

FILE

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PUCO

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)	
NANCY S TOLIVER,)	CASE NO: 12-3234-GA-CSS
)	
Complainant)	
)	
V.)	
)	
VECTREN Energy Delivery of Ohio)	
)	
Respondent(s))	
)	

**COMPLAINANT OBJECTION TO COMMISSIONERS ORDER
FILED AUGUST 21, 2013 AND APPLICATION FOR REHEARING**

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Now Come Nancy S. Toliver IN PROPRIA PERSON pursuant to 4903.10 of the Ohio Revised Code and 4901-1-35 of the Ohio Administrative Code, regarding the entry on rehearing filed August 21, 2013 by the Commission as unreasonable and unlawful. Complainant requests the Commission RECONSIDER the following:

1. Respondents violated OAC 4901-1-08(F) and failed to file a Notice of Withdrawal for Counsel of Record Gregory William and Substitution of Counsel for Record Andrew Campbell with the Office of Administration Director Ms. Barcy F. McNeal or give notice to the Complainant who has made an appearance before the court and is not represent by a licensed attorney. (Comp. Ex. No. 13; Case No. 12-1682-EL-AIR; Entry date of 8-20-12)
2. Respondents without good cause failed to give proper notice of withdraw of Gregory Williams the previous counsel and the substitute of Andrew Campbell counsel for the respondents', leaving both the Commission and the Complainant to assume that Whitt Sturtevant is still the legal entity retained by the respondents in the case.
3. Respondents counsels are not relieved of their ethnical and legal duty to properly withdraw and substitute counsel with the Commission and must comply with the Ohio Civil Rules of Procedure and Ohio Administrative statutory laws.

4. The pleadings filed by the respondents by and through counsels are defective before the Commission and must be stricken pursuant to ORC 4903.10.

5. Pursuant to 4903.082 Right of discovery, all parties and interveners' shall be granted ample rights of discovery. The present rules of the public utilities commission should be reviewed regularly by the commission to aid full and reasonable discovery by all parties. Without limiting the commission's discretion the Rules of Civil Procedure should be used wherever practicable.

6. Respondents' failure to follow Ohio Civ.R.26 regarding disclosure and submission of an expert witness report must be excluded pursuant to sanction rules of Ohio Civil.R37 have been overlooked by the Commission.

7. Both the respondent Ms. Bell and the previous legal representative Gregory Williams confirmed that the corporation did not intent on any presenting expert witness testimony after the settlement conference in February 2013 and the hearing was set for March 21, 2013.

8. Complainant objects to the Commission Order that respondents reverse the one time incentive credits Complainant is entitled in the amount of \$130.74 for making the installment payment timely. The Entry violates Complainant statutory rights to participate in the PIP plus program. Pursuant to #10 of the Resource Guide, the incentive credits are the difference between the required installment payment and the current monthly utility charges. (Comp. Ex. No. 14)

9. Respondents acted upon the Commission Order immediately terminated the complainant that is income and otherwise eligible to participate in the PIP program in the statement dated August 28, 2013 and failed to wait until the objection timeframe of thirty day as required by law. Respondent actions violate Complainant substantive rights as well as the statutory law and public policy. (Comp. Exhibit No. 14)

10. Complainant total amount due for the statement date is \$24.40 and is the Complainant legal responsibility and not the \$130.74 that consists of incentive credit and/or DELTA credits per the respondents' letter and attachment submitted to the Commission on July 31, 2013 and cannot be considered minimum payments by the Commission. (Comp. Ex. No. 14)

11. Respondents only defense in this case has been that the respondents are following the Commission rules and guidelines set out in the Energy Assistance Resource Guide 2012-2013 which is inconsistent with the Ohio Administrative and Revised Code restated herein.

12. The Commission Entry filed August 21, 2013 is inconsistent with its Energy Assistance Resource Guide, the Ohio Administrative and Revised Codes and the Commission previous entry filed on July 17, 2013 and must be stricken, vacated and reversed.

13. The Ohio Development Services Agency processed Complainant HEAP application mailed on July 23, 2013 with both utility companies on August

16, 2013. Complainant new PIP plus payment amount is 72.00 and the new re verification date per the Development Services Agency is August 16, 2014.

