

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of its Rules for the Establishment of)
Credit for Residential Utility Services and)
the Disconnection of Gas, Natural Gas, or)
Electric Services to Residential Customers)
Contained in Chapters 4901:1-17 and)
4901:1-18 of the Ohio Administrative)
Code.)

Case No. 13-274-EL-ORD

COMMENTS OF DUKE ENERGY OHIO, INC.

Pursuant to the Public Utilities Commission of Ohio's (Commission), Entry of June 11, 2013, in this proceeding, the Commission initiated this docket to consider changes to rules contained in Chapters 4901:1-17 and 4901:1-18 of the Ohio Administrative Code, (O.A.C.). At the same time, the Ohio Development Services Agency (ODSA) proposed to change rules contained in Chapter 122:5-3, O.A.C. The Commission's Entry invited comments from interested parties on proposed changes to both sets of rules. Duke Energy Ohio, Inc. (Duke Energy Ohio) hereby submits its Comments below.

In addition to the reference to the Commission's legal requirements for rule review and comment, the Commission's Entry refers to the January 10, 2011 Executive Order, signed by the Governor of the state of Ohio that sets forth factors to be considered in the promulgation of rules and the review of existing rules. Among these factors is the cost of compliance by regulated parties. Duke Energy Ohio is a unique utility in the state of Ohio in that it provides services to both gas and electric customers. To the extent there are disparities between similar rules

addressing similar subjects, including those that address the Percentage of Income Payment Plan program (PIPP), compliance is sometimes impossible without a waiver from one of the agencies. Additionally, any changes to billing systems made necessary by new or revised rules can be enormously time consuming and costly. Subsequent to the changes made to these same rules in 2010, the Company incurred very significant costs to implement system changes. Thus, Duke Energy Ohio respectfully asks the Commission and the ODSA to give careful consideration to any proposed changes. Such changes should provide significant benefits to customers in order to warrant significant investment by regulated parties where such investment will be required. Implementation of the PIPP program, while valuable to Ohio customers, is labor intensive, complex, and costly to execute as presently designed. Changes or additional layers of complexity could render the program more costly than is warranted to achieve the intended benefits.

SECTION I –PIPP PLUS RULES

Rule 4901:1-18-01, O.A.C., Definitions

(O) "Like account" means any accounts in the same customer's name providing the same tariffed service rate class. PIPP Plus accounts may not be considered like accounts.

This definition requires additional clarification. It is unclear how this new definition will impact customers who live in a residence that has multiple meters and is considered one household (related accounts).

(P) "On-time payment" means for the purpose of applying incentive credits, a PIPP Plus installment received by the gas or natural gas company prior to the date that the next bill is issued.

It appears that the Staff is proposing to make this payment rule consistent with the one contained in rules administered by Ohio Development Services Agency, (ODSA), Rule 122:5-3-01 which states: "On-time payment" means, for purposes of these rules and arrearage crediting, a

PIPP Plus installment received by the electric distribution utility prior to the date that the next bill for electric service is issued.” While Duke Energy Ohio generally supports the concept of creating consistency between the two Agencies, Duke Energy Ohio is uniquely positioned in Ohio as the only combined gas and electric distribution utility. As a result, Duke Energy Ohio sought, and was granted a waiver from the ODSA, Rule 122:5-3-01 and was following the Commission’s Rule. To the extent the Commission determines to change its definition to that of the ODSA, Duke Energy Ohio will necessarily require a new waiver to continue compliance with one of the Agencies. Duke Energy Ohio currently complies by construing the “on-time payment” as being the actual due date of the bill. This is the date which all customers use to determine if they will be assessed a late fee. PIPP Plus customers are not assessed late fees. However, requiring payment on or before the due date of the bill educates customers as to the requirements they will need to meet after they leave the PIPP Plus program. To the extent Duke Energy Ohio is required to change practices, the Company will need to revise its billing practices, which will take some time and require investment in IT support.

Rule 4901:1-18-12 (D)(3) Percentage of Income Payment Plan program Plus eligibility for gas utility service

The changes proposed for Rule 122:5-3-02(D), appear to suggest that a utility will be required to create charges to customers for months when the customer has not received service. This seems unfair to the customer and the enactment of such a requirement will require significant system changes for Duke Energy Ohio. The Company is not able to create an installment payment for a month when there is no usage or active service for a customer. Additionally, Duke Energy Ohio requests that the Commission clarify whether all remove reasons will necessitate usage charges for the time the customer is not on PIPP Plus program.

Rule 4901:1-18-13, O.A.C., Payment requirements for percentage of income payment plan plus customers

Clarification is requested with respect to proposed changes to section (C) of this rule to explain what type of payment is considered a monthly “utility allowance”. Duke Energy Ohio’s payment algorithm will apply credit to the oldest receivable that is most likely the PIPP installment for a PIPP customer, but not necessarily. Additionally, this proposed change will cause possible system changes for the Company and may require significant delay and costs for implementation.

