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 and PIPP Plus Rules Contained in Chapter 122:5-3 Ohio Administrative Code	**Case No. 13-274-AU-ORD**

COMMENTS OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY

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TABLE OF CONTENTS

I. INTRODUCTION

Pursuant to the Commission's Entry of June 11, 2013, Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("Toledo Edison") (collectively, the "Companies"), respectfully file their comments to Staff's proposed amendments to rules contained in Chapters 4901:1-17 and 4901:1-18 of the Ohio Administrative Code ("O.A.C."). Rules regarding Ohio's Percentage of Income Plan ("PIPP") Program are contained in both the Commission's rules for gas utilities, Chapter 4901:1-18, O.A.C. and in the Ohio Development Services Agency's ("ODSA") rules for the PIPP Plus program for electric utilities, Chapter 122:5-3, O.A.C. Staff and ODSA proposed changes to those rules. Staff also seeks written feedback on energy conservation measures that are not part of the proposed rule revisions. In addition to comments to those proposed amendments to those rules, the Companies also propose some additions to Chapter 4901:1-18, O.A.C. that will assist in the administrative and regulatory process at the Commission. The Companies appreciate the opportunity to comment and acknowledge the hard work of the Staff reflected in the proposed rules. The Companies respectfully request the Commission consider their responses and comments and appropriately modify the proposed rules.

II. FACTORS TO CONSIDER

Pursuant to Section 119.032, Ohio Revised Code, the Commission must consider the following factors when it reviews the rules and determines whether the rules should be amended, rescinded or continued without change:

(a) Whether the rules should be continued, without amendment, be amended or be rescinded, taking into consideration the purpose, scope and intent of the statute under which the rule was adopted;

(b) Whether the rule needs amendment or rescission to give more flexibility at the local level;

(c) Whether the rule needs amendment to eliminate unnecessary paperwork; and

(d) Whether the rule duplicates, overlaps with, or conflicts with other rules.

Additionally, pursuant to the Governor's Executive Order 2011-01K, the Commission must:

(a) Determine the impact that a rule has on small businesses;

(b) Attempt to balance the critical objections of regulation and the cost of compliance by the regulated parties; and

(c) Amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative unintended consequences, or unnecessarily impede business growth.

Last, in accordance with Section 121.82, Revised Code, the Commission must evaluate the rules against the business impact analysis. If there will be an adverse impact on businesses, as defined in Section 107.52, Revised Code, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Under Section 107.52, Revised Code, a draft rule that affects businesses has an adverse impact on businesses if a provision of the draft rule that applies to businesses has any of the following effects:

(a) It requires a license, permit, or any other prior authorization to engage in or operate a line of business;

(b) It imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action, for failure to comply with its terms; or

(c) It requires specific expenditures or the report of information as a condition of compliance.

In presenting their comments to the proposed rules, the Companies will attempt to address those factors when appropriate.

III. COMMENTS AND MODIFICATIONS TO PIPP PLUS RULES CONTAINED IN CHAPTERS 4901:1-18 AND 122:5-3, O.A.C.

As discussed above, rules regarding Ohio's Percentage of Income Plan ("PIPP") Program are contained in both the Commission's rules for gas utilities, Chapter 4901:1-18, O.A.C. and in the Ohio Development Services Agency's ("ODSA") rules for the PIPP Plus program for electric utilities, Chapter 122:5-3, O.A.C. Staff and ODSA proposed changes to those rules and attempted to coordinate those changes. In its Entry, the Commission requested that this section be organized to address the rules unique to the Commission and ODSA separately, and those rules in common between the two agencies jointly. The PIPP Plus rules for electric service are only included in Chapter 122:5-3, O.A.C. The Companies therefore will not have comments related to the PIPP Plus rules contained in Chapter 4901:1-18.

In short, the ODSA proposed amendments to its rules for PIPP Plus contained in Chapter 122:5-3 to align the electric PIPP rules with the gas PIPP rules. The changes are significant; however, these changes would ensure that customers who are not adhering to the program rules are removed from the program in a timely and accurate manner. That said, the changes will require the Companies to expend significant resources (currently estimated to be in the range of $160,000-$200,000) and time to complete all necessary changes to their computer system and prepare and conduct training for company personnel involved in the administration of the PIPP Plus program for the Companies. Given that, if the ODSA were to adopt the changes it proposed, the Companies request that they work with the ODSA on implementation and specifically be permitted at least six to nine months after the effective date to implement the changes. In addition, the Companies request that the Commission authorize them to recover the costs associated with implementing the rules through the USF Rider or another applicable rider. Last, the Companies offer a few specific comments on the draft rules as discussed below.

A. Rule 122:5-3-02(H)(1)(d): Criteria for Customer Eligibility

ODSA proposed a new Subsection (H)(1)(d) to address outstanding balances owed by customers who re-enroll in PIPP Plus. Specifically, ODSA proposed the following subsection:

> A PIPP Plus customer who is income eligible, voluntarily leaves PIPP Plus, and then re-enrolls in PIPP Plus after 12 months and has no outstanding balance, is required to pay only his or her first PIPP Plus payment upon re-enrollment. If the customer re-enrolls in PIPP Plus after 12 months and has an outstanding balance, the customer is required to pay the missed PIPP Plus payments for the number of months that he or she was not enrolled in PUPP Plus, less any payments made by the customer up to the amount of the customer's arrearages, in addition to his or her first PIPP Plus payment.

It is unclear from this draft rule whether the balance owed by the customer on the date he or she voluntarily leaves the program can be included in the outstanding balance. The Companies request that the ODSA clarify the rule to make clear that the balance owed by the customer on the date he or she leaves the program may be included in the outstanding balance.

B. Rule 122:5-3-04(A): Utility Allowance

ODSA proposed a new Subsection (A) to address payments that are made on an account by a public or private agency. Specifically, ODSA proposed the following subsection:

> Money provided on a monthly basis (e.g. a utility allowance) by a public or private agency shall be applied to the PIPP Plus installment, then to the balance of the current billing cycle that is not covered by the installment, and then to the accrued arrearages. Any credits remaining on the account shall be refundable to the customer at the time the customer ceases to be a ratepayer of the utility.

It is unclear from this draft rule how the term "utility allowance" is intended to be defined. A definition should be included. More importantly, the Companies' computer system does not distinguish payment types received from or on behalf of the customer, other than certain HEAP payments. Therefore, this provision is unworkable in that the Companies are unable to discern between payments from different sources and therefore cannot apply these types of payments in a different manner than any other type of payments. If this provision is maintained, the Companies request that it apply to <u>all</u> types of payments.

IV. <u>COMMENTS AND MODIFICATIONS TO NON-PIPP PLUS RULES CONTAINED IN CHAPTER 4901:1-17, O.A.C.</u>

Chapter 4901:1-17 pertains to the establishment of credit for residential service and only applies to gas, natural gas, waterworks or sewage disposal services. Staff has proposed an amendment to this chapter so that it would now pertain to electric utilities as well. Indeed, Staff removed the sentence "Rules for establishment of credit for an electric utility company are included in Chapter 4901:1-10 of the Administrative Code."[1] Credit rules pertaining to electric utilities do, however, continue to remain in Chapter 4901:1-10, so the deletion of this sentence may be misleading and cause confusion.

On November 7, 2012, in Case No. 12-2050-EL-ORD, the Commission issued an Entry seeking comments on proposed rules for Chapter 4901:1-10. As part of that rulemaking proceeding, there was no indication that the credit provisions for electric

[1] *See* Proposed Rules, Rule 4901:1-17-01(J).

utilities would be eliminated. To the contrary, Staff proposed additional provisions for that chapter regarding the establishment of credit for customers of electric utility companies. Indeed, Staff appeared to propose changes to Chapter 4901:1-10 to make it more consistent with the rules contained in Chapter 4901:1-17. In 2008, notably, Staff proposed this same change in Case No. 08-723-AU-ORD, the last round of amendments to Chapter 4901:1-17. In that case, the Commission rejected the attempt to include electric utility companies in Chapter 4901:1-17 finding:

> After carefully considering all of the arguments raised by the electric utility companies regarding Chapter 4901:1-17, the Commission finds that all references to electric utility companies as proposed by Staff shall be deleted from Chapter 4901:1-17. The electric utility companies are subject to Chapter 4901:1-10, the Electric Service and Safety Standards (ESSS). The ESSS rules are tailored for the electric utility companies and already provide sufficient protections to ensure that customers are subject to reasonable and nondiscriminatory credit practices when establishing and reestablishing service. Accordingly, in order to avoid confusion and potentially conflicting requirements, the Commission agrees that the ESSS should be the only requirements governing the credit practices of electric utility companies.[2]

As discussed below, the reasons for deleting electric utility companies from proposed Chapter 4901:1-17 remain as valid today as they did in 2008 because subjecting electric companies to those rules is redundant, unnecessary, duplicative, burdensome and conflicts with other rules, which is contrary to R.C. 119.032 and Executive Order 2011-01K. Put simply, for the same reasons in its Finding and Order in Case No. 08-723, the Commission should delete reference to electric utility companies from Chapter 4901:1-17. That said, the Companies provide their specific comments to the proposed amendments to the rules.

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[2] *In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18 and Rules 4901:1-5-07, 4901:1-10-22, 4901:1-13-11, 4901:1-15-17, 4901:1-21-14 and 4901:1-29-12 of the Ohio Administrative Code*, Case No. 08-723-AU-ORD, Finding and Order at 5 (December 17, 2008).

A. Rule 4901:1-17-01: Definitions

As discussed above, Staff expanded Rule 4901:1-17-01 to include electric utility companies. Subsection (E) defines fraudulent act. If the Commission agrees with Staff that electric utility companies should be included in this Chapter, then Subsection (E) must be amended to include electric utility companies as well.

B. Rule 4901:1-17-02: General Provisions

1. <u>Subsection (C)</u>

Staff has proposed to amend this rule to include all electric utility companies that provide service to residential customers. Subsection (C) of this rules states "the rules of this chapter supersede any inconsistent provisions, terms and conditions of utility company tariffs. A utility company may adopt or maintain tariffs providing greater protection for customers or consumers." Requiring electric utility companies to now comply with Chapter 4901:1-17 may create a conflict with the Companies' tariffs that have been in place for years. Such a change will cause an administrative burden on the Companies in the form of additional training for employees as well as confusion on behalf of customers since the Companies' long-standing tariff provisions will be superseded by this rule change, i.e., customers who look at the tariff for guidance will be told something different if they call the Companies or the Commission's contact center. This conflict can be alleviated by the Commission merely maintaining its previous decision that Chapter 4901:1-17 should not be applicable to electric utilities especially in light of the fact that similar rules already exist in Chapter 4901:1-10.

2. <u>Subsection (D): Written Credit Procedures</u>

If electric utilities are included in this chapter, electric utilities will be subject to the requirements contained in Subsection (D) that conflict with their current requirements contained in 4901:1-10-14 (A). The Companies are unaware of complaints or other problems related to the existing rules that would cause a need for a change. Further, such a change will cause an administrative burden on the Companies in the form of additional training for employees as well as confusion on behalf of customers since the Companies' long standing tariff provisions will be superseded by this rule change, i.e., customers who look at the tariff for guidance will be told something different if they call the Companies or the Commission's contact center.

