BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of the 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 |

FINDING AND ORDER

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The Commission finds:

BACKGROUND:

Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years. The currently effective rules in Chapter 4901:1-17, Ohio Administrative Code (O.A.C.), address the establishment of credit for the following residential utility services: electric, gas, natural gas, telecommunications, waterworks or sewage disposal. The rules in Chapter 4901:1-18, O.A.C., contain the procedures for the termination of service for electric, gas, and natural gas residential utility service and as proposed, new percentage of income payment plan (PIPP) rules for gas and natural gas utility service. In addition, the following rules were also reviewed: 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, O.A.C.

As part of the rule review, Section 119.032(C), Revised Code, requires that the Commission determine each of the following:

(a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.

(b) Whether the rule needs amendment or rescission to give more flexibility at the local level.

(c) Whether the rule needs amendment to eliminate unnecessary paperwork.

(d) Whether the rule duplicates, overlaps with, or conflicts with other rules.

In making its review, an agency is required to consider the continued need for the rules, the nature of any complaints or comments received concerning the rules, and any factors that have changed in the subject matter area affected by the rules.

By entry dated June 25, 2008, the Commission presented its Staff's proposed modifications to the rules in those chapters of the O.A.C. captioned-above and requested comments from interested persons. A technical conference was conducted on July 8, 2008, in accordance with the same entry. The comment schedule was subsequently modified by an attorney examiner entry issued on August 1, 2008. Initial comments were filed in this docket on September 10, 2008, by:

| Commenters | Abbreviations |
|---|---|
| ACE Cash Express, Inc. | ACE |
| Columbus Southern Power Company and Ohio Power Company | AEP |
| AT&T Entities | AT&T |
| CheckFree Pay Corporation | CFP |
| Cincinnati Bell Telephone Company | CBT |
| Columbia Gas of Ohio | Columbia |
| Communities United for Action | CUFA |
| Office of the Ohio Consumers' Counsel, Appalachian People's Action Coalition, The Cleveland Housing Network, Empowerment Center of Greater Cleveland, The Neighborhood Environmental Coalition, Consumers for Fair Utility Rates, United Clevelanders Against Poverty, Supports to Encourage Low-Income Families, Cleveland Tenants' Association, CUFA, May Dugan Center, Pro-Seniors, Harcatus Tri-County Community Action Organization, Ohio Interfaith Power and Light, The Ohio Farm Bureau Federation, The Ohio Farmers' Union, and the Edgemont Neighborhood Coalition | Consumer Groups |
| The Dayton Power and Light Company | DP&L |
| Duke Energy Ohio, Inc. | Duke |
| East Ohio Gas Company dba Dominion East Ohio | DEO |
| The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company | FirstEnergy |
| Franklin County Department of Job and Family Services | FCDJFS |
| AARP Ohio, Coalition on Homelessness and Housing in Ohio, Ohio Association of Second Harvest Foodbanks, Ohio Partners for Affordable Energy, and Ohio Association of | Ohio Consumer Advocates |

| | |
|---|---|
| Community Action Agencies | |
| Ohio Department of Development | ODOD |
| Ohio Gas Company | OGC |
| Ohio Telecom Association | OTA |
| Eastern Natural Gas Company, Pike Natural Gas Company, and Southeastern Natural Gas Company | Clearfield Gas |
| Constitution Gas Transport Co., Inc., Foraker Gas Company, Inc., KNG Energy, Inc., and The Swickard Gas Company | Small LDCs |
| Sheldon Gas Company | Sheldon |
| Vectren Energy Delivery of Ohio, Inc. | Vectren |

With the exception of CFP, CBT, Clearfield Gas, and Small LDCs, the same entities filed reply comments on October 14, 2008.

DISCUSSION:

After reviewing the Staff's proposal, the initial comments and reply comments, the Commission hereby adopts amended and new rules in Chapters 4901:1-17 and 4901:1-18, O.A.C. We will directly address only the more salient initial or reply comments. In some respects, we agree with certain comments and have incorporated them into the rules without specifically addressing such changes in detail in this Order. To the extent that a comment was raised and is neither addressed in this Order nor incorporated into our adopted rules, it has been rejected. Otherwise, the substantive comments in each chapter, by rule, are discussed below. For purposes of discussion in this Order, the rules of Chapters 4901:1-17 and 4901:1-18 will be referred to by the last four numbers of the rule designation.[1] Also, references to the comments filed by various commenters will be designated either as "initial" or "reply."

## CHAPTER 4901:1-17, ESTABLISHMENT OF CREDIT FOR RESIDENTIAL SERVICE

The Commission notes that currently effective Rule 17-02, titled "Written credit procedures required" will be rescinded under this Finding and Order and replaced by new Rule 17-02, titled "General provisions." Next, currently effective Rule 17-09, titled "Waiver requests" will also be rescinded under this Finding and Order.

[1] In addition, hereinafter, discussion references to Chapter 4901:1-17, Chapter 4901:1-18, and other chapters and rules of the O.A.C., will be made without the full chapter or rule citation.

PRELIMINARY ISSUES:

Prepaid Meters

In the June 28, 2008 Entry, Staff presented questions concerning the use of prepaid meters, and proposed amendments to Rules 17-01(I), 17-03(A)(6), and 17-04(D). Ohio Consumer Advocates strongly oppose the use of prepaid meters under any circumstances. Further, Ohio Consumer Advocates assert that, other than a pilot to be conducted in Duke's service territory, Ohio has no experience with these devices. (Ohio Consumer Advocates Initial at 9-12; Ohio Consumer Advocates Reply at 6-8.) The Consumer Groups also oppose the use of prepaid meters at this time and have requested that the Commission open an investigation on this subject. (Consumer Groups at 53-56, 67; Consumer Groups Reply at 22.) Vectren supports further study and analysis and an eventual pilot of prepaid meters. (Vectren Initial at 16.) AEP asserts that, at this time, it is not prepared to implement a prepaid meter program for customers whose service has been disconnected (Rule 17-04), even less so as a criterion for establishing financial responsibility for new customers. (AEP Initial at 8.) Vectren urges the Commission to clarify that prepaid meters are an option "where available" or "where offered by the utility" to eliminate any confusion concerning these provisions. (Vectren Initial at 4.) FirstEnergy agrees with Vectren that prepaid meters may represent an innovative customer strategy to assist customers who have difficulty making timely payments. (FirstEnergy Reply at 6.)

After reviewing Staff's proposals, the comments and reply comments, the Commission finds that it is premature to adopt procedures for prepaid meter technology at this time. Accordingly, the definition for prepaid meters shall be deleted from Rule 17-01, and the portions of proposed Rules 17-03(A)(6) and 17-04(D) that addressed prepaid meters shall be deleted.

Telecommunications Providers

AT&T objects to the proposed requirements of Chapter 4901:1-17 and opines that the proposed requirements for the establishment of credit are over and above those already dictated by the Minimum Telephone Service Standards (MTSS) in Chapter 4901:1-5 for telecommunications providers. AT&T argues that the competitive landscape in the state is calling for less regulation, rather than the requirements imposed by having two sets of credit establishment rules for telecommunications providers. Next, AT&T contends that the competitive marketplace provides the necessary motivation for telecommunications providers to establish reasonable and nondiscriminatory guidelines for credit establishment. Further, AT&T argues that, because the billing and collections operations of its competitors, namely wireless and Voice over Internet Protocol (VoIP), are not subject to the Commission's existing rules, the continuing application of these rules places AT&T at a competitive disadvantage. AT&T contends that it is penalized by having

to incur significant regulatory expenses that its nonregulated competitors do not. In AT&T's opinion, the playing field must be leveled. Therefore, AT&T urges the Commission to recognize the competitive presence in the state and to modify the credit rules to fully exempt telecommunications providers from all provisions of Chapter 4901:1-17. (AT&T Initial at 1-4.) OTA agrees with AT&T's proposal. (OTA Initial at 4.) CBT believes that the options to establish credit in this chapter are inappropriate in a competitive market. CBT argues that wireless, cable telephony, and VoIP providers all compete directly with wireline telephone companies, yet they are not subject to the Commission's credit requirements. (CBT Initial at 1-2.)

After carefully considering all of the arguments raised by the telecommunications providers, the Commission finds that all references to telecommunications providers shall be deleted from Chapter 4901:1-17. Telecommunications providers are subject to Chapter 4901:1-5, the Minimum Telephone Service Standards (MTSS). The MTSS are tailored specifically for telecommunications providers and already provide sufficient protections to ensure that customers are subject to reasonable and nondiscriminatory credit practices when establishing and reestablishing service. Accordingly, in order to avoid confusion and potentially conflicting requirements, the Commission agrees with the telecommunications providers that the MTSS should be the only requirements governing the credit practices of telecommunications providers.

Electric Utility Companies

After carefully considering all of the arguments raised by the electric utility companies regarding Chapter 4901:1-17, the Commission finds that all references to electric utility companies as proposed by Staff shall be deleted from Chapter 4901:1-17. The electric utility companies are subject to Chapter 4901:1-10, the Electric Service and Safety Standards (ESSS). The ESSS rules are tailored for the electric utility companies and already provide sufficient protections to ensure that customers are subject to reasonable and nondiscriminatory credit practices when establishing and reestablishing service. Accordingly, in order to avoid confusion and potentially conflicting requirements, the Commission agrees that the ESSS should be the only requirements governing the credit practices of electric utility companies. Nonetheless, the Commission finds that the electric utility companies provided valid comments on the Staff's proposed rules and the Commission will consider their comments as it reviews and modifies Staff's proposed rules. Therefore, the comments provided by the electric utility companies will be discussed under the applicable rule sections below, just as the other parties' comments are addressed.

Rule 4901:1-17-01 Definitions.

Paragraph (B)

The Commission finds that the proposed language in Rule 17-04(B) has been revised to no longer use the term "arrears." Accordingly, the definition for "arrears" in proposed paragraph (B) of Rule 17-01 is no longer required and shall be deleted.

Paragraph (D)

As proposed by Staff, paragraph (D) defines "consumer" to mean "any person who is an ultimate user of the electric, gas, natural gas, telecommunications, waterworks, or sewage disposal services." Duke requests that the Commission modify the "consumer" and "customer" [paragraph (E)] definitions to require that the customer also be a consumer at a premise, unless the premise is master-metered. Duke opines that, as presently written, the "consumer" (resident) may be disadvantaged at a particular service delivery location if the "customer" (landlord, parent, etc.) does not reside at the service delivery location and does not share with the consumer important correspondence or information on service-related or other issues. (Duke Initial at 3.)

The Commission finds that, under Duke's proposal, interested persons would be prohibited from assuming bill responsibility, as the customer of record, for an elderly parent, a child at school, or in other appropriate circumstances. Therefore, Duke's request is denied.

Paragraph (F)

As proposed, paragraph (F) defines "fraudulent act" to mean:

> an intentional misrepresentation or concealment by the customer or consumer of a material fact that the electric, gas, natural gas, telecommunications provider, waterworks company, or sewage disposal system company relies on to its detriment. "Fraudulent act" does not include tampering.

Vectren objects to Staff's proposed definition and opines that it is not clear why Staff is attempting to delineate between "tampering" (proposed paragraph K) and "fraudulent act." Historically, according to Vectren, tampering, while undefined, has been considered a fraudulent act. Vectren asserts its belief that this distinction will have unintended consequences. Therefore, Vectren requests that the Commission strike the last sentence in the proposed definition for "fraudulent act." (Vectren Initial at 2.) Consumer Groups submit that both tampering and "intentional misrepresentation or concealment ... of a material fact" should have negative consequences for the consumer or customer.

However, Consumer Groups argue that the differences between these two acts are substantial. Therefore, the distinction should be noted by keeping the proposed definitions for "fraudulent act" and "tampering." (Consumer Groups Reply at 37.)

The Commission finds that there is a distinct difference between a "fraudulent act" regarding information and the physical act of "tampering." The Commission notes that there are also different consequences regarding the two acts. Accordingly, Vectren's request is denied.

Paragraph (G)

Proposed paragraph (G) defines "past due" to mean "any utility bill balance that is not paid by the due date." ODOD submits that, in order to provide ample opportunities for percentage of income payment plan (PIPP) customers to retire accumulated and accumulated arrearages, ODOD intends, in its rules for electric PIPP, to define a payment received before a bill is issued for the next billing cycle by the electric utility as being "on time" for purposes of arrearage crediting. ODOD recommends that the Commission consider aligning its definitions for bill payment timeliness and delinquency for gas PIPP customers with what ODOD is proposing with respect to electric PIPP customers. (ODOD Initial at 17.) Consumer Groups submit that ODOD's comments are more appropriate for Chapter 4901-1:18, which contains the proposed gas PIPP rules. (Consumer Groups Reply at 37.) Columbia supports paragraph (G) as proposed by Staff. (Columbia Reply at 10.)

The Commission finds that ODOD's comments regarding "on time" payments for purposes of PIPP arrearage crediting are more appropriate for discussion under the proposed rules in Chapter 4901:1-18. Accordingly, ODOD's request is denied with respect to proposed Rule 17-01(G).

Additional proposed definitions

Consumer Groups note that the term "type of service" is used in Rule 17-03(A)(3), but is not defined in Rule 17-01. To address this gap, Consumer Groups propose a definition for "type of service" which would mean "electric, gas, natural gas, waterworks, sewage disposal or telecommunications service." (Consumer Groups Initial at 61.)

The Commission notes that the complete phrase used in Rule 17-03(A)(3) is "similar type of utility service," which is used in the currently existing rule. "Similar type of utility service" is part of the information that an applicant may use to demonstrate that he/she has had previous utility service with similar characteristics. By way of example, a customer, who received service for an all-electric house, could use the electric utility service payment history in applying for gas utility service to provide heat at a new service location. Accordingly, the Consumer Groups' proposal is rejected.

Rule 4901:1-17-02 General provisions.

Paragraph (B)(2)

As proposed, paragraph (B)(2) states that nothing in this chapter shall in any way preclude the commission from "[p]rescribing different standards for the establishment of credit for utility service as deemed necessary by the commission in any proceeding."

Columbia contends that the purpose of this provision is unclear. To the extent that this provision would authorize the Commission to prescribe new standards without undergoing rulemaking, or waive its own rules *sua sponte*, Columbia requests that the Commission reconsider this provision. Columbia opines that, if the Commission could amend its rules regarding the establishment of credit whenever the Commission deems necessary, in any case, even a complaint case, this possibility would create uncertainty among utility companies seeking to determine the financial responsibility of applicants for residential service. (Columbia Initial at 7.) The Consumer Groups respond that a similar provision has been part of the minimum telephone service standards (Rule 4901:1-5-02) for some time and it does not appear to have caused any of the problems raised by Columbia. (Consumer Groups Reply at 38.)

The Commission disagrees with Columbia's interpretation of this rule. Due to special circumstances in other proceedings, the Commission may need to allow other methods for customers to establish creditworthiness. To the extent the Commission determines that different standards should be prescribed, we would do so in the context of a proceeding in which affected stakeholders would have due process rights. This language simply clarifies the Commission's ability to do so. This concept currently exists in Rule 4901:1-5-02(B)(2); Rule 4901:1-15-02(B)(2) [waterworks]; Rule 4901:1-10-02(B)(1) [electric]; and Rule 4901:1-13-02(B)(1) [gas and natural gas].

Paragraph (D)

As proposed by Staff, paragraph (D) states:

> Each public utility shall establish and maintain written credit procedures consistent with these rules that allow an applicant for residential service to establish, or an existing residential customer to reestablish, credit with the utility. The procedures should be equitable and administered in a nondiscriminatory manner. The utility, without regard to race, color, religion, gender, national origin, age, handicap, or disability, shall base its credit procedures upon the credit risk of the individual as determined by the utility without regard to the collective credit reputation of the area in which the residential applicant or customer lives. The utility shall make its current credit procedures available to applicants and customers upon request.

Columbia supports the intent of this provision, but believes a modification would improve the rule. Columbia asserts that its credit policies and procedures are very detailed and technical. In Columbia's opinion, the average consumer would find Columbia's credit policies and procedures too difficult to understand. Therefore, Columbia recommends that a summary of a company's credit procedures, such as its brochure titled "Rights and Responsibilities," would be more useful to utility customers. Thus, Columbia recommends the following change in the last sentence of paragraph (D):

> The utility shall make a summary of its current credit procedures available to applicants and customers upon request.

(Columbia Initial at 8.) The Consumer Groups agree that Columbia's proposed summary of the credit procedures would be helpful, but would also require that customers be able to access the details of the credit policy if they request, as utility consumers should have a right to this information. (Consumer Groups Reply at 38-39.) FirstEnergy agrees with Columbia, and states its belief that providing customers with the detailed, technical credit procedures would most likely create more confusion than answers. However, FirstEnergy would modify Columbia's proposal. FirstEnergy asserts that it has simplified the credit procedures and provides a "plain English" summary along with payment options in the "Rights and Responsibilities Brochure." FirstEnergy urges the Commission to adopt its proposed modification that any summary of credit procedures be written in "plain English." (FirstEnergy Reply at 2-3.)

The Commission agrees with Columbia's proposal to provide a summary of the credit procedures to customers. However, we find that such a summary should be reviewed and approved by Commission Staff. Yet, we also agree with the Consumer Groups that customers must be able to access the details of the utility company's credit policy, if they wish, and that the utility company must be prepared to provide the detailed information upon a customer's request.

Next, the Consumer Groups suggest that the third sentence of proposed paragraph (D) be revised to state:

> The utility, without regard to race, color, religion, gender, national origin, age, handicap, ~~or~~ disability, or receipt of public assistance, shall base its credit procedures upon the credit risk of the individual as determined by the utility without regard to the collective credit reputation of the area in which the residential applicant or customer lives.

(Consumer Groups Initial at 63-64.) AEP objects to the Consumer Groups' proposal. AEP contends that this change would preclude utility companies from making credit determinations based, in part, on whether the customer is receiving public assistance. AEP opines that while we all might hope that receiving public assistance is not an

indicator of a credit risk, more often than not it is and utility companies should be permitted to consider this factor. (AEP Reply at 5.)

The Commission disagrees with the Consumer Groups' proposal that "receipt of public assistance" be included in the list of things upon which a company may not base its credit procedures. We see no need for such an addition. A customer may be required to provide proof of creditworthiness whether he or she is receiving public assistance or not. Accordingly, Consumer Groups' proposal is rejected.

Last, to clarify, the Commission notes that a company may choose to provide a summary of the credit procedures verbally, during a customer's call, as long as the utility company provides the current credit procedures in writing upon a customer's or applicant's request. Accordingly, paragraph (D) shall be revised to state:

> Each utility company shall establish and maintain written credit procedures consistent with these rules that allow an applicant for residential service to establish, or an existing residential customer to reestablish, credit with the utility company. The procedures should be equitable and administered in a nondiscriminatory manner. The utility company, without regard to race, color, religion, gender, national origin, age, handicap, or disability, shall base its credit procedures upon the credit risk of the individual as determined by the utility company without regard to the collective credit reputation of the area in which the residential applicant or customer lives. The utility company shall make its current credit procedures available to applicants and customers upon request and shall provide this information either verbally or in writing, based upon the applicant's or customer's preference. The utility company may also provide its applicants or customers with a summary of the utility company's credit procedures, which shall be written in plain English. This summary must be reviewed and approved by commission staff before distribution to the utility company's applicants or customers.

Paragraph (E)

As proposed by Staff, paragraph (E) states:

> These rules allow the use of electronic transactions and notices, if the customer and the utility company are both in agreement with such use, and such use is consistent with Commission requirements or guidelines.

DEO states that the proposed rule change does not specify which Commission "requirements and guidelines" must be taken into consideration for purposes of complying with the rules. DEO asserts that specific Commission requirements and guidelines should be identified in the proposed rule. (DEO Initial at 1.) Duke supports

the addition of this provision. Duke asserts that the inclusion of this provision would allow customers, who prefer electronic interaction, the ability to communicate, pay their bills, and receive utility service notices through available electronic means. (Duke Initial at 3.) The Consumer Groups support the requirement that the customer must agree to the use of electronic transactions and notices. (Consumer Groups Initial at 64.)

The Commission previously clarified its intent regarding electronic interactions with customers. *In The Matter of the Commission's Clarification Regarding the Manner in Which Public Utilities Shall Proceed When Using the Internet to Conduct Transactions with Their Customers*, Case No. 04-814-AU-UNC Entry (June 2, 2004). The Commission now clarifies that paragraph (E) may apply to any requirement contained in Chapter 4901:1-17, provided the customer and the utility company both agree to the use of an electronic transaction or notice and provided, further, that the customer receives the same information and the same protections provided by the rules. Therefore, the Commission finds that paragraph (E) shall be adopted to read:

> The rules of this chapter allow the use of electronic transactions and notices, if the customer and the utility company are both in agreement with such use, and such use is consistent with commission requirements or guidelines.

