

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Re-)
view of its Rules of Chapters 4901:1-)
17 and 4901:1-18 of the Ohio Admin-) Case No. 19-52-AU-ORD
istrative Code.)

**REPLY COMMENTS OF
COLUMBIA GAS OF OHIO, INC.**

By Entry dated June 19, 2019, in the above-referenced docket, Commission Staff proposed changes to Ohio Admin. Code Chapters 4901:1-17 and 4901:1-18. Columbia Gas of Ohio, Inc. ("Columbia") filed its Initial Comments to the proposed rules on July 19, 2019. Columbia now files its Reply Comments for the Commission's consideration.

A. Ohio Admin. Code 4901:1-18-02(B)

This section provides that the Commission has discretion to: amend the rules and regulations in this chapter, set standards for disconnection and reconnection of utility services, and waive any requirement set forth in this chapter for good cause. Ohio Partners for Affordable Energy ("OPAЕ") proposes that the Commission may only amend the rules and regulations in this Chapter through a rulemaking process governed by Chapter 106,¹ and that the Commission should no longer have the authority to alter standards for connecting services or waiving requirements for good cause.²

As an initial matter, OPAЕ's suggestion that the Commission's rules be amended only through a rulemaking process governed by Ohio Revised Code Chapter 106 is contrary to Ohio law. The rulemaking procedure set forth in Revised Code Chapter 106 applies to agencies. The definition of "agencies" in Revised Code § 106(A) refers to those entities defined as agencies in Revised Code § 119.01. Revised Code § 119.01(A)(1) states that, "Sections 119.01 to 119.13 of the

¹ Initial Comments of Ohio Partners for Affordable Energy at 11-12.

² *Id.*

Revised Code do not apply to the public utilities commission.” Thus, the Commission is not an agency subject to Revised Code Chapter 106, and OPAE’s recommendation should be rejected.

OPAE’s proposed amendment to remove the “good cause” basis for altering standards interferes with the Commission’s broad statutory authority to govern public utilities.³ OPAE provides no examples or situations where the Commission abused its authority to waive its own rules. Nor does OPAE provide any precedent for its assertions. The Commission’s right to amend the regulations and ability to set connection standards and grant waivers are a critical exercise of this discretionary authority.⁴ The good cause element of the rule provides the Commission with the necessary flexibility to respond effectively in the event of an unusual, unforeseen circumstance that is governed by its own rules in Chapter 4901:1-18. Accordingly, Columbia recommends that the Commission reject the amendments proposed by OPAE.

B. Ohio Admin. Code 4901:1-18-03

This section states reasons for disconnecting residential electric, gas, or natural gas services. The Office of the Ohio Consumers’ Counsel (“OCC”) (and others in joint comments) propose that the Commission should amend this section for clarification purposes and that, due to the rule’s ambiguity, customers could possibly be disconnected from services according to terms based on utility unfettered discretion, such as good cause shown.⁵

OCC misconstrues R.C. 4933.120 and 4933.121. The provisions of those code sections are not, as OCC avers, exhaustive as to reasons for disconnecting service. This list in the Revised Code is intentionally non-exhaustive to reflect the general understanding that not every fact-specific situation can be enumerated in the code. As written, the rule reflects an overall statutory intent to allow utility companies

³ See *Akron v. Pub. Util. Comm.*, 149 Ohio St. 347 at 359 (“The powers thus conferred upon the Public Utilities Commission are very broad and comprehend authority for supervision, regulation and, in a large measure, control of the operations of public utilities...”).

⁴ See *In the Matter of the Commission’s Review of Chapters 4901:1-17 and 4901:1-18 and Rules 4901:1-5-7, 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*, 2008 Ohio PUC LEXIS 769 (stating that in certain rare instances, compliance with the Commission’s rules have an unintended consequence and, in those cases, the involved utility companies are ordered to take precautionary measures. As it relates to waiver, the Commission has opined support of its waiver authorities, noting that it may need to allow alternatives to the rules due to special circumstances).

⁵ Initial Comments of the Office of the Ohio Consumers’ Counsel, et al. (“OCC”) at 13.

to use their reasonable discretion in unforeseen circumstances to disconnect customers. Finally, OCC provides no examples or other indicia that utilities are abusing their discretion under the guise of good cause shown. This proposed amendment may hinder a utility's ability to provide individually-tailored treatment to customers and respond effectively to certain situations that cannot be anticipated. For the above reasons, Columbia recommends rejecting this proposed amendment.

C. Ohio Admin. Code 4901:1-18-06(A)(3)(c)

This section addresses a situation in which the utility company must provide notice of a pending disconnection to the county department of job and family services upon written request for such notification. OPAE proposes that this section be extended to include "local community action agencies, or other community-based nonprofit organization designated by the Ohio development agency," in hopes that it will enhance agencies' ability to manage HEAP and PIPP Plus to provide case management services to their clients.⁶

The proposed revision is unwarranted. Columbia has a dedicated Energy Assistance phone line for community action agencies (or the Ohio Developmental Services Agency) to confirm information, or assist customers to enroll or manage HEAP and PIPP Plus. OPAE does not explain how expanding the rule requirement will enhance services to customers or how Ohio customers are harmed by the existing rule. The Commission should not adopt this recommendation.

D. Ohio Admin. Code 4901:1-18-12 to 4901:1-18-17

This section applies to the PIPP Plus program for gas service. Several comments suggested changes to PIPP Plus, grace periods for PIPP Plus reverification eligibility, and standards for PIPP Plus program removal.⁷ Columbia does not object to the proposed changes.

Columbia anticipates it will likely need twelve months to complete the computer programming and business process changes to implement any of the proposed rule changes. Therefore, if the Commission accepts any of the suggested changes to the PIPP Plus program, Columbia requests a reasonable amount of time to implement these changes.

⁶ See OPAE's Initial Comments at 13.

⁷ See OCC's comments at 4.

Respectfully submitted by
COLUMBIA GAS OF OHIO, INC.

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served via electronic mail on the 15th day of August, 2019, upon the parties listed below.

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Summary: Comments /Reply Comments electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc.