

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review of     )  
its Rules for the Establishment of Credit for     )  
Residential Utility Services and the             )  
Disconnection of Gas, Natural Gas, or           )     Case No. 13-274-AU-ORD  
Electric Services to Residential Customers       )  
Contained in Chapters 4901:1-17 and 4901:1-     )  
18 of the Ohio Administrative Code.             )

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**APPLICATION FOR REHEARING OF DUKE ENERGY OHIO, INC.**

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Pursuant to Ohio Revised Code (R.C.) 4903.10 and Ohio Administrative Code 4901-1-35, Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) respectfully applies for rehearing of the Finding and Order issued in the above-referenced proceedings, because the Finding and Order is unreasonable and unlawful in the following respects:

1. **Rule 4901:1-18-01**, is unlawful and unreasonable because it mandates a change in the definition of "on time payment" that will cause confusion for customers.
2. **Rule 4901:1-18-06(C)(5)**, is unlawful and unreasonable in that it mandates a change in the medical certification process that creates confusion and is inconsistent with other existing rules.
3. **Rule 4901:1-18-12(D)(2)**, is unlawful and unreasonable because it will require Duke Energy Ohio to automatically drop customers from the Percentage of Income Payment Plan (PIPP) after the anniversary date if the customer has an outstanding PIPP charge.
4. **Rule 4901:1-18-12(D)(3)**, is unlawful and unreasonable because it requires significant and costly changes in systems, and unnecessarily requires the Company to reverse procedures that were implemented to accommodate rule changes made only recently.
5. **Rule 4901:1-18-13(C)(2)**, is unlawful and unreasonable as it mandates a payment priority that requires significant and costly system changes and creates conflict with changes made by the Company to comply with rule changes made only recently.

6. **Rule 4901:1-18-14(A)**, is unlawful and unreasonable because it mandates a change in the definition of “on time payment” that will cause confusion for customers.
7. **Rule 4901:1-18-14(B)**, is unlawful and unreasonable because it requires a refund to a customer and removal of customers from the PIPP program. Duke Energy Ohio’s current process does not permit a refund check to issue when a customer’s account is active and on PIPP Plus.
8. **Rule 18-15(F)**, is unlawful and unreasonable because it requires significant system changes without providing a benefit to customers, is unduly burdensome, inefficient and entails significant cost to achieve compliance.

For the reasons stated in the attached Memorandum in Support, which is attached hereto and incorporated by reference, Duke Energy Ohio respectfully request that the Commission grant the Company’s application for rehearing and issue an Entry on Rehearing consistent with this filing.

Respectfully submitted,



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## **MEMORANDUM IN SUPPORT**

### **I. Introduction**

The Public Utilities Commission of Ohio (Commission) opened this docket to receive comments related to the rules contained in Chapter 4901:1-17 and 4901:1-18, Ohio Administrative Code (O.A.C.), on January 23, 2013. A workshop was held on March 5, 2013. Thereafter, interested parties submitted comments and reply comments related to proposed rules. After receiving comments and reply comments, the Commission issued a Finding and Order adopting changes to Rules 4901:1-17 and 4901:1-18, O.A.C., and directing that they be filed with Joint Committee on Agency Rule Review. Duke Energy Ohio respectfully requests that the Commission consider additional changes the rules adopted as final, for the reasons set forth below.

Duke Energy Ohio has no comments with respect to proposed changes to the rules contained in Chapter 4901:1-17, O.A.C.. However, changes to rules in Chapter 4901:1-18, O.A.C., are extremely burdensome for Duke Energy Ohio as the only combination gas and electric company in Ohio. Duke Energy Ohio's Percentage of Income Payment Plan (PIPP) customers are required to comply with two different PIPP processes and sets of rules. Duke Energy Ohio recognizes the Commission's need to synchronize regulations with those of Ohio Development Services Agency (ODSA), however, in doing so this causes unique problems for Duke Energy Ohio. Subsequent to the last rulemaking that impacted PIPP compliance, the Company has spent millions of dollars in required information technology changes in order to implement required changes. Now that the Commission and ODSA are again proposing changes, Duke Energy Ohio will be required to reconcile the two compliance regimes with its existing billing and payment systems. Duke Energy Ohio requests that the Commission consider

carefully any proposed rule change that will upset the current balance reached in cooperation with the two agencies.

## **II. Rules That Should Be Revised**

- 1. Rule 4901:1-18-01**, is unlawful and unreasonable because it mandates a change in the definition of “on time” payment. The change to the definition is inconsistent with current practices and creates a different set of payment rules for a class of customers. Customers currently understand that they must pay by the due date provided on the bill. Changing the definition of “on time payment” do something other than the due date will be confusing and will necessitate system changes for only a certain class of customers that will be costly for the Company with no benefit to customers. This change is inconsistent with the mandates of Executive Order 2011-01K, Common Sense Initiative in that it does not strike the proper balance between objectives of the regulation and the cost of compliance.
- 2. Rule 4901:1-18-06(C)(5)**, is unlawful and unreasonable in that it mandates a change in the medical certification process that creates confusion and is inconsistent with other existing rules.