Rule 4901:1-18-14, O.A.C., Incentive programs for percentage of income payment plan plus and graduate percentage of income payment plan plus customers.

This rule refers again to “on-time” payments. Duke Energy Ohio recommends that such change be omitted. To the extent the Commission seeks to define this term otherwise, and not require payment by the due date on the bill, it sets a poor precedent for when the customer leaves the PIPP Plus program and will then be subject to normal late fees when the customer does not pay by the due date on the bill.

Duke Energy Ohio also seeks clarification with regard to incentive credits. At present, the Company does not apply arrears or delta incentive credits that will result in a customer credit balance. When the customer’s arrears reach zero, no more incentive credits are applied so that no credit balance is created.

Additionally, Duke Energy Ohio requests clarification with respect to whether or not graduate PIPP credits are to be applied to a gas rider whereas regular PIPP Plus credits are to be refunded to the electric customer? If they are to be handled differently, this will require a system change implementation for the Company.

Rule 4901:1-18-15, O.A.C., General percentage of income payment plan plus provisions.

Proposed changes to this rule are subject to significant differences in interpretation that should be addressed. The time frames applicable to the rule are left unspecified. It would be administratively burdensome and possibly impossible under certain circumstances to follow a customer for multiple years, multiple addresses and different types of service in order to calculate what the customer owes.

Also, it is unclear whether there is a regulatory distinction between voluntarily leaving the PIPP program and being removed for other reasons. Clarification of this distinction, if one is intended, would be necessary.

With respect to section (G) of this rule that addresses Post PIPP Plus, if the customer is not active on Post PIPP Plus until prior utility arrears are paid in full, the customer is not billed after their final bill is generated. Therefore, there is no due date by which payments would be due. Clarification of total accumulated arrearage is needed: Is this strictly PIPP Plus arrearage?

Rule 4901:1-18-17, O.A.C., Removal from or termination of customer participation in the percentage of income payment plan plus

Proposed provisions in Section (C) of this rule requires that the customer shall be required to pay the income based payments made and the actual bill amount and to pay any arrearage credits accrued for timely payments during the period the customer was fraudulently enrolled in PIPP Plus and/or graduate PIPP Plus. This sentence adds confusion and requires clarification. The current Rule 4901:1-18-16 states that the difference between the income based payment and the actual bill should be used. Thus the proper calculation is now unclear.

Further in Section (C), regarding the sentence that states:

“The customer shall not be eligible to participate in PIPP Plus, graduate PIPP Plus, or to receive any other benefits available to PIPP Plus customers or graduate PIPP Plus customers for twenty-four months from when the customer is removed from PIPP Plus or graduate PIPP Plus *and* until any demand for restitution is satisfied.”

Duke Energy Ohio requests that the Commission clarify the application of the word “and” in this sentence. Is the customer required to be off PIPP Plus for twenty-four months AND make restitution, or may the customer re-enroll immediately after paying restitution? Also, who will monitor the twenty-four month non-eligibility timeframe? If Duke Energy Ohio is required to block re-enrollment, it will require changes to the OCEAN application. This rule causes a timeframe and a data retention issue.

Rule 122:5-3-02 (H)(1)(a), O.A.C., Criteria for customer eligibility

Changes to this rule will necessitate changes in reporting for Duke Energy Ohio. It is unclear whether such reporting changes can be implemented immediately.

Additionally, the Company cannot create charges for customers during months when the customer is not using utility services as noted above.

Finally, if a customer has a small installment charge and has made payments in excess of the installment charge, the customer can end up with a credit amount that is applied toward future installments and not arrears. The customer receives incentive credits for those arrears and is not required to make any installment payments until the credit is reduced to an amount less than the installment.

With respect to provision (b)(i) and (b)(ii) of this proposed rule, Duke Energy Ohio respectfully requests that this process remain within the Ohio Development Services Agency responsibility. The ODSA is the administrator of the PIPP Plus program and this customer data is provided to ODSA on a monthly basis via the CIR Report. Duke Energy Ohio does not have

systems in place to create letters of notification and the ability to monitor customer accounts to comply with this new proposed requirement.

This is proposed change in notifications would also require a new drop reason, that would also require changes to the OCEAN application. It would require system changes to accommodate charging usage and not the installment for the months the customer was on the PIPP Plus program.

Rule 122:5-3-02 (H)(1)(c) and(d), O.A.C., Eligibility following default or disconnection

Provisions (c) and (d) of this rule suggests disparate treatment for customers depending on whether the customer leaves voluntarily or is being removed for failure to reverify. Customers should generally, where appropriate, be held responsible for that customer's usage regardless. It is unclear why a distinction is proposed here.

