

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

IN THE MATTER OF THE)
COMMISSION'S REVIEW OF)
CHAPTERS 4901:1-17 AND)
4901:1-18 OF THE OHIO)
ADMINISTRATIVE CODE.

Case No. 19-52-AU-ORD

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

Respectfully submitted,

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Introduction

On July 19, 2019, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”), filed Initial Comments on the Ohio Development Services Agency (“ODSA”)’s review of and proposed revisions to the Rules contained in Chapter 122:5-3 of the Ohio Administrative Code (the “OAC”) and the Commission’s review of and the Commission Staff’s proposed revisions to the Rules contained in Chapters 4901:1-17 and 4901:1-18 of the OAC. In the Initial Comments, the Companies explained that they support ODSA’s proposed changes to OAC 122:5-3-02 that facilitate increased participation in energy assistance programs by electric customers in Ohio and suggested similar changes to OAC 122:5-3-03 to further this endeavor. The Companies also proposed changes to OAC 4901:1-18-06’s procedures for collecting payments in the field on the day of disconnection to protect the safety of the Companies’ employees and avoid unnecessary administrative expenses.

The Companies now reply to the comments of the Office of the Ohio Consumers’ Counsel (“OCC”)¹, Ohio Partners for Affordable Energy (“OPAE”), the Citizens Coalition, Duke Energy Ohio, Inc. (“Duke”), Columbia Gas of Ohio (“Columbia”), The Dayton Power and Light Company (“DP&L”), Ohio Power Company (“AEP Ohio”), The East Ohio Gas Company d/b/a Dominion Energy Ohio (“Dominion”) and Vectren Energy Delivery of Ohio, Inc. (“Vectren”)², Industrial Energy Users-Ohio (“IEU-Ohio”), The Breathing Association³ and Advocates for Basic Legal Equality, Inc.⁴ As explained below, the Companies support sensible changes to ODSA’s Rules related to PIPP Plus reenrollment, and the Commission’s Rules regarding personal notice related

¹ OCC filed comments jointly with the Advocates for Basic Legal Equality, Inc., The Legal Aid Society of Cleveland, The Legal Aid Society of Columbus, The Legal Aid Society of Greater Cincinnati, Ohio Poverty Law Center, Pro Seniors, Inc., and Southeastern Ohio Legal Services.

² Dominion and Vectren also filed their initial comments jointly.

³ The Breathing Association filed their initial comments on August 8, 2019.

⁴ The Advocates for Basic Legal Equality, Inc. jointly filed a second set of initial comments with Community Legal Aid Services, Legal Aid Society of Cleveland, Legal Aid Society of Columbus, Legal Aid Society of Southwest Ohio, LLC, Ohio Poverty Law Center, and Southeastern Ohio Legal Services on August 8, 2019.

to disconnections, electronic notices, disconnections and reconnections where smart meter technology is installed and in service, medical certifications, and reasons for refusing service or disconnecting service. The Companies oppose proposals that would increase administrative burdens for customers or utilities without providing a substantial public benefit, and proposals that restrict the Commission's ability to grant waivers between Commission Rulemakings. The Companies incorporate their Initial Comments by reference in their entirety and urge the Commission to adopt the proposed changes set forth therein.⁵

Reply Comments

I. OAC 122:5-3 – PIPP Plus Rules.

A. The Companies support the sensible removal of barriers to reenrollment in the PIPP Plus program in OAC 122:5-3-02 and -03 but oppose amendments that would increase administrative burdens to the Companies or customers.

As stated in their Initial Comments, the Companies generally support ODSA's proposed amendments to the PIPP Rules in OAC 122:5-3-02 that facilitate increased participation in energy assistance programs by electric customers in Ohio. Removing barriers to re-enrollment following voluntary removal from the program or removal for non-payment is a positive change to these Rules. In their Initial Comments, the Companies expressed their support of the Commission Staff's proposed changes to the Rule and also proposed additional changes to further this goal. Indeed, the Companies' and OCC's proposed changes to OAC 122:5-3-02(C)(1) appear to be aligned.

However, OCC also proposes a change to OAC 122:5-3-02(H)(1)(b)(i) that would have the opposite effect.⁶ Specifically, OCC proposes extending the time for customers to make past-due PIPP payments from within 30 days after their PIPP anniversary date to within 90 days of their PIPP anniversary date.⁷ While this may seem like a benefit to customers on PIPP, it would actually

⁵ The Companies' lack of response to certain comments should not be interpreted as the Companies' agreement with or acquiescence to those comments.

⁶ OCC Comments at 9.