This proposed change mandates that if there is an outstanding balance for a returned check on a customer’s account, the company may refuse a medical certification, so long as notice has been given to the customer advising of a returned check balance on the account. Currently, if a customer writes a bad check, the company considers that action to constitute fraud. A customer is most certainly aware of the fact that they have issued a bad check. The requirement for a special notice pursuant to this rule would create a process different from ones where other types of fraud have been perpetrated and singles out this type for special treatment. It is unduly burdensome on the Company and does not provide any counterbalancing necessary benefit for the customer.

- 3. Rule 4901:1-18-12(D)(2)**, is unlawful and unreasonable because it will require Duke Energy Ohio to automatically drop customers from the Percentage of Income Payment Plan (PIPP) after the anniversary date if the customer has an outstanding PIPP charge.

With the last rulemaking changes enacted by the Commission and ODSA that encompassed PIPP reform, Duke Energy Ohio was advised never to drop an enrolled PIPP customer. ODSA preferred that it have this exclusive ability instead. The proposed change to this rule would now require the Company to drop a customer who has missed two PIPP installments. This places an undue burden on the Company to monitor the use of these social service programs. This is a responsibility that properly lies with the agencies that support these programs and ODSA. In order for Duke Energy Ohio to implement this change, it will require significant and costly system change. The change does not improve overall service to PIPP customers and should be left as currently devised such that ODSA and social service agencies, who are closer to the customer, to determine when the drop is appropriate.

4. **Rule 4901:1-18-12(D)(3)**, is unlawful and unreasonable because it requires significant and costly changes in systems, and unnecessarily requires the Company to reverse procedures that were implemented to accommodate rule changes made only recently.

The changes proposed in this rule will require Duke Energy Ohio to charge customer for missed PIPP installment payments, regardless of the length of time the customer has been off the Company's service. Thus, if a customer is disconnected for nonpayment and does not return to Duke Energy Ohio service for many years, it is expected that the customer would pay all missed PIPP installments prior to reenrolling.

Duke Energy Ohio does not create billing charges for customers that are not receiving service. Thus, this proposed change will require some significant and costly system changes in order to record an installment due for a customer that is not currently a customer. Additionally, the proposed change requires customers to pay for PIPP when they are not using utility service at all. In addition to being unfair to the customer, and potentially impossible for the customer in many instances, it is not possible for Duke Energy Ohio, given current system constraints, to implement.

5. **Rule 4901:1-18-13(C)(2)**, is unlawful and unreasonable as it mandates a payment priority that requires significant and costly system changes and creates conflict with changes made by the Company to comply with rule changes made only recently.

The proposed changes to this rule would require the Company to create a priority payment process such that money received from a public or private agency, other than Home Energy Assistance Program (HEAP) funds, would first be applied to the customer's current defaulted monthly payment obligation, then to the customer's current monthly income-based payment obligation, and then lastly, to arrearages.

Duke Energy Ohio currently follows ODSA electric rules, applying overpayments to future installments, once past due installments paid. The Company does not have a means by which to discern different sources of customer payments. The customer's account is credited as a result of the funds provided. There is no distinction related to the source of the funds. Thus, it is not possible to create different priorities for payment credits for these particular funds.

6. **Rule 4901:1-18-14(A)**, is unlawful and unreasonable as it again changes the definition of what constitutes an "on time" payment that will create confusion and is inconsistent with other rules.

Please see comments related to this change in definition above.

7. **Rule 4901:1-18-14(B)**, is unlawful and unreasonable because it requires a refund to a customer and removal of customers from the PIPP program. The proposed changes to this rule will require a refund submitted to the customer for any PIPP Plus payment credit balance and removal of the customer from PIPP. Duke Energy Ohio's current process

does not permit a refund check to be issued when a customer's account is active and on PIPP Plus. The change would require that the Company refund the credit balance on an active PIPP Plus account, then inform the customer that the customer is to be removed from PIPP Plus. The next step would be to remove the customer from PIPP Plus, issue the refund to the customer, and then place the customer on other payment options.

As an alternative, Duke Energy Ohio would like to propose that it be permitted to treat the customer as a new enrollment instead of a PIPP reinstated customer.

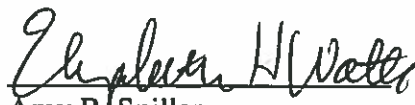
8. **Rule 18-15(F)**, is unlawful and unreasonable because it requires significant system changes without providing a benefit to customers, is unduly burdensome, inefficient and entails significant cost to achieve compliance. Further these changes are inconsistent with the Common Sense Initiative contained in Executive Order 2011-01K.

The changes proposed in this rule state that a PIPP Plus customer who voluntarily leaves PIPP Plus with no outstanding arrearage, and then rejoins PIPP Plus after one year, must pay the first PIPP Plus payment. However, if the customer rejoins after having left with an arrearage, the customer must pay missed PIPP Plus payments for all months the customer was not receiving service. Currently, Duke Energy Ohio interprets the rules such that any customer who is off PIPP for twelve months and reenrolls is regarded as a new PIPP customer. Requiring this customer to now pay for missed PIPP Plus payments for the number of months not enrolled would again entail significant system changes.

### III. Conclusion

For the reasons stated above, Duke Energy Ohio respectfully request that the Commission grant the Company's application for rehearing and issue an Entry on Rehearing consistent with this filing.

Respectfully submitted,



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