

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMPLAINT OF  
FAYE E. DANIELS,

COMPLAINANT,

v.

CASE NO. 15-1288-GA-CSS

THE EAST OHIO GAS COMPANY D/B/A  
DOMINION EAST OHIO,

RESPONDENT.

OPINION AND ORDER

Entered in the Journal on August 31, 2016

I. SUMMARY

{¶ 1} The Commission, considering the complaint filed by Faye E. Daniels and the evidence admitted into the record, denies the complaint.

II. FACTS AND PROCEDURAL BACKGROUND

{¶ 2} On July 13, 2015, Faye E. Daniels<sup>1</sup> (Complainant or Ms. Daniels) filed a complaint with the Commission against The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion or Company). In the complaint, Complainant argues that, for the past several years, Dominion has disconnected her gas service after the first Percentage of Income Payment Plan (PIPP) Plus payment is due. According to Complainant, Dominion claims that the \$175.00 payment, under the Winter Reconnect Order, is not enough.<sup>2</sup> Complainant states, according to the Home Energy Assistance Program

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<sup>1</sup> Information submitted by Complainant also refers to Complainant as Faye E. Daniels Conley (Tr. at 7).

<sup>2</sup> For more than a decade each winter, the Commission has issued special reconnection procedures for consumers whose utility service has been disconnected or are facing imminent disconnection. These Commission proceedings are referred to as Winter Reconnect Orders. The three most recent Winter Reconnect Order proceedings were: *In re Commission's Consideration of Emergencies for 2013-2014 Winter Heating Season*, Case No. 13-1889-GE-UNC (2013-2014 Winter Reconnect Order), Finding and Order (Sept. 11, 2013); *In re Commission's Consideration of Emergencies for 2014-2015 Winter Heating Season*, Case No. 14-1371-GE-UNC (2014-2015 Winter Reconnect Order), Finding and Order (Sept. 10, 2014); and *In re Commission's Consideration of Emergencies for 2015-2016 Winter Heating Season*, Case No. 15-1460-GE-UNC (2015-2016 Winter Reconnect Order), Finding and Order (Sept. 2, 2015).

(HEAP), it is the choice of the utility company to accept the payments and then to disconnect her service. In support of the complaint, Complainant submits two PIPP Plus Term Agreements dated March 13, 2014, and January 7, 2015; and two Notices of Determination from the Stark County Community Action Agency (SCCAA)<sup>3</sup> dated July 13, 2012, and March 6, 2015.

{¶ 3} On August 3, 2015, Dominion filed its answer to the complaint and made a request to dismiss the complaint. In its answer, Dominion admits that Complainant is a residential customer who has received service under three different residential accounts since March 2014. Dominion denies that it has disconnected Complainant's gas service in the dead of winter each year over the past several years. Dominion avers that service to the premises was disconnected on June 25, 2014, and June 23, 2015, for nonpayment, and disconnected on August 7, 2014, for unauthorized usage and nonpayment. Further, Dominion denies that it improperly accounted for assistance payments received and applicable to Complainant's account. Otherwise, Dominion denies the remaining allegations set forth in the complaint. Dominion claims that the complaint fails to set forth reasonable grounds to sustain a complaint, as required, pursuant to R.C. 4905.26. Dominion states that it has, at all times relevant to this complaint, complied with R.C. Title 49, applicable rules, regulations, and orders of the Commission and Dominion's tariffs and, for that reason, Dominion's answer includes a request that the complaint be dismissed.

{¶ 4} By Entry issued August 11, 2015, this complaint was scheduled for a settlement conference on August 27, 2015, at the office of the Commission, in Columbus, Ohio. At Complainant's request, the settlement conference was rescheduled for September 3, 2015. The settlement conference was held, as rescheduled; however, the parties were unable to resolve the dispute informally.

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<sup>3</sup> SCCAA is the local county agency designated by the Commission and the Ohio Development Services Agency to determine and verify eligibility for the gas and electric PIPP Plus programs.

{¶ 5} By Entry issued October 14, 2015, this matter was scheduled for a hearing to be held on November 10, 2015. On November 3, 2015, Dominion filed the written direct testimony of Margaret Callahan. The day before the scheduled hearing date, Complainant requested that the hearing be rescheduled. By Entry issued November 13, 2015, Complainant's request to reschedule the hearing was granted and the hearing was rescheduled for December 14, 2015.

{¶ 6} On December 14, 2015, an hour before the hearing was scheduled to begin, Complainant contacted the assigned attorney examiner. Complainant stated that she was unable to secure transportation to the hearing and, therefore, requested that the hearing be rescheduled. Counsel for Dominion appeared at the hearing and orally requested that the complaint be dismissed. The attorney examiner requested that Dominion file a written motion. On December 15, 2015, Dominion filed a motion to dismiss the complaint, with prejudice, for failure to prosecute. By Entry issued January 13, 2016, Dominion's motion to dismiss was held in abeyance, Complainant's request to reschedule the hearing was granted, and the hearing was rescheduled for February 1, 2016.

{¶ 7} The hearing in this case was held on February 1, 2016. At the hearing, Ms. Daniels testified on her own behalf and Dominion presented the testimony of Margaret Callahan. Admitted into evidence at the hearing was a letter from the Ohio Development Services Agency (ODSA) dated November 19, 2015, to Ms. Daniels regarding her PIPP Plus eligibility (Complainant Ex. 1), a letter from ODSA dated January 11, 2016, to Ms. Daniels regarding her HEAP application (Complainant Ex. 2), a Walmart receipt dated December 4, 2015, for a utility account payment (Complainant Ex. 3), and the written testimony of Dominion witness Callahan filed on November 3, 2015 (Co. Ex. 1). During the hearing, the attorney examiner requested that Dominion file copies of Ms. Daniels' gas bills or an account statement commencing January 1, 2013, through the most recent bill issued as of the date of the hearing. On February 5, 2016, Dominion filed copies of Ms. Daniels' gas bills issued: August 2013, March

through May 2014, July 2014, and August 2014; January through July 2015; and October 2015 through January 2016; and a statement detailing account activity compiled from Dominion's records for the period January 2013 through August 2013 (Co. Ex. 2). Ms. Daniels filed her brief in this matter on March 15, 2016, and Dominion filed its brief on March 16, 2016.

### III. DISCUSSION

#### A. *Applicable Law*

{¶ 8} Dominion is a public utility and a natural gas company, as defined in R.C. 4905.02 and 4905.03, and, as such, Dominion is subject to the jurisdiction of this Commission. The Commission's residential disconnection provisions and its gas PIPP Plus program rules are set forth in Ohio Adm.Code Chapter 4901:1-18.

{¶ 9} R.C. 4905.26 requires that the Commission set for hearing a complaint against a public utility whenever reasonable grounds appear that any rate charged or demanded is in any respect unjust, unreasonable, or in violation of law, or that any practice affecting or relating to any service furnished is unjust or unreasonable. However, in complaint proceedings, the burden of proof is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Therefore, it is the responsibility of a complainant, in this instance, Ms. Daniels, to present evidence in support of the allegations made in her complaint.

#### B. *History of Gas PIPP Plus*

{¶ 10} In 1983, the Commission commenced what has evolved into the current PIPP Plus program. Since that time, the Commission has evaluated, revised, and restructured the rules of the gas PIPP program. Effective November 1, 2010, the Commission revised and renamed the PIPP program to PIPP Plus.<sup>4</sup> The Commission

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<sup>4</sup> *In re 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, Entry (June 25, 2008) at 6.

notes that, since the commencement of the PIPP Plus program, a customer's eligibility to participate has been and continues to be based on the household income, established at 150 percent of the federal poverty guidelines. Ohio Adm.Code 4901:1-18-12(B). The PIPP Plus participant's eligibility and the monthly PIPP Plus installment payment are based on annualized household income.<sup>5</sup>

{¶ 11} With the adoption of the gas PIPP Plus rules effective November 1, 2010, the PIPP Plus installment payment due each billing cycle (generally monthly) was reduced from ten percent to six percent of the participant's annualized household income. Ohio Adm.Code 4901:1-18-13(A)(1).<sup>6</sup> As an incentive for PIPP Plus participants to make timely payments each month and to break the cycle of seasonal disconnection, the Commission enacted on-time payment incentives. Ohio Adm.Code 4901:1-18-14(A).<sup>7</sup> To balance the benefits of the on-time payment incentives, PIPP Plus program rules require the PIPP Plus participant to submit the PIPP Plus installments due but not paid to continue participation in PIPP Plus or to reenroll in the PIPP Plus program. Ohio Adm.Code 4901:1-18-12(D)(2).<sup>8</sup> A PIPP Plus participant circumvents his/her obligation to the PIPP Plus program, if the PIPP Plus participant avoids his/her responsibility to pay for the utility services every month or to make up any missed PIPP Plus installment payments while service is disconnected. That is one of the primary reasons the PIPP Plus rules require PIPP Plus participants to make up any missed PIPP Plus payments. Ohio Adm.Code 4901:1-18-12(D)(2).