⁷ *Id.*

hinder some customers' ability to stay in or reenroll in PIPP. Under OCC's proposal (and the current PIPP Rules), if a customer is removed from PIPP for failure to make their monthly payments, the customer would be permitted to reenroll in PIPP only after curing their missed PIPP payments. This amount could be much higher if the customer has a 90-day grace period rather than 30 days, and ODSA would need to clarify how to handle unpaid missed PIPP amounts at reenrollment. The Commission should reject OCC's proposed changes to OAC 122:5-3-02(H)(1)(b)(i).

Similarly, the Companies oppose the Citizen Coalition's recommendation that customers only be required to pay the lesser of \$100 or three months of PIPP payments in order to reenroll with PIPP.⁸ If utilities are required to remove a customer from PIPP if the customer is not current on PIPP payments as of the customer's anniversary date, it is reasonable that the customer be required to pay their missed PIPP payments to reenroll. Setting reenrollment amounts at less than the customer's missed PIPP payments would complicate the billing and reenrollment process. The customer would either be reenrolled with the anniversary amount unpaid, negating the purpose of removal for nonpayment in the first place, or the unpaid amount would have to become part of the customer's arrearages, which is not allowed under the current PIPP rules⁹. For similar reasons, the Companies oppose the Citizen Coalition's recommendation that missed PIPP payments for "medical reasons" be excluded from a utility's analysis of the customer's PIPP eligibility and should instead be "added to [the customer's] arrearage".¹⁰ Again, the PIPP rules do not allow unpaid PIPP obligations to be added to a customer's arrearages. Moreover, it would be highly burdensome, if not impossible, for a utility to identify and track missed payments for "medical reasons." These proposals should be rejected.

⁸ Citizens Coalition Comments at 5.

⁹ See OAC 122:5-3-04.

¹⁰ Citizens Coalition Comments at 6.

Finally, the Companies agree with Columbia's recommendation that the Commission hold a workshop to determine whether it is reasonable and feasible to increase the PIPP customer eligibility standard to 175% of the federal poverty guidelines.¹¹ The Companies suggest that this may be an appropriate exercise in a future PIPP Impact Evaluation. The Citizens Coalition and The Breathing Association's recommendation that customers' monthly PIPP payment percentage be reduced from 6% would also be more suitable for discussion in a future PIPP Impact Evaluation.¹² Regarding the Citizens Coalition's proposal¹³ that the Commission offer educational opportunities about the availability of PIPP, the Companies note that they already engage in customer outreach regarding PIPP through communications sent to customers, their customer service contact center, and their website.

B. The Companies oppose amendments to the PIPP payment and crediting arrangements provisions in OAC 122:5-3-04 that would increase administrative burdens to the Companies or customers.

The Companies are concerned about three proposals regarding Rule 122:5-3-04. First, the Companies oppose OCC's proposal that OAC 122:5-3-04(B)(5)(c) be amended to require an electric distribution utility to provide former PIPP customers annual reminders for three years of the availability of post-PIPP plus arrearage credits.¹⁴ It would be administratively burdensome, if not impossible, for a utility to maintain accurate customer contact information for that period of time.

Second, the Companies oppose OPAE's proposed revision to OAC 122:5-3-04(A)(3) regarding the application of funds provided on a monthly basis outside of the HEAP or emergency HEAP programs to current bills first rather than arrearages. OPAE's proposal is inconsistent with

¹¹ Columbia Comments at 1.

¹² See Citizens Coalition Comments at 6; The Breathing Association Comments at 2-3.

¹³ Citizens Coalition Comments at 6.

¹⁴ OCC Comments at 11.

the Companies' Commission-approved payment posting process¹⁵, incompatible with the Companies' billing and accounting systems, and provides no meaningful benefit to customers. Further, implementation of OPAE's proposal would also require collaboration between ODSA and the third parties that make payments on customers' behalf and force the Companies to change their payment processing. This would be resource-intensive and impractical to implement, particularly for smaller entities that make payments on customers' behalf. Moreover, OPAE's proposed treatment of these payments would be inconsistent with the settlement process for HEAP and emergency HEAP,¹⁶ and OPAE has not offered any justification for this proposed change.

Finally, The Breathing Association's proposal to lengthen the Graduate PIPP Plus period is unclear and seems to be inconsistent with other ODSA Rules¹⁷. The Commission should reject each of these proposals.

II. OAC Chapter 4901:1-18 – Rules Unrelated to PIPP Plus.

A. The Companies oppose limitations on the Commission's ability to grant waivers to the requirements in OAC Chapter 4901:1-18.

The Companies strongly disagree with OPAE's proposal¹⁸ to require that any changes to OAC Chapter 4901:1-18 be accomplished through a Rulemaking process, thereby eliminating the availability of waivers under this Chapter. The Commission undergoes rule reviews every five years, and OPAE's proposal does not allow for interim changes to recognize advances in technology and operations.¹⁹ The Commission should not be restricted from granting reasonable

¹⁵ See PUCO Case No. 02-1944-EL-CSS, Opinion & Order (Aug. 6, 2003).

¹⁶ All Emergency HEAP payments and HEAP payments for non-PIPP customers are applied according to the Companies' Commission-approved payment posting process. HEAP payments for PIPP customers are applied first towards a PIPP customer's pre-PIPP program arrearages.

¹⁷ See, e.g., OAC 122:5-3-04(B)(2) ("Electric distribution utilities shall not be entitled to recover from the fund, and they shall not charge to the director, any deficiencies accruing as a result of a PIPP plus customer's failure to pay monthly PIPP plus installment amounts. Such deficiencies also shall not be counted as customer arrearages for purposes of the arrearage crediting program provided by this rule.").

¹⁸ OPAE Comments at 11-12.

¹⁹ See AEP Ohio Comments at 3 (discussing AEP Ohio's Commission-approved process for remote disconnection); see also DP&L Comments at 1 ("DP&L in its pending Distribution Modernization Plan filing in Case No. 18-1875-EL-GRD [has] sought permanent waivers of O.A.C. 4901:1-18-06(A)(2).").

waivers to utilities under appropriate circumstances. The Companies also oppose OPAE's alternative proposal²⁰ to prohibit waivers for personal notice on the day of disconnect for the same reasons, as well as the safety reasons articulated in the Companies' Initial Comments.

B. 4901:1-18-06 – Disconnection procedures for electric, gas, and natural gas utilities.

1. The Companies support sensible amendments to the personal notice and electronic notice provisions in OAC 4901:1-18-06.

The Companies support AEP Ohio's proposal²¹ to amend OAC 4901:1-18-06(A)(2) to allow additional telephonic notices ten days prior to disconnection in lieu of personal notice on the day of disconnection for customers with installed and operational advanced metering infrastructure ("AMI"). AEP's proposal provides a sensible, Commission-approved process for providing notices to customers with smart meters.²²

The Companies also support AEP Ohio's proposed amendments to OAC 4901:1-18-06(B)(1), which would make disconnection time periods consistent year-round. However, the Companies would encourage the Commission to adopt language in subparagraph (B)(1) similar to AEP Ohio's proposed language in subparagraph (A)(2) to ensure that telephone contact can be made either through positive voice or a voicemail message.

The Companies support OPAE's proposal²³ that OAC 4901:1-18-06(A)(2) be amended to clarify that a utility is not required to provide personal notice if there is a reasonable threat of bodily harm to the utility personnel attempting to deliver the notice. This is a reasonable exception

²⁰ OPAE Comments at 12.

²¹ AEP Ohio Comments at 3.

²² This proposed change is also consistent with Rules the West Virginia Public Service Commission recently adopted that allow telephonic notices in lieu of personal notice on the day of disconnect for *all* customers, with or without smart meters. West Virginia's Rules have resulted in improved collection processes for FirstEnergy affiliates operating in that state. *See* W.Va. Legislative Title 150-03-4.8.2.b.2 and 150-03-4.8.2.b.14A.

²³ OPAE Comments at 12-13.

to the personal contact rules that balances utility employees' safety with the Commission's personal notice requirements. This proposal should be adopted.

The Companies also support AEP Ohio's proposal²⁴ to amend OAC 4901:1-18-02(D) to allow customers to opt into receiving any notices, including disconnection notices, electronically. AEP Ohio's proposal establishes a sensible and defined process for obtaining a customer's permission to send notices electronically. On the other hand, the Companies oppose OPAE's related amendment to OAC 4901:1-18-06(B)(1)²⁵ that "Electronic contacts are permitted only with permission of the customer." The term "electronic contacts" is not defined, and it is unclear from OPAE's proposal when the utility would obtain the customer's permission. Moreover, this amendment could conflict with requirements under the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. The Commission should adopt AEP Ohio's amendment to OAC 4901:1-18-02(D) and reject OPAE's amendment to OAC 4901:1-18-06(B)(1).

2. The Companies support amendments to the disconnection procedures in OAC 4901:1-18-06 that facilitate smart meter deployment.

