affidavit from a company official as to the veracity of the information provided in the application.

(B) An electric utility, mercantile customer, or group of mercantile customers of an electric utility may file an application for an economic development arrangement between the electric utility and its customer or group of customers for the retention of an existing customer(s) likely to cease or reduce its operations, or relocate them out of state. The application shall include a copy of the proposed



arrangement and provide information on all associated incentives, estimated annual electric billings without incentives for the term of the incentives, and annual estimated delta revenues for the term of the incentives.

(1) Each customer requesting to take service pursuant to an economic development arrangement with the electric utility shall describe the general status of the customer in the community and how such arrangement furthers the policy of the state of Ohio embodied in section 4928.02 of the Revised Code.

(2) The commission will consider the following verifiable information, submitted by each customer to the electric utility and the Commission, when analyzing an application under this section.

(a) The customer's business is acutely energy intensive or has a distinct energy profile.

(b) The customer has made a commitment to investing in Ohio either in a new investment or support of a new industry.

(c) Eligible projects will be for non-retail purposes.

(d) The economic impact of the customer's project on the region is expected to be significant and will create or retain jobs. The average hourly base wage rate of the new, full-time or full-time equivalent jobs will be at least one hundred fifty percent of the federal minimum wage.

(e) The customer has explored or taken advantage of other opportunities for both non-energy related operational savings such as basic cost management and energy related operational savings such as shopping for or self-generating electricity, energy efficiency, and participation in utility or regional transmission organizations' conservation or reliability programs.

(f) The charges paid to the utility cover all incremental costs of service and contribute to the payment of fixed costs.

(g) The benefits to the community accruing from the project outweigh the costs imposed on the other retail customers because of the reasonable arrangement.



(h) The arrangement is for a set term.

(i) The average billing load (in kilowatts to be retained) will be at least two hundred fifty kilowatts.

(j) The customer demonstrates that the cost of electricity is a major factor in its decision to cease, reduce, or relocate its operations to an out-of-state site. In-state relocations are not eligible. If the customer has the potential to relocate to an out-of-state site, the site(s) will be identified, along with the expected costs of electricity at the site(s) and the expected costs of other significant expenses including, but not limited to, labor and taxes.

(k) The customer identifies any other local, state, or federal assistance sought and/or received in order to maintain its current operations.

(l) The customer agrees to maintain its current operations for the term of the incentives.

(3) An electric utility and/or mercantile customer or group of mercantile customers filing an application for commission approval of an economic development arrangement bears the burden of proof that the proposed arrangement is reasonable and does not violate the provisions of sections 4905.33 and 4905.35 of the Revised Code, and shall submit to the commission verifiable information detailing the rationale for the arrangement and an affidavit from a company official as to the veracity of the information provided in the application.

(C) Upon the filing of an economic development application, the commission may fix a time and place for a hearing if the application appears to be unjust or unreasonable.

(1) The economic development arrangement shall be subject to change, alteration, or modification by the commission.

(2) The staff shall have access to all customer and electric utility information related to service provided pursuant to the economic development arrangements.

(D) Customer information provided to demonstrate eligibility under paragraphs (A) and (B) of this



rule shall be treated by the electric utility as confidential. The electric utility shall request confidential treatment of customer-specific information that is filed with the commission, with the exception of customer names and addresses.

(E) Affected parties may file a motion to intervene and file comments and objections to any application filed under this rule within twenty days of the date of the filing of the application.