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Case No. 08-723-AU-ORD

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consuming, redundant, and expensive (no doubt at the utilities' cost) exercise without benefit to anyone. This idea should be rejected.

II. APPENDIX A—RESPONSES TO COMMISSION QUESTIONS

Appendix A to the Commission's June 25, 2008 Order included a series of questions. Question 3 under "Other" concerned the elimination of payday lenders as payment agents and asked about the cost of establishing and operating new payment agents. OCC's response was that the costs of payment should be absorbed by the companies and the companies should be required to have sufficient payment centers. The simple truth, however, is that payment processing has a real cost and that cost increases with the degree to which payment locations are made more numerous. Payday lenders may not be an ideal location for a payment center, but they are effective and available.

III. CHAPTER 4901:1-17 ESTABLISHMENT OF CREDIT FOR RESIDENTIAL SERVICE

A. 4901:1-17-03(A)(5)

Several parties commented on this rule which concerns the guarantor's liability. DP&L would agree with those parties who stated that frequently the customer deposit and the guarantor amounts are inadequate to cover a default. In addition, DP&L would argue that if the objective is to provide the utility with adequate security for service used, the amount of the customer deposit and the amount of guarantor liability should be the same. DP&L's experience suggests that this amount should be equal to at least sixty days service.

B. 4901:1-17-03 Appendix

OCC has proposed that the guarantor not be permitted to waive its right to notices of disconnection sent to the customer. DP&L agrees. It is in the best interest of both the customer

and the guarantor to receive notices which may result in disconnection and default on the account. Additionally, to allow a guarantor to opt out of receiving disconnection notices for the guaranteed party would require a change to DP&L's billing system for no added value.

IV. CHAPTER 4901:1-18 TERMINATION OF RESIDENTIAL SERVICE

A. 4901:1-18-03 NEW (J)

This proposal by AEP asserts the very logical tenet that disconnection should be permitted if the customer violates or refuses to comply with a contract or general service rules and regulations. While on the one hand this is a statement of the obvious, inclusion in this rule will help to clarify that customers, despite the accommodations afforded them under these rules, are still responsible for complying with the terms of service. For example, a customer may successfully avoid shut-off by taking advantage of the options described in these rules, but if the customer is caught tampering with the service, disconnection by the utility is still permitted. AEP's proposal should be adopted.

B. 4901:1-18-05 Extended payment plans and responsibilities

DP&L initially proposed that the new payment plans (modified 1/6 and 1/12) be made available at the option of the utilities, rather than made mandatory under the rules. The comments of other parties confirm DP&L's reasoning on this point. Duke cites a statistic that shows that the default rate for plans extending more than six months is 92%. Clearly longer payment plans do not work for the majority of customers. Thus, such plans should be offered at the utility's discretion.

In addition, the contention of the OCC and other parties that payment plans should take into consideration "affordability" with regard to the specific customer is unworkable and an

invasion of customer privacy. It is not possible to create an objective formula that takes into account consumption levels, energy costs, customer income, other major debt, previous payment history and utility account arrearages. Furthermore, even if it were possible to create such a formula, utilities do not want the responsibility of maintaining so much highly confidential customer information. It is also unlikely that customers want to provide such information. Most importantly, why should these criteria be used to create a payment plan? No other business is expected to create payment plans based on how "affordable" it is to the customer.

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

1. 4901:1-18-06(A)

OCC proposes to modify this provision regarding limitations on utility disconnections so that disconnection cannot occur on any day if the utility cannot reconnect the customer the next day. As a practical matter, this means no disconnections can take place on Fridays or any day before a holiday.

Disconnection does not occur spontaneously. It requires a series of notices which give customers plenty of time to make their payment. If they choose to wait until service is disconnected, it is not unreasonable to wait until the next business day to be reconnected.

2. 4901:1-18-06(C)(3)(d)

OCC proposes to make medical certifications for the chronically ill and those on life support indefinite rather than 30 days in duration. This rule is unnecessary and will create confusion as it blurs the existing distinction between temporary conditions and chronic situations. The thirty day duration of the medical certificate is by design meant to address the

need for temporary exemption from disconnection for medical reasons. Those with longer term problems, are termed "critical customers" and qualify under an annual verification program. This rule is contained in 4901:1-10-08(I) of the Electric Safety and Service Standards and adequately protects these customers. OCC's change is unnecessary.

3. 4901:1-18-06 (C)(3)(g)

OCC's proposal is that this rule be modified to require reconnection the same day that a medical certificate is obtained. The rule already provides that reconnection will occur the same day if notice is given by 3:30 P.M. If the customer is already shut-off, the shut-off will only have occurred after multiple required notices, which will have given the customer ample time to decide when to secure a medical certificate. With some planning, the customer can secure this certificate early enough in the day to get reconnected the same day.

4. 4901:1-18-06 (C)(3)(f)

DP&L agrees with the comments of AEP opposing the giving of seven days notice of the expiration of a medical certificate. In addition to the cost of setting up a system to track medical certifications and notify the customers, the notice is unnecessary for two other reasons. First, the certificate is only valid for thirty days. This is not a long period of time and the customer ought to be able to keep track of its expiration. Second, the expiration does not immediately permit disconnection. Rather, it permits the disconnection *notice process* to begin. Any required notices must still be given to the customer thus ensuring adequate time to respond.

5. 4901:1-18-06 (F)

This provision requires a utility to respond to a staff disconnection inquiry within two days. OCC would like this provision to apply equally to OCC's investigation into disconnect

situations. It would also like to require a utility response to that investigation within one day instead of the proposed two, because of the serious implications of disconnection. At the same time, however, OCC also wants to prohibit disconnection while the investigation is pending. These two modifications should be mutually exclusive; the urgency of the investigation is diminished if the disconnection is on hold. However, there are more compelling reasons to reject OCC's proposed changes. First, OCC is not the Commission and should not be given the Commission's power to demand a utility response with such urgency. Such a request imposes on the utility's financial resources and takes time away from other activities. It therefore requires the exercise of discretion to balance the demand being placed on the utility with the customer's need. OCC, by definition, is advocating for the customer and cannot make that judgment objectively. In addition, prohibiting disconnection while the investigation occurs is unreasonable. Once again, the customer has been given multiple notices of the pending disconnection and has had plenty of time to bring the situation to the attention of the utility and the Commission. The utility should not be required to assume additional cost to the further benefit of this customer and detriment of its other customers.

D. 4901:1-18-08 Landlord Tenant Provisions - (M) and (N) – new – OCC proposed

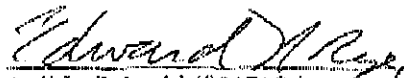
OCC has suggested adding a paragraph which creates a presumption that there are tenants at an address if the bill is being sent to another address and therefore any disconnection notices must be provided to the tenant as well as the customer of record. Although these proposed rules are somewhat unclear, DP&L would argue that the existing rules protect tenants adequately by ensuring that notice is given of a planned disconnect. The provisions proposed by OCC do not provide any additional necessary protection for tenants.

Paragraph (N) would require the utility to reconnect any service disconnected in violation of the notice rules. Again, this situation is adequately covered in other rules.

V. **CONCLUSION**

Clearly the proposed rules and the comments of each of the parties evidence a genuine desire for practical and effective disconnection rules. DP&L appreciates the opportunity to provide comments and feedback with respect to the proposed rules. DP&L looks forward to working with all interested parties in connection with developing these rules.

Respectfully submitted,



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