Rule 4901:1-17-03 Establishment of credit.

Rule 17-03 sets forth the methods by which an applicant for utility service is able to establish financial responsibility.

Paragraph (A)

As proposed by Staff, paragraph (A) provides that:

> Each utility may require an applicant for residential service to satisfactorily establish financial responsibility. If the applicant has previously been a customer of that utility, the utility may require the residential applicant to establish financial responsibility pursuant to paragraph (C) of rule 4901:1-17-04 of the Administrative Code. Each utility shall advise the applicant, at the time of application, of each of the criteria available to establish credit. If the utility requires an applicant to provide additional information to establish credit, such as identification or written documentation, then the utility shall confirm with the applicant when it receives the requested information. An applicant's financial responsibility will be deemed established if the applicant meets any one of the following criteria:

AEP asserts that proposed paragraph (A) requires the utility to advise the applicant of each of the criteria available to establish "credit." AEP notes that paragraph (A) also

uses the term "financial responsibility." Thus, AEP proposes that paragraph (A) be consistent in the terms used. Next, AEP proposes deleting the third sentence: "Each utility shall advise the applicant, at the time of application, of each of the criteria available to establish credit." AEP opines that this requirement would result in lengthy telephone conversations, particularly as the details of the guarantor option are reviewed. If proposed paragraph (A) is put into effect, AEP opines that the Commission would need to modify its rule concerning average answer time for telephone calls. (AEP Initial at 7.) Columbia agrees with AEP that the requirement to advise an applicant of each option results in lengthy telephone conversations. Further, for those customers who decline to provide a social security number to allow a credit check, Columbia asserts that the utility company will be required to inform the applicant of all other options for establishing creditworthiness. (Columbia Reply at 10.)

Consumer Groups contend that the criteria for establishing credit, as listed in paragraphs (A)(1) through (A)(5), should be the only means to do so and that no additional information should be requested of the applicant. Thus, Consumer Groups propose deleting the fourth sentence of paragraph (A): "If the utility requires an applicant to provide additional information to establish credit, such as identification or written documentation, then the utility shall confirm with the applicant when it receives the requested information." (Consumer Groups Initial at 65.) FirstEnergy and AEP oppose Consumer Groups' proposed deletion. (FirstEnergy Reply at 3; AEP Reply at 5.) The present criteria contemplate the utility companies requesting more information, not less, in FirstEnergy's opinion. (FirstEnergy Reply at 3.)

With respect to the Consumer Groups' proposal to delete the fourth sentence of paragraph (A), we find no merit to this proposal and it will be denied. Next, the Commission agrees with AEP that the term "financial responsibility" should be used consistently throughout paragraph (A), and those changes shall be made accordingly. Further, the Commission acknowledges the arguments raised by AEP and Columbia concerning the length of telephone conversations with applicants. The Commission has modified paragraph (A) to address this concern, which shall state:

> Each utility <u>company</u> may require an applicant for residential service to satisfactorily establish financial responsibility. If the applicant has previously been a customer of that utility <u>company</u>, the utility <u>company</u> may require the residential applicant to establish financial responsibility pursuant to paragraph (C) of rule 4901:1-17-04 of the Administrative Code. <u>Each utility company may use a credit check, pursuant to paragraph (A)(2) of this rule, as the first criterion by which an applicant may establish financial responsibility. If the results of the credit check, at the time of the application do not establish financial responsibility for the applicant, each utility company shall then advise the applicant of each of the remaining criteria available under this rule to establish financial responsibility.</u> If the utility

company requires an applicant to provide additional information to establish financial responsibility, such as identification or written documentation, then the utility company shall confirm with the applicant when it receives the requested information. An applicant's financial responsibility will be deemed established if the applicant meets any one of the following criteria:

Paragraph (A)(1)

As proposed by Staff, paragraph (A)(1) states:

> The applicant is the owner of the premises to be served or of other real estate within the territory served by the utility and has demonstrated financial responsibility with respect to that property.

Duke objects to the proposed addition of the phrase "with respect to that property." Duke argues that the proposed addition would prohibit the utility companies from considering whether persons with multiple properties are delinquent at locations other than the one for which service is being requested. To address its concern, Duke proposes the following language for paragraph (A)(1):

> The applicant is the owner of the premises to be served or of other real estate within the service territory served by the utility and has demonstrated financial responsibility under either of the following conditions:
>
> (a) With respect to that property, if the applicant owns only the premises to be served;
>
> (b) With respect to any other real estate within the service territory served by the utility, if the applicant owns multiple properties.

(Duke Initial at 5.) Columbia agrees that the Commission should clarify the intent of the proposed amendment to this provision. (Columbia Reply at 11.) DP&L objects to the entire provision and requests that it be deleted. DP&L argues that, from a practical standpoint, there is no workable objective method that can be employed to evaluate an applicant's creditworthiness in this manner. (DP&L Initial at 6.) FirstEnergy also requests that this provision be removed entirely. FirstEnergy opines that this option is not currently used by its applicants for service and that, if the applicants did elect to use this option, the utility company would be required to request and wade through numerous customer sensitive documents, such as mortgages and tax records. (FirstEnergy Initial at 6-7.) Consumer Groups oppose the deletion of paragraph (A)(1) and note that it is based on Section 4933.17(A), Revised Code. (Consumer Groups Reply at 41.)

The Commission rejects the proposals of DP&L and FirstEnergy to delete paragraph (A)(1), because this provision is consistent with the requirements of Section 4933.17(A),

Revised Code. With respect to DP&L's and FirstEnergy's arguments that the evaluation of this provision would require significant work, the Commission notes that timeliness of mortgage payments is typically reflected on the applicant's credit report. The Commission finds that further clarification is needed and agrees with the concept proposed by Duke. Accordingly, paragraph (A)(1), has been amended to state:

> The applicant is the owner of the premises to be served or of other real estate within the service territory served by the utility company and has demonstrated financial responsibility under either of the following conditions:
>
> (a) With respect to that property, if the applicant owns only the premises to be served;
>
> (b) With respect to any other real estate within the service territory served by the utility, if the applicant owns multiple properties.

Paragraph (A)(2)

Paragraph (A)(2), as proposed by Staff, states:

> The applicant demonstrates that he/she is a satisfactory credit risk by means that may be quickly and inexpensively checked by the utility. ~~In determining whether the applicant is a financially responsible person, the public utility may request from the applicant and shall consider information including, but not limited to, the following: name of employer, place of employment, position held, length of service, letters of reference, and names of credit cards possessed by the applicant.~~ Under this provision, the utility may request the applicant's social security number in order to obtain credit information and to establish identity. Prior to requesting the applicant's social security number, the utility shall advise the applicant that it will use the social security number to obtain credit information and to establish identity, and that providing the social security number is voluntary. The utility may not refuse to provide service if the applicant elects not to provide his/her social security number. If the applicant declines the utility's request for a social security number, the utility shall inform the applicant of all other options for establishing creditworthiness.

Columbia objects to the requirement that utility companies affirmatively advise applicants that they need not provide their social security number, prior to requesting the applicant's social security number. Columbia opines that if applicants are informed that they do not need to provide their social security number, they are less likely to do so. Columbia argues that this would deprive utility companies of the most effective method of

verifying the applicant's financial responsibility. Further, Columbia asserts that, under the Federal Trade Commission's (FTC's) new "Red Flag" rules, creditors must develop written programs to identify and detect identity theft. The FTC, Columbia argues, includes utility companies in its definition of creditors. Columbia asserts that one of the FTC requirements under this program is for the creditor to obtain a customer's taxpayer identification number (which may be a social security number). Also, Columbia asserts, existing Commission Rule 4901:1-13-12(D) prohibits utility companies from disclosing any customer's social security number without the customer's consent. (Columbia Initial at 8-11.) Duke and FirstEnergy agree with Columbia's arguments. (Duke Reply at 7; FirstEnergy Reply at 4.) DP&L also objects to the proposed requirement. DP&L opines that utilities should be permitted to deny service based upon the applicant's refusal to provide a social security number. (DP&L Initial at 7.)

First, with respect to DP&L's request that utilities be permitted to deny service based upon the applicant's refusal to provide a social security number, the Commission finds no merit to this request. There are other options under this rule by which the applicant may establish financial responsibility without providing his or her social security number.

Next, the Commission believes that Staff's intent was to address concerns regarding identity theft, by the addition of the requirement to explain that a customer's disclosure of his/her social security number was voluntary. Based upon the comments and reply comments and OUR understanding OF the requirement for utility companies to comply with the FTC's new "Red Flag" rules, the Commission finds that the proposed requirement is no longer required and will, accordingly be deleted. Paragraph (A)(2) shall be revised to state:

> The applicant demonstrates that he/she is a satisfactory credit risk by means that may be quickly and inexpensively checked by the utility company. Under this provision, the utility company may request the applicant's social security number in order to obtain credit information and to establish identity. The utility company may not refuse to provide service if the applicant elects not to provide his/her social security number. If the applicant declines the utility company's request for a social security number, the utility company shall inform the applicant of all other options for establishing creditworthiness.

Paragraph (A)(5)(c)

As proposed by Staff, Paragraph (A)(5)(c) of this rule states:

~~For all utilities, including telecommunications providers, the company shall send a notice to the guarantor when~~ When the guaranteed customer requests

a transfer of service to a new location, the utility shall send a new guarantor agreement to the guarantor. The ~~transfer of service notice shall display all of the following information~~ new guarantor agreement shall display the guaranteed customer's name and new service address. The cover letter accompanying the new guarantor agreement shall include:

(i) ~~The name of the guaranteed customer~~A statement that the transfer of service to the new location may affect the guarantor's liability.

(ii) ~~The address of the current guaranteed customer service location.~~ A statement that, if the guarantor does not sign and return the new guarantor agreement within fifteen days, the utility will notify and bill the guaranteed customer for a security deposit at the new service address.

~~(iii) A statement that the transfer of service to the new location may affect the guarantor's liability.~~

~~(iv) A statement that, if the guarantor does not want to continue the guaranty at the new service location, the guarantor must provide thirty days' written notice to the utility company to end the guaranty.~~

The Commission notes that several strong objections were raised by various commenters to the proposed changes for paragraph (A)(5)(c). After reviewing the comments and reply comments, the Commission finds that Staff's proposed changes to paragraph (A)(5)(c) should not be adopted.

Paragraph (A)(5)(e)

Next, the Commission notes that Rule 17-03 has been amended to address the circumstance where the guarantor defaults on his/her own utility service. This new provision has been added as paragraph (A)(5)(e) to Rule 17-03. Accordingly, paragraph (A)(5)(e), shall be adopted to state:

(e) Under the circumstances where a guarantor's utility service is subject to disconnection, the utility company shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the date of the notice to the guaranteed customer). The utility company shall also advise the customer that, prior to the specific end date stated in the notice, he/she must reestablish credit

through one of the alternate means set forth in paragraph (A) of this rule, or be subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-15 of the Administrative Code (waterworks and/or sewage disposal) and Chapter 4901:1-18 of the Administrative Code (gas, and natural gas).

Rule 4901:1-17-04 Deposit to reestablish creditworthiness.

The Consumer Groups propose changing the premise of this rule and the rule title to "Options to Reestablish Creditworthiness." This proposal is based on Consumer Groups' belief that a deposit should not be the only means to reestablish creditworthiness. To that end, Consumer Groups assert that each of the options available under Rule 17-03, to establish financial responsibility, should be adopted in Rule 17-04. At a minimum, Consumer Groups assert that a customer should be able to obtain a guarantor under paragraphs (A), (B), or (C) of this rule. (Consumer Groups Initial at 71.)

Paragraph (A)

Paragraph (A), as proposed by Staff states:

(A) A utility may require a customer to make a deposit or an additional deposit on an account, as set forth in this rule and pursuant to rules 4901:1-17-03 and 4901:1-17-05 of the Administrative Code, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that company. ~~After considering the totality of the circumstances, the~~ The utility may require a customer whose service has been disconnected to pay a deposit, ~~the delinquent bill, and the reconnection charges prior to restoring service~~ in addition to any charges under the applicable reconnection rules in Chapters 4901:1-5 (telephone), 4901:1-15 (waterworks and/or sewage disposal), and 4901:1-18 (electric, gas and natural gas) of the Administrative Code.

Columbia opposes the Consumer Groups' proposal to add a guarantor option to paragraph (A). Columbia and FirstEnergy contend that a customer who has been required to reestablish creditworthiness has already demonstrated that he or she is not creditworthy. A security deposit, in Columbia's opinion is the best way to secure the customer's account. Columbia asserts that it supports the Staff proposed language for paragraph (A). (Columbia Reply at 14; FirstEnergy Reply at 6-7.) DEO also opposes the Consumer Groups' proposal. DEO asserts that a security deposit is of greater importance if the customer was disconnected for nonpayment. (DEO Reply at 6.)

The Commission rejects the Consumer Groups' proposal to add a guarantor option to proposed paragraph (A). We find that some utility companies offer a guarantor option now; however, based on the arguments, we are not compelled to make it mandatory for the purpose of reestablishing credit.

Paragraph (B)

As proposed by Staff, paragraph (B) states:

~~A~~ After considering the totality of the customer's circumstances, a utility may require a deposit if ~~the customer account meets one of the following criteria:~~ the customer's account is in arrears and the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated services provided by that company.

~~(1) The customer has not made full payment or payment arrangements by the due date for two consecutive bills during the preceding twelve months.~~

~~(2) The customer has been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months.~~

First, the Consumer Groups assert that the proposed language is not clear. Next, the Consumer Groups propose that the phrase, "After considering the totality of the customer's circumstances" be deleted because it would be difficult to determine whether the utility company has done so. (Consumer Groups Initial at 71.) DEO asserts that this phrase is vague and subject to interpretation. (DEO Initial at 2-3.) Columbia also asserts that this phrase is vague and provides little guidance. (Columbia Reply at 14.)

Further, the Consumer Groups propose adding the following language: "The customer shall have the option of determining which of the methods cited above to utilize in reestablishing creditworthiness." (Consumer Groups Initial at 71.) DEO disagrees with Consumer Groups' proposals. (DEO Reply at 6.)

As we stated above, the Commission rejects the Consumer Groups' proposal to permit a guarantor to reestablish credit. We find the arguments raised by the utility companies persuasive in that the customer is reestablishing credit. Having made that determination, the Consumer Groups' second proposal is moot.

With respect to the phrase at the beginning of paragraph (B), "After considering the totality of the circumstances," we note that this phrase was included in the prior paragraph (A). The Commission finds that the intent of this language is to encourage the utility companies to look at the "whole picture" regarding that customer before

determining that a deposit is required. If the customer has a history of good credit, the utility company might consider why the customer has been in arrears for a short amount of time and determine not to request a deposit. For that reason, the proposals to delete this phrase are rejected. However, the Commission has modified this paragraph for clarity. Paragraph (B) shall state:

> After considering the totality of the customer's circumstances, a utility company may require a deposit if ~~the customer's account is in arrears and~~ the customer has not made full payment or payment arrangements for any given bill containing a previous balance for regulated services provided by that utility company.

Paragraph (C)

Paragraph (C), as proposed by Staff, provides:

> (C) A utility may require a deposit if the applicant for service was a customer of that utility, during the preceding twelve months, and had service disconnected for nonpayment, a fraudulent ~~practice~~ act, tampering, or unauthorized reconnection.

DP&L proposed that paragraph (C) be expanded to permit the utility company to seek a security deposit from all "credit risk" customers. Thus, DP&L proposes adding the phrase, "or has been issued a disconnection notice for non-payment" to the end of the sentence above. (DP&L Initial at 11.) The Consumer Groups object to DP&L's proposal. The Consumer Groups argue that DP&L does not indicate the degree to which imposing deposits under these circumstances would reduce its exposure to financial risk. Thus, in the absence of such information, the Consumer Groups assert that there is no reason to change this rule. (Consumer Groups Reply at 47.)

Next, Consumer Groups make the same proposals for paragraph (C) as above, to add a guarantor option, and for the customer to elect which option to use to reestablish creditworthiness. (OCC Initial at 71.) DEO objects to the Consumer Groups' proposal. DEO contends that a security deposit is of greater importance if the customer was disconnected for nonpayment, a fraudulent act, tampering, or an unauthorized reconnection. (DEO Reply at 6.)

First, the Commission finds that DP&L's proposal would place an additional financial burden unnecessarily on customers, who pay their utility bills after the payment due date, but who are able to make their payments before utility service is actually disconnected. We agree with the Consumer Groups that DP&L did not provide specific information regarding its exposure to financial risk under these circumstances. Accordingly, DP&L's proposal is rejected.

The Commission rejects the Consumer Groups' proposal to add a guarantor option to proposed paragraph (C) for the reasons discussed above. Having made that determination, the Consumer Groups' second proposal is moot. Therefore, paragraph (C) shall be adopted to read:

> A utility company may require a deposit if the applicant for service was a customer of that utility company, during the preceding twelve months, and had service disconnected for nonpayment, a fraudulent ~~practice~~ act, tampering, or unauthorized reconnection.

Rule 4901:1-17-05 Deposit administration provisions.

Paragraph (A)

Staff proposed minor text revisions to the currently effective paragraph (A), which states:

> No public utility, as defined in this chapter, except telecommunications providers, shall require a cash deposit to establish or reestablish credit in an amount in excess of one-twelfth of the estimated charge for regulated service(s) provided by that ~~distribution~~ utility for the ensuing twelve months, plus thirty per cent of the monthly estimated charge. No telecommunications provider shall require a cash deposit to establish or reestablish credit in an amount in excess of that prescribed in rule ~~4901:1-5-13~~ 4901:1-5-05 of the Administrative Code. Each utility, upon request, shall furnish a copy of these rules to the applicant/customer from whom a deposit is required. If a copy of the rule is provided to ~~a customer/applicant~~ the applicant/customer, the utility shall also provide the name, address, website address, and telephone number of the public utilities commission of Ohio.

Duke proposes to change the first sentence, so that the deposit amount to establish creditworthiness would be increased from one-twelfth to "two-twelfths of the estimated charge for regulated services," plus thirty percent of the monthly estimated charge. In support of its proposal, Duke argues that Rule 18-05 allows residential customers to be approximately sixty days in arrears before the service can be disconnected for nonpayment. Also, Duke argues that guarantors, under Rule 17-03(A)(5), are responsible for sixty days of service. Duke suggests that security deposits should be equivalent to the fullest amount of service that may be extended, by the utility company to the customer, without the customer being required to pre-pay for service. Further, Duke notes that outstanding balances which go unpaid and are not recouped by security deposits become part of a utility company's uncollectible arrearages. Last, Duke asserts that the larger deposit requirement, coupled with timely disconnection for nonpayment of bills, will likely reduce the number of customers with sizeable uncollectible arrearages after their

services are disconnected. (Duke Initial at 8-10.) FirstEnergy also requests that the maximum cash deposit be increased to one-sixth of the estimated charge for regulated service(s) for the ensuing twelve months. FirstEnergy argues that one-sixth is more in-line with a utility company's actual exposure. The Consumer Groups note that both proposals to increase the maximum deposit are contrary to Section 4933.17, Revised Code.

The Commission agrees with the Consumer Groups that the proposals from FirstEnergy and Duke, to increase the cap on security deposits, are not consistent with Section 4933.17, Revised Code. Consequently, both proposals are rejected.

Rule 4901:1-17-06 Refund of deposit and release of guarantor.

Paragraph (A)

Currently effective paragraph (A) addresses the refund of a customer's deposit after discontinuing service with a utility company. DP&L asserts that this rule creates an undue administrative burden to refund the remaining balance of a customer's deposit, no matter how small. Thus, DP&L requests that this rule be amended to be consistent with Rule 4901:1-10-14, for electric utility companies, which limits refunds to customers whose deposit balance is one dollar or more. (DP&L Initial at 11.) The Consumer Groups object to DP&L's proposal. The Consumer Groups assert that DP&L provides no information on how frequently this occurs and no reason for why it should be entitled to retain those amounts. (Consumer Groups Reply at 50.)

The Commission agrees with DP&L that Rule 4901:1-10-14(K) limits the amount that an electric utility company is required to return to a customer, after applying the deposit to the final bill, to a deposit balance of $1.00 or greater. Yet, under proposed and currently existing Rule 17-06(A), the gas, natural gas, waterworks, and sewage disposal system utility companies are required to return any remaining deposit balance to the customer. The Commission believes that, in an effort to reduce the utility companies' administrative costs, the appropriate deposit refund policy is the one contained in recently approved Rule 4901:1-10-14(K). (Case No. 06-653-EL-ORD, Finding and Order (November 5, 2008)). Accordingly, Rule 17-06 has been amended to state:

> (A) After discontinuing service, the utility company shall promptly apply the customer's deposit, including any accrued interest, to the final bill. The utility company shall promptly refund to the customer any deposit, plus any accrued interest, remaining, unless the amount of the refund is less than one dollar. A transfer of service from one customer location to another within the service area of the utility company does not prompt a refund of the deposit or a release of the guarantor.