14. This information letter dated August 11, 2013 along with the good faith letter was sent to the respondents on or around August 16, 2013 and in accordance with the new evidence rules that only arrearages that accumulated while enrolled in the program could be billed to a customer if removed from PIPP by Ohio Development Services Agency. (Comp. Ex. No. 15 and 15a) Respondents failed to disclose the information to the Commission in its Motion to Strike filed on August 20, 2013.

15. Commission must vacate its Order to the Respondents to terminate the Complainant participation in the PIP plus program which is inconsistent with another state agency determination of eligibility, statutory law and public policy processed on August 16, 2013.

16. Per the customer service department for the Ohio Development Service Agency verified that Complainant re verification date is August 16, 2014 and that this information was sent to the public utilities by phone conversation on August 29, 2018.

17. The Commission failed to construe most favorably that its own Energy Resource Guide for 2012-2013 submitted as an attachment by the respondents and relied on by the respondents supports Complainant contentions that pursuant to #1 in the Resource Guide, A PIPP Plus Customer is required to

apply for all public energy assistance and weatherization program for which she is eligible.

18. Complainant paid the installment payment by the due date in the months the account balance was more than the PIP plus installment and was eligible to receive the incentive credits of 130.74. Pursuant to #10 of the Resource Guide, if the installment payment is not received by the due date, the customer is not eligible to receive the incentive credit (the difference between the required installment payment and the current monthly utility charges). Also, the Complainant has not receive the 1/24th credit in any month due to the arrearage balance of zero and can't be threaten with disconnection or removal from the program;

19. Pursuant to #15 of the Guide, the customer must pay up to the amount of the PIP default amount *up to the amount of the arrears. Complainant arrearage amount is zero.* (No.17 of Comm. Rehearing Order)

20. Complainant pleadings substantiates that Complainant has met the burden that the minimum payments due on the PIP plus program cannot be more than the arrearage balance and objects to the reversal payment being erroneously applied to Complainant account by Order of the Commission.

21. Commission Order to respondents to terminate Complainant participation in the program is an abuse of discretion and violates public policy and statutory and other laws and is unreasonable and unlawful.

17. Commission must take into consideration Complainant is income and otherwise eligible to participate in the PIPP plus program. Complainant declined the Commission request to write a letter voluntary withdrawing from the PIP plus program in the pleading filed July 26, 2013. Complainant also objects to the Commission Order to preserve right to appeal its decision to court of jurisdiction.

18. Pursuant to Title 13 of Commercial Transaction, respondents are engaging in unfair and deceptive acts or practices pursuant to 1345.02(A) No supplier shall not commit an unfair or deceptive act or practice in connection with a consumer transaction. Such an unfair or deceptive act or practice by a supplier violates this section whether it occurs before, during, or after the transaction;

19. Pursuant to 1345.02(B) which states in pertinent part: without limiting the scope of division (A) of this section, the act or practice of a supplier in representing any of the following is deceptive: (8) that a specific price advantage exists, if it does not and is comparable to the Uniform Commercial Code.

20. Requiring customers to make payments (incentive credit reversal) to the respondents (a corporation) that are not due in order to remain or the PIP program or in the alternative order the respondents to terminate the customers participation in the program even if eligibly by statutory law and public policy is unlawful, unreasonable and an abuse of discretion and

subjects the Complainant to disconnection and resulted in the formal complaint being filed against the respondents in December 2012 to stop such actions by the respondents.

21. The Commission Order unjustly enriches the respondents (a corporation) that has preferred and common stock holders and discriminations the Complainant and other individuals on the program and are considered low income and not customers.

22. Commission accepted as true the fact that, the Complainant total account balance is zero which fact is also supported by the evidence submitted by the respondents at the Commission request. The Commission current Order to the respondent to reverse the \$130.74 in incentive credits and applied to Complainant account as a debit payment not due or payable to the respondents which is inconsistent with the Commission previously filing on July 17, 2013 that Ordered Complainant to pay the alleged minimum PIP payments of \$594.74 by September 20, 2013. (See Comm. Entry No. 20)

23. Complainant timely paid the installment payment of 72.00 in the months where the usage charges were more than the PIPP payments and was entitled to and received the total incentive credits amount of \$130.74 for the timely payments. Pursuant to OAC 4901:1-18-14 states in pertinent part: the incentive credit is based on the timeliness of the PIPP payments. Pursuant to #10 of the Resource Guide, if the installment payment is not received by the due date, the customer is not eligible to receive the incentive credit (the

difference between the required installment payment and the current monthly utility charges).