Rule 4901:1-17-02(D) provides that each utility shall establish and maintain written credit procedures. Rule 4901:10-14(A) also provides that each electric utility shall establish written procedures to determine creditworthiness of applications and also requires that those procedures to be submitted to Staff upon request. Rule 4901:17-02(D), however, requires, the utility to make its credit procedures available to applicants and customers upon request and shall provide this information either verbally or in writing based upon the applicant's or customer's preference. This is a new burden for electric utilities and will require the Companies to incur costs in training and printing in order to comply with this rule. Moreover, the Companies believe that providing customers with the detailed, technical credit procedures (which are provided to the Commission) would most likely create more confusion for customers than answers. The Companies' credit procedures are written using banking and accounting terminology that may not be generally known and/or understood by the general public. The Companies have simplified the credit procedures and provide a “plain English” summary along with payment options in the Rights and Responsibilities Brochure already provided to customers under Rule 4901:1-10-12. The Companies believe it would be more appropriate to provide customers, upon request, a copy of that brochure. For those reasons, should the Commission amend Chapter 4901:1-10-17 to include electric utility companies, the Commission should, at a minimum, amend this Rule accordingly.

C. Rule 4901:1-17-03: Establishment of Credit

Rule 4901:1-10-14 currently governs how a customer establishes credit with an electric utility, how deposits are handled and how a guarantor can be established. As discussed above, electric utility companies should not be included in Chapter 4901:1-17. Rule 4901:1-17-03 contains specific provisions that add new burdens to electric utility companies, conflict with Chapter 4901:10-14 and broadens requirements. Rule 4901:1-10-14 should contain all of the ways an applicant can establish credit – piecemeal regulation should not be encouraged and will only contribute both to the Companies and the Commission’s burden in administering the rules and confusion for customers.

First, Subsection (A)(3) broadens and conflicts with Rule 4901:10-14(C)(2). Currently, to establish credit with an electric utility company, an applicant has to demonstrate that they had a prior account with the electric utility. Rule 4901:1-17-03(A)(3) would broaden this requirement and add a burden on the utility to assess an applicant’s creditworthiness with any other utility across the United States or beyond for that matter, potentially resulting in increased uncollectible amounts and increasing the burden on the electric utility to track down credit histories from other utilities, not to mention the administrative burden of determining whether an entity constitutes a utility and whether their credit and disconnection standards are equivalent to those imposed in Ohio.

Second, Subsection (A)(3) adds an additional burden that would require an electric utility to provide payment history information within five business days to a customer. Rule 4901:10-14 does not require this. The Companies respond to customer requests as promptly as possible. The Companies are unaware of any complaints or other evidence that the rule as currently written is ineffective or is causing problems. Given that electric utilities are responding to customer requests promptly, making an arbitrary time limit is unnecessary.

Third, Subsection (A)(5) pertaining to guarantors conflicts with Rule 4901:1-10-14(M) pertaining to guarantors. The requirements contained in (A)(5)(d) are not contained in Rule 4901:1-10-14. That subsection requires the utility to send a notice to the guarantor when the guaranteed customer requests a transfer of service to a new location. For the Companies to comply with this provision, they would be burdened with a new process that is not currently compatible with their computer system. These notices would need to done manually.

Likewise, the requirements contained in Subsection (A)(5)(e) relating to notice to a customer where a guarantor's utility service is subject to disconnection, is not contained in Rule 4901:1-10-14. Again, for the Companies to comply with this provision, they would be burdened with a new process that is not currently compatible with their computer system. Specifically, there are no fields on a guarantor account in the Companies' system that would tie back to the customer. For this notice, the Companies would be required to expend approximately $80,000 for programming, testing and training for these new processes. Tying these two accounts together would also require a manual process if, and until, the Companies can program their computer system to perform this function.

Last, Subsection (A)(5)(b) adds a new burden on electric utilities requiring them to maintain original guaranty agreements. Often guarantor agreements are faxed and a written original agreement is not received by the utility. Also, an electric utility should be permitted to scan and electronically store a guarantor agreement. Requiring a utility to maintain the original agreement is unduly burdensome.

For all of those reasons, the Commission should not include electric utilities in Chapter 4901:1-17.