Paragraph (B)

Currently effective paragraph (B) requires that utility companies review each account holding a deposit or guarantor agreement every twelve months and to promptly refund the deposit, plus any accrued interest or release the guarantor, if the account meets the three criteria in paragraphs (B)(1), (B)(2), and (B)(3). Each of these criteria will be discussed in the following paragraphs.

Paragraph (B)(1)

Paragraph (B)(1) currently requires that a customer's deposit be refunded, or the guarantor released, if "[t]he customer has paid his/her bills for service for twelve consecutive months without having had service disconnected for nonpayment." DP&L asserts that this rule should be expanded to deter the issuance of bad checks to a utility company. Thus, DP&L proposed adding the phrase "or issued any insufficient fund checks or payments to the utility" to the end of paragraph (B)(1). (DP&L Initial at 11.) The Consumer Groups oppose DP&L's proposal. The Consumer Groups opine that a check returned for insufficient funds should be treated the same as the bill not being paid by the due date, rather than a situation deserving special treatment. (Consumer Groups Reply at 50.)

The Commission agrees with the Consumer Groups that DP&L's request to add language regarding insufficient fund checks is not necessary. If a customer has paid a bill with a check that is subsequently returned for insufficient funds, then the bill has not been paid by the due date and should be treated accordingly. The Commission notes that this issue is addressed by paragraph (B)(2), which follows. Therefore, DP&L's proposal is rejected.

Paragraph (B)(2)

Paragraph (B)(2) requires that a customer's deposit be refunded, or the guarantor released, if "[t]he customer has not had more than two occasions on which his/her bill was not paid by the due date." The Consumer Groups assert that this provision should place a time limit for disqualification for return of a deposit. Thus, the Consumer Groups propose the following language:

> (2) The customer has not had more than two occasions in the preceding twelve months on which his/her bill was not paid by the due date.

(Consumer Groups Initial at 74.)

The Commission agrees with the change as proposed by the Consumer Groups, as the change clarifies the intent of the rule. Thus, paragraph (B)(2) has been amended to read as stated above.

Paragraph (B)(3)

Paragraph (B)(3), as proposed by Staff, requires that a customer's deposit be refunded, or the guarantor released, if "[t]he customers is not currently delinquent in the payment of his/her bills." The Consumer Groups recommend deleting the word "currently" from this rule because, in the Consumer Groups' opinion, it is redundant in this context. (Consumer Groups Initial at 74.)

The Commission believes that the intent of Staff's proposal was to clarify the provision by replacing the word "then" with "currently." To further clarify this rule, the Commission finds that the following language shall be adopted:

(3) The customer is not ~~then~~ delinquent in the payment of his/her bills at the time of the review.

Paragraph (E) new

Duke recommends that language be included to address the protocol for handling the guaranteed customer's account when a guarantor requests a release of financial responsibility, and the customer is unable to establish creditworthiness by other means. Duke proposes that the following paragraph be added:

(E) If a guarantor requests in writing a release of financial responsibility related to a customer's account, the customer who provided the guarantor will be subject to establishing creditworthiness through an alternative means as prescribed by 4901:1-17-03(A), O.A.C., or subject to disconnection as prescribed by 4901:1-18-05, O.A.C.

Duke asserts that adding this provision will afford guarantors the ability to discontinue acting as guarantors should circumstances require. This provision will also provide a customer with clearly defined protocol concerning establishing creditworthiness should the party guaranteeing his/her account request a release of financial responsibility before that customer has established creditworthiness through his/her payment history. (Duke Initial at 10.) The Consumer Groups opine that Duke's proposal to this rule appears to be reasonable. (Consumer Groups Reply at 51.)

The Commission agrees, in part, with Duke's proposed new paragraph. Since Chapter 4901:1-17, as proposed, applies to more than electric, gas, and natural gas utility companies, the phrase "or subject to disconnections as prescribed by 4901:1-18-05, O.A.C."

shall be eliminated. Accordingly the following language shall be adopted as a new paragraph (E) to this rule:

(E) If a guarantor submits a written request to the utility company for a release of financial responsibility related to a customer's account, the utility company shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the receipt of the guarantor's request). The company shall also advise the customer that prior to the specific end date of the guarantor's responsibility, he/she must reestablish creditworthiness through an alternate means as prescribed by paragraph (A) of rule 4901:1-17-03 of the Administrative Code, or be subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-15 of the Administrative Code (waterworks and/or sewage disposal) and Chapter 4901:1-18 of the Administrative Code (gas and natural gas).

Rule 4901:1-17-08 Applicant and/or customer rights.

Paragraph (C)

Paragraph (C), as proposed by Staff, requires that, if the applicant/customer expresses dissatisfaction with the utility company's decision to request a security deposit, the utility company shall inform the customer of the following:

(1) The reason(s) for its decision.

(2) How to contest the utility's decision and show creditworthiness.

(3) The right to have the utility's decision reviewed by an appropriate utility supervisor.

(4) The right to have the utility's decision reviewed by the commission staff, and provide the applicant/customer the local or toll-free numbers and/or ~~TDD/TTY~~ TTY numbers, address, and the website address of the public utilities commission of Ohio as stated below:

~~The public utilities commission of Ohio (PUCO) toll-free at 1-800-686-7826 or 1-614-466-3292, or for TDD/TTY toll-free at 1-800-686-1570 or 1-614-466-8180, from 8:00 a.m. to 5:00 p.m. weekdays, or the PUCO website at www.PUCO.ohio.gov.~~

"If your complaint is not resolved after you have called (name of utility), or for general information, customers may call the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.PUCO.ohio.gov."

The Consumer Groups object to the requirement that the customer express dissatisfaction before the customer is informed of the reason for the decision and the alternatives. The Consumer Groups, therefore, proposed deleting the phrase "and the applicant/customer expresses dissatisfaction with the utility's decision," from this provision. (Consumer Groups Initial at 76.)

Columbia objects to the Consumer Groups proposal. Columbia argues that utility companies should not be required to send out written explanations regarding decisions to require cash deposits, along with detailed instructions for contesting that decision, if the affected applicants/customers have not complained about the decision. Further, Columbia argues that the proposal would impose a needless expense on the utility companies, which would ultimately be passed on to all ratepayers. (Columbia Reply at 15.) AEP opines that the Consumer Groups' proposed change would generate controversy where none exists and should be rejected. (AEP Reply at 6.) FirstEnergy argues that the existing language appropriately provides the customer notice of the right for a review of the security deposit decision. Further, FirstEnergy opines that to offer a customer, who has not expressed dissatisfaction, the opportunity to have the customer-call-center specialist's decision reviewed by a supervisor would have the following consequences: (1) discrediting and undermining the initial determination, (2) guaranteeing that all customers will accept the invitation to have the decision reviewed first by a supervisor at the utility and then by the Commission, and (3) needlessly increasing customer call time. FirstEnergy urges the Commission to reject the Consumer Group's recommendation. (FirstEnergy Reply at 7-8.)

The Commission finds the arguments raised by Columbia, AEP, and FirstEnergy persuasive. Therefore, the Consumer Groups' proposal is rejected. The Commission also finds that paragraph (C) requires some further clarification. For that reason, paragraph (C) shall be adopted as follows:

(C) If a ~~public~~ utility company requires a cash deposit to establish or reestablish service and the applicant/customer expresses dissatisfaction with the ~~utility's~~ utility company's decision, the UTILITY company shall inform the applicant/customer of the following:

(1) The reason(s) for its decision.

(2) How to contest the ~~utility's~~ utility company's decision and show creditworthiness.

(3) The right to have the ~~utility's~~ utility company's decision reviewed by an appropriate utility company supervisor.

(4) The right to have the ~~utility's~~ utility company's decision reviewed by the commission staff, and provide the applicant/customer the ~~local or~~ toll-free ~~numbers~~ and~~/or~~ ~~TDD/TTY~~ TTY numbers, address, and the website address of the commission as stated below:

~~The public utilities commission of Ohio (PUCO) toll-free at 1-800-686-7826 or 1-614-466-3292, or for TDD/TTY toll-free at 1-800-686-1570 or 1-614-466-8180, from 8:00 a.m. to 5:00 p.m. weekdays, or the PUCO website at www.PUCO.ohio.gov.~~

"If you wish to contest the decision for a security deposit, you may call the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.PUCO.ohio.gov."

Paragraph (D)

As proposed by Staff, paragraph (D) requires that, upon request, each public utility shall provide the information required by paragraph (C) of this rule to the applicant/customer, in writing, within five business days of the request. The Consumer Groups opine that there is no reason why the mailing of this information should take five business days, especially if the consumer is being denied service until a deposit is paid. Thus, the Consumer Groups propose that "five business days" be changed to "two business days." (Consumer Groups Initial at 77.) Columbia objects to the Consumer Groups' proposal and notes its support for the rule as proposed by Staff. (Columbia Reply at 15.) AEP also objects and asserts that this proposal, particularly when combined with the Consumer Groups' proposed change to paragraph (C), is unduly burdensome and should be rejected. (AEP Reply at 6.)

The Commission rejects the Consumer Groups' proposal to reduce the timeframe from five business days to two business days. The Commission finds that the reason for sending the written information to the applicant/customer is to confirm the information required by paragraph (C) that should be discussed during the telephone conversation to request service with the utility company. The Commission also finds that paragraph (D) should be clarified by changing the word "provide" to the word "send." Accordingly, paragraph (D) shall be adopted to read:

(D) ~~Each public utility, upon~~ Upon request, each ~~public~~ utility company shall ~~provide in writing to the applicant/customer~~ send the information required by paragraph (C) of this rule to the applicant/customer, in writing, within five business days of the request.

## CHAPTER 4901:1-18, TERMINATION OF RESIDENTIAL SERVICE AND THE PERCENTAGE OF INCOME PAYMENT PLAN

### PRELIMINARY ISSUES

#### OSCAR Report

As a part of the rules under review in Chapter 4901:1-18, the Staff proposed certain revisions to the Ohio Statistics on Customer Accounts Receivable (OSCAR) report and received comments on the proposed revisions to the report. The Commission will, by subsequent order, address the revisions to the OSCAR report.

#### Rule 4901:1-18-02 General provisions.

#### Paragraph (B)

As proposed by Staff, paragraph (B)(2) permits the Commission to prescribe different standards for the disconnection and reconnection of electric, gas, or natural gas service as deemed necessary by the Commission in any proceeding.

Columbia asserts that this provision is unclear and if this provision would authorize the Commission to prescribe new or amend existing standards without undergoing a rulemaking, Columbia asks the Commission to reconsider this rule. Columbia contends that if the Commission could amend its regulations on the establishment of credit whenever the Commission deems necessary, without the normal rulemaking process or briefing on a motion for waiver, it would create uncertainty among utilities. The Commission should conduct its proceedings as it has done in the past so that utilities would have greater certainty regarding the rules they are obligated to follow. (Columbia Initial at 7, 14.)

The Commission, in certain rare instances, has found through the complaint process, that compliance with the Commission's rules have an unintended consequence and, in those cases, has ordered that the involved utility company take certain action to avoid further inconvenience to the end user. (See, *In the Matter of the Complaint of Jean Hails and Mary Higgins*, Case No. 95-826-GA-CSS, Order (March 12, 1998); *In the Matter of the Complaint of Buckeye Linen Company v. Ohio Power Company*, Case No. 93-782-EL-CSS,

Order, (April 7, 1992)). As such, the proposed provision is intended to put utility companies on notice that the Commission may revise the credit and disconnection requirements. On that basis, the Commission finds it appropriate to adopt Rule 18-02(B)(2), as proposed by Staff.

Paragraph (D)

The Consumer Groups support Staff's proposal to permit the utility company to provide, with the customer's agreement, the use of electronic transactions and notices. However, Consumer Groups argue that disconnection notices and other contacts required, by rule, to be in person should not be provided only by electronic means, even if the customer agrees, and recommends that Rule 18-02(D) be amended accordingly. (Consumer Groups Initial at 81-82.)

AEP notes that the Consumer Groups' proposed modification would override the customer's willingness to deal electronically with the utility company. (AEP Reply at 7.) Columbia also disagrees with the Consumer Groups' position. Columbia contends that some customers who travel or spend the winter in warmer areas may not be accessible through traditional means and, if a customer concludes that he or she can best be reached by electronic notices, Columbia believes that choice should be respected. (Columbia Initial at 14; Columbia Reply at 16.)

The Commission believes that, if the customer has affirmatively consented to communicate and to conduct transactions electronically, the utility company should honor that request. However, to ensure that the customer understands that such notices may include disconnection notices, the Commission is amending Rule 18-02(D) to require the utility company to specifically remind the customer that electronic notice may also include a notice for the disconnection of the customer's utility service.

Commenter proposed paragraphs

The Consumer Groups suggest that an additional paragraph be added to this rule which will, according to the commenter, clarify that these rules supersede tariffs. The Consumer Groups have proposed the following language:

> No utility tariff shall relieve any electric, gas or natural gas company from meeting any of its duties or responsibilities as prescribed by these rules.

(Consumer Groups Initial at 82.)

AEP, FirstEnergy, and OGC request that the Commission deny the Consumer Groups' proposal. FirstEnergy and OGC believe that the Consumer Groups' recommendation attempts to deny the Commission the very flexibility contemplated in

paragraph (B)(3) of Rule 18-02 to waive the rules. (FirstEnergy Reply at 9; OGC Reply at 8.) AEP argues that the Consumer Groups' proposed additional paragraph is unclear as to what "these rules" encompass. AEP contends that the lack of clarity is reason enough to reject the Consumer Groups' recommendation. Further, AEP posits that the Consumer Groups fail to recognize that a utility's tariff has been approved by the Commission and, while the rules set out generally applicable provisions, a provision in the Commission-approved tariff is specific to that utility company and should be controlling. AEP argues that the Consumer Groups' recommendation would render Rule 4901:1-18-02(B) ineffective, because paragraph (B) leaves to the Commission the options of prescribing different standards in any proceeding [under (B)(2)], or waiving any requirement of Chapter 4901:1-18, [under (B)(3)]. AEP contends that Commission action under either of those subdivisions, and the resulting tariff provision, will prevail over generally applicable provisions of "these rules." (AEP Reply at 7-8.)

The Commission denies the request of the Consumer Groups to include the proposed paragraph, as we believe the issue raised in the Consumer Groups' proposed paragraph is sufficiently addressed in paragraphs (B) and (C) of Rule 18-02. However, the Commission clarifies that we do not "implicitly waive" a rule through the approval of a tariff. The Commission reminds utility companies that the only time a utility company may perform outside of these rules is after a Commission decision on a request for a waiver from one of the rules in this or any other chapter of the Administrative Code.

The Consumer Groups also recommend the creation of a Customer Disconnection Bill of Rights to be provided to new residential customers and to all residential customers at the beginning of the winter heating season that is separate and independent of similar provisions in the Electric Service and Safety Standards and the Minimum Gas Service Standards rules (Chapters 4901:1-10 and 4901:1-13). Consumer Groups argue that many residential consumers, especially those who have moved here from states with winter moratoria, are not aware that their service can be disconnected for nonpayment or for other reasons during the winter heating season. Also, according to Consumer Groups, many consumers do not know that they can suggest a payment arrangement to the utility. The Consumer Groups argue that a Bill of Rights would provide the necessary information to consumers, would avoid confusion regarding the disconnection of service, and could possibly prevent service disconnection. The Consumer Groups recommend that the proposed Bill of Rights include information on available payment arrangements, disconnection procedures and responsibilities, medical certificates, and the explanation of certain rights when served by a combination gas and electric utility company. (Consumer Groups Initial at 49-53.)

AEP, Columbia, DEO, DP&L, OGC, and Vectren oppose the creation and distribution of a Customer Disconnection Bill of Rights, as proposed by Consumer Groups, as unnecessary and costly duplication of other information provided to the customer in materials currently published and, in some instances, on the internet. (AEP Reply at 3-4;

Columbia Reply at 4-5; DEO Reply at 4; DP&L Reply at 1-2; OGC Reply at 5; Vectren Reply at 5.) Further, DP&L notes that the Consumer Groups offer no evidence of the extent to which this is a problem as DP&L finds it hard to believe that the proposed Disconnection Bill of Rights will make any more of an impression on such customers than the already existing notices which come with bills, public postings, and the disconnection notices. (DP&L Reply at 1-2.)

The Commission finds that much of the information that the Consumer Groups request be included in the proposed document is already included in the customer handbooks, brochures, customer "Rights and Responsibilities" pamphlets, etc., available for applicants and customers. Thus, the Commission concludes that providing this document would be a costly duplication of effort for the utility companies. However, the Commission encourages the utility companies to incorporate this information in their customer brochures, to the extent that their brochures do not include such information.

Rule 4901:1-18-03 Reasons for disconnecting residential electric, gas, or natural gas service.

Paragraph (E)

Paragraph (E)(1) permits the utility company to disconnect a residential customer's service for the customer's failure to allow the company access to the meter for a year or more. AEP requests that paragraph (E)(1) be amended to allow the utility company to disconnect after 4 months, rather than one year. AEP asserts that there is no appropriate reason for preventing a meter from being read for a year or more. (AEP Initial at 9.) FirstEnergy supports AEP's request to amend this provision. (FirstEnergy Reply at 10.) Consumer Groups believe AEP's proposal to change the length of time to 4 months is unnecessarily brief, particularly if no notice is given. (Consumer Groups Reply at 56.)

The Commission notes that a utility company may disconnect utility service for fraud or tampering, in accordance with the requirements of paragraph (E)(3) of this rule, or for nonpayment, in accordance with the requirements of Rule 18-06, when those acts occur. Accordingly, the Commission sees no reason to shorten the period before a residential customer's service can be disconnected for a failure to allow the utility company access to the meter as proposed by AEP. Paragraph (E) shall be adopted as proposed by Staff.

Paragraph (F)

Consumer Groups recommend that paragraph (F) be amended to require the utility to give customers 24 hours advanced notice if any repairs will require an interruption in service irrespective of the expected duration of the interruption. As proposed by Staff, and currently effective, the utility company gives prior notice for maintenance interruption in

excess of six hours. Consumer Groups believe customers should receive notice of any service interruptions prior to scheduled maintenance, regardless of the duration of the maintenance. (Consumer Groups Initial at 84.)

Columbia, Vectren, FirstEnergy, AEP, and OGC oppose the notice requirement proposed by Consumer Groups and request that the amendment be rejected. The commenting utility companies reason that it would be difficult and inefficient for the utility companies to contact every residential customer who is subject to a brief scheduled maintenance interruption at least 24 hours in advance and to repeat such contact in the event that the maintenance and the related interruption needs to be rescheduled. (AEP Reply at 8; Columbia Reply at 17; Vectren Reply at 7.) FirstEnergy asks that the Commission weigh the time and expense of notifying all customers that may be affected by a maintenance interruption against the length of time the planned interruption will last. (FirstEnergy Reply at 10.) Thus, the commenting utility companies request that paragraph (F) be retained as currently effective and proposed by Staff (AEP Reply at 8; Columbia Reply at 17; Vectren Reply at 7; FirstEnergy Reply at 10; OGC Reply at 8-9.)

The Commission agrees with the commenting utility companies that imposing such a requirement would be unduly burdensome and expensive, as unexpected service requirements often arise, which necessitate that scheduled maintenance be rescheduled. Accordingly, paragraph (F) will be adopted as proposed.

Paragraph (G)

As proposed by Staff, and currently effective under Rule 18-02(I), the utility company may disconnect the service of a residential customer upon the customer's request. Consumer Groups propose that the paragraph be amended to require that, if the customer does not reside at the premises where utility service is to be disconnected, that the utility company follow the landlord-tenant provisions set forth in Rule 18-08. (Consumer Groups Initial at 84.)

FirstEnergy argues that the Consumer Groups' recommendation is misplaced in that the landlord-tenant provisions are designed to protect tenants when the service is scheduled to be disconnected because the landlord cannot or has not paid the bill. FirstEnergy further states that it is not aware of whether a customer resides at the premise at the time he or she calls to have the service disconnected. (FirstEnergy Reply at 10.) AEP notes that Rule 18-08, which Consumer Groups cite, addresses service disconnections in the landlord-tenant context and is limited to multi-unit dwellings that are mastered metered. Consumer Groups' suggestion would extend the master-metered requirements to single family residences. AEP reasons the problem is that utility companies would not know if the customer (the landlord) does not reside at the premises, even if the bill for services is sent to a different address, because that fact alone does not mean a landlord-tenant situation exists. AEP alleges that the Consumer Groups' proposal would require

utilities to become investigators to determine if there is a landlord-tenant relationship and that such a requirement would be burdensome and costly. (AEP Reply at 9.) For these reasons, FirstEnergy and AEP request that the Consumer Groups' proposal to amend paragraph (G) be rejected.