24. The Commission Order is unreasonable, unlawful and violates OAC 4901:1-18-12 (D) (2) (b) which states in pertinent part; the PIP payment due shall not exceed the amount of the customer arrearages.

25. The Commission has abused its discretion when it ORDER the respondents terminate Complainant from the PIP plus program with next months bill based on incentive credits.

26. Pursuant to OAC 4901:1-18-01(B) which states in pertinent part
Arrearages: means for each PIP customer such customers' current bill balance plus the customer's accrued arrearage at the time the customer enrolls in the PIPP program, *but does not include past due monthly PIPP payments*. Respondent(s) actions are in violation of ORC 4905.37.

27. The Commission Order further causes Complainant hardship by increase the amount due to 155.14 which is greater than the actual account balance which the complainant legal responsibility of \$24.40 and has subjected Complainant to threat of disconnection which is unreasonable and unlawful. Respondents' actions were taken within the thirty day objection period.

28. Respondents only defense in this case has been that the respondents are following the Commission rules and guidelines set out in the Energy Assistance Resource Guide 2012-2013 which is inconsistent with the Ohio

Administrative and Revise Code restated herein as stated in the pleadings filed by the Complainant with the Commission in the case.

29. Complainant has met the burden by the preponderance of the evidence and pursuant to statutory laws and public policy that past due monthly PIPP payments are not included in the customer accrued arrearages of zero.

32. The Commission must rectify any inconsistency with the statutory law, public policy and the energy assistance resource guide for 2012-2013 published by the Commission.

36. Any attempt by Complainant to have to respondents remove the improperly applied minimum payments and stopped the threat of disconnection has been denied by respondents and resulted in the formal complaint being filed by the Complainant on December 17, 2012.

37. Respondents and the Commission are both aware that the Complainant has two children that both have serious medical conditions that require both public utilities to be on in the household.

38. Respondents and the Commission are both aware that the Complainant has a zero income. Complainant will not be forced to make erroneous minimum payments not due to the respondent in order to stay on the program that Complainant is income and otherwise eligible to participate in the PIP plus program pursuant to statutory law and public policy.

THEREFORE, Respondents are not properly applying the Resource Guide, OAC or ORC to the PIP plus program participants that do have large

arrearage balances and did shut off eligible participant services in the winter months in violation of other statutory laws governing other state administrative agencies without formal complaints being filed by the customers.

The Commission must remember why the respondents as corporations must be regulated and energy assistance programs were created in the first place! Low income and elder customers were freezing to death in the cold winter months because they could not pay the large winter bills. Loss of revenue based on the last two winters being warmer than usually cannot and must not be passed on to the low income individual as a customer in the State of Ohio by requiring customers with a credit balance to continue to make payments based on the PIP rider the respondents applied for with the Commission.

The Commission must stop the respondents from forcing individuals thru peonage type rules to make payments not due the respondents (a corporation) in order to remain on the income based PIPP plus program or be removed by the Commission without cause and in contradiction to the Ohio Development Services Agency decision to recertify Complainant PIP plus application along with the HEAP application on August 16, 2003, leaving the Complainant with the constant threat of being disconnected even when the customer total account balance is zero or less than the minimum PIP plus

payment and is otherwise income eligible. Complainant PIPP application was re certified on August 16, 2013 with notification to the respondents.

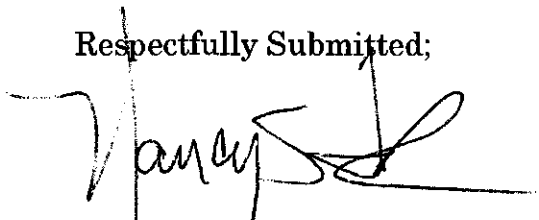
The Commission must order the respondents to stop treating Complainant and other individuals that have a zero balance (which should be the real goal of the program) that are on the PIP plus program differently from the non PIPP program customers that are not required to make payment not due the respondents (a corporation).

WHEREFORE the Commission must set precedent and reverse its Rehearing entry filed August 21, 2013 and render a decision consistent with the OAC, ORC and the Commission Resource Guide and; Order respondents to continue Complainant participation in the PIP program pursuant to the Ohio Development Service Agency re verification for 2013-2014; Order that Complainant is entitled to the current month incentive payment for each monthly installment paid by the due date; Apply the 1/24th arrearage reduction credit when the Complainant account accumulates an arrearage as required by law; Order that the respondent must accept the total account due in the months were the PIP payment amount is more than the Complainant legal responsibility as a customer; Set a hearing date and Order compensatory damages to be awarded in the amount of \$59,474.00 and treble the damage award pursuant to 4905.61; Order any other action deemed proper by the Commission to stop this arbitrary, unconscionable, unreasonable, unlawful yet subtle discrimination against Complainant and

any individuals considered low income and otherwise eligible for PIP Plus program without an arrearage balance.

The Commission must reverse its Rehearing Order and sanction the respondents by and through counsel and exclude all pleadings filed in this case for respondents' procedural rule violations pursuant to OAC 401-1-08(F). Respondents failed to give proper notice of appearances to the Commission and the Complainant as required by law as well as by the Rules of Ethical Conduct and Code of Professional Responsibility.

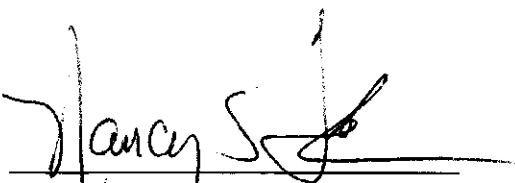
Respectfully Submitted;



ALL RIGHTS RESERVED
Nancy S. Toliver
614 Kenilworth Ave
Dayton, Ohio 45405
937.278.4407
In Proper PERSON

CERTIFICATE OF SERVICE

Complainant Nancy S. Toliver certifies that a copy of the foregoing has been served upon the Respondent(s) VECTREN Energy Delivery of Ohio by and through Counsel Andrew J. Campbell at Whit Sturtevant, LLP, Key Bank Bldg, 88 E. Broad St, Ste 1590, Columbus, Ohio 43215 on this St day of September, 2013 by regular U. S. mail.



Nancy S. Toliver
Complainant/ In Proper PERSON

WHITT STURTEVANT LLP

CHICAGO • COLUMBUS

ANDREW J. CAMPBELL
PNC Plaza, Suite 2020
155 East Broad Street
Columbus, Ohio 43215

Direct: 614.224.3973
campbell@whitt-sturtevant.com

August 20, 2012

Ms. Barcy F. McNeal
Director, Office of Administration
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

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Re: Case Nos.	08-1229-GA-COI	11-3659-GA-CSS	12-380-GA-UEX
	09-391-WS-AIR	11-4161-WS-AIR	12-426-EL-SSO
	10-200-GA-ATA	11-4324-GA-ATR	12-427-EL-ATA
	10-343-EL-ATA	11-4368-GA-CSS	12-428-EL-AAM
	10-344-EL-ATA	11-4624-AU-ORD	12-429-EL-WVR
	10-1411-GA-CSS	11-4895-GA-CSS	12-530-GA-UNC
	10-2376-EL-UNC	11-4910-AU-ORD	12-531-GA-AAM
	10-2633-GA-AEC	11-4920-EL-RDR	12-672-EL-RDR
	10-2634-GA-ATA	11-4921-EL-RDR	12-888-GA-WVR
	10-2672-WS-UNC	11-5102-WS-ATR	12-889-GA-UNC
	10-2929-EL-UNC	11-5590-GA-ORD	12-890-GA-ATA
	11-286-GA-CSS	11-5601-GA-CSS	12-919-EL-CSS
	11-319-GA-UEX	11-5843-GA-RDR	12-1063-EL-CSS
	11-346-EL-SSO	11-6024-GA-UNC	12-1259-GA-CSS
	11-348-EL-SSO	11-6025-GA-AAM	12-1682-EL-AIR
	11-349-EL-AAM	11-6076-GA-EXM	12-1683-EL-ATA
	11-350-EL-AAM	12-150-EL-COI	12-1684-EL-AAM
	11-776-AU-ORD	12-294-GA-CSS	12-1694-GA-PIP
	11-3238-GA-RDR	12-319-GA-UEX	12-1842-GA-EXM