Also, the Chapter 4901:1-18, O.A.C. rule, and this rule seem to be at odds in that the electric rule proposes that the current installment be paid at the time of re-enrollment, whereas the gas rule does not. It is optimal to align both rules, particularly for Duke Energy Ohio as the Company serves both gas and electric customers.

Rule 122:5-03-02 (H)(2)(I), O.A.C.

With respect to proposed changes to this rule, Duke Energy Ohio requests clarification with regard to whether the customer is required to be off PIPP Plus for twenty-four months AND make restitution, or may the customer re-enroll immediately after paying restitution? Also, who will monitor the twenty-four month non-eligibility timeframe? If Duke Energy Ohio is required to block re-enrollment, it will require changes to the OCEAN application. This rule causes a timeframe and a data retention issue.

Rule 122:5-3-03 (C), O.A.C., Continuing eligibility

Section (1) of this rule again refers to creating a PIPP Plus installment charge for customers when they are not receiving service. This is not a viable option for Duke Energy Ohio and implementation of this rule will not be possible absent significant system changes, if at all. Likewise, it seems unjust to impose a PIPP installment on a customer during months when the customer is not receiving utility services.

Clarification is also needed with respect to the phrase: “Not meeting the terms of the program.” Will all remove reasons be required to pay usage charges for the time they are off the PIPP Plus program? Do PIPP Plus installments and PIPP Plus payments have the same meaning?

Rule 122:5-3-04 (A)(3), O.A.C. Payment and crediting arrangements and responsibilities

Provisions of this rule state that a customer’s overpayment should be applied to the customer’s arrearage. However Rule 4901:1-18-13, O.A.C., states that overpayment should be applied to future installments. Thus there appears to be an inherent conflict between the two rules that requires clarification.

Rule 122:5-3-04 (A)(2), O.A.C., Customer Payments (Zero income eliminated)

With respect to this rule, Duke Energy Ohio requests clarification as to whether or not the utility should reject the record if it comes with a zero installment. If this is the intended result, this too will require system changes for Duke Energy Ohio.

Rule 122:5-3-04 (B)(3), (4) and (6), O.A.C. Customer arrearages

Proposed changes to this rule mirror those proposed in Chapter 4901:1-18 in that they speak to arrearage credits. As noted previously clarification is needed with respect to these proposed changes. At present, the Company does not apply arrears or delta incentive credits that

will result in a customer credit balance. When the customer's arrears reach zero, no more incentive credits are applied so that no credit balance is created.

Rule 122:5-3-04 (B)(5)(c), O.A.C., Customer arrearages

Duke Energy Ohio's comments with respect to proposed changes to this rule are the same as its comments to Rule 4901:1-18-15, O.A.C. The time frames applicable to the rule are left unspecified. It would be administratively burdensome and possibly impossible under certain circumstances to follow a customer for multiple years, multiple addresses and different types of service in order to calculate what the customer owes.

Also, it is unclear whether there is a regulatory distinction between voluntarily leaving the PIPP program and being removed for other reasons. Clarification of this distinction, if one is intended, would be necessary.

Rule 122:5-3-04 (B)(5), O.A.C., Customer arrearages

There appear to be conflicts between this rule and Rule 4901:1-18-16, O.A.C. Clarification is required with respect to what is needed to pay for the interim time between when a customer leaves graduate PIPP and re-enrolls in PIPP? Also, it is unclear what is intended in the use of the term "former" in this context. Is this intended to mean within twelve months graduate PIPP eligibility or any time frame? To be consistent with reinstating on PIPP Plus, an interim installment should be required for the time frame the customer was not on any PIPP Plus program, although the Company does not advocate for this approach as noted previously.

Rule 122:5-3-05 (B) and (F)

The reporting process related to the 301 and 302 remittance reporting should be changed. In instances where the customer's electric usage is less than the PIPP Plus installment, Duke

Energy Ohio is required to remit the non-usage portion of the installment to the USF when the account is billed. This requires the utility to carry a debit balance that is not based on usage, and can grow to a substantial amount if the customer does not pay their PIPP Plus installment. Duke Energy Ohio is not reimbursed for the unpaid non-usage portion of the electric installment until the customer is removed from the program, which could be years. This reporting process is creating a financial burden on the electric utility akin to an unfunded mandate. Duke Energy Ohio recommends that the process be changed such that it would no longer be required to remit the non-usage portion of the electric installment to the USF, thus eliminating the financial burden on the utility. There would also be no need to request reimbursement for these unpaid charges when the customer is removed from the PIPP Plus program.