The Commission believes that, based on Staff's knowledge and experience, utility companies frequently know whether a premise is a rental property because the utility company's service representative makes that inquiry during a request for new service, or when the customer calls to request service disconnection. Further, the Commission understands that, when a customer requests disconnection for a rental property, the customer service representative advises the customer that a ten-day notice must be provided in accordance with Rule 18-08(K). Therefore, the Commission agrees with the Consumer Groups' proposal, in part, and has amended paragraph (G) to state:

(G) Upon the request of the customer. If the customer is a landlord, then the provisions of paragraph (K) of rule 4901:1-18-08 of the Administrative Code shall also apply.

Paragraph (I)

Proposed paragraph (I) of Rule 18-03 would permit the electric gas or natural gas utility company to disconnect the residential customer's service for good cause shown. Consumer Groups argue that the provision is vague and should be stricken. Consumer Groups argue that the rule should contain an exhaustive list of reasons for disconnection. (Consumer Groups Initial at 84.)

AEP and FirstEnergy state that history demonstrates that neither the Commission, utility companies nor other interested persons can think of every reason that would warrant disconnection of service. Utility companies must recognize that, if they disconnect service to a customer for a reason other than a reason specified in this rule, they have the burden of showing that good cause existed for such action. FirstEnergy notes that the provision does not alleviate a utility from providing adequate documentation to substantiate disconnection of service, nor would it prevent the Commission from evaluating the utility's decision and issuing an order directing the utility to reestablish service. (AEP Reply at 9; FirstEnergy Reply at 11.) Columbia also supports the rule as proposed by Staff. (Columbia Reply at 18.)

The Commission agrees, as the commenting utility companies acknowledge, that in such instances where the customer's utility service is disconnected for just cause, the utility company has the burden of proof to demonstrate that the disconnection was just, as ultimately determined by the Commission. The proposed provision is intended to catch any rare occasion when disconnection is justified and the reason is not specifically stated

in this rule or another Commission rule or order. Paragraph (I) shall be adopted as proposed by Staff.

Commenter proposed paragraphs

AEP proposes that a new paragraph (J) be added to Rule 18-03, to provide that a utility company may disconnect service to a residential customer for any violation of or refusal to comply with a contract and/or the general service rules and regulations on file with the Commission that apply to the customer's service, which exists in current paragraph (B) of Rule 18-02 ("General provisions"). (AEP Initial at 9.)

Consumer Groups disagree with AEP's proposal to add a new paragraph (J) to Rule 18-03, as Consumer Groups contend that, at the very least, notice should be given to the affected customer. (Consumer Groups Reply at 56.) DP&L, FirstEnergy, and Columbia agree with AEP that this provision of the currently effective rules at Rule 18-02(B) should be included in proposed Rule 18-03. The commenting utility companies argue that disconnection should be permitted if the customer violates or refuses to comply with a contract or general service rules and regulation, and, further argue that inclusion will clearly verify that the customer is responsible for complying with the terms of service. (DP&L Reply at 3.) Further, Columbia states that, if utility companies are deprived of the ability to disconnect a customer's service when he or she violates Columbia's Commission-approved tariff, then Columbia will have no easy way to enforce the tariffs requirements. (Columbia Reply at 17.)

The Commission finds that Rule 18-03, as proposed by Staff, sets forth specific reasons for the disconnection of a residential customer's utility service and "for good cause shown" in paragraph (I). The Commission believes that paragraph (I) is an appropriate replacement for the provision in currently effective Rule 18-02(B). Accordingly, the Commission finds that AEP's proposal is unnecessary.

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

The Commission notes that paragraph (B) of this rule has been amended to provide that, if the customer requests additional information about PIPP, the utility company shall inform the customer of the eligibility requirements as set forth in Rule 18-12(B) for gas PIPP or to Chapter 122:5-3, for electric PIPP. Paragraph (B) also requires that the utility company provide the customer with a copy of PIPP literature and direct the customer to the local community action agency.

Paragraph (B)(2) - Modified one sixth plan

As proposed by Staff, paragraph (B)(2) provides a modified one-sixth payment plan, which requires the customer to pay twenty-five percent of his/her total account

balance and to enter into a one-sixth payment plan on the remaining balance, beginning with the next billing cycle. Columbia supports the new modified one-sixth plan because, under the plan, the customer makes a specific down payment to enter into the one-sixth payment plan. Also, Columbia recommends that the original one-sixth plan be eliminated to avoid customer confusion. Next, Columbia proposes that the language for paragraph (B)(2) be modified as follows:

> Modified one-sixth plan - A plan that requires the customer to pay twenty-five per cent of his/her total balance (arrearage plus current charges) and to enter into a one-sixth payment plan (six equal payments on the arrearages in addition to full payment of current bills) on the remaining balance to begin with the next billing cycle.

(Columbia Initial at 14-16.) The Consumer Groups propose that the down payment of 25% be negotiable, and assessed according to affordability. (Consumer Groups Initial at 47.) Columbia does not oppose the Consumer Groups' proposal. (Columbia Reply at 21.)

DP&L requests that this plan be optional rather than mandatory. (DP&L Initial at 12.) Vectren, on the other hand, recommends that the Commission reject this plan. Vectren asserts that this plan, and the one-twelfth plan, would require extensive programming changes before the plans could be implemented. Further, Vectren asserts that it already offers customized payment plans, in addition to the current Commission-ordered plans, and, thus, opines that its customers would not choose this plan. (Vectren Initial at 5-6.)

The Commission believes that Staff's intent, in proposing the modified one-sixth payment plan, is to permit customers to have seven months, rather than six, to bring their utility account current, by first making a good faith down payment and then making timely payments for the next six months. The Commission does not agree that the payment plans in this rule should be optional as DP&L proposes. With respect to the Consumer Groups' proposal, the Commission finds that paragraph (A) of this rule provides the option for a customer to negotiate a payment plan with the utility company. Accordingly, the proposals of DP&L and the Consumer Groups are rejected. Further, the Commission notes that a customer is not prohibited from making a down payment in an amount greater than twenty-five percent, if the customer is in a financial position to do so. Next, the Commission agrees with Columbia, and finds that the original one-sixth payment plan shall be deleted. Therefore, the Commission finds that the following language for paragraph (B)(1) shall be adopted:

> Modified one-sixth plan - A plan that requires the customer to pay twenty-five per cent of his/her total balance (arrearage plus current charges) and also to enter into a one-sixth payment plan for the remaining balance, with

the first one-sixth payment to begin with the next billing cycle in addition to full payment of current bills.

Paragraph (B)(3) - One-twelfth plan

Paragraph (B)(3), as proposed by Staff, provides a one-twelfth payment plan which requires twelve equal monthly payments on the customer's arrearages, in addition to a budget payment for the projected monthly bills, which would end twelve months from the monthly payment. The proposed rule also provides that the budget portion of the payments may be adjusted periodically during the twelve-month period as needed.

DP&L recommends that this payment plan be optional. (DP&L Initial at 13.) Columbia recommends that the Commission reject this plan for several reasons. First, Columbia opines that this proposal conflicts with paragraph (D), which includes that customers enter the budget plan on an annual basis, and with the budget payment plan requirement that customers be current in their payments to enter into a budget plan. Second, Columbia argues that customers would not complete the payment plan due to its length. Third, Columbia asserts that this plan will lead to increased customer arrearage totals. Fourth, Columbia contends that this plan would also remove one of the incentives that a customer has to keep current with payments (eligibility for the budget plan). (Columbia Initial at 16; Columbia Reply at 21-22.) Vectren also recommends that this plan be rejected for the same reasons stated above with respect to the modified one-sixth plan. (Vectren Initial at 5-6.) Duke also recommends rejection of the one-twelfth plan and replacing it with a one-ninth plan, which it asserts, would give customers adequate time to become current before the start of next winter heating season. Duke proposed the following replacement language for paragraph (B)(3):

(3) One-ninth plan - A plan that requires a customer to pay nine equal monthly payments on the arrearages in addition to a budget payment plan for the projected monthly bills, which will end nine months from the initial payment. The budget portion of the payments may be adjusted periodically during the nine-month period as needed.

(Duke Initial at 11-13.)

The Commission rejects DP&L's proposal that this payment plan be optional, as well as Duke's one-ninth payment plan. Further, the Commission disagrees with Columbia. The Commission believes that the one-twelfth plan allows a customer, with a large past due balance, the opportunity to have level payments and maintain service. Accordingly, paragraph (B)(2) shall be adopted as proposed by Staff.

Paragraph (B)(4)

Paragraph (B)(4), as proposed by Staff, provides for a one-third payment plan, which the utility companies are required to offer during the winter heating season "for any bills that include any usage occurring from November 1 through April 15." DP&L objects to the proposed language and suggests changing paragraph (B)(4) to state that the utility companies shall offer the one-third payment plan "between the dates of November 1 through April 15." (DP&L Initial at 13.) FirstEnergy also opposes the words "usage occurring" in this provision. The usage requirement would, in FirstEnergy's opinion, create an overly burdensome administrative process. (FirstEnergy Initial at 9-10.) The Consumer Groups note that the phrase "usage occurring" is part of the current winter payment plan requirement. The Consumer Groups further note that the objections call into question the utility companies' compliance with the current rules. (Consumer Groups Reply at 57.)

The Commission agrees with the Consumer Groups' concern, particularly regarding the utility companies' compliance with the one-third payment plan during the winter heating season. The Commission notes that the proposed language is substantively the same as in currently effective Rule 18-04, which discusses "usage" during billing periods that are either within or outside of the winter heating season. Further, the Commission finds that the proposed language clarifies the intent of the current rule. Accordingly, paragraph (B)(3) shall be adopted to state:

> In addition to the two plans listed above, during the winter heating season, the utility company shall offer the one-third payment plan for any bills that include any usage occurring from November 1 through April 15. The one-third plan requires payment of one-third of the balance due each month (arrearages plus current bill). For any outstanding balance remaining after the last one-third bill has been rendered, the utility company shall remove the customer from the one-third payment plan and shall offer the customer the option to pay the balance, or to enter into one of plans in paragraph (B) of this rule, or to enroll in PIPP, provided that he/she meets the qualifications for that PIPP plan.

Paragraph (D)

Under the discussion of paragraph (B)(3), above, Columbia argued that the one-twelfth payment plan was in conflict with the budget plan under this provision, which is offered once per year. Columbia also raised concerns regarding additional programming for the differences between the two payments plans. The Commission finds that, to address these concerns, and to permit customers to enter into a budget plan at any point in the year, this provision shall be modified, accordingly, to read:

(D) For customers without arrearages, the utility company shall also offer a budget plan (a uniform payment plan) ~~on an annual basis~~.

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

Duke states that this rule does not incorporate protocol for addressing the use of SmartGrid technology, such as notice requirements, disconnections, and field payments for residential meters equipped with SmartGrid technology. Duke asserts that, through the SmartGrid initiative, infrastructure will be installed that will afford Ohio utility companies the ability to offer remote disconnections and reconnections. Duke opines that, by having the remote disconnection and reconnection capability, Ohio utility companies may no longer need to send field representatives to customers' premises to provide personal notice, collect payments in the field, complete customer-requested connection and/or reconnection, or complete disconnections. According to Duke, it will have approximately 50,000 electric and 40,000 gas meters equipped with SmartGrid technology by the end of 2008. Duke asserts that, once the meters and the communication technology are in place, Duke could immediately begin offering remote connections and disconnections. Therefore, Duke first requests that the Commission include language in this rule to address the procedural changes Duke believes are inherent in the deployment of SmartGrid technology. Next, Duke requests, as an alternative, that the Commission include language which ensures Ohio utility companies employing SmartGrid technology will be granted waivers related to specific connection and disconnection provisions in Chapters 4901:1-17 and 4901:1-18, respectively. (Duke Initial at 14.) The Consumer Groups submit that Duke failed to propose any protocols with its request. As with the issue of prepaid meters, the Consumer Groups opine that a separate Commission investigation needs to be opened on this subject. (Consumer Groups Reply at 59.)

The Commission agrees with the Consumer Groups that it is premature to change the Commission's disconnect rules at this time to incorporate smart meter technology. The Commission also believes that it is appropriate to address changes related to smart meter technology in a separate proceeding. Accordingly, Duke's first request is denied. With respect to Duke's request regarding waivers, the Commission finds that adopted Rule 18-02 addresses the waiver process; therefore, Duke's second request is also denied.

Paragraph (A)(3)(c)

Paragraph (A)(3) addresses third-party or guarantor notification regarding a customer's potential disconnection of service. As proposed by Staff, paragraph (A)(3)(c), states:

In compliance with division (E) of section 4933.12 and division (D) of section 4933.121 of the Revised Code, if the company plans to disconnect the

> residential utility service of a customer for the nonpayment of his/her bill, and that customer resides in an Ohio county in which the Department of Job and Family Services has provided the company with a written request for ongoing notification of residential service disconnection prior to the disconnection, then the company shall provide, on an on-going basis, the appropriate county Department of Job and Family Services with an electronic means for acquiring information on those customers whose service will be disconnected for nonpayment. This information will include at a minimum, the customer's first name, middle initial, last name, account number, service address, county of residence, account status, current balance, amount past due, total account balance, as well as the amount to be paid to prevent disconnection or to restore service. The said information shall be made available to the county Department of Job and Family Services simultaneous with the generation of disconnection notices being distributed to customers. The county Department of Job and Family Services may use this information to assist customers in the payment of delinquent utility bills in an effort to avoid disconnection of service.

FCDJFS asserts that having an electronic means of acquiring utility disconnection information will aid FCDJFS in ensuring the possession of necessary resources to assure quality of life for Franklin county residents. (FCDJFS Initial at 1-2.)

On the other hand, AEP contends that the information to be provided to the appropriate county DJFS is too broad and may unnecessarily violate the customer's privacy rights. AEP argues that the existing rule does not require that all of this information be provided and that it should be sufficient to provide the customer's name and the service address, including county of residence. Once the customer is contacted by DJFS, AEP asserts that the customer can then provide the account number and bill status information to DFJS. Therefore, AEP recommends removing the following information from paragraph (A)(3)(c): account number, account status, current balance, amount past due, and the amount to be paid to prevent disconnection. (AEP Initial at 11-12.) Columbia also objects to the proposed rule. Columbia contends that the proposed rule goes beyond the requirements of the authorizing statutes. Specifically, Columbia argues that Section 4933.12(E), Revised Code, only allows a county human services department to request prior notification of any residential service terminations scheduled between November 15 and April 15. Yet, Columbia asserts, the proposed rule appears to be year-round rather than just during the winter heating season. (Columbia Initial at 16-18.) DP&L and FirstEnergy, also object to the proposed rule. (DP&L Initial at 13-15; FirstEnergy Initial at 11.) Ohio Consumer Advocates agrees with the various commenters that the required information to be provided to county DJFS is overbroad and suggests that the information be limited to customer name, account number, service address, amount past due, and total account balance. (Ohio Consumer Advocates Reply at 10.)

The Consumer Groups opine that the current rule is not limited to November-April disconnections, so the companies' protest in that regard comes a bit late. Next, the Consumer Groups assert that the Staff proposal reference to electronic notice is more efficient than the statute's written notice, and should be of substantially less cost to the utilities. Further, the Consumer Groups opine that the specific details in the proposed rule concerning information that must be in the electronic notice can be construed as merely providing detail to the "notice" required by the statute and the current rule. Thus, the Consumer Groups contend, the companies' protests should be disregarded. (Consumer Groups Reply at 59-60.)

First, the Commission notes that this rule refers to two different sections of the Revised Code: Section 4933.12(E) for gas utility companies and Section 4933.121(D) for electric utility companies. Both of these statutes state that the time period to provide information to a county DJFS is from the fifteenth DAY of November through the fifteenth day of the following April. Thus, the provision of information under Rule 18-06(A)(3)(c), is only for the winter heating season. Also, the same statutory references are in the currently effective Rule 18-05(A)(3)(c).

Next, the Commission agrees with various commenters that the proposed rule is overly broad in the amount of information to be provided, and that providing it without a customer's consent, may violate a customer's privacy rights. As DP&L noted, this portion of the proposed rule violates Rule 4901:1-10-24(E)(1), which does not allow the electric utility company to release a customer's account number without the customer's prior written consent. The gas minimum service standards in Rule 4901:1-13-12(D)(1) also have the same restriction. The Commission agrees with AEP that the provision of the customer's name, service address, and county of residence should be sufficient information. When contacted by the county DJFS, the customer can provide DJFS with the account number, the amount needed to either prevent disconnection or to restore service, and any other pertinent information at that time. The Commission encourages the companies and the appropriate county DJFS to work together to find the most efficient and least costly means to provide this information for each of the parties. However, given the potential cost, the Commission is not willing, at this point, to mandate that this information be provided electronically. Last, the Commission clarifies this provision so that a listing is provided to a county DFJS concurrently with the generation of the 10-day notices, which are sent to customers only during the winter heating season. Accordingly, Staff's proposed rule shall be amended to state:

> In compliance with division (E) of section 4933.12 and division (D) of section 4933.121 of the Revised Code, if the utility company plans to disconnect the residential utility service of a customer for the nonpayment of his/her bill, and that customer resides in an Ohio county in which the department of job and family services has provided the utility company with a written request for notification of residential service disconnection prior to the

disconnection, then the utility company shall provide, during the period of the fifteenth of November to the fifteenth of April, the appropriate county department of job and family services with a listing, electronically if feasible, of those customers whose service will be disconnected for nonpayment. This information will include at a minimum, the customer's first name, middle initial, last name, service address, and county of residence, and shall be made available to the county department of job and family services simultaneous with the generation of any ten-day disconnection notices being distributed to customers. The county department of job and family services may use this information to assist customers in the payment of delinquent utility bills in an effort to avoid disconnection of service.

Paragraph (A)(5)(g)

As proposed by Staff, and as currently effective in Rule 18-05(A)(5)(g), this paragraph requires that the disconnection notice provide an explanation of the payment plans and options available to a customer whose account is delinquent. OGC states that, if adopted, a description of the new modified one-sixth plan and the new one-twelfth plan would be required to be included in the disconnection notices. OGC asserts that incorporating these new plans would require modification of its current preprinted disconnection notices. Therefore, OGC requests that the Commission provide OGC with an opportunity to exhaust its current bill stock before requiring compliance with this modified rule. (OGC Initial at 6.) The Consumer Groups assert that OGC's request can be accomplished through the waiver process. (Consumer Groups Reply at 61.)

With respect to OGC's request to exhaust its current bill stock before complying with this amended rule, the Commission finds that, in order to avoid additional costs to the utility companies, the Commission believes it is prudent to allow the utility companies to deplete their current stock of any bills or materials that were in compliance with the Commission's rules prior to the effective date of the rules amended by this order. Therefore, the Commission hereby grants waivers for 90 days, after the effective date of the rules, for all of the utility companies concerning the requirement to include explanations of the new payment plans on their disconnection notices or utility bills. If upon expiration of the 90 days, a utility company still has remaining bill stock or material stock that does not reflect the language modification contained in the Commission's amended rules attached to this Order, the utility company may request an additional waiver in accordance with Rule 18-02(B)(3).

Paragraph (B)(1)

As proposed by Staff, paragraph (B)(1) of this rule states:

> Makes contact with the customer or other adult consumer at the premises ten days prior to disconnection of service by personal contact, telephone, or hand-delivered written notice. Companies may send this notice by regular, U.S. mail; however, such notice must allow three calendar days for mailing. This additional notice shall extend the date of disconnection, as stated on the fourteen-day notice required by paragraph (A) of this rule, by ten additional days.

DP&L proposes to add language to the end of the second sentence of this provision, so that it would read:

> Companies may send this notice by regular, U.S. mail; however, such notice must allow three calendar days for mailing unless personal or telephone contact is made prior to the expiration of the ten-day period, in which case the three calendar days for mailing is not required.

DP&L asserts that it proposed this modification so that it may continue the procedures which were authorized by the Commission in Case No. 05-1171-EL-UNC, and where the Commission granted DP&L a waiver from the currently effective Rule 18-05(B)(1). (DP&L Initial at 15.) The Consumer Groups believe that it would be preferable for DP&L to seek another waiver of the rules adopted in this docket. (Consumer Groups Reply at 62.)

The Commission finds that it is not prudent to modify this rule to accommodate the procedures of one utility company. If DP&L believes that it cannot meet the requirements of new Rule 18-06(B)(1), then it should file a waiver request in this docket, in accordance with Rule 18-02(B). Accordingly, DP&L's proposal is rejected.

Paragraph (D)

Paragraph (D), as proposed by Staff, states "No company shall disconnect service without sending a fourteen-day disconnection notice to the service address when service was left on for a prior resident and the new applicant has failed to pay a required deposit." DP&L proposes deleting this provision. (DP&L Initial at 16.) FirstEnergy requests that this rule be modified to ensure that the utility company has knowledge of the new applicant. (FirstEnergy Initial at 12.) On the other hand, the Consumer Groups suggest that the option of a guarantor should be added to this rule. (Consumer Groups at 98.)