D. Rules 4901:17-04 Deposit to Reestablish Creditworthiness

Subsection (B) of Rule 4901:1-17-04 conflicts with the provisions contained in Rule 4901:1-10-14(G)(2). Subsection (B) imposes a conflicting burden on the utility that it must give the customer notice that a deposit may be required. Rule 4901:1-10-14(G) does not contain such a requirement. In order to comply with this new requirement, the Companies would have to invest approximately 80 hours of time for programming, testing and transport of this information at a significant expense. This is another reason the Commission should not include electric utilities in Chapter 4901:1-17.

E. Rule 4901:1-17-05: Deposit Administration Procedures

Subsection (B)(4) requires that a receipt for a deposit state that the "rate of interest to be paid on the deposit will be not less than three per cent per annum if the deposit is held for one hundred eighty days or long." This subsection conflicts with Rule

4901:1-10-14(H). This is also a reason the Commission should not include electric utilities in Chapter 4901:1-17.

F. Rule 4901:1-17-06: Refund of Deposit and Release of Guarantor

Rule 4901:1-17-06(B) requires a utility company to review each account holding a deposit or a guarantor agreement and release the deposit or guarantor if service has not been disconnected for nonpayment in twelve consecutive months. Rule 4901:1-10-14(I)(3) also requires a review but expands that requirement to disconnection for fraudulent practice, tampering or unauthorized reconnection. Therefore the two rules conflict.

In addition, Subsection (E) provides a new process for electric utilities that does not appear in Rule 4901:1-10-14. As discussed above, this new process would require the Companies to make changes to their computer system and would burden them with a manual effort until that occurs at a significant expense. For all of those reasons, the Commission should not include electric utilities in Chapter 4901:1-17.

G. Rule 4901:1-17-08: Applicant and/or Customer Rights

Rule 4901:1-17-08 provides a customer rights process in the event of a deposit. These rights are already contained in Rule 4901:1-10-12. Another duplicative and conflicting rule is not necessary. Again, the Commission should not include electric utilities in Chapter 4901:1-17.

V. COMMENTS AND MODIFICATIONS TO NON-PIPP PLUS RULES CONTAINED IN CHAPTER 4901:1-18, O.A.C.

A. Rule 4901:1-18-01(O): Definition of "Like Account"

Staff proposed the following definition of "like account:

> "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.

The Companies agree that it is appropriate to codify the existing practice of transferring like accounts from one account to another in the event of an outstanding balance. However, this definition may unintentionally limit the currently accepted practice. For example, a commercial or non-residential customer may have a rate class of GS or GT, but the service is still commercial. This definition would appear to limit the transfer of those types of accounts, which the Companies do not believe was intended. In addition, a commercial customer on a GS rate class may also have service under a street light tariff. This definition would also appear to limit the transfer of those types of accounts. Therefore, the Companies propose a new definition of like service that is similar to the one proposed for Rule 4901:1-10-22(I)[3] in Case No. 12-2050-AU-ORD:

> "Like account" means any accounts in the same customer's name providing like service: residential to residential, commercial to commercial, gas to gas, and electric to electric."

In addition, as is discussed in more detail below, the Commission should delete the portion of the definition excluding PIPP Plus accounts from not being considered like

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[3] "The utility may transfer the unpaid balances of a customer's previously rendered final bills to a subsequent bill for a like service account in the name of that same customer. The transfer of bills is limited to like service, for example, residential to residential, commercial to commercial, gas to gas, and electric to electric. Such transferred final bills, if unpaid will be part of the past due balance of the transferee account and subject to the Company's collection and disconnection procedures which are governed by Chapters 4901:1-10 and 4901:1-18 of the Ohio Administrative Code. Any transfer of accounts shall not affect the residential customer's right to elect and maintain an extended payment plan for service under Rule 4901:1-18-10 of the Ohio Administrative Code."

accounts. Lastly, the Commission should also include that street lighting/private outdoor lighting can be transferred to a customer.