SECTION II NON-PIPP PLUS RULES

4901:1-18-04, O.A.C., Delinquent bills

The proposed new provision (C), in Rule 4901:1-18-04 is problematic for many reasons. It is no consistent with ODSA rules and, for Duke Energy Ohio, will require either a waiver or significant billing system adjustments that will take time and be costly. Moreover, the proposed provision does not hold the customer responsible for service used. It may result in customers having multiple accounts with past due balances. Additionally, it will potentially drive behavior wherein customers will close and reopen accounts, re-enrolling in PIPP Plus and leaving a trail of unpaid accounts. It will likewise increase costs to other customers through uncollectible riders.

Duke Energy Ohio further requests that the rule be clarified to state whether finaled accounts would be eligible for Post PIPP treatment? How does such a change affect Winter Rule eligibility for new service?

4901:1-18-05, O.A.C., Extended payment plans and responsibilities

With respect to the amendments in this rule where the word “arrearage” is changed to the words “past due balances”, Duke Energy Ohio respectfully requests guidance as to why this amendment is being proposed and how the Commission perceives a difference between these terminologies.

This proposed rule includes a new provision to address circumstances where a company cannot gain access to disconnect service. New provision (D)(3) states that the customer of record requesting termination of service will not be financially responsible for the utility service consumed from the date of move-out. Duke Energy Ohio requests clarification as to who will bear the responsibility for such costs and how will the actual move out date be established? In the situation where the landlord is refusing access, it may be presumed that the Company will be addressing problematic circumstances. It is unclear how accurate and reliable the move out date would be under such circumstances.

This proposed rule includes a provision (F) stating that the landlord/property owner may elect to leave utility service on at a particular service location for the landlord/property owner’s own convenience. Duke Energy Ohio does not oppose this provision but observes that it may be more appropriately included in Chapter 17, O.A.C., rather than Chapter 18, O.A.C.

Additionally, proposed section (F)(3) seeks to establish that a tenant will be responsible for service from the date of moving into a leased premise. This provision is addressing a point of agreement likely contained within a contract between the landlord and tenant. This relationship is usually outside of the Commission’s sphere or regulatory jurisdiction.

Rule 4901:1-18-06 (C), Medical Certification

The rule changes proposed for the Medical certification portion of this rule include a proposal to post the medical certification form on the Commission's website. While a medical certification option is a necessary and appropriate tool for customers in need of them, there is significant misuse of this option by customers seeking to avoid bill payment. When customers use this option in combination with Winter Rule and PIPP and summer crisis applications, the customers' bills tend to accrue such that customers are ultimately unable to pay. Thus, it is unclear whether or not posting the form on the Commission's website further exacerbates the problem. If the Commission determines that this is necessary, Duke Energy Ohio proposes that the availability of such certifications be reduced from three to two per year in order to reduce inappropriate reliance on this option.

Energy Conservation Questions

The questions posed with respect to incentivizing energy efficiency relate to whether or not a PIPP customer who has completed payment sufficient to credit all of the customer's arrears should be encouraged to conserve energy. While the concept of encouraging energy efficiency is one that Duke Energy Ohio supports, it is unclear what might be proposed other than existing programs approved by the Commission. Such programs contained within the utility's respective portfolios support and encourage energy efficiency and are proven to be cost effective. An inducement such as some arrearage crediting or bill reduction for energy efficiency that might be appropriate for a PIPP customer would need to be competitive with other programs to ensure that the efficiency gains are cost effective and otherwise appropriate.

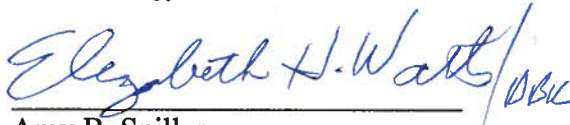
Otherwise incorporating energy efficiency into pricing or payment for energy efficiency into the PIPP program adds an additional layer of complexity into an already difficult program.

Such changes would potentially require significant time and investment simply to make appropriate system changes.

Conclusion

Duke Energy Ohio appreciates the opportunity to comment on the proposed rules in O.A.C. Chapters 4901:1-17, 4901:1-10-18, and 122:5-3, and respectfully requests that the Commission adopt the changes recommended herein.

Respectfully submitted on behalf of
Duke Energy Ohio, Inc.,



Amy B. Spiller
Elizabeth H. Watts
Duke Energy Business Services LLC
139 E. Fourth Street, 1303 Main
Cincinnati, Ohio 45202
Amy.Spiller@duke-energy.com
Elizabeth.Watts@duke-energy.com
(614) 222-1331

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Summary: Comments of Duke Energy Ohio, Inc. electronically filed by Dianne Kuhnell on behalf of Duke Energy Ohio, Inc. and Spiller, Amy B. and Watts, Elizabeth H.