The Commission has modified this rule to clarify Staff's intent. Accordingly, the various commenters' proposals are rejected. Paragraph (D) shall be adopted to read:

> (D) This provision is to address circumstances where an electric, gas, or natural gas utility company elects to leave the utility service on at a

particular service location for the utility company's convenience after receiving a request for disconnection from the customer of record.

(1) If the new resident does not contact the utility company to establish service, the utility company may subsequently disconnect the utility service in accordance with the fraud provisions in paragraph (C) of rule 4901:1-10-20 of the Administrative Code (electric) and paragraph (C) of rule 4901:1-13-09 of the Administrative Code (gas and natural gas).

(2) Under the circumstance where the new resident becomes an applicant for service and is required to pay a deposit to establish financial responsibility, the utility company must advise the applicant of the date that the utility service may be disconnected for nonpayment of the deposit.

(3) Under either circumstance above where the new resident becomes a consumer of the electric, gas, or natural gas service that was left on by the utility company, the consumer will be financially responsible for the utility service consumed from the date of move-in.

Rule 4901:1-18-07 Reconnection of service.

Paragraph (A)

As proposed by Staff, paragraph (A) provides that if a customer's utility service has been disconnected:

(A) Upon payment or proof of payment of the delinquent amount as stated on the disconnection notice, or of an amount sufficient to cure the default on any extended payment plan described in rule 4901:1-18-05 of the Administrative Code, or PIPP, including any reconnection charge, the company shall reconnect service by the close of the following regular company working day, unless service has been disconnected for greater than ten business days. If service has been disconnected for greater than ten business days, the timeline to reconnect service shall be consistent with rules 4901:1-10-09(A) and/or 4901:1-13-05(A) and (C) of the Administrative Code. The

> amount sufficient to cure the default includes all amounts that would have been due and owing under the terms of the applicable extended payment plan, absent default, on the date that service is reconnected.

First, the Consumer Groups assert that reconnection fees can be expensive and that requiring payment up-front before reconnection occurs can be difficult for customers. Therefore, Consumer Groups recommend billing the reconnection charge in the next bill. (Consumer Groups Initial at 105.) Columbia argues that requiring the customer to pay reconnection charges up-front gives the customer a greater incentive to make timely payments and avoid disconnection. Columbia thinks that the utility companies should decide when to bill reconnection charges. (Columbia Reply at 28.) FirstEnergy also disagrees with Consumer Groups' recommendation. FirstEnergy asserts that it is not in the customer's best interest or the interest of all other customers to postpone collection of reconnection fees because, if the customer cannot afford to make these payments (reconnection fee, deposit, default amount), it is doubtful that the customer can afford service at that property. (FirstEnergy Reply at 19.) The Commission disagrees that the rule should require the utility company to bill the reconnection charge. The customer has demonstrated that he/she is having difficulty paying and has caused the company to incur additional cost to have service disconnected and reconnected. Therefore, the Commission finds that it is not unreasonable to require such customer to pay the reconnection charge before reconnecting the customer's service so that the utility company can recover such expense in a timely manner.

Next, DEO states that it is not clear how such a timeline may be impacted by the Commission's Winter Reconnect Orders. DEO recommends that the rules, the order adopting the rules, or the Winter Reconnect Order make explicit the relationship between the reconnection rules and the Winter Reconnect Order. (DEO Initial at 6.) Consumer Groups state that DEO's request for clarification of how the timeline for reconnecting accounts will be impacted by the Winter Reconnect Order is another reason to remove this provision from the rules. (Consumer Groups Reply at 66.) The Commission understands DEO's concerns about the timeline for reconnection as stated in this rule and in *In the Matter of the Investigation into Long-Term solutions Concerning Disconnection of Gas and Electric Service in Winter Emergencies*, Case No. 08-951-GE-UNC, Entry (September 10, 2008). The Commission will address the issue if and when another such order is issued.

Further, Duke and FirstEnergy contend that the customer who defaults on a payment agreement should be required to cure both the agreement default amount and the default for current charges before service is reconnected. FirstEnergy posits, and Columbia agrees, that the proposed language fails to acknowledge that once a customer defaults on a payment plan and service is disconnected as a result of such default, the payment arrangement becomes null and void. (FirstEnergy Initial at 13; Columbia Reply at 29.) Duke opposes the provisions of paragraph (A) that permit a customer's service to be restored by curing the payment agreement default, but not the delinquent amounts

associated with current charges. Duke argues that the customer should be required to pay the full amount past due. Accordingly, Duke and FirstEnergy request that the Commission strike such provision or make it optional that the customer cure the defaulted payment amount and/or the amount on the disconnection notice. (Duke Initial at 15; FirstEnergy Initial at 13.) Consumer Groups posit that Duke is confusing "current charges" with the delinquent charges that can render a customer subject to disconnection. According to the Consumer Groups, Duke appears to want to allow a company to require payment of charges that were not the basis for disconnection if they would have been due before the reconnection occurs. Consumer Groups also disagree with FirstEnergy's recommendation to remove the language of curing a default under a payment plan and argue that the language contemplates that curing the default revives an extended payment plan, which is appropriate. (Consumer Groups Reply at 66.)

The Commission notes that the proposed language, which Duke and FirstEnergy oppose, is intended to allow a customer to pay the amount on the disconnection notice, or the amount the customer is in default on an extended payment plan, and to have that utility service reconnected. The customer should still be given the same amount of time to pay the current charges before disconnection of service can occur. The Commission supports this part of proposed Rule 18-07 and, thus, will adopt proposed Rule 18-07(A).

Next, the Consumer Groups argue that, because Rules 4901:1-10-09(A), "Minimum customer service levels." and 4901:1-13-05(A) to (C), "Minimum customer service levels." as referenced in Rule 18-07(A), only require the electric, gas, or natural gas utility companies to reconnect service 90 percent of the time in accordance with the stated timeframes set forth in such rules, it is not clear what reconnection "consistent with" such rules means. Consumer Groups believe the proposed rule would require reconnection (even if the customer has paid the delinquent amount, or cured a default, and paid the reconnection charge) only within five days or three days, respectively. Consumer Groups assert that the time for reconnection should be the same regardless of the length of time the customer has been disconnected and that no rationale has been presented for the differential treatment for customers who have been disconnected for more than 10 days. (Consumer Groups Initial at 104-105.) AEP and FirstEnergy oppose the Consumer Groups' proposal to delete the ten-day timeline. FirstEnergy states that when a customer prolongs reconnection, a utility company's workload may exponentially increase when the customer requests reconnection of service and the additional time under the proposed paragraph (B) will enable the utility companies to first focus on customers that were recently disconnected and then turn to customers that have been without service for ten or more days. AEP argues that it is appropriate for customers disconnected for more than 10 business days to be placed in the utility company's queue for the reconnection of service. (AEP Reply at 14; FirstEnergy Reply at 18-19.)

The Commission agrees with Consumer Groups to the extent that proposed paragraph (A) does not clearly state how the reconnection of a customer's service must be

"consistent with" the referenced rule provisions. Rules 4901:1-10-09(A) and 4901:1-13-05(A) and (C) relate to new service connections. To make the Commission's intentions clear, we have revised the language in Rule 18-07(A) to clarify that, if service has been disconnected for greater than ten business days, the utility company may treat this as a new service request and reconnect the customer's service in accordance with the timeframes and percentages set forth in Rules 4901:1-10-09(A) or 4901:1-13-05(A) and (C), as applicable, and under those circumstances, the utility company is prohibited from charging the customer a reconnection fee.

Paragraph (B)

As proposed by Staff, paragraph (B) would permit a customer to guarantee the reconnection of service on the same day that the customer provides payment to the utility company, if the service has not been disconnected for more that 10 business days, payment is made or proof of payment is presented no later than 12:30 p.m., and if the utility company offers and the customer pays for after-hours service.

Consumer Groups propose that the requirement that the customer's service not be disconnected for more than 10 business days be eliminated. (Consumer Groups Initial at 105.) Columbia requests that the Commission reject the Consumer Groups' revision, to allow all customers to guarantee reconnection on the same day that payment is rendered, regardless of the length of time of the disconnection. Columbia states that if required to offer same-day reconnection to all customers providing proof of payment by 12:30 p.m., Columbia would likely be forced to postpone other scheduled service calls and repairs to accommodate the same-day reconnections. Columbia supports the proposed rule because it encourages customers to more timely reconnect and discourages customers from seasonally reconnecting service. (Columbia Reply at 29.)

The Commission recognizes that some customers engage in the seasonal disconnection and reconnection of their utility service and that in conjunction with the adoption of the Winter Reconnect Order, the utility companies are over-burdened with requests to restore service on the same day that payment is presented. In an effort to discourage such customer practices and not unfairly place applicants for new service at a disadvantage, the Commission believes that it is appropriate to maintain the distinction between customers that have had their utility service disconnected for a period of more than 10 business days and those who have had their service disconnected for less than 10 business days.

Next, Columbia and FirstEnergy request that the Commission clarify that the utility companies are not required to offer after-hours reconnection and that, if the company does offer such service, the customer may have to pay an approved tariff charge for after-hours reconnection. (Columbia Initial at 17-18; FirstEnergy Initial at 13.) Consumer Groups believe such practices of offering after-hours services should be encouraged. (Consumer

Groups Reply at 66.) While the Commission encourages utility companies to offer after-hours reconnection for the convenience of its customers, we recognize that such service can be expensive for the utility company. For that reason, the Commission will not require the utility companies to offer after-hours services. Accordingly, the Commission agrees with the commenting utility companies and, therefore, have revised paragraph (B)(2), to clarify the utility company's option to offer such service at the approved tariff charge.

Paragraph (C)

Consumer Groups believe a collection charge is only justified if there is a premise visit to perform a disconnection that is averted by payment or proof of payment and recommends that paragraph (C) be amended accordingly. (Consumer Groups Initial at 105.) The Commission agrees with the rationale of the Consumer Groups that the utility company employee or agent must have been dispatched to the premises to disconnect service for the company to asses the customer a collection charge.

Ohio Consumer Advocates believe that fees and charges associated with disconnection and reconnection should be eliminated for customers with Automatic Meter Reading (AMR) equipment. Ohio Consumer Advocates assert that it believes that AMR can eliminate the need for manual disconnection and reconnection, instead allowing the utilities to "flip a switch" to accomplish such tasks. (Ohio Consumer Advocates Initial at 16.) FirstEnergy states that Ohio Consumer Advocates' assumption that all AMR or Automated Metering Infrastructure (AMI) technology allows the disconnection and reconnection of service from a remote location is incorrect. In addition, FirstEnergy states that under existing rules, utility companies still bear the added expense of providing customers, including customers with AMI equipment, with a termination notice posted at the property. FirstEnergy requests that the Commission reject Ohio Consumer Advocates' proposed change. (FirstEnergy Reply at 20.)

The Commission recognizes and agrees, as FirstEnergy asserts, that AMR does not permit the utility company to disconnect and reconnect service from a remote location and that even with such automation the Commission notice requirements, in most circumstances, require the utility company to provide notice of the impending disconnection. As such, the Commission finds Ohio Consumer Advocates' proposed revision to the rule inappropriate, at this time.

Rule 4901:1-18-08 Landlord-tenant provisions.

The Commission notes that the appendices and forms for Rule 18-08 have been revised to reflect the amendments that are being adopted in this Order. Also, the Commission notes that the forms referenced in appendix B to this rule will be available on the Commission's website at http://puc.ohio.gov/PUCO/rules. Further, the Commission finds that the electric, gas, and natural gas utility companies shall update their landlord-

tenant forms to comply with the landlord-tenant forms on the Commission's website, within 30 days from the effective date of this rule.

Paragraph (A)

As proposed by Staff, Rule 18-08 provides that a company may disconnect utility service of consumers whose utility services are included in rental payments and of consumers residing in a multi-unit dwelling (i.e., tenants who receive master-metered services) for which the customer is the landlord, only in accordance with the following:

> (A) The company shall give a notice of disconnection of service to the landlord/agent at least fourteen days before the disconnection would occur. If, at the end of the fourteen-day notice period, the customer has not paid or made payment arrangements for the bill to which the fourteen-day notice relates, the company shall then make a good faith effort by mail, or otherwise, to provide a separate ten-day notice of pending disconnection to the landlord/agent, to each unit of a multi-unit dwelling (i.e., each tenant who receives master-metered service), and to single-occupancy dwellings where the utilities are included in the rent. This ten-day notice shall be in addition to the fourteen-day notice given to the landlord/agent. This notice requirement shall be complied with throughout the year. In a multi-unit dwelling, written notice shall also be placed in a conspicuous place.

The proposed rule mirrors the currently effective Rule 18-07(A), except that Staff proposes that, where the utility services are included in the rent of single-family dwellings, the tenants of such units be provided with a 10-day notice. AEP, Columbia, Duke, and FirstEnergy object to the new requirement for a 10-day notice for single-family residences. The utility companies state that they have no way of knowing which single family residences are occupied by tenants with utility bills included in the rent. (AEP Initial at 13-14; Columbia Initial at 21-22; Duke Initial at 16-17; FirstEnergy Reply at 20.) Columbia recommends that, if the Commission adopts the new single-family dwelling notice requirement, the Commission require customers to inform the utility company if they are renting a single-family dwelling that includes utilities in the rent. (Columbia Initial at 22.) Further, FirstEnergy requests clarification whether a landlord that resides at the same dwelling as the tenant(s) exempts the utility companies from the need to comply with Rule 18-08. (FirstEnergy Initial at 13.)

Consumer Groups contend that this requirement is not new, but merely a clarification. (Consumer Groups Reply at 68.) Ohio Consumer Advocates state that utilities do in fact know when the service address is different from the billing address and

should be required to provide a notice to the service address. (Ohio Consumer Advocates Reply at 11.)

The Commission finds that Staff's proposal to require utility companies to provide notice of disconnection to the tenants of a single-family dwelling where the tenants' utilities are included in the rent is consistent with our decision in *In the Matter of the Complaint of Jean Hails and Mary Higgins*, Case No. 95-826-GA-CSS, Opinion and Order (March 12, 1998). The Commission recognizes that a reading of the *Hails* case will reflect the fact that the affected tenants lived in a dwelling with three apartments. Nonetheless, the Commission believes that it is appropriate for tenants in single-family dwellings, where the utilities are included in the rent, to have the same remedies as tenants in multi-unit dwellings. Accordingly, paragraph (A) shall be adopted as proposed by Staff.

Commenter proposed paragraphs (M) and (N)

Consumer Groups propose that the Commission adopt a new paragraph (M) that establishes a rebuttable presumption that a utility company knows that residential tenants reside at the premise where the billing address is different than that of the address for which the customer is requesting disconnection and, therefore, IS required to deliver a ten-day notice pursuant to paragraph (K) of Rule 18-08. Consumer Groups also request that the Commission amend the paragraph to require reconnection of service when a utility company discovers after the disconnection that residential tenants reside at the premises. (Consumer Groups Initial at 110-111.) AEP, Columbia, DEO, DP&L, and OGC oppose the implementation of a rebuttable presumption in this instance. The commenting utility companies assert there are many reasons that a customer's billing address may be different from the residence scheduled for disconnection. Columbia reasons that the customer might have bills sent to his/her post office box, accountant, child, guardian, or second residence. (AEP Reply at 15; Columbia Reply at 29-30; DEO Reply at 10-11; DP&L Reply at 6-7; OGC Reply at 9-10.)

As explained previously, the Commission agrees that there are many reasons that the service address and billing address on an account may be different and for that reason we are unwilling to include a paragraph creating a rebuttable presumption, as proposed by Consumer Groups. Consumer Groups also propose the addition of a new paragraph to address situations where the utility company has disconnected service upon the customer's request and subsequently learned that there were residential tenants residing at the premises. Consumer Groups propose the following paragraph be added to Rule 18-08:

> If a company disconnects service upon the request of a customer without providing the notice required under paragraph (K) of this rule, and discovers within ten days following the disconnection of service that there were residential tenants residing at the premises who were entitled to receive a

ten-day notice under paragraph (K) of this rule, the company shall promptly reconnect service to the premises and provide the notice required by paragraph (K) of this rule.

DP&L asserts, and the Commission agrees, that this rule is unnecessary because this situation is covered by other rules. (DP&L Reply at 6-7.) The Commission finds that this situation is adequately addressed by paragraph (G) and the other provisions of Rule 18-08. Further, the Commission believes that, based on Staff's knowledge and experience, utility companies already promptly restore service upon learning that there are residential tenants residing at the premises. Therefore, the Consumers Groups' request to amend this rule is denied.

Rule 4901:1-18-09 Combination utility companies.

Paragraphs (C) and (D)

Duke states that the separation of service option has been utilized by customers to retain one utility service when disconnection for nonpayment is unavoidable. Duke believes that customers who choose to retain only their gas or electric utility service should be required to pay all past due amounts on the service they wish to retain or restore. As such, an agreement for retained or restored service would be unnecessary. Duke states that customers routinely discontinue efforts to pay the arrearages associated with the service the customer does not retain. Also, customers may relocate to a premise that has only one utility service; as such, the customer makes little or no effort to pay the outstanding arrearage associated with the service they do not retain or restore which results in the outstanding arrearage then becomes uncollectible, damages the customer's standing with Duke, and may damage their standing with other creditors. For these reasons, Duke proposes that a utility company only be required to offer an extended payment plan for both gas and electric or an extended payment plan for the unretained gas or electric arrearage and past due charges. Duke also recommends certain amendments to clarify paragraph (D). (Duke Initial at 17-20.)

Consumer Groups assert that, based on the testimony offered at the ODOD hearing in Cincinnati, "there appears to be significant issues with Duke involving customers' arrearages preventing them from obtaining service." (Consumer Groups Initial at 112.) Further, the Consumer Groups note that, although Duke opposes Staff's alleged additions of paragraphs (C) and (D) in proposed Rule 18-09, these provisions are part of current Rule 18-10. Consumer Groups argue that these paragraphs are necessary so that Duke does not hold a customer's gas service hostage to their electric service, and vice versa. (Consumer Groups Reply at 69.)

The Commission finds the Consumer Groups' arguments to be on point and, therefore, reject Duke's proposal to amend paragraphs (C) and (D). With respect to

disconnection, the Commission finds that a Duke customer should not be treated in a manner that is different from that of any other customer of a gas or electric utility company, nor should a Duke customer be at a disadvantage because he or she is served by a combination utility company. For this reason, the Commission has made certain amendments to clarify the intent of paragraph (D).

Rule 4901:1-18-10 Insufficient reasons for refusing service or for disconnection of service.

Paragraph (A)

As proposed by Staff, and currently effective at Rule 18-11(A), the utility company may refuse service or may disconnect service to an applicant or customer for the outstanding balance owed on the account of a former customer who continues to be a member of the new applicant's or customer's household. Columbia contends that this provision can be difficult to apply and proposes that the Commission consider amending the rule to require customers to inform utility companies of all full-time adult residents in their household. (Columbia Initial at 22.) FirstEnergy requests that paragraph (A) be amended to enable the utility company to hold an applicant/customer responsible for an outstanding balance on the account incurred at a premise as long as the applicant/customer resided at the premise at the time the balance was incurred and continues to reside at such premise, even if the account is under another name. (FirstEnergy Initial at 14.) In its reply comments, Columbia supports FirstEnergy's proposal as Columbia believes the proposal could apply only when the applicant/customer's name was listed on the account of the former customer. Otherwise, Columbia asserts the utility company would not be aware that the applicant/customer and the former customer had previously lived together. In such circumstances, Columbia argues that it makes sense to hold the applicant/customer responsible for the former customer's charges, at least during the period for which the applicant/customer and the former customer lived together. (Columbia Reply at 30.)

On the other hand, Consumer Groups and Ohio Consumer Advocates oppose the FirstEnergy proposal. Consumer Groups argue that FirstEnergy provides no basis for its proposal and assert that FirstEnergy's proposal is even more damaging to the fundamentals of contract law than the current provision. (Consumer Groups Reply at 70.) Ohio Consumer Advocates oppose paragraph (A) on the basis that determining whether a previous account holder continues to live in the home is extremely intrusive. Ohio Consumer Advocates argue that, if the new account holder complies with deposit requirements and meets payment responsibilities, the societal goal of providing service has been met and the utility (and ratepayers) have no more bad debt than they started with. (Ohio Consumer Advocates Reply at 11.)

The Commission recognizes that paragraph (A) is a provision of the currently effective rules and that application of the provision may be difficult for the utility companies to apply. However, the Commission must recognize and balance that the service contract is with the customer and the customer's right to privacy. Therefore, we are unwilling to adopt the amendments proposed by Columbia and FirstEnergy.