{¶ 12} We emphasize that the purpose of the PIPP Plus program is to balance the need for low-income customers to maintain their utility service against the low-income customers' ability to pay for their utility service. However, the Commission is mindful that the cost of the PIPP Plus program, not covered by the PIPP Plus participant's

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<sup>5</sup> There is also an electric PIPP Plus program, administered by ODSA, and there are some minor differences in the two PIPP Plus programs.

<sup>6</sup> As effective November 1, 2010, and April 15, 2015.

<sup>7</sup> As effective November 1, 2010, and April 15, 2015.

<sup>8</sup> As effective November 1, 2010, and April 15, 2015.

monthly installment payments, is borne by all the utility's ratepayers. PIPP Plus allows eligible customers to make affordable monthly energy payments on a year-round basis. When a PIPP Plus household pays its monthly PIPP Plus payment on-time and in-full, some of their old debt and the rest of that month's bill goes away in the form of a credit on their utility account.

**C. *Summary of the Testimony and Evidence***

{¶ 13} Ms. Daniels testified that, after she seeks and receives assistance on her gas bill from various organizations, including HEAP, Dominion disconnects her service. Complainant resides at 2505 Crown Place NW, Canton, Ohio and has rented the residence since 2013. Prior to moving to the Crown Place NW address, Ms. Daniels had a Dominion account, beginning in 2010 or 2011, at 1341 20th Street in Canton, Ohio. Ms. Daniels is the customer of record on the Dominion account and has been a PIPP Plus participant, off and on, since around 1996. Ms. Daniels testified that she is aware of the Winter Reconnect Order and has utilized the program to reconnect her gas service. (Tr. at 7-8, 18-19.)

{¶ 14} Complainant testified that HEAP made the \$175.00 payment to restore her gas service in 2015, which left a remaining balance owed to Dominion in the range of \$500.00 to \$600.00, for which her service was subject to disconnection. Ms. Daniels recognizes that she is required to establish her eligibility for PIPP Plus each year to continue in the program and SCCAA reverified her income in January 2015. Ms. Daniels believed the amount due Dominion was approximately \$200.00 as of December 2015. The Complainant admits she paid one payment of \$44.00, which Complainant states was not due until January or February of 2016. Ms. Daniels said Dominion disconnected her gas service in February or March of 2015, because, according to the Complainant, Dominion required that she pay \$200.00 and her PIPP Plus installment payment of \$44.00 in February 2015. The Complainant states she was unable to make another payment because she was sick. Complainant inquired about a medical certificate for her account with Dominion and recalls having used a medical certificate

to maintain or reconnect her gas service in March or April 2015. Complainant admits Dominion explained the medical certificate program to her and it is her understanding she is permitted three medical certificates per year for all utilities. Ms. Daniels testified, however, it is her doctor's policy to complete only one medical certificate form per year. (Tr. at 5-12, 18, 20-22, 26-27.)

{¶ 15} Ms. Daniels states Dominion made an allegation of unauthorized usage against her account in June or July of 2015. Complainant testified she did not reconnect her service but the Dominion technician agreed to leave the gas service on for 24 hours to allow Complainant time to secure a medical certificate. (Tr. at 13-15, 25-26.)

{¶ 16} At the hearing, Complainant presented a receipt from Walmart, dated December 4, 2015, which purports to reflect a utility bill payment to Dominion of \$44.00, on a Dominion account ending in 1881 (Complainant Ex. 3; Tr. at 42-45, 49, 62). Complainant also presented a letter from ODSA, dated January 11, 2016, which stated that HEAP had received Complainant's HEAP application and Complainant's household was determined to be eligible for the 2015-2016 heating season. Further, the letter from ODSA stated Complainant would receive a one-time credit of \$334.00 on Complainant's Dominion account. (Complainant Ex. 2; Tr. at 49.) Complainant also offered a letter, dated November 19, 2015, from ODSA, which stated Complainant's PIPP Plus application had been approved, with a PIPP Plus installment amount of \$44.00 to be paid to Dominion and an arrearage credit for on-time and in full PIPP Plus installment payments of \$191.00 (Complainant Ex. 1; Tr. at 38-39, 41-42, 49).

{¶ 17} Dominion offered the testimony of Margaret Callahan, Supervisor of Customer Service Center for Dominion, responsible for customer complaints and ensuring compliance with the Commission's minimum gas service standards. Ms. Callahan avers Complainant has had at least 11 different accounts with Dominion at various addresses since 2001. The witness testified that Ms. Daniels established service at the Crown Place NW address on March 14, 2014, and on Complainant's bill dated

March 26, 2014, Dominion sought to collect a PIPP Plus default from a prior account of \$206.50, in addition to Complainant's PIPP Plus installment payment due of \$43.00. Ms. Callahan avers the bill informed the Complainant that payment of the total amount was required for the Complainant to remain enrolled in the PIPP Plus program. According to Dominion witness Callahan, the requirement for payment was also explained to Ms. Daniels over the telephone when she contacted Dominion on April 4, 2014. Ms. Callahan stated Dominion received from SCCAA a HEAP payment of \$87.50, which was applied to Complainant's PIPP Plus default, and also received a HEAP assistance payment of \$233.00 and a cash payment of \$23.00. Ms. Callahan interprets Ohio Adm.Code 4901:1-18-13(C)(1) to require that monies provided from HEAP or similar programs are not counted as part of the monies paid by the customer to meet the customer's monthly PIPP Plus installment payments. Therefore, Ms. Callahan reasoned that only \$23.00 was applied to Ms. Daniels' \$206.50 PIPP Plus default. However, the witness acknowledged that the bill issued April 24, 2014, showed a credit balance. According to Ms. Callahan, the April 24, 2014 bill also informed the Complainant that she had been removed from the PIPP Plus program for failure to pay the PIPP Plus default due. Dominion witness Callahan contends the bill issued May 23, 2014, reflected all accrued past due gas charges, as opposed to the PIPP Plus installment default. Ms. Callahan submits that, while investigating an informal complaint filed by the Complainant in May of 2014, Dominion discovered an outstanding debt of \$4,503.18 owed by the Complainant for services received at 1341 20th Street, Canton, Ohio and transferred the outstanding balance to Complainant's active account. Ms. Callahan states that no further payments were made on Complainant's account and, after notice, Dominion disconnected service on June 25, 2014. Ms. Callahan attested the final bill issued on July 7, 2014, listed an outstanding balance of \$4,490.46. (Co. Ex. 1 at 1-4; Co. Ex. 2 at 7-12, Tr. at 56-57.)

{¶ 18} Dominion witness Callahan stated that, in August 2014, unauthorized usage was detected on the Complainant's gas meter and a Dominion revenue protection



investigator observed that the service had been reconnected at the curb box. The investigator disconnected the gas service again and Complainant was billed \$177.49 for gas consumed and an investigation fee. (Co. Ex. 1 at 4; Co. Ex. 2 at 14.)

{¶ 19} According to Dominion, on January 8, 2015, Ms. Daniels' gas service was reconnected consistent with the provisions of the *2014-2015 Winter Reconnect Order* and the Complainant reenrolled in PIPP Plus. However, Dominion declares that Complainant failed to pay the PIPP Plus default amount stated on the subsequent Dominion bill and was ultimately removed from the PIPP Plus program. The bill issued January 26, 2015, listed a PIPP Plus installment default of \$793.13 due by February 11, 2015. According to Dominion, the Company received two cash payments totaling \$69.00, a payment from SCCAA of \$175.00 to reconnect service pursuant to the *2014-2015 Winter Reconnect Order*, and a HEAP assistance payment of \$342.00 on Ms. Daniels' account. (Co. Ex. 1 at 5.)

{¶ 20} Dominion witness Callahan testified that it is her understanding that HEAP payments do not apply to the PIPP Plus installment default and, for that reason, the HEAP assistance payment of \$342.00, as noted in the ODSA letter dated January 11, 2016, would be reflected on the Complainant's account but would not apply toward Complainant's PIPP Plus installment payment due or the PIPP Plus installment default (Tr. at 50-51). Dominion avers that, as a result of the Complainant's failure to pay the PIPP Plus default amount due, Complainant was removed from the PIPP Plus program and she became responsible for the accrued balance due of over \$4,500.00. In light of the accrued balance due, according to Ms. Callahan, Dominion automatically assigned Ms. Daniels to the one-sixth payment plan for the outstanding balance. Ms. Callahan contends that a payment of \$44.00 was received by Dominion on March 6, 2015, but no other payments were received thereafter on Ms. Daniels' account. Dominion witness Callahan testified that, after providing notice to the Complainant's residence on May 26, 2015, Dominion disconnected the Complainant's gas service on June 23, 2015. The final bill issued July 6, 2015, on Complainant's account, reflected an outstanding balance due

of \$4,359.39. (Co. Ex. 1 at 4-6; Co. Ex. 2 at 16-25; Tr. at 31-33, 58-59.) Dominion witness Callahan admitted that, reviewing the January 26, 2015 bill after the fact, she observed that the calculation of the PIPP Plus default amount was overstated by \$36.00 and Dominion adjusted Complainant's account balance to correct the issue (Co. Ex. 1 at 5).

{¶ 21} Despite Complainant's allegations in her complaint, Dominion declares that the Company has not disconnected Complainant's gas service in the "dead of winter." Dominion states that Complainant's service has only been disconnected in warm weather months, June 25, 2014, August 7, 2014, and June 23, 2015. Dominion disputes Complainant's other claim that, after Dominion receives her HEAP assistance payment and her PIPP Plus installment payment is due, Dominion elects to disconnect her gas service. Dominion notes Complainant's gas service was restored on March 14, 2014, the HEAP assistance payment was made in April of 2014, and service was not disconnected until June 25, 2014, a total of 103 days. Similarly, in 2015, Dominion submits Complainant's service was reconnected on January 8, 2015, the HEAP assistance payment was made in February 2015, and service was disconnected June 23, 2015, a total of 166 days. Dominion emphasizes that, during this entire period, excluding energy assistance payments, Dominion received only \$136.00 in payments on Complainant's account. (Co. Ex. 1 at 6.)

{¶ 22} Based on her review of Complainant's account records, Ms. Callahan did not recall any notations that Ms. Daniels had used a medical certificate to maintain or to reconnect her gas service during the period 2014 until the date of the hearing (Tr. at 30). Dominion witness Callahan testified that, as of the date of the hearing, February 1, 2016, Ms. Daniels was not on the PIPP Plus program for failure to pay her PIPP Plus default amount. Ms. Callahan also offered that the Complainant's pledge to make a payment of \$88.00 the day of the hearing, would be an insufficient amount to cause Complainant to be reenrolled in the PIPP Plus program, although her payment would be reflected on the account (Tr. at 46-47).

#### IV. COMMISSION DECISION

{¶ 23} As noted above, Complainant alleges that, each year after Dominion receives her HEAP assistance payment, Dominion disconnects her utility service, asserting that the \$175.00 payment and the PIPP Plus installment payment are not enough to maintain service. Complainant also disputes the disconnection of her gas service for unauthorized usage after service was disconnected on June 25, 2014. Based on the information in the record, the Commission finds that Dominion disconnected Complainant's service on June 25, 2014, and June 23, 2015, consistent with the gas PIPP Plus program, the Winter Reconnect Orders, and medical certificate rule, and consistent with Commission rules disconnected Complainant's service for unauthorized usage and nonpayment on August 7, 2014.

##### A. Service Disconnections

###### 1. JUNE 25, 2014 SERVICE DISCONNECTION

{¶ 24} Prior to initiating service on March 13, 2014, Ms. Daniels had accrued a PIPP Plus default on a prior account(s) (Co. Ex. 2 at 1-8). The *2013-2014 Winter Reconnect Order*, applicable not later than October 14, 2013, through April 15, 2014, directed that, for a PIPP Plus participant to reenroll or maintain active status in the PIPP Plus program, the PIPP Plus participant was required to pay the PIPP Plus installment default due by the due date of the next bill. *2013-2014 Winter Reconnect Order*, Finding and Order (Sept. 10, 2014) at 4, 8.

{¶ 25} Based on the documentation filed with the complaint, Ms. Daniels filed an application for assistance with SCCAA on March 13, 2014. According to the Notice of Determination from SCCAA for the application dated March 13, 2014, Complainant was determined to be eligible for assistance, received \$87.50 from HEAP on her Dominion account, and was reenrolled in the PIPP Plus program (Complaint Att. at 7; Co. Ex. 1 at 2-3). The HEAP assistance payment is reflected on the bill issued April 24, 2014 (Co. Ex. 2 at 9). The HEAP application, signed by the Complainant, indicates that, after the

HEAP assistance payment, Complainant had a remaining PIPP Plus installment default balance owed to Dominion of \$206.50 (Complaint Att. at 2; Co. Ex. 1 at 3).

{¶ 26} The bill issued March 26, 2014, also indicates Complainant had a PIPP Plus installment default of \$206.50, and her PIPP Plus installment payment of \$43.00, due by April 11, 2014. In addition, the March 26, 2014 bill informs the Complainant of her PIPP Plus anniversary/reverification date of March 13, 2015, and the amount of her on-time PIPP Plus credit. (Co. Ex. 2 at 7-8.)

{¶ 27} As effective November 1, 2010, Ohio Adm.Code 4901:1-18-12(D) required the PIPP Plus participant be current on his/her income-based PIPP Plus installment payments at the participant's reverification date to be eligible to remain active in the PIPP Plus program for the subsequent year. Further, Ohio Adm.Code 4901:1-18-12(D) gave the PIPP Plus participant one billing cycle after reverification to pay any missed PIPP Plus installment payments due before being removed from the PIPP Plus program. Ohio Adm.Code 4901:1-18-12(D)(2) and (D)(4) specified that missed PIPP Plus installment payments that the PIPP Plus participant must pay to remain on the program included PIPP Plus installment payments delayed as the result of using a medical certificate and installment payments due while service was disconnected.