Dear Ms. McNeal:

Pursuant to Ohio Administrative Code 4901-1-08(F), please consider this letter a notification of withdrawal of Melissa L. Thompson for the above-referenced cases. Accordingly, Mark A. Whitt will remain Counsel of Record, and all other attorneys listed should remain unchanged.

Please do not hesitate to contact me with any questions.

Very truly yours,

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Technician Date Processed AUG 20 2012



VECTREN Energy Delivery

www.vectren.com 1-800-227-1376

Name: NANCY S. TOLIVER

Account Number: 03-400225362-2220454 5

Service Address: 614 KENILWORTH AVE
DAYTON OH 45405

Billing Date: Aug 26, 2013

Total Amount Due: \$155.14
Due Date: Sep 9, 2013
Amount Due after Sep 9, 2013: \$155.14

Allow 5 business days for mailing



Enroll in eBill

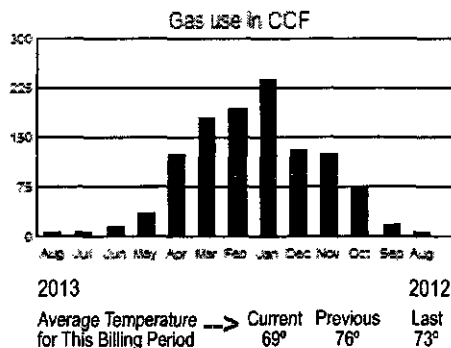
Charges

Previous Bill Amount\$24.67
Payment(s) Received\$24.67
Balance Carried Forward\$0.00
Payment Reversal\$130.74
Charges This Period\$24.40
Total Amount Due\$155.14

Gas Meter Information

Meter Number D0184663
Service Beginning 07/23/13
Service Ending 08/22/13
Number of Days 30
Meter Readings
Beginning 1353 Actual
Ending 1359 Actual
CCF Used 6.000
Multiplier 1.000000
Next Scheduled Read Date
09/20/2013

Gas Usage Comparison



Gas Usage Detail

Distribution and Service Charges
(Includes a Monthly Charge of \$18.37)\$21.62
Gas Cost Charge (DSS)
@ 0.46333 per CCF\$2.78
Total Gas Charges -
Residential Sales Service\$24.40

Gas Usage History

Month/Yr	CCF's	Month/Yr	CCF's	Month/Yr	CCF's	Month/Yr	CCF's
Aug 13	6.000	May 13	36.000	Feb 13	193.000	Nov 12	123.000
Jul 13	6.000	Apr 13	125.000	Jan 13	237.000	Oct 12	76.000
Jun 13	14.000	Mar 13	179.000	Dec 12	130.000	Sep 12	17.000
Total CCF: 1142.000				Monthly Avg: 95.167			

Remit to: P.O. Box 6262 Indianapolis, IN 46206-6262

MANUAL BILL

Please return this portion with your payment made payable to Vectren.



VECTREN Energy Delivery

Account Number: 03-400225362-2220454 5



NANCY S. TOLIVER
614 KENILWORTH AVE
DAYTON OH 45405-4042

Total Amount Due: \$155.14
Due Date: Sep 9, 2013

Amount Enclosed _____
Amount Due after Sep 9, 2013: \$155.14

Mail Payments To:

Vectren Energy Delivery
P.O. Box 6262
Indianapolis, IN 46206-6262



0340022536222204545090913000001551400000155145



VECTREN Energy Delivery

www.vectren.com 1-800-227-1376

Name: NANCY S. TOLIVER

Account Number: 03-400225362-2220454 5

Service Address: 614 KENILWORTH AVE
DAYTON OH 45405

Billing Date: Aug 26, 2013

Total Amount Due:	\$155.14
Due Date:	Sep 9, 2013
Amount Due after Sep 9, 2013:	\$155.14