Paragraph (B)

The proposed provision of Rule 18-10 prohibits the utility company from refusing or disconnecting residential service for failure to pay for nonresidential service. DP&L states that it allows a residential customer to guarantee a nonresidential account. As such DP&L requests that paragraph (B) be amended so that, in the event of a guarantor transfer of a nonresidential account balance to a residential account, DP&L would be permitted to refuse service or disconnect the residential account for nonpayment. (DP&L Initial at 17.)

Consumer Groups note that this is a long-standing rule, which DP&L apparently has been violating, if it has denied or disconnected residential service as a result of an outstanding balance for nonresidential service. Consumer Groups oppose this practice and request that paragraph (B) of the rule stand. (Consumer Groups Reply at 70.)

As Consumer Groups assert, this is a longstanding provision of the Commission's residential rules, currently in Rule 18-11(B). We do not believe that a residential customer's account should be subject to refusal of service or disconnection based on DP&L's acceptance of a residential service guarantor for nonresidential service. Therefore, paragraph (B) of Rule 18-10 shall be adopted as proposed by Staff.

## RULES FOR THE GAS PERCENTAGE OF INCOME PAYMENT PLAN (PIPP)

### PRELIMINARY ISSUES

Clearfield Gas asks that small utility companies be exempt from compliance with Rules 18-12 to 18-18, as information technology costs to implement the payment plans will outweigh the benefits for small utility companies and their customers. (Clearfield Gas Initial at 1-2.)

The Commission acknowledges that the customers of small regulated utility companies are facing difficult economic times and having trouble paying their utility bills like the customers of large utility companies. However, we understand that the cost to implement programming to bill for and retain detailed customer information may outweigh the benefits of the computer system upgrades for small companies with fewer customers over which to spread the costs. Therefore, the Commission will waive the requirements of adopted Rules 18-12 through 18-17 for gas and natural gas utility companies who do not have a PIPP rider and have fewer than 15,000 customers. The

Commission shall revisit this waiver if subsequent monitoring demonstrates that the low-income customers of such utility companies are unduly harmed by this exemption.

Rule 4901:1-18-12, Percentage of Income Payment Plan (PIPP) Program Eligibility-Gas

Paragraph (B)

Proposed paragraph (B) of Rule 18-12 would direct gas or natural gas utility companies to provide information about PIPP to inform applicants for new service, customers inquiring about payment plans, customers who are in default on a payment plan and customers with past due accounts or customers who express a desire to avoid a delinquent account. Consumer Groups state that, with the exception of informing applicants for new service, the requirements of this paragraph are duplicative of those contained in proposed Rule 18-05. Further, Consumer Groups assert that informing new applicants may be better accomplished through the proposed customer bill of rights given to all new customers. (Consumer Groups Initial at 116.)

The Commission concurs with Consumer Groups that paragraph (B) is unnecessary and is already covered by Rule 18-05 and, therefore, the Commission has eliminated proposed Rule 18-12(B). The Commission further concurs with Consumer Groups that all new customers should be made aware of the existence of PIPP and, therefore, has revised Rule 18-05 accordingly. We note that the requirement could be fulfilled with an upfront disclosure on the relevant customer service voice response unit that assistance plans are available and then the customer could decide if they want more information. We also clarify, however, that the utility company's duty to disclose detailed information about PIPP need only occur if the customer indicates a belief that he/she is eligible for PIPP.

The closing paragraph of proposed Rule 18-12(B) directs the gas or natural gas utility company to inform an inquiring applicant or customer about the PIPP eligibility requirements, to provide the customer a copy of the PIPP brochure and to direct the customer to the community action agency. Consumer Groups support utility companies' providing customers with standard information about low-income assistance programs such as a PIPP brochure; however, the commenter feels Staff's proposal fails to address the specific information that should be included within the brochure, as well as the ways in which PIPP customers can be better informed about their PIPP accounts. Consumer Groups recommend that the types of information that should be provided in the brochure include a program description, payment requirements, income requirements and exclusions, income verification, zero-income requirements, minimum payment requirements, arrearage crediting requirements, applying for energy assistance benefits, and weatherization. (Consumer Groups Initial at 116.)

The Commission appreciates that Consumer Groups have considered and proposed topics that should be addressed in PIPP literature to be distributed to customers. However, it is not necessary that PIPP literature be developed for the adoption of this rule. It is our intent to work with interested stakeholders to develop PIPP literature. The Commission believes that it will be more efficient to complete the restructuring of the PIPP program rules before the Commission Staff directs its attention to developing the contents of PIPP literature.

Paragraph (D)

Proposed Rule 18-12(D)(3) would require the PIPP customer to, among other things, sign and submit a release to the Ohio Department of Development and the affected jurisdictional gas or natural gas utility company giving permission for that entity to receive information from any public or private agency that provides income or energy assistance to the customer or to any member of the customer's household, and/or from any public or private employer.

Consumer Groups argue that the proposed provision is too broad and should be limited to information relevant to eligibility for PIPP. Further, Consumer Groups question why the utility should be able to receive this information and whether community action agencies should also be listed in this provision. (Consumer Groups Initial at 117.)

The Commission notes that the currently effective Rule 18-04(B)(7) requires the PIPP customer to sign a waiver permitting the affected jurisdictional utility company to receive information from any public agency or private agency providing income or energy assistance and from any employer, whether public or private. However, the Commission clarifies that it has always believed this information relates to PIPP eligibility and has revised adopted Rule 18-12(C)(3) accordingly.

Paragraph (E)

In addition to other specified requirements for PIPP eligibility, paragraph (E)(1) of proposed Rule 18-12 would impose a requirement for continued PIPP eligibility that the customer reverify income eligibility once every twelve months from the customer's anniversary date. Further, Staff proposes that the PIPP customer be accorded a grace period to reverify eligibility after the anniversary or reverification date.

Columbia contends that the proposed rule does not require PIPP customers to reverify their eligibility at the same approximate time each year. As a consequence, Columbia asserts that much more than twelve months could actually pass between verifications. Columbia believes this may be contrary to the Commission's intent and proposes that the definition of "PIPP anniversary date" be revised to mean "the calendar

date that the customer enrolled in PIPP," among other amendments to the paragraph. (Columbia Initial at 23-24.) Consumer Groups are unclear how Columbia could interpret the paragraph, as proposed, to allow a PIPP customer to go twenty-two months without having their household income reverified. Consumer Groups further state that Columbia's proposed amendment to the rule is not very clear. (Consumer Groups Reply at 72.)

The Commission has revised the rule to clarify that the intent of the definition of PIPP anniversary date and proposed Rule 18-12(E) is to establish the PIPP customer's annual reverification date, month and day, and to require the PIPP customer to reverify his eligibility for the program within sixty days of the reverification date each year. We recognize that a customer may experience a change in income or household size before his next reverification date and go into the community action agency to reverify program eligibility. For example, customer A's PIPP anniversary date is June 8. On October 18, customer A's oldest child moves into a home of his/her own. On October 25, customer A reverifies her household income and is determined to continue to be eligible for PIPP. As Columbia has proposed to amend Rule 18-12(E), in this example, customer A's new anniversary date would be October 25. As proposed by Staff, customer A's reverification date would remain June 8.

The Commission recognizes that the verification date that ODOD establishes does not change regardless of any intervening need to reverify income. Therefore, to align with ODOD's electric PIPP program, we find that adopted Rule 18-12(D)(1) should be amended to require the PIPP customer to reverify at least once each twelve months from their enrollment date, excluding any grace period. For further clarification, the Commission has modified the proposed term "PIPP anniversary date" at Rule 18-01. Accordingly, the Commission adopts Rule 18-12(D)(1) as revised and attached hereto.

As proposed by Staff, paragraph (E)(2) of Rule 18-12(E) would require PIPP customers determined to have zero household income to reverify their income at least once every ninety days.

Sheldon[2] recommends PIPP customers reverify every 30 days instead of every 90 days. Sheldon gives the example that a customer can use the Winter Reconnect Order and have the Emergency Home Energy Assistance Program (E-HEAP) pay the $175 to have the service restored on October 1, not make a PIPP payment and declare zero-income on December 1, but will not be required to reverify the household income until March 1, after receiving all the proper service termination notices required. Sheldon asserts that zero-income PIPP customers must be required to demonstrate an effort to improve their situation. (Sheldon Initial at 1-2.) Consumer Groups state that to require zero-income

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2 Sheldon filed its comments via a correspondence filed in this docket on August 8, 2008.

PIPP customers to reverify the household income every 30 days is a burden on the customer as well as the agencies that do the income reverification. (Consumer Groups Reply at 13.)

The Commission believes that the concerns raised by Sheldon are more extensive than what would likely be rectified by requiring zero-income PIPP customers to reverify their income more frequently. The Commission is addressing the issues raised by Sheldon, namely the cycle of disconnection and reconnection, the lack of income-based PIPP payments made, and the failure to timely reverify or notify ODOD of changes in household income, through the restructuring of the PIPP rules and the implementation of multiple provisions in the rules regarding these issues. As will be discussed in more detail in this Order, the Commission has determined that it is appropriate to eliminate the requirement that zero-income PIPP customers reverify their household income every ninety days. We have incorporated a provision in the attached rules which establishes that a zero-income PIPP customer shall be required to make a minimum gas utility payment of ten dollars per billing cycle to maintain the utility service. As such, zero-income PIPP customers, like other PIPP customers, shall be required to reverify the household income at least once every 12 months.

Rule 4901:1-18-13, Payment Requirements for Gas PIPP Customers

Paragraph (A)

As proposed by Staff, paragraph (A) would direct a PIPP customer to the appendix of Rule 18-13 to access the formula to calculate the monthly PIPP payment due. Consumer Groups request that the Commission incorporate the appendix into the rule, that the Commission only be permitted to change the income-based payment percentage and minimum payment in a rulemaking proceeding, and that the Office of the Ohio Consumers' Counsel (OCC) be listed as a contact regarding the calculation of a PIPP customer's minimum PIPP payment. (Consumer Groups Initial at 119.) Columbia agrees that the appendix should be incorporated into the rule. (Columbia Initial at 31.)

The Commission agrees that the substance of the rule should not be stated in the appendix to the rule and, therefore, the appendix has been incorporated into the rule. If the Commission wishes to change any provision of the rule in the future, it will reopen the relevant rule.

As to Consumer Groups' second request, the Commission believes that the calculation of the actual dollar amount of a specific customer's PIPP payment should remain with the entities charged with establishing the payment amount. Furthermore, given the numerous locations in which OCC and Commission contact information is

available to customers, it is unnecessary to add OCC contact information into the rule as suggested.

Paragraph (B)

Proposed paragraph (B) would direct that any monies from the Home Energy Assistance Program (HEAP) or similar program paid to the utility not be considered household income or counted as monies paid by the customer toward the monthly PIPP bill.

ODOD believes that it can best serve its HEAP clients if it has more discretion to determine the best way to apply HEAP and notes that it is the agency vested with the responsibility to administer and distribute federal funds in a manner that aligns with federal program mandates and objectives. Thus, ODOD recommends that, to provide ODOD flexibility in the administration and disbursement of funds, the rule be revised to direct that HEAP funds will be applied in the manner determined by ODOD in its Low-Income Home Energy Assistance Program Federal Fiscal Year State Plans for the State of Ohio submitted annually to the U. S. Department of Health and Human Services. (ODOD Initial at 13-14.) Columbia and Consumer Groups agree with ODOD. (Consumer Groups Reply at 73; Columbia Reply at 31.)

The Commission recognizes that ODOD is vested with the authority to administer and distribute HEAP funds and appreciates ODOD's need to be flexible in administering these funds to align with federal program mandates and objectives. However, should ODOD determine to issue HEAP funds and distribute monies directly to jurisdictional gas and natural gas utility companies, we believe it is appropriate that our rules direct the application of those funds to a customer's account in a manner which best balances the goals of the gas PIPP programs. Our decisions on each aspect of the gas PIPP program are interrelated. We have an obligation to balance the interests of not just the low-income customers that benefit from the payment assistance programs, but also the interests of those utility customers who pay to support these programs. Thus, we find that directing HEAP monies first towards customer arrearages is an integral component of our new PIPP program and should remain a part of our rules. In recognition of ODOD's concerns regarding flexibility with respect to emergency HEAP funds, however, we have determined not to codify the amount or the source of the funds which can be used to reconnect service during the winter heating season. Any such decision would more appropriately be addressed in our Winter Reconnect Order, after considering ODOD's annual funding plan. Accordingly, the Commission adopts Rule 18-13(C) as revised and attached hereto.

Vectren asks the Commission to recognize that residential customers who are not eligible for PIPP are also struggling financially and that gas PIPP costs are rapidly increasing. Vectren proposes that the Commission limit the use of the $175 Winter

Reconnect Order to those customers not already receiving benefits through the PIPP program, in order to contain the escalating costs of low-income energy programs and permit those customers not eligible for PIPP to afford utility services. (Vectren Initial 6-7.) Consumer Groups argue that Vectren's proposal is a more appropriate issue for the Winter Reconnect Order rather than this rule. Consumer Groups argue that such action would neither help contain the escalating costs of the low-income energy program nor necessarily allow additional resources to be available to customers not eligible for PIPP. (Consumer Groups Reply at 73.) The Commission agrees with the Consumer Groups that this issue is best addressed in our Winter Reconnect Order.

Paragraph (C)

As issued for comment, paragraph (C) of Rule 18-13 would direct gas or natural gas utility companies to apply funds from programs, other than HEAP and E-HEAP, first to the customer's defaulted monthly PIPP payment due, to avoid the disconnection of the customer's service; any excess funds available would then be applied to the current bill and the customer's PIPP arrearages, respectively.

Duke states that over the past decade a cycle has developed in which PIPP customers use medical certificates to avoid payment for utility services until E-HEAP funds becomes available during the winter heating season. Specifically, many PIPP customers discontinue making their PIPP payments early in the year. These customers then utilize medical certificates to suspend disconnection until they are able to receive winter E-HEAP funds to retain service and clear their PIPP default amount. Duke does not believe that such inappropriate conduct was intended during the inception of E-HEAP or PIPP. Therefore, Duke appreciates the Commission's efforts to address this invasive problem. (Duke Initial at 20-21.)

The Commission notes that the language in proposed paragraph (C) is substantially similar to current Rule 18-04(C). We agree with Staff's proposal with respect to the application of emergency assistance other than E-HEAP funds. However, Duke raises an issue with respect to medical certificates that concerns the Commission. The Commission is aware that some PIPP customers use medical certificates to avoid the disconnection of their utility service. We also recognize that some PIPP customers, like other residential customers, may be abusing the medical certificate benefit. As a part of this proceeding, we have revised the medical certificate form and, in consideration of the comments and reply comments regarding PIPP customers' use of medical certificates, adopted a new paragraph (D)(2)(a) of Rule 18-12.

Appendix

The proposed appendix to Rule 18-13 set forth the minimum payment requirements for PIPP and graduate PIPP customers. As proposed, zero-income PIPP customers would be required to pay ten dollars per billing cycle to the gas or natural gas utility company.

As proposed by ODOD, if an eligible customer is determined to have zero household income, for purposes of the electric PIPP program, the minimum monthly payment will be waived for a period of 90 days after enrollment and, after the electric PIPP customer's household income is reverified, the customer will be required to pay the greater of the monthly PIPP payment amount calculated or the minimum monthly PIPP payment amount of ten dollars. ODOD urges the Commission to adopt rules for gas PIPP to provide for a minimum payment of ten dollars, except when waived for a period of time for customers with zero household income. (ODOD Initial at 18.) Consumer Groups assert that a zero-income PIPP customer's income-based payment should be zero for as long as the customer's income is reverified at zero. Consumer Groups note that, if ODOD adopts its proposed minimum monthly PIPP payment, customers whose income is zero will have to pay twenty dollars a month to maintain their gas and electric utility services. Consumer Groups argue that such is likely infeasible for the lowest income customers. Consumer Groups state that the comments do not provide any rationale for a required minimum ten dollar payment for zero-income PIPP customers. Consumer Groups contend that these are the customers with the least amount of resources and the proposal would increase the energy burden on such customers. Consumer Groups also note that ODOD suggests a minimum payment be adopted for all PIPP customers, not just those with zero income. (Consumer Groups Initial at 120; Consumer Groups Reply at 12-13.) Ohio Consumer Advocates also opposes the implementation of a ten dollar minimum monthly payment as Ohio Consumer Advocates state a small minimum payment of one to two dollars is more appropriate to trigger arrearage crediting. (Ohio Consumer Advocates Reply at 11.)

On the other hand, Columbia and Duke support the adoption of a minimum ten dollar payment for PIPP customers. Duke states that it is highly in favor of requiring a minimum payment for customers reporting zero income. Duke believes that such a requirement will ensure that customers reporting zero income for extended periods continue to work with the community action agencies, and possibly other outreach agencies, to assist them with addressing those financial obstacles that hinder their removal from zero-income status. (Columbia Initial at 24-25; Duke Reply at 8.) Consumer Groups argue that Staff, ODOD and Columbia have not shown that affected PIPP customers actually have income sufficient to make these payments, or that minimal payments from these customers will substantially ease the burden on other customers, and neither ODOD nor Columbia provides any rationale for imposing a minimum payment. Thus, Consumer Groups request that Staff's, ODOD's and Columbia's proposals be rejected. (Consumer Groups Reply at 12-13.)

Due to the need to balance low-income customer needs with the impact of PIPP recovery on non-PIPP customer bills, the Commission believes that some minimum payment is necessary. Furthermore, the Commission believes that ten dollars, in exchange for as much gas as a customer needs, is a very reasonable balance between ensuring the very lowest income customers are provided for, while ensuring that there is some sense that service is not free. Moreover, because these customers will have arrearage crediting, so long as they pay the ten dollars by the due date, the level of their debt is lowered, which is another stated concern of commenting low-income advocates. The Commission, therefore, finds it appropriate to adopt a minimum PIPP payment applicable immediately upon enrollment in PIPP. The Commission will continually monitor the PIPP program to determine if further adjustments are necessary.

Appendix - Paragraph A

Pursuant to paragraph (A) of the proposed appendix to Rule 18-13, the gas utility company would charge nothing to a PIPP customer determined to have zero income, for the first ninety days the customer is enrolled in the PIPP program. ODOD proposes that the Commission consider a waiver provision wherein zero-income PIPP customers may extend the period for which they are billed zero by the gas utility. (ODOD Initial at 18.) Ohio Consumer Advocates support providing local agencies with the authority to continue a zero PIPP amount for customers with an ongoing emergency situation. For example, there are major delays in processing disability applications. This creates an ongoing crisis for households affected and warrants a continuation of zero-income treatment. (Ohio Consumer Advocates Reply at 11.) Duke requests that the Commission establish and publish guidelines for waivers to this provision, prior to adopting the final rules, to afford interested parties an opportunity to review and comment on them. (Duke Reply at 8.) Ohio Consumer Advocates note that the community action agencies currently have appeal procedures and should be given the discretion to set payments based on their review of the customer's application. Ohio Consumer Advocates believe that, if a minimum payment is imposed, the zero-income PIPP customer should have an avenue to appeal the minimum payment. (Ohio Consumer Advocates Reply at 11-12.)

The Commission finds that, considering other changes the Commission is making to the PIPP program, implementing a provision for a zero-income PIPP customer to continue to be billed at zero is inappropriate. In considering the task related to the implementation of a hardship waiver, the Commission believes that the community action agency will be required to inform zero-income PIPP customers of the possibility of a hardship waiver, and then evaluate whether that customers' circumstances would meet the criteria for such a waiver. The Commission believes that the development, implementation, and monitoring of a hardship waiver process, to ensure that hardship waivers are granted fairly and equally and only in very limited circumstance will be

onerous and cumbersome and for this, the Commission dins it inappropriate to adopt ODOD's waiver proposal.

Appendix - Paragraph B

As proposed by Staff, PIPP and graduate PIPP customers, excluding zero-income PIPP customers, would be billed eight percent of the household income each billing cycle by the gas or natural gas utility company.

Consumer Groups argue that the gas PIPP percentage should be set at five percent. They argue that eight percent is excessive and will continue to limit the PIPP customer's ability to maintain utility service. Ohio Consumer Advocates and Consumer Groups assert that five percent is more affordable. Consumer Groups state that a five percent income-based payment will produce the same revenues as a ten percent payment level, provided that customers make 10-12 payments on average annually. (Consumer Groups Initial at 19.) Similarly, Ohio Consumer Advocates contend that eight percent of income is too high for PIPP customers in light of the current recession and the increases in other necessities, transportation and food. Ohio Consumer Advocates further assert that the number of PIPP customers falling behind on their monthly payments demonstrates that a lower monthly PIPP payment would be helpful in reducing non-payment and late payments. Ohio Consumer Advocates reason that other jurisdictions that have adopted programs similar to PIPP, but with more affordable percentages of income, have experienced more PIPP payments received than Ohio. (Ohio Consumer Advocates Initial at 17-18; Ohio Consumer Advocates Reply at 12.)