{¶ 28} The record establishes that the SCCAA Notice of Determination signed by the Complainant and dated March 13, 2014, notified the Complainant of the requirement to pay the PIPP Plus default to reenroll in the PIPP Plus program and further warns that unless the PIPP Plus default of each utility is paid by the due date of the next bill, the PIPP Plus participant will not be reenrolled in PIPP Plus. (Complaint Att. at 2.)

{¶ 29} Similar notices to the Complainant were listed on the Dominion bill dated March 26, 2014 (Co. Ex. 2 at 7). The Dominion bill issued April 24, 2014, does not reflect a sufficient PIPP Plus installment payment to cure the default by the due date. In addition to the HEAP assistance payment of \$87.50 to reconnect service, the April 24,

2014 bill reflects a cash payment of \$23.00 and a HEAP assistance payment of \$233.00 (Co. Ex. 2 at 9). However, regular HEAP assistance payments do not count as the PIPP Plus participant's installment payment. As effective November 1, 2010, Ohio Adm.Code 4901:1-18-13(C)(1) states:

Home energy assistance program (HEAP). Money provided from HEAP, or a similar program, shall not be counted as part of the monies paid by the customer to meet the monthly PIPP income-based payment requirement. These monies shall first be applied to the customer's arrearages and then held to be applied to future arrearages. Monies shall not be directly remitted to PIPP customers.

{¶ 30} Thus, the HEAP assistance payment cannot count toward the PIPP Plus participant's PIPP Plus installment default or PIPP Plus installment payment due. As a result of the Complainant's failure to cure the PIPP Plus installment default, as required in accordance with Ohio Adm.Code 4901:1-18-12, Complainant was removed from the PIPP Plus program.

{¶ 31} The Commission notes that the bill issued to Complainant dated August 2, 2013, lists a PIPP Plus anniversary date and reverification date of November 28, 2013 (Co. Ex. 2 at 4-5). It appears from the record evidence that the Complainant's service at her prior address was terminated before her PIPP Plus anniversary or reverification date of November 28, 2013, and service initiated thereafter at Complainant's Crown Place NW address. Based on these facts, which Complainant does not dispute, Complainant's account did not comply with the requirements of Ohio Adm.Code 4901:1-18-12(D), to be current on her PIPP Plus installment payments at the participant's reverification/anniversary date to remain active in the PIPP Plus program for the subsequent year.

{¶ 32} As effective at the time, Ohio Adm.Code 4901:1-18-17(A) directs the gas or natural gas company to remove the PIPP Plus participant from the PIPP Plus program upon the participant's failure to comply with the eligibility, income reverification, and payment requirements detailed in Ohio Adm.Code 4901:1-18-12. Therefore, Dominion acted in accordance with the gas PIPP Plus program rules to remove the Complainant from the PIPP Plus program. With the Complainant's removal from the PIPP Plus program, Dominion revised Complainant's subsequent bill to reflect all accrued consumption charges as opposed to the PIPP Plus installments due. The bills issued April 24, 2014, through July 7, 2014, are consistent with this result (Co. Ex. 2 at 9-12). The bills issued April 24, 2014, and May 23, 2014, do not reflect any payment from the Complainant (Co. Ex. 2 at 9-10). The bill issued May 23, 2014, includes a disconnection notice, which states that, unless Dominion receives the past due amount of \$4,328.39 by June 11, 2014, Complainant's gas may be shut off (Co. Ex. 2 at 11). Dominion issued a final bill for a total account balance due of \$4,490.46 on July 7, 2014 (Co. Ex. 2 at 12). Thus, the Commission finds that Complainant's gas utility service was properly subject to disconnection for nonpayment when service was disconnected on June 25, 2014, consistent with gas PIPP Plus program requirements and residential disconnection procedures as set forth in Ohio Adm.Code Chapter 4901:1-18.

## **2. JUNE 23, 2015 SERVICE DISCONNECTION**

{¶ 33} For the same reasons that the Commission determined Complainant's gas service was properly subject to disconnection and disconnected in June 2014, we find the Complainant's gas service was properly subject to disconnection for nonpayment and disconnected on June 23, 2015.