The Companies agree with the recommendations of Dominion and Vectren²⁶ and Duke²⁷ that the Commission Staff's proposed smart meter amendments to the disconnection and reconnection rules be amended to clarify that the rules apply only if a meter with remote disconnection and reconnection capabilities is both installed *and* in service. This slight change will give electric distribution utilities flexibility as they deploy AMI. Dominion and Vectren and Duke's proposed amendment should be adopted.

The Companies oppose OCC's recommendation to reject Commission Staff's revisions to OAC 4901:1-18-06(A)(1) extending the deadline for disconnections before holidays and weekends

²⁴ AEP Ohio Comments at 1.

²⁵ OPAE Comments at 13.

²⁶ Dominion Comments at 2.

²⁷ Duke Comments at 2-3.

to 3:30pm for meters with remote reconnection capabilities, and that the Rule be amended to provide that “Where a meter with remote reconnection capabilities is installed, the customer shall be reconnected within one hour after payment is made.”²⁸ First, this Rule relates to disconnections, not reconnections, so OCC’s proposed change is misplaced in this section of the OAC. Second, and as discussed in Section II(C), below, OCC’s reasoning for this proposal – that the new timeframe unfairly limits a customer’s ability to have their service restored on the same day—is flawed. OCC’s proposal should be rejected.

3. The Companies support clarifications to OAC 4901:1-18-06 regarding the processing of medical certificate requests.

The Companies support Duke’s proposal²⁹ that OAC 4901:1-18-06(C)(2)(g) be clarified to provide that medical certificates will only be processed by utility companies on scheduled work days and not on company holidays and weekends. This is consistent with how the Companies currently structure their business operations around medical certificates and strikes a reasonable balance for the use of utility resources.

C. The Companies support amendments to the reconnection procedures in OAC 4901:1-18-07 that facilitate smart meter deployment.

As explained above, the Companies support Dominion and Vectren³⁰ and Duke’s³¹ recommendations that Commission Staff’s proposed smart meter amendments to the disconnection and reconnection rules be amended to clarify that the rules apply only if a meter with remote disconnection and reconnection capabilities is both installed *and* in service.

The Companies oppose OCC’s proposed change to OAC 4901:1-18-07(B)(1) that, where a meter with remote reconnection capabilities is installed, a utility would be required to reconnect

²⁸ OCC Comments at 13-15. The Companies also oppose OPAE’s proposal that Commission Staff’s proposed revisions be rejected and that the Rule remain the same. *See* OPAE Comments at 12.

²⁹ Duke Comments at 3.

³⁰ Dominion Comments at 2.

³¹ Duke Comments at 2-3.

service within one hour of a customer providing proof of payment. Commission Staff's proposed revision extending the deadline to make a payment and reconnect service from 12:30pm to 3:30pm offers a significant customer benefit over the current Rule regarding same-day reconnections. And while many reconnections will likely be connected within one hour of a customer providing proof of payment, some reconnects will require additional communication attempts with the smart meter, making the one-hour rule impractical. In rare situations where reconnection fails due to equipment errors, reconnection may be delayed to the next day when crews are available to be dispatched to the service address.

The Companies also oppose OPAE's proposal that 4901:1-18-07 be amended to cap reconnection fees for meters with remote reconnection capabilities at \$10.00 during regular business hours and \$15.00 during the evening or on weekends. This type of change should be considered on an individual basis as part of a proceeding regarding the utility's tariff, not this rulemaking.

D. The Companies support sensible amendments to the OAC 4901:1-18-10 and OAC 4901:1-18-03 regarding reasons for refusing service or disconnecting service.

The Companies support DP&L's proposed amendments to OAC 4901:1-18-10(A) to remove the current loophole around disconnecting or refusing service when a former customer continues to reside at a residence, a practice referred to as the "name game." This proposal reduces the risk of customers being able to avoid paying a previous balance while continuing to reside at the premises and makes the Rule consistent with R.C. 4933.121. The Companies encourage the Commission to adopt this modification to OAC 4901:1-18-10(A).

The Companies oppose OCC's recommendation that "for good cause shown" be eliminated from the enumerated list of reasons why a utility may disconnect a customer's service in OAC 4901:1-18-03. "For good cause shown" gives utilities flexibility to ensure that customers are

following all required Rules in the OAC and the utilities' tariff, and gives the utilities flexibility to handle loopholes like the one described above in OAC 4901:1-18-10(A). The Commission should reject OCC's proposal.

Conclusion

The Companies appreciate the opportunity to provide Reply Comments. The Companies urge the Commission to adopt the Companies' recommendations as set forth in the Companies' Initial Comments and Reply Comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 15th day of August, 2019. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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Summary: Reply Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company electronically filed by Mrs. Ashlee E Waite on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company and Mrs. Emily V. Danford