The gas utility companies commenting on this matter oppose the reduction of the income-based payment percentage. Gas utility companies state that lowering the PIPP payment percentage is not going to make low-income customers pay their utility bills and will increase the PIPP rider and, thus, the financial burden of customers who pay the full amount of their bills. Sheldon notes that some of the non-PIPP customers who shoulder the financial burden of PIPP customers are the elderly on fixed incomes who pride themselves on being self-sufficient and other customers that may not qualify for PIPP but who are struggling to make ends meet. (Sheldon Initial at 1.) Columbia also opposes any decreases to the PIPP payment levels below ten percent. Columbia reasons that reducing the income-based PIPP payment to five percent of the customer's household income will increase total arrearages by even greater amounts and encourage even more customers to participate in PIPP, further increasing the financial burden on all other customers. Columbia also recommends keeping the ten percent payment level. DEO states that there is no reason to assume, as do Consumer Groups, that a lower payment limit will result in an increase in the number of PIPP payments made. Further, Duke asserts that lowering gas PIPP customers' payment percentage may frustrate programs like graduate PIPP and

dissuade PIPP customers from leaving the gas PIPP program. (DEO Reply at 2-3; Sheldon Initial at 1; Columbia Reply at 31-32; Duke Reply at 7-8.)

Consumer Groups argue, among other things, that, so long as the PIPP riders can be adjusted whenever necessary to account for additional program costs, the utility companies have no real stake in consideration of affordable payment levels for PIPP customers. Consumer Groups believe that, as more and more customers go on PIPP, program costs can only escalate unless payment frequency patterns change, which Consumer Groups reason will not likely happen with the eight percent payment level proposed by Staff. Consumer Groups note that ODOD is proposing a seven percent payment level for electric PIPP customers and reason that it will be difficult for PIPP customers to afford their utilities if the allocation ultimately adopted is eight percent gas and seven percent electric. Consumer Groups argue that the proposed PIPP restructuring cannot be seen as a just and reasonable result when the lowest-income Ohioans are required to pay almost 3 times as much of their incomes for gas and electric services as do median-income customers. (Consumer Groups Reply at 6-11.)

ODOD states that the proposal of Consumer Groups and Ohio Consumer Advocates, to substantially reduce the level of the percentage of income that PIPP customers are asked to pay, begs the question of whether the PIPP program is intended to provide a complete economic solution for all customers that may be eligible for the program, no matter how economically challenged they may be. ODOD reasons that the position taken by the Consumer Groups and Ohio Consumer Advocates implies that, no matter how great the customer's need for energy assistance, PIPP is the answer. However, ODOD reasons that PIPP is a payment program predicated on PIPP customers making regular monthly payments toward the cost of their utility service. ODOD recognizes, like the commenting gas utility companies, that the PIPP programs (electric and gas) are paid for by all ratepayers and that the cost of the electric PIPP program has increased significantly over the last couple of years. Thus, ODOD reasons that the desire of low-income consumer advocates to make the percentage-of-income amount more affordable must be balanced against the overall cost and sustainability of the PIPP program. ODOD reminds Consumer Groups and Ohio Consumer Advocates that some PIPP customers will still find it necessary to seek supplemental assistance from local community action agencies, county job and family services agencies, faith-based and other charitable organizations, and even other individuals in order to maintain utility service and that such customers may also require additional support for housing, food, medicine, and other essentials of life. The Commission and ODOD have a responsibility to assure that the PIPP programs that we administer are on firm financial footing as changes to the programs are implemented. Thus, ODOD states that, notwithstanding the desire to make PIPP as affordable as possible, neither ODOD nor the Commission can responsibly turn a blind eye toward the impact of the PIPP program on utility ratepayers generally and must,

through their respective rules, foster qualifying customers' successful participation in PIPP. (ODOD Reply at 2-4.)

The Commission agrees with the reply comments of ODOD that PIPP may not be the single answer for all low-income customers. Further, the Commission has a responsibility to assure that the gas PIPP program is not financially crippled by the restructuring of the program as set forth in the adopted attached rules. While the Commission has every intention of assisting low-income customers in maintaining their gas utility service, particularly during the heating season, it is critical that PIPP customers recognize that they have some obligations to meet to continue to receive the benefits of the PIPP program. In addition to our obligation to assist PIPP customers, the Commission also has an obligation to balance the interest of customers that are not eligible for PIPP and the effect that paying such charges, via the PIPP rider, has on their ability to maintain their utility service. However, we like the low-income advocates and ODOD, desire to make PIPP more affordable and, to that extent, have lowered the gas PIPP payment percentage from ten percent to six percent. We are also mindful of the arrearages that PIPP customers accrue while on the PIPP program and their ability to address the accrued debt when the PIPP customer is no longer eligible for PIPP or no longer wishes to participate in the program. To ensure that the gas PIPP program as restructured meets the stated goals of the program, we plan to evaluate the restructured PIPP program once we have accumulated two years of data, or sooner if necessary, to determine if any adjustments to the new PIPP program are appropriate. Our evaluation of the PIPP program will certainly include a review of the payment percentage and minimum payment requirement, as well as a determination of whether the restructured PIPP program is improving payment behavior and a review of the cost impact of the program. Critical to the success of the newly restructured program will be the utility companies' active oversight of the program to ensure that customers are being reverified, are curing missed PIPP payments, and are removing customers from the program who do not meet the qualifications. We intend to monitor the companies' activities in this regard and will consider their diligence in any requests for recovery of PIPP arrearages.

Rule 4901:1-18-14, Incentive Programs for PIPP and Graduate PIPP Customers

Paragraph (A)

Staff proposed, as a part of Rule 18-14(A), that PIPP and graduate PIPP customers be eligible for an arrearage credit for each timely payment of at least the required income-based payment. Further, Staff proposed that the gas or natural gas utility company include the arrearage credit received on the customer's next bill.

Clearfield Gas notes that, as proposed, the rule allows a PIPP customer or a graduate PIPP customer to make only one timely payment within twelve months and

obtain a credit. The commenter reasons that the proposed provision will allow a PIPP customer or a graduate PIPP customer to make timely payments in low-consumption months in order to receive an arrearage credit and "game" the system. Clearfield Gas proposes that, if an arrearage credit incentive is to be provided to encourage PIPP or graduate PIPP customers to make timely payments, the customer should be required to make at least twelve consecutive timely monthly payments before twelve months of the credits are applied. (Clearfield Gas Initial at 3-4.) On the other hand, Consumer Groups emphatically disagree with the proposal to require that, in order to receive an arrearage credit, a PIPP customer must make twelve consecutive payments and then can receive twelve credits. Consumer Groups assert that, if customers see a credit for timely payment each month, they will be more likely to make payments and, if the customers must make twelve payments in order to see any benefit, the program is doomed to failure. (Consumer Groups Reply at 14-15.)

The Commission notes that the Clearfield Gas proposal would make the proposed arrearage crediting program like the current gas utility company arrearage crediting programs for former PIPP customers. We have found that significant percentages of customers are not successful because they must make 12 consecutive timely payments before realizing any benefit. We believe that it is unrealistic to expect PIPP and graduate PIPP customers to always make their payments on time. The Commission is aware that, of the large investor-owned electric and gas utility companies for the year 2007, customers (excluding PIPP customers) made timely payments only 47 percent of the time. Thus, we find it unreasonable to hold PIPP customers to such a stringent standard to receive arrearage crediting.

Consumer Groups support the inclusion of the arrearage credit on the customer's bill as a clearer signal of the benefits of timely payment, but propose that a timely payment be defined as payment of the PIPP amount due before it is determined to be delinquent (i.e., before the next billing cycle). (Consumer Groups Initial at 123.)

The Commission recognizes that ODOD has also proposed that "on time" payment be more broadly defined as before the next bill is generated. The Commission finds that defining the payment of the PIPP income-based or minimum payment as timely if received before the next billing cycle is more ambiguous to the customer than the due date. Further, we believe that requiring the PIPP payment by the due date, like all other customers, will be beneficial to PIPP customers and is in keeping with the stated goals of improving payment patterns, encouraging responsible behavior and encouraging PIPP customers' successful migration from the PIPP program. Thus, the Commission finds that PIPP and graduate PIPP customers must make their payments by the stated due date to receive the arrearage credit.

Further, Consumer Groups propose that 50 percent of accumulated arrearages of all PIPP customers, graduate PIPP customers and former PIPP customers be forgiven, as of the effective date of these rules, in addition to forgiving one-twelfth of the accumulated historic arrearages and the difference between the actual bill amount and the required payment, with each timely payment made by the PIPP customer. Consumer Groups reason that the utility companies have already received the outstanding payment from other ratepayers through the PIPP rider and the aged PIPP debt has little or no chance of being collected by the utility companies. (Consumer Groups Initial at 39-40, 123-124.) DEO disagrees with Consumer Groups' proposed rapid crediting of PIPP arrearages and notes that Consumer Groups give no reason to expect that a one-time, 50 percent reduction of a PIPP customer's accumulated arrearages will further encourage timely payments. DEO reasons that giving this credit, before any payments have been made, severs the link between arrearage crediting and responsible payment behavior. Further, DEO notes that any PIPP arrearage recoveries, however small, are credited to the PIPP rider, so the requirement to repay these arrearages should be maintained. (DEO Reply at 3, 11.)

The Commission finds an initial forgiveness of 50 percent of all PIPP, graduate PIPP and former PIPP customers' accumulated arrearages to be unreasonable, particularly in light of the restructuring of the PIPP program and the adoption of a graduate PIPP program, as set forth in the attached rules. The Commission believes that, in some instances, the gas PIPP payment during the summer months may be slightly more than the actual bill. To encourage PIPP customers and graduate PIPP customers with accumulated arrearages to continue to make the appropriate program payments, PIPP customers must see a benefit to staying connected to the utility system. The Commission is hopeful that the reduction of the customer's accumulated arrearage is another incentive to break the cycle of seasonal disconnection and to facilitate the customer's migration from the PIPP program to graduate PIPP and the successful completion of the graduate PIPP program. Thus, the Commission finds that forgiveness of 50 percent of the accumulated arrearages of all PIPP and former PIPP customers upfront is not consistent with the goals we are trying to achieve. The other aspects of Consumer Groups' proposed arrearage crediting program are considered as part of the discussion of the proposed appendix to Rule 18-14.

ODOD believes that the arrearage crediting provision contained in its proposed electric PIPP rules deserves careful consideration by the Commission in the context of this gas PIPP rulemaking proceeding. ODOD asserts that its proposed arrearage crediting program encourages PIPP customers' successful migration from the PIPP program because it removes the burden of accumulated (historic, previously accrued) and accumulating (the difference between the PIPP payment and the actual bill) arrearages for those customers who make a timely payment. As such, ODOD believes that the monthly arrearage crediting represents a powerful incentive to PIPP customers to make timely payments. Because customers will see an immediate credit every time they make their payment on time, ODOD believes PIPP customers will work harder to pay their PIPP bill on time. (ODOD Reply at 6-8.)

ODOD states that, contrary to the assertions of some low-income advocates, low-income customers are concerned about their accumulated PIPP debt and that substantial arrearages accrued by PIPP customers are a disincentive to get off of the program, result in poor credit ratings, limit PIPP customers' future access to credit, and are a psychological burden for PIPP customers. ODOD maintains that arrearage crediting programs should provide relief to conscientious PIPP customers as a reward for on-time payments. (ODOD Reply at 6-8.) Consumer Groups support ODOD's position that if the PIPP customer's debt continues to accrue in accordance with Staff's proposed arrearage crediting plan, many customers will remain unable to retire their arrearages. (Consumer Groups Reply at 14-15.)

After considering the Staff-proposed arrearage crediting, ODOD's proposed electric PIPP arrearage crediting, and the comments and reply comments on this issue, the Commission is convinced that ODOD's proposed plan best achieves our goals. We agree with ODOD that, for an arrearage crediting program to continue to act as an incentive to PIPP customers, the arrearage crediting must offer the PIPP customer the opportunity to eliminate accumulated arrearages as well as accumulating arrearages. We also believe that it is imperative that the PIPP customers see a more immediate reward for making timely PIPP payments than they do under the current utility company arrearage crediting programs. The Commission, like ODOD, believes that this combination will be a powerful incentive for PIPP customers to pay their bills on time. Accordingly, the Commission adopts the attached Rule 18-14(A), which credits PIPP and graduate PIPP customers for the accumulating arrearages and one-twenty-fourth of the accumulated arrearages for each timely payment of the amount due.

Paragraph (B)

To encourage conservation among PIPP customers and graduate PIPP customers, Staff proposed that these customers be eligible to receive a conservation credit. The key aspects of Staff's proposal required that the PIPP or graduate PIPP customer reduce energy usage over a two-year period by ten percent, after weather normalization, and then the customer's account would be credited for two times the value of the customer's arrearage credit.

Consumer Groups propose that the PIPP customer be required to reduce consumption, after the effects of weather, by four percent and that the PIPP or graduate PIPP customer's next income-based payment due be reduced by 50 percent. Under Consumer Groups' proposal, the PIPP or graduate PIPP customer would be eligible for a conservation credit or payment reduction every six months, with a twelve-month consumption baseline. (Consumer Groups Initial at 41-43.)

Duke states that calculating and applying the conservation credits, as proposed by Staff, will require significant billing system changes as well as bill formatting changes and suggests that the Commission address cost-recovery mechanisms for such changes. (Duke Initial Comments at 21.) Columbia argues that Staff's proposed conservation incentive credit will not achieve the desired objective, as the credit will be difficult to explain to PIPP and graduate PIPP customers and difficult for the utilities to program and to administer. Further, Columbia reasoned that the conservation credit will not always reward energy conservation, as customers who have conserved may not be eligible if they have moved in the past twenty-four months, while customers who have done nothing could benefit due to household changes that are unrelated to conservation (e.g., a reduction in the number of residents). (Columbia Initial at 27-28.)

Ohio Consumer Advocates argue that the proposed conservation incentive credit is not practicable and would be expensive for the utilities to administer. Thus, Ohio Consumer Advocates propose that the credit not be adopted. (Ohio Consumer Advocates Initial at 21-23; Ohio Consumer Advocates Reply at 12).

DEO disagrees with Consumer Groups' proposal to lower the level of consumption reduction required to receive the conservation incentive. DEO reasons that, by lowering the reduction required, Consumer Groups' proposal appears likely to diminish PIPP customers' incentive to conserve, as well as the amount of gas actually conserved, thus increasing the PIPP cost burden on non-PIPP customers. (DEO Reply at 3-4.) Ohio Gas argues that, while Staff's proposed conservation credit program would require extensive and costly computer programming changes, such as integrating weather data into its billing system, Consumer Groups' suggested changes would impose an even greater burden. Ohio Gas explains that administering this aspect of Consumer Groups' proposed changes to the PIPP program would multiply its associated workload fourfold, as compared to Staff's proposal. (Ohio Gas Reply at 3-4.) For reasons similar to those raised by Ohio Gas, Vectren also recommends that the Commission reject Consumer Groups' conservation incentive proposals. (Vectren Reply at 3-4.)

Ohio Consumer Advocates fear that the proposed conservation credit will be too difficult and expensive for the utility companies to administer, given the demands it will place on the companies' billing and customer service personnel. Further, Ohio Consumer Advocates believe that the program may not reward actual energy efficiency and conservation, given the other factors that may impact energy usage, such as a change in family size, illness, or a change in residence. In light of the minimal savings to customers from the program, the problems in administering it, failure to verify that it is actually rewarding energy efficiency or creating persistent energy savings, and the mobility of the customer base, Ohio Consumer Advocates recommend that the energy conservation credit program not be adopted. (Ohio Consumer Advocates Initial at 21-23.)

ODOD indicates that the proposed conservation incentive is not clear. Specifically, ODOD requests clarification as to whether customers are required to continue to decrease their usage by ten percent in each subsequent year in order to obtain the credit or whether the customer is merely required to maintain usage at the previously reduced level. It would appear to be very difficult, if not impossible, for additional reductions of ten percent in each successive year to be accomplished. ODOD respectfully recommends consideration of an alternative approach. It suggests that those PIPP customers who reduced their consumption by ten percent in the first 12-month period and further decrease their weather-normalized usage for the second 12-month period by at least two percent will earn another two arrearage credits. To encourage customers to maintain their reduced level of energy usage, ODOD recommends that the following be added to the rule: "Those PIPP customers who reduced their consumption by 10 percent in the first 12 months and maintained this level of usage during the second 12 months, will earn one arrearage credit for the second 12 months." (ODOD Initial at 18-19.)

The Commission recognizes why Staff proposed a conservation incentive program for PIPP and graduate PIPP customers. Given that a PIPP customer's gas utility bill is based on the household income, other than the accumulating arrearage, the PIPP customer has less immediate incentive to conserve energy than do other customers. However, based upon the comments and reply comments received on this issue, the Commission finds that the proposed energy conservation credit should be rejected. We believe it is not likely to encourage conservation by PIPP and graduate PIPP customers and the benefits of conservation may be outweighed by the complex and expensive programming requirements that would be imposed on the gas and natural gas utility companies to administer the proposed conservation incentive program. The Commission believes that it is critical for Ohio and this nation to encourage conservation. Such is evident from the Commission's encouragement of customer conservation programs in recent decisions by the Commission. See, *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Rates, for Approval of an Alternative Rate Plan for Gas Distribution Service, and for Approval to Change Accounting Methods*, Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008); *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service., for Approval of an Alternative Rate Plan for its Gas Distribution Service, for Approval to Change Accounting Methods, for Approval of Tariffs to Recover Certain Costs Associated with a Pipeline Infrastructure Replacement Program Through an Automatic Adjustment Clause and for Certain Accounting Treatment, and for Approval to Recover Certain Costs Associated with Automated Meter Reading and for Certain Accounting Treatment*, Case No. 07-829-GA-AIR, et al., Opinion and Order (October 15, 2008.) Accordingly, the Commission will not abandon the idea of a conservation incentive for PIPP and graduate PIPP customers. However, in light of the issues raised, we believe that additional information and consideration of the issue is necessary. The Commission believes that the impending implementation of automated metering infrastructure and smart metering technology may provide PIPP customers, indeed all customers, with accurate consumption information in real time. Accurate and timely consumption

information for residential customers, including PIPP customers, will facilitate better decision-making by residential customers to conserve energy. In turn, the Commission and Commission Staff can consider conservation incentive programs for PIPP and graduate PIPP customers. As such, the Commission will look for an opportunity for a gas utility company to implement a pilot program to provide the Commission and Commission Staff with additional information to explore and develop a conservation incentive program. Accordingly, the Commission has deleted the conservation incentive credit from the PIPP rules to be adopted.

Paragraph (C)

As issued for comment, Rule 18-14(C), stated:

> The formula to calculate a graduate PIPP customer's arrearage and conservation credits, as referenced above in this rule, shall be based on a formula developed and periodically reviewed by the Commission as set forth in the appendix to this rule. The formula shall also be made available to customers by the company and will also be available on the commission's website at http://www.puco.ohio.gov/PUCO/Rules or by contacting the commission's call center toll-free at 1-800-686-7826 or TTY at 1-800-686-1570.

As a result of the Commission's decision to incorporate the appendix into the rule, and the elimination of the conservation incentive, at this time, proposed paragraph (C) has been deleted.

Paragraph (D)

The Staff proposal issued for comment included, at paragraph (D), a provision which prohibits a PIPP, graduate PIPP, or former PIPP customer on a payment plan pursuant to proposed Rule 18-18 from receiving a refund of a credit balance. Consumer Groups request clarification of how a credit balance on the account could exist if there is an arrearage and whether the proposed provision applies only to customers who have received arrearage credits. Further, Consumer Groups propose that that the paragraph be amended to state that the credit balance would result from arrearage credits being applied to the account. (Consumer Groups Initial at 126.)

The Commission is aware of instances where customers receive assistance from regular HEAP sources that is in excess of the current amount due. We find that these excess funds must be applied to any arrearages and shall not be refunded to the customer. To make this more clear, the Commission has revised adopted Rule 18-14(B) (which was proposed Rule 18-14(D)) and amended adopted Rule 18-13(C).

Appendix Sections I and II

As issued for comment, Sections I and II of the appendix to Rule 18-14, would permit PIPP and graduate PIPP customers to earn an arrearage credit. The amount of the customer's credit would be determined by dividing the arrearages accrued as of the date of enrollment in PIPP or graduate PIPP or the date of reverification by 24. Each time the PIPP or graduate PIPP customer made a timely payment of the required amount or more, an arrearage credit would be deducted from the customer's accumulated arrearages. As proposed, zero-income PIPP customers would not be eligible for the credits during their initial 90-day enrollment in PIPP. The Commission notes that, while the proposal issued for comment also addressed zero-income PIPP customers and a conservation credit, as discussed previously in this Order, the Commission is not adopting either provision and will not discuss the proposals further in this Order.