B. Rule 4901:1-18-03: Reasons for Disconnecting Residential Electric, Gas or Natural Gas Service.

1. <u>Subsection (F)</u>

In Subsection (F) of the proposed rules, Staff proposed an amendment to the required notice for scheduled maintenance interruptions from six hours to four hours. The Companies are unaware of any complaints or other evidence that the rule as currently written is ineffective or is causing problems. Coupling the lack of complaints with the new administrative burden that this change will impose upon the Companies, including the time and expense of changing this process, the Commission should reject this change.

2. <u>New Provisions</u>

The Companies recommend adding new Subsections (E)(4) and (5) to address certain situations that occur frequently and will prevent certain accounts from becoming delinquent. Specifically, the Companies recommend the following:

> (E)(4): a customer is deceased and his or her next of kin, heir, trustee, or fiduciary fails to advise the company and/or fails to cancel service or transfer service to a new applicant. The company must follow the procedure outlined in Rule 4901:1-10-20 related to fraudulent service to disconnect for this reason; and
>
> (E)(5): a customer moves from a service address and fails to advise the company and/or fails to cancel service. The company must follow the procedure outlined in Rule 4901:1-10-20 related to fraudulent service to disconnect for this reason.

The Companies often have accounts that go delinquent by reason of a deceased customer as well as a customer who moves without notifying the Companies. Allowing disconnection with some notice will allow the Companies to promptly disconnect service and reduce uncollectible expenses. Therefore, the Companies request that the Commission add these subsections to Rule 4901:1-18-03.

C. Rule 4901:1-18-04: Delinquent Bills

While the Companies appreciate Staff's inclusion of a new subsection (C) to codify the practice of transferring the balance of a delinquent account to any like account held in the customer's name, the Companies believe that the Commission should delete the provision prohibiting the transfer of balances to or from PIPP Plus accounts. Currently, the Companies transfer any delinquent balances from the former PIPP and PIPP Plus accounts to a like account (residential to residential) including a PIPP Plus account. The Companies then work with the customer in paying off that arrearage. Any recovery from these efforts will credit back to the USF Rider or PIPP uncollectible riders that the Companies currently have in place, thereby reducing costs for other customers. Also, a customer may have had a PIPP account, but then is dropped from PIPP and opens a subsequent account that is not PIPP. The Companies should be permitted to transfer those balances. Allowing the Companies to pursue those balances will lower the rider charges for customers and also require PIPP customers to be held accountable for delinquent balances. This is good public policy. Lastly, for the Companies, if this proposed provision is adopted, it would require the Companies to completely change their current processes for transferring accounts which would require programming and training changes. For those reasons, the Commission should reject Staff's proposal to prohibit transfers to or from PIPP Plus[4] accounts.

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[4] Staff's proposed amendment is also unclear as to whether it applies to post-2010 PIPP Plus accounts or also to PIPP accounts that existed prior to 2010.

D. Rule 4901:1-18-06: Disconnection Procedures for Electric, Gas and Natural Gas Utilities

1. Subsection (A)

In Subsection (A), Staff proposed a change to the term "credit notices" to "delinquent payment reminder" notices. The Companies currently provide designated third parties and guarantors with notices on bills that are sent to a customer. The Companies do not object to this change so long as it will not require them to manually send notices that do not appear on bills that are sent to a customer. A manual process would be expensive and require significant programming changes, which the Commission should consider in accordance with R.C. 121.82.

2. Subsection (C)(3)(a): Medical Certification Forms

In Subsection (3)(a), Staff proposed changing the required form the utilities' must use from being contained in an appendix to posting it on the Commission website. While the Companies' appreciate the Commission's desire to make the form available in that medium, the Companies believe that having the form publicly available on the Commission will increase the likelihood of abuse as well as customer confusion on how the form must be submitted including the information that must be included on the form. The Companies have a dedicated group that handles calls and faxes relating to medical certifications from a customer's medical provider. In 2011 and 2012, the Companies' processed approximately 23,000 medical certifications. Allowing the Companies to control the medical certification process including how forms are distributed will prevent this abuse and confusion. Thus, the Commission should not make this change to Subsection (C)(3)(a).