{¶ 34} Ie not later than October 14, 2013, through April 15, 2014, directed that, for application for assistance with SCCAA on January 7, 2015. According to the Notice of Determination from SCCAA for the application dated January 7, 2015, Complainant was determined to be eligible for assistance, received \$175.00 from HEAP on her Dominion account, and was reenrolled in the PIPP Plus program (Complaint Att. at 8;

Co. Ex. 1 at 4-5). The HEAP assistance payment is reflected on the bill issued February 24, 2015 (Co. Ex. 2 at 18). The HEAP application, signed by the Complainant, indicates that, after the HEAP assistance payment, Complainant had a remaining PIPP Plus installment default balance due Dominion of \$583.13 (Complaint Att. at 3; Co. Ex. 1 at 5).

{¶ 35} The bill issued January 26, 2015, states that Complainant had a PIPP Plus installment default due of \$739.13, a past due PIPP Plus installment payment of \$44.00, and a current PIPP Plus installment payment of \$78.52, due by February 11, 2015. In addition, the January 26, 2015 bill informs the Complainant of her PIPP Plus anniversary/reverification date, January 1, 2016, and the amount of her on-time PIPP Plus credit. (Co. Ex. 2 at 16-17.)

{¶ 36} Ohio Adm.Code 4901:1-18-12(D), as effective at this time, continued to require the PIPP Plus participant to be current on his/her income-based PIPP Plus installment payments to be eligible to remain on PIPP Plus for the subsequent year, including PIPP Plus installment payments delayed as the result of using a medical certificate and while the service was disconnected.

{¶ 37} In January 2015, just as with the prior year, Complainant was informed that she must stay current with the PIPP Plus installments to remain on the PIPP Plus program (Complaint Att. at 3). The SCCAA Notice of Determination included the same warning, advising the Complainant that, unless the balance of the PIPP Plus default and the PIPP Plus installment due was paid by the due date of the next bill, she would not be reenrolled in the PIPP Plus program (Complaint Att. at 3; Co. Ex. 1 at 5). Similar notices to the Complainant were listed on the Dominion bill dated January 26, 2015 (Co. Ex. 2 at 16-17). The Dominion bill issued January 26, 2015, lists two payments—one for \$25.00, on January 6, 2015, and one for \$44.00, on January 20, 2015, along with the reversal of an \$88.00 deposit and a \$69.00 credit (Co. Ex. 2 at 17). The bill issued February 24, 2015, reflects a HEAP assistance payment of \$342.00 in addition to the

HEAP assistance payment to reconnect service of \$175.00. Pursuant to Ohio Adm.Code 4901:1-18-13(C)(1), Dominion did not count the total HEAP assistance payments of \$517.00 toward the PIPP Plus participant's default installment due. (Co. Ex. 1 at 5; Co. Ex. 2 at 16-18.)

{¶ 38} In accordance with Ohio Adm.Code 4901:1-18-13(C), regular HEAP assistance payments do not count toward the PIPP Plus installment payments due from the PIPP Plus participant. The assistance payments on Complainant's account applicable toward Complainant's PIPP Plus installment payments due were insufficient to cure the PIPP Plus installment default of \$934.81. Accordingly, Complainant was removed from the PIPP Plus program in accordance with Ohio Adm.Code 4901:1-18-17(A), and the account revised to reflect all accrued consumption charges. The bill issued February 24, 2015, is consistent with this result (Co. Ex. 2 at 18). Subsequent Dominion bills issued on the Complainant's account reflect only one payment of \$44.00 on March 6, 2015, until service was disconnected on June 23, 2015 (Co. Ex. 2 at 19-25). The bill issued May 26, 2015, includes a disconnection notice that, unless Dominion receives the past due amount by June 12, 2015, Complainant's gas service could be disconnected (Co. Ex. 2 at 23). Dominion issued a final bill for a total account balance due of \$4,359.39 on July 6, 2015 (Co. Ex. 2 at 25). Thus, the Commission finds that Complainant's gas utility service was properly subject to disconnection for nonpayment and disconnected on June 23, 2015, consistent with the gas PIPP Plus program and residential disconnection rules as set forth in Ohio Adm.Code Chapter 4901:1-18.

***B. Unauthorized Usage Disconnection on August 7, 2014***

{¶ 39} Ms. Daniels states Dominion made an allegation of unauthorized usage against her account in June or July of 2015 but, according to Ms. Daniels, it was the Dominion technician who left service on to allow the Complainant time to secure a medical certificate (Tr. at 13-15, 25-26). According to Dominion, Complainant's gas service was disconnected in August 2014 for unauthorized usage and nonpayment (Co. Ex. 1 at 4).