Important Numbers

Customer Service Number:	1-800-227-1376
Ohio Relay Service:	1-800-750-0750
Call Before You Dig:	1-800-362-2764

Page 2

Allow 5 business days for mailing

Bill Message

For "Choice" program consumer tips and "apples to apples" comparisons for competitive supplier pricing, use the Gas Usage History Chart and visit the Public Utilities Commission of Ohio's (PUCO) web site at www.puco.ohio.gov or call 1-800-299-7271 or visit the Ohio Consumers' Counsel's web site at www.pickocc.org or call 1-877-742-5622.

Vectren.com has been redesigned to offer you easier access to bill pay, Conservation Connection programs and service requests.



VECTREN Energy Delivery

August 16, 2013

Andrew J. Campbell, Counsel
Whit Sturtevant, LLP,
The Key Bank Bldg,
88 East Broad St, Ste 1590
Columbus, Ohio 43215

RE: In re the Complainant of Nancy S. Toliver v. VECTREN Energy Delivery of Ohio, Inc., Case No. 12-3234-GA-CSS

Dear Mr. Campbell,

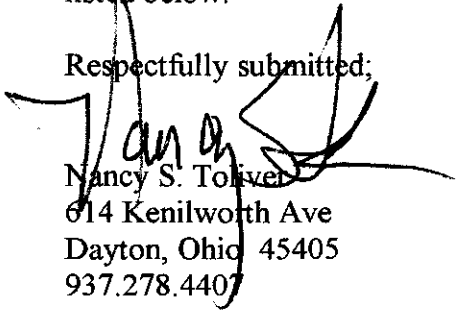
IN accordance with the good faith doctrine and newly discovered evidence rules, enclosed for your review is the letter received from the Ohio Development Service Agency and its Office of Community Assistance Division with a mailing date of August 11, 2013.

The letter is a reminder of the re verification requirements to stay on the PIPP Plus program as the re verification due date is September 6, 2013. I completed and sent the application for HEAP on July 23, 2013. The application was processed on August 16, 2013 by the administrative agency and will send out the verification to the appropriate utility(s) and Complainant within two weeks.

The letter also states in pertinent part: you will be billed for any arrearage that accumulated while enrolled in the program. The letter does not require any alleged past due minimum PIPP payments when a customer is terminated by the Ohio Development Services agency for failure to re verify with a HEAP provider within thirty days.

If you are standing in for Mr. Williams and would like to introduce your self, have any questions or concerns or would like to discussion any issues, the contacted information is listed below.

Respectfully submitted;



Nancy S. Toliver
614 Kenilworth Ave
Dayton, Ohio 45405
937.278.4407

Enclosure



Development Services Agency

sent 7/23/2013
process 8/16/2013

Mailing Date: August 11, 2013

Nancy S Toliver
614 Kenilworth Ave
Dayton, OH 45405

Please refer to the
following number when
making inquiries:

Client No: 01668979

Dear Nancy S Toliver,

Currently, you are enrolled on the Percentage of Income Payment Program Plus (PIPP Plus). One of the requirements to stay on the program is that you must reverify your eligibility every 12 months. In order to complete this requirement, you need to call your local Home Energy Assistance Program (HEAP) provider to reverify. You will also need to bring copies of your utility bills and documentation of income for all household members. (For a complete list of HEAP providers and included sources of income and exclusions from income, please visit energyhelp.ohio.gov or call the toll-free number below.)

This is important! If you fail to call your local HEAP provider within the thirty-day period, you will be removed from PIPP and you will be billed for any arrearage that accumulated while enrolled in the program. If you do not reenroll in PIPP, please contact your utility company regarding available arrearage payment plans including the new Graduate PIPP Plus plan.

If you move after submitting your application or you have any questions, please call the HEAP toll-free number (1-800-282-0880). Hearing impaired applicants should call 1-800-686-1557.

Sincerely,
Office of Community Assistance

Website: energyhelp.ohio.gov

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