3. **<u>Subsection (C)(3)(h): Medical Certification</u>**

The Companies believe the medical certification option has served as a valuable emergency measure for customers who rely on medical equipment and that temporarily fall behind in paying their utility bill. However, unfortunately, the option now is often abused to avoid payment of an outstanding balance. The Companies request that the limitation placed on the use of the medical certificate be connected to the outstanding balance as opposed to an arbitrary twelve-month period. Once the outstanding balance is paid in full, the customer would then be eligible for three medical certifications on any new balance. The Companies request that the Commission adopt the following change to subsection (C)(3)(h):

> A consumer may renew the certification two additional times (thirty days each) by providing additional certificates to the company. The total certification period may not exceed ninety days per household **for the same set of arrearages** ~~in any twelve month period.~~ **When the customer eliminates those arrearages, the customer is eligible to provide new medical certificates.**

4. **<u>Subsection (D)</u>**

Staff proposed a new subsection (D) to address circumstances where an electric, gas, or natural gas utility company cannot gain access to disconnect service at a particular service location after receiving a request for disconnection from the customer of record. In Subsection (D)(1), Staff proposed a rule whereby the utility can disconnect service if the property owner or landlord does not allow the utility company access to disconnect service. In proposing this rule, however, Staff limited the types of individuals who could block access to disconnect service. The rule should not be so limited. Therefore, the Companies recommend amending proposed Subsection (D)(1) as follows:

> If ~~the property owner or landlord~~ ~~does not allow the utility company~~ **the utility company is denied** access to disconnect service, the utility company may subsequently disconnect the utility service in accordance with the provisions of paragraph (I) of rule 4901:1-18-03 of the Administrative Code.

Staff also proposed a new Subsection (D)(3) to insulate a customer of record from financial responsibility for service consumed from the date of move-out. The Companies believe that this rule would prohibit them from seeking payment for service from the customer of record if the customer of record is the one denying access or still lives at the premises. For those reasons, the Companies recommend amending proposed Subsection (D)(3) as follows:

> The customer of record requesting termination of service will not be financially responsible for the utility service consumed from the date of move-out **unless the customer of record is the individual who denied the utility company's access to disconnect service or the customer of record continues to reside at the premises.**

5. <u>Subsection (F)</u>

Staff proposed a new Subsection (F) to address the circumstances of a landlord/property owner who elects to leave the utility service on at a particular service location under the provisions of a landlord reversion agreement. The Companies appreciate Staff's proposed codification of a practice already commonly used. However, under new Subsection (F)(3), Staff has proposed a rule that will unduly burden the utilities and possibly cause greater uncollectible expenses. Specifically, Staff proposed:

> Under the circumstance where the new resident becomes a consumer of the electric, gas, or natural gas service that was left on by virtue of the landlord/reversion agreement, the consumer will be financially responsible for the utility service consumed from the date of move-in, as indicated in the terms of the lease agreement.

This provision is problematic because it places the burden on the utility to know the terms of a private lease agreement and also to proactively determine when the customer of record should change from the landlord to the tenant. Moreover, there are occurrences where leases are verbal and not written. It should be the landlord's responsibility to ensure that the tenant has placed utility service in the tenant's name – not the utility. In addition, consistent with Section 119.032 Revised Code and Executive Order 2011-01K, the Companies request that the Commission delete Subsection (F)(3).

6. <u>Subsection (H)</u>

In Subsection (H) of the proposed rules, Staff proposed an amendment to the required response to an inquiry concerning an imminent disconnection or actual disconnection from two business days to one business day. The Companies are unaware of any complaints or other evidence that the rule as currently written is ineffective or is causing problems. The Companies also strive to respond to Staff regarding these disconnections as promptly as possible. Coupling the lack of complaints with the new administrative burden that this change will impose upon the Companies, including the time and expense of changing this process, the Commission should reject this change.