{¶ 40} It is not clear, from the record in this proceeding, whether or not the Complainant contested the unauthorized usage allegation with Dominion under the then applicable provisions of Ohio Adm.Code 4901:1-18-03(E). Nonetheless, as effective at the time, Ohio Adm.Code 4901:1-18-03(E) and 4901:1-18-17(E) authorized the utility to disconnect service when there is tampering with the utility company's meter or other equipment. Further, Ohio Adm.Code 4901:1-18-03(E) does not require the utility to restore service until the customer gives assurance that the tampering has ceased, and the customer pays the utility for the unauthorized usage, any damage to the utility's property, and all tariff fees associated with the tampering.<sup>9</sup>

{¶ 41} However, Complainant's service was reconnected on January 8, 2015, pursuant to the *2014-2015 Winter Reconnect Order*. The *2014-2015 Winter Reconnect Order* provided that for a payment not to exceed \$175.00, in addition to reconnect charges and tariff fees, and agreeing to make payment arrangements or entering into a payment plan to cure any default over the \$175.00, a customer's utility service would be maintained or reconnected. *2014-2015 Winter Reconnect Order*, Finding and Order (Sept. 10, 2014) at 3-6. There is insufficient evidence in the record to demonstrate that Complainant complied with the requirements of Ohio Adm.Code 4901:1-18-03(E) and 4901:1-18-17(E) after service was disconnected in August 2014 but prior to the restoration of service in January 2015. Therefore, the Commission finds that Dominion did not act unreasonably or unlawfully when it disconnected Complainant's service on August 7, 2014.

{¶ 42} As we have previously noted, in complaint proceedings such as this one, the complainant has the burden of proof. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966). Based on the evidence of record in this case, the Commission finds that Complainant has not sustained her burden of proof. Complainant has not demonstrated that Dominion acted in any manner that was unjust

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<sup>9</sup> As the rules are currently in effect, these provisions are found in Ohio Adm.Code 4901:1-18-07(E) and 4901:1-18-17(D).

or unreasonable, as required by R.C. 4905.26, or that the Company otherwise violated any provision of R.C. Title 49 or any Commission rule or order.

#### V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 43} Dominion is a public utility and a natural gas company, as defined in R.C. 4905.02 and 4905.03, and, as such, is subject to the jurisdiction of this Commission.

{¶ 44} The Commission's gas PIPP Plus program rules and the rules regarding the disconnection of residential utility service are set forth in Ohio Adm.Code Chapter 4901:1-18.

{¶ 45} On July 13, 2015, Ms. Daniels filed this complaint with the Commission against Dominion.

{¶ 46} A settlement conference was held on September 3, 2015.

{¶ 47} The hearing was held on February 1, 2016.

{¶ 48} In a complaint case, the burden of proof is on the complainant. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 49} The Complainant failed to sustain her burden of proof to demonstrate that Dominion administered the PIPP Plus program inconsistent with the requirements of the program.

{¶ 50} The Complainant failed to sustain her burden of proof to establish that Dominion violated its tariff, any Commission rule or order, or any provision of R.C. Title 49 applicable to Dominion.

{¶ 51} The Complainant failed to sustain her burden of proof to demonstrate that Dominion acted unlawfully or unreasonably regarding the disconnection of her service.

## VI. ORDER

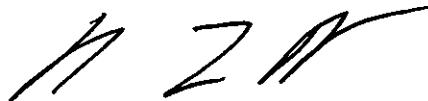
{¶ 52} It is, therefore,

{¶ 53} ORDERED, That the complaint be denied and closed of record. It is, further,

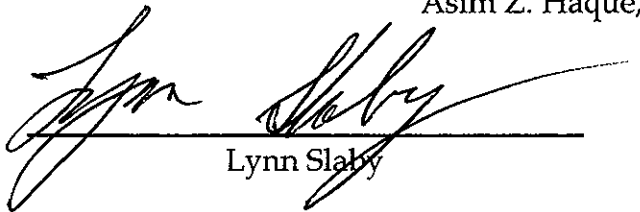
{¶ 54} ORDERED, That Dominion's motion to dismiss, with prejudice, for failure to prosecute, be denied as moot. It is, further,

{¶ 55} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

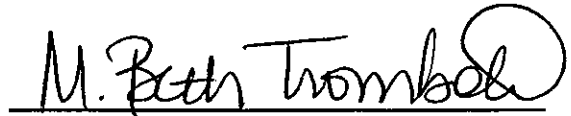
## THE PUBLIC UTILITIES COMMISSION OF OHIO



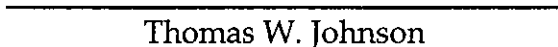
Asim Z. Haque, Chairman



Lynn Slaby



M. Beth Trombold



Thomas W. Johnson



M. Howard Petricoff

GNS/vrm/dah

Entered in the Journal

**AUG 3 1 2016**



Barcy F. McNeal  
Secretary