E. Rule 4901:1-18-07: Reconnection of Service

This rule provides for the circumstances under which an electric utility must reconnect residential service. The Companies propose adding additional amounts related to nonpayment of tariffed service that must be paid prior to reconnecting service. Specifically, the Companies propose amending Subsection (A) to read:

> Upon payment or proof of payment of the delinquent amount as stated on the disconnection notice <u>plus any amounts for which service was not disconnected, but is now past due at the time of reconnection….</u>

At times, the amount in arrears that caused the disconnection is not the same as the amount in arrears at the time of reconnection. By requiring a customer to pay all amounts in arrears, regardless of whether it is the amount that caused the service to be disconnected, would allow electric utilities to pursue collection of all amounts and not require electric utilities to make repeat notices of disconnection and/or field visits to disconnect service. Moreover, requiring payment of these amounts will reduce the amount of uncollectible charges recovered from other customers through the uncollectible rider. Under Section 119.032, Revised Code, the Commission should amend this rule to give electric utilities more flexibility in pursuing past collection of bills for electric service. For those reasons, the Commission should amend Subsection (A) accordingly.

F. Rule 4901:1-18-10: Insufficient Reasons for Refusing Service or for Disconnecting Service

The Companies recommend amending Subsection (C) related to a bona fide dispute to address those circumstances when a customer has registered a complaint with the Commission. Specifically, the Companies recommend that the Commission amend Subsection (C) as follows:

> Where the customer has registered a complaint with the commission's call center or filed a formal complaint with the commission that reasonably asserts a bona fide dispute, the utility company shall not disconnect service if the customer pays either the undisputed portion of the bill, if known or can reasonably be determined, or the amount billed for the same billing period in the previous year. **A "bona fide dispute" does not apply to bills rendered after the date the customer has registered a complaint with the commission's call center or filed a formal complaint.**

Often times customers fail to pay even current bills after a complaint has been made. This rule has the unintended consequence of inhibiting the ability of utilities to collect and disconnect for those charges. Sometimes, the formal complaint process can take more than a year. Under Executive Order 2011-01K, the Commission should adopt the Companies' recommendation.

VI. RESPONSES TO QUESTIONS CONTAINED IN ATTACHMENT E

A. After the PIPP Plus customer has had the opportunity to do away with his or her arrearages, should a new process be in place which encourages this customer to conserve energy, thus decreasing his or her usage?

No, a new process is not necessary. The Companies currently have approved energy efficiency/peak demand reduction plans that contain residential programs, including low income programs. PIPP Plus customers should be encouraged to avail themselves of the exiting programs. It is not cost effective to develop a new process for these customers to conserve energy.

B. Would a program that offers the PIPP Plus customer a fixed percentage off the monthly bill is a reasonable way to encourage the customer to conserve energy?

No. The economic incentive for customers to use energy more efficiently should be the lower bill associated with lower usage - not a lower bill with the hope they use energy more wisely. From an economics standpoint, reducing the price would encourage greater usage, not less usage. Also it is not clear to the Companies how a program like this would be administered or who would pay the delta revenue. For example, after a customer has done away with his or her arrearages and gets moved into this fixed percentage off type program, what happens if a customer is unable to pay their bill and his or her debt begins to rise?

C. What barriers may exist to creating a fixed percentage off type program as described above?

In addition to the barriers described above, several other barriers exist to this type of program including:

- Low likelihood that a customer would participate due to the fact that he or she only pays a flat-fee based on income not on consumption;
- Developing a pricing and tracking mechanism and determining how the cost recovery is allocated across the rate classes;
- Providing a high enough credit. Measures that can be implemented for low income customers such as CFLs generate little savings on a per customer level. Other measures that may generate higher savings require investment in building infrastructure. Customers who rent may not be able to take advantage; and
- Resistance from other customers who would have to cover the cost of the program.

VII. CONCLUSION

The Companies applaud the Commission Staff's diligent efforts to improve the Commission's rules. The Companies urge the Commission to adopt the recommendations of the Companies set forth above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On July 12, 2013, the foregoing document was filed on the Public Utilities Commission of Ohio's Docketing Information System and is available for viewing by any interested party.

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