ODOD believes, based on its management of the electric PIPP program, that Staff's approach for the PIPP incentive program, although well-intended, will not be effective in reducing accumulations of customer arrearages because accumulating arrearages are excluded from the formula for determining the credits. Under Staff's approach, accumulating arrearages (the difference between the PIPP payment and the monthly bill amount) are not eligible for crediting until the annual income verification process, after they are accrued. At that point, the accrued arrearage is then calculated for crediting over the next 24 months. Although this method will slow the growth of the large arrearage balances we see today, many customers will remain unable to pay or retire their arrearages because credits are always pushed out 24 months into the future. For the reasons explained above, ODOD respectfully proposes that the Commission consider an incentive formula that addresses the accruing arrearages problem. Under its proposal, when customers apply for the PIPP program, customer service representatives would calculate the accrued arrearage portion of the credit and one twenty-fourth of the customer's total bill balance (arrearages). For each on-time payment made by the customer, ODOD says that a credit would be applied, equal to one twenty-fourth of the accrued arrearage plus the remaining bill balance for that month's bill. With consistent payment, ODOD contends that customers have the opportunity to retire the accrued arrearages in 24 months and stay current with new charges. (ODOD Initial at 14-17.)

Ohio Consumer Advocates request that PIPP customers who make their PIPP payment consistently on time should not have any arrearage accumulating. In other words, the difference between their PIPP payment and the actual bill should be forgiven, in the Ohio Consumer Advocates' opinion. Ohio Consumer Advocates point out that Staff's proposal does not eliminate the PIPP customer's arrearage, but perpetuates the arrearage for the entire time that the customer remains on PIPP and that, in this way, Staff's proposal is different from the arrearage crediting program proposed by ODOD. Ohio Consumer Advocates assert that a better solution to the problem of PIPP arrearages is to allow that customer to have no PIPP arrearages at all if a customer consistently makes

the required PIPP payments. Ohio Consumer Advocates recommend that a PIPP customer's historical arrearages be divided into twelve and credited over twelve months, as the customer makes the required PIPP payments. Ohio Consumer Advocates state that, once that twelve-month period has been completed, with the customer making the required PIPP payments, historical PIPP arrearages for that customer should be eliminated and no further PIPP arrearages should be calculated as long as the customer continues to make the monthly PIPP payments. Ohio Consumer Advocates believe that there would be no need for recalculating arrearages on an annual basis, as the required monthly PIPP payments are all that the customer owes and are thus sufficient to prevent the accumulation of any further arrearages. Ohio Consumer Advocates reason that this process should be applied to new PIPP customers who have arrearages upon enrollment, zero-income PIPP customers who make the proposed new minimum payment for twelve months, and continuing PIPP customers. (Ohio Consumer Advocates Initial at 19-20.)

Columbia expresses concern that PIPP customers will receive a smaller benefit under Staff's proposed arrearage crediting program than they would under Columbia's arrearage crediting program. (Columbia Initial at 26-27.) Further, Columbia notes that several of the commenters suggest alternatives to Staff's proposed arrearage crediting. Columbia recommends that the Commission administer several pilot programs, each offering different incentives, to determine which incentives best impact customer payment behavior and ultimately implement one plan for PIPP customers. (Columbia Reply at 32-33).

Consumer Groups assert that, if customers see a credit each month, as proposed by Staff, they will be encouraged to make more payments, as opposed to Columbia's arrearage crediting program under which the customer must make twelve payments in order to see any benefit. Consumer Groups believe that the delay dooms Columbia's program to failure. Consumer Groups assert that this is why Columbia's proposal misses the point in claiming that its arrearage crediting program is more generous than that proposed by Staff. (Consumer Groups Reply at 15.)

The Commission notes that Columbia, Vectren and Dominion offer their PIPP customers a payment incentive arrearage crediting program. As Consumer Groups state, under Columbia's, Vectren's and Dominion's payment incentive arrearage crediting programs, the PIPP customer must achieve a perfect payment history throughout a 12-month period to receive the credit. The Commission believes that PIPP customers may be discouraged by the requirement to make twelve consecutive timely payments before observing any arrearage crediting. Thus, the Commission concludes that the timely payment incentive adopted by the Commission, in the rules attached hereto, is preferable to the plans currently offered by Columbia, Dominion and Vectren.

Consumer Groups and Ohio Consumer Advocates argue that the goals, as stated in the entry issuing the proposed restructured PIPP program, will not be realized if PIPP

customers always have an arrearage on their bill, based on the difference between the PIPP payment and the actual bill. Consumer Groups and CUFA assert that PIPP customers do not understand or bargain for an accumulating arrearage when they enroll in PIPP and that the PIPP customer's only goal when they sign up for PIPP is to maintain natural gas service. Consumer Groups and CUFA agree that the Staff-proposed arrearage crediting scheme is far too complex for the average customer to understand and must be simplified. They argue that the proposed arrearage crediting program leaves PIPP customers burdened by arrearage debt perhaps indefinitely. According to Consumer Groups and CUFA, there must be significant upfront arrearage forgiveness coupled with a higher monthly arrearage credit percentage. (Consumer Groups Reply at 14-15; Ohio Consumer Advocates Initial at 18-20; CUFA Initial at 1, 5-6, 7-8).

Consumer Groups also propose that, after a 50 percent upfront arrearage credit, PIPP customers be eligible to receive an arrearage credit of the accumulated arrearage as of the date of enrollment or reverification, divided by 12, to be applied to the PIPP or graduate PIPP customer's account with each timely payment made during the subsequent twelve months. Further, under the Consumer Group's proposal, no additional arrearages would accrue to the PIPP customer's account when the customer makes timely PIPP payments. (Consumer Groups Initial at 39-40, 123-125.)

Similarly, CUFA recommends that arrearages accrued to PIPP accounts as of a date certain be eliminated entirely and that PIPP customers have an opportunity to "earn" monthly credits through timely bill payment, with no arrearage accruing in any month in which the PIPP customer pays his PIPP payment on time. (CUFA Initial at 1, 7-8.)

Duke states that, while it does not oppose the arrearage crediting and graduate PIPP programs, it requests that the Commission (and ODOD) address any inconsistencies in the two programs. Duke asserts that, as the only combination utility, the lack of consistency between the two programs is extremely problematic from an administrative, reporting and, most importantly, programming perspectives. (Duke Reply at 8-9.)

As noted previously, the Commission has changed the gas PIPP arrearage crediting program to address certain concerns raised by the commenters. As adopted by the Commission, the gas PIPP arrearage crediting program will include a credit for the difference in the amount of the actual bill and the PIPP payment (accumulating arrearages), as well as credit of one twenty-fourth of the accrued arrearages (accumulated arrearages), for any payment made by the due date. However, the arrearages that are not yet forgiven will remain on the PIPP customer's account to illustrate, on a monthly basis, the tangible benefits of timely payments. The Commission recognizes the difficulties for Duke, as the only combination utility company, if the electric and gas PIPP programs are not aligned, with regard to administrative, reporting and programming. The Commission is also mindful that it can be confusing to customers and the local community action agencies if the gas and electric programs for Duke customers are different. Therefore, the

Commission directs Duke to work with Staff to resolve the unique issues Duke may face as the only combination utility and to seek waivers if necessary.

Appendix Section III

As proposed, Section III of the appendix to Rule 18-14 directed that former PIPP customers on company-specific arrearage crediting programs be transferred to the graduate PIPP program, as of the effective date of the proposed rules. Columbia, Vectren, and Dominion currently have arrearage crediting for current PIPP and/or former PIPP customers.

Consumer Groups reason that the proposed section will adversely affect former PIPP customers who are close to completing their 12, 24 or 36 months of timely payments and are expecting the appropriate credits to be applied to their account arrearages. Consumer Groups request that a provision be added to the rules to prevent such an adverse effect on the customer and reason that such a provision is necessary "especially because these programs were the result of stipulations in company-specific cases." (Consumer Groups Initial at 125-126.)

The Commission finds that, in light of the PIPP arrearage crediting program changes to be adopted today and our desire not to cause harm to current PIPP customers who are successfully nearing the end of a company-specific arrearage crediting program, any current PIPP Columbia, Dominion or Vectren customers who have successfully completed the first twelve consecutive months and the second twelve consecutive months of the companies' payment incentive arrearage crediting program, shall have their total arrearages forgiven. All other PIPP customers shall be enrolled in the graduate PIPP program as set forth in the attached rules. Furthermore, in light of our review of the arrearage crediting programs available to former PIPP customers and the graduate program we adopt today, former PIPP customers enrolled in the companies' programs shall be transferred to the graduate PIPP program as of the effective date of these rules. Lastly, this provision shall be deleted from the rules as it is a transitional matter and, therefore, not appropriate as part of a rule.

Rule 4901:1-18-15, General PIPP Provisions

Paragraph (A)

As proposed by Staff, paragraph (A) would require the gas or natural gas utility company to inform a PIPP customer of the availability of the medical certification program if the PIPP customer informs the utility company of a medical problem. Consumer Groups note that this provision is duplicative of Rule 18-05(E), which makes medical certification available to all customers, and question if the rules need to include provisions

to ensure that PIPP customers are afforded the same rights afforded to other customers. (Consumer Groups Initial at 129.)

The Commission concurs and is deleting this provision.

Paragraph (D)

Staff proposed that the restructured PIPP rules include, at Rule 18-15(D), a provision which states:

> Except as provided under rule 4901:1-18-12(E) of the Administrative Code, no gas or natural gas company shall require a PIPP customer to verify eligibility with the company without just cause.

Consumer Groups state that PIPP income verification should proceed only pursuant to the requirements of Rule 18-12(E) and propose that the phrase "without just cause" be deleted from paragraph (D). (Consumer Groups Initial at 129.)

The Commission notes that some of the small gas utility companies in the state currently reverify the household income of their PIPP customers. The Commission believes it is an appropriate option for the gas utility company and is convenient for the PIPP customer. The Commission further notes that we are aware of instances where the utility company has determined that the PIPP customer is fraudulently enrolled in PIPP. We consider the gas utility company's ability to verify a PIPP customer's household income another means by which to detect abuse of the PIPP program. Accordingly, we will adopt Staff's proposal but note that we are moving the provision to adopted Rule 18-12(D)(3).

Paragraph (E)

Proposed Rule 18-15(E) would prohibit a gas or natural gas company from applying late fees to a PIPP customer's account. Consumer Groups recommend deleting paragraph (E) and incorporating the language into proposed Rule 18-05(H). (Consumer Groups Initial at 129.)

The Staff proposed specific PIPP provisions in an attempt to clarify how the PIPP program is interrelated to the other requirements of Chapters 17 and 18. The Commission believes that it is better to include these specific provisions in a rule clearly applicable to the PIPP program and PIPP customers and, therefore, adopts the language of proposed paragraph (E) at adopted Rule 18-15(C).

Paragraph (F)

As proposed by Staff, Rule 18-15(F) would provide:

> The company shall notify the PIPP customer by telephone message or direct mail, within five days after the due date, when the customer has failed to make a payment.

Consumer Groups state this provision should be included within the disconnection rule, as a precondition for disconnection of PIPP customers. (Consumer Groups Initial at 130.) On the other hand, the gas utility company commenters are vehemently opposed to providing PIPP customers with an additional notice of nonpayment. Duke does not believe that including this provision furthers the objective. Duke notes that PIPP customers are not subject to a late charge or any other consequences that might promote timely payments. Duke contends that additional telephone calls or messages by mail, notifying them of their delinquency, will likely do very little to motivate customers to make timely payments. Further, Duke states that the costs associated with programming utility companies' billing systems and automated voice response systems to initiate a notification process for PIPP customers far outweigh any benefit imposed by the proposed requirement. (Duke Initial at 21.) Columbia questions if an additional reminder will significantly increase the rate of payments by PIPP customers. Columbia states that, if a customer is serially delinquent, monthly calls or mailed notices will not likely encourage responsible behavior. (Columbia Initial at 28.) DEO notes that it does not send reminders to other customers to pay their bills and questions why PIPP customers should be treated differently. DEO states that the proposed requirement would place an undue burden on the utility company in that it would require specific tracking of the timeliness of payments for approximately 100,000 of DEO's 1.2 million customers. DEO states that considerable programming effort would be required to automate the process and contends that it is uncertain whether any improvement in timely payments as a result of the reminder notices will outweigh the additional cost of providing the reminder notification. (DEO Initial at 4.) Consumer Groups state that, although certain gas utility companies object to providing this notice, the objections of the utility companies lack merit. (Consumer Groups Reply at 76.)

The Commission recognizes that the proposed provision was intended to support the stated goals of the Commission's restructured PIPP program, namely to improve PIPP customer payment patterns and to encourage responsible behavior by PIPP customers. However, in light of the programming costs to be incurred by the utility companies and passed on to all ratepayers to implement the proposed provision, and given the lack of any evidence to suggest the likelihood that an additional reminder after the payment is past due, will, in and of itself, result in more PIPP customer payments, the Commission finds that the post due date reminders for PIPP customers should not be implemented. Therefore, we will not adopt this provision as proposed by Staff.

Paragraph (G)

Pursuant to paragraph (G) of proposed Rule 18-15, the utility company would be required to notify the PIPP customer by bill message, direct mail or telephone message, of the PIPP customer's PIPP reverification date.

Columbia does not support this proposed rule. It contends that the proposal would increase the costs associated with the PIPP program. Columbia notes that ODOD currently notifies PIPP participants when it is time to reverify their eligibility and that PIPP customers will likely pay more attention to a notification from a state agency than they would one from the utility company. (Columbia Initial at 28-29.) DEO recommends that the proposed notification process be the responsibility of ODOD. DEO contends that the notification process is part of the reverification process and is dependent on ODOD's ability to meet required reverification timelines. Further, DEO states that, if the rule is adopted, significant programming effort will be needed to comply. (DEO Initial at 4.) Consumer Groups state that, if ODOD currently provides this notice to PIPP customers, it is better that ODOD continue to provide such notice as opposed to the notice being provided by the gas utility companies. (Consumer Groups Reply at 76.)

The Commission concurs with the commenters that paragraph (G), as proposed, would be onerous. However, in order to keep customers continually aware of the anniversary date, we will require the gas or natural gas utility company to include each PIPP customer's anniversary date on the monthly bill. Proposed paragraph (G) has been modified to reflect this change and the provision is adopted at Rule 18-15(D).

Commenter proposed paragraphs

Consumer Groups propose that two new paragraphs be incorporated into proposed Rule 18-15. The first amendment, as proposed by Consumer Groups, would read:

> During periods when a PIPP customer's service is disconnected, income-based payment amounts shall not be included in the customer's arrearages.

(Consumer Groups Initial at 130.) Consumer Groups states that some utilities require payment of income-based payment amounts for periods of disconnection as a condition of reconnection of service. The commenter asserts that requiring payments for periods when the customer is without service is unjust and should be explicitly forbidden by the rules. (*Id.*)

The Commission has given great thought and consideration to this issue. In an attempt to discourage the seasonal cycle of disconnection of PIPP customers, to implement arrearage crediting plans and to minimize the effect of such action on the PIPP rider, the

Commission has determined that it is fair and reasonable for PIPP customers to be responsible to pay their income-based payment for the months when the customer's utility service is disconnected but the customer remains eligible for PIPP. The customer would be required to pay the missed income-based payments up to, but not more than, the total account balance. The Commission reasons that payment of the missed PIPP income-based amounts will reduce the customer's accumulated arrearages while enrolled on PIPP. For example, Customer A, who has an income-based payment of $75, is disconnected for a past-due bill of $225 and has a total account balance of $400. If the customer remains without service for five months, the customer will have to pay $375.00 (5 x $75) to have service restored. Consumer Groups believe that the customer should only have to pay $225.00 to restore service. If the Commission allows the customer to avoid responsibility for the missed income-based payments while the customer's service is disconnected, the customer would be financially incentivized to go off and back on PIPP and would never succeed in reducing the account balance, as a result of engaging in such activity. Therefore, the Commission has added Rule 18-12(D)(2)(b).

The second amendment proposed by Consumer Groups would read:

> The company shall provide each PIPP customer with an annual statement of the customer's PIPP account. The annual statement shall be provided within thirty days of the annual income verification date and shall include the monthly payment requirement, payment and usage history over the previous 12 months, arrearage credits, and eligibility for conservation payment reductions.

(Consumer Groups Initial at 130.) Consumer Groups state that providing PIPP customers with an annual PIPP account statement will provide customers with information about payment history, usage history, other public benefits, arrearages and credits, and conservation. Consumer Groups feel the information will help ensure that customers understand the PIPP program and have an opportunity to qualify for all the benefits of being on the program. (*Id.*)

Ohio Gas and Vectren contend that Consumer Groups' proposal would involve another separate mailing and information technology costs. Ohio Gas and Vectren state that the information proposed by Consumer Groups is duplicative, as much of the information is already included on the customer's monthly bills. They also argue that, since PIPP payments are fixed, any additional costs associated with the program imposes additional costs on other ratepayers. The commenting companies urge the Commission to reject this proposed rule. (Ohio Gas Reply at 10; Vectren Reply at 7.)

The Commission recognizes, as Ohio Gas and Vectren state in their comments, that Consumer Groups' proposal for an annual statement includes information that is already required to be provided to PIPP customers upon initial enrollment in PIPP and at each

reverification. In addition, we note that PIPP customers, and all gas utility customers for that matter, receive usage information on each bill. We see no reason for the gas utility companies to incur additional costs to consolidate and prepare such information for each PIPP customer. Accordingly, the Commission denies the Consumer Groups' request to adopt the proposed amendment to Rule 18-15.

Rule 4901:1-18-16, Graduate PIPP Program

Paragraph (A)

Consumer Groups recommend that a definition of "former PIPP customer" be created, using the language in proposed Rule 18-16(A), and incorporated into Rule 18-01. (Consumer Groups Initial at 79, 131.) The Commission agrees and has added a definition for "former PIPP customer" to Rule 18-01.

Further, proposed paragraph (A) of Rule 18-16 would prohibit a former PIPP customer, who was removed from the program for fraudulently enrolling in PIPP, from participating in the graduate PIPP program. Columbia proposes that the rule also prohibit customers who have tampered with a utility company's meter, metering equipment or other property used to supply service from participating in graduate PIPP. (Columbia Initial at 29.) Duke also recommends adding meter tampering and/or utility service theft or fraud as reasons to not allow customers to participate in graduate PIPP. (Duke Initial at 22.) Consumer Groups agree that PIPP customers removed due to fraud and meter tampering should not be eligible to participate in graduate PIPP. (Consumer Groups Reply at 77.)

The Commission concurs with the viewpoint expressed by commenters and has included a provision to address tampering and theft of service as a part of the rules adopted pursuant to this Order, at Rule 18-16(C) for graduate PIPP customers and at Rule 18-17(E) for PIPP customers. The Commission has also revised paragraph (A) of Rule 18-16 to automatically enroll PIPP customers in the graduate PIPP program so long as they meet the requirements of adopted Rule 18-16(D).

Paragraph (E)

As part of the restructuring of the PIPP program, Staff proposed, among other things, a process to gradually move off of the PIPP program. Through the Commission Staff's experience via the service monitoring and enforcement department, the Commission is aware that many PIPP customers become ineligible for PIPP as a result of a slight increase in income or a reduction of the household size. We believe that, in most cases, while the former PIPP customer may no longer be eligible for PIPP, the customer's income has not increased substantially over 150 percent of the federal poverty level. As

such, it is likely very difficult for the former PIPP customer to pay the current bill each month. The Commission recognizes that the utility companies are required to offer customers a budget bill that spreads the gas bills over the year. Accordingly, Staff proposed at Rule 18-16(E) a graduate PIPP program wherein the graduate PIPP customer would continue to be billed his/her income-based PIPP payment for the first twelve billing months (graduate PIPP year one); the current bill or the budget bill amount, at the customer's option, for the next twelve billing months (graduate PIPP year two); and the current bill or the budget bill amount, at the customer's option, plus twenty dollars, for the last twelve billing months (graduate PIPP year three). Staff proposed that, for each timely payment made by the graduate PIPP customer, the graduate PIPP customer would receive an arrearage credit. The amount of the arrearage credit proposed by Staff would be based on arrearages accrued up to the reverification at which the PIPP customer was determined to be no longer eligible for PIPP (historic arrearages).

Duke recommends the adoption of a graduate PIPP program that allows customers to realize a measurable decrease in arrearages in the first three years of the program while continuing to pay for current charges. Duke suggests that, in year one, graduate PIPP customers pay either their current bill amount or budget bill amount in addition to a minimum payment of twenty dollars towards the PIPP arrearage. In year two of Duke's proposal, graduate PIPP customers would pay either the current bill amount or budget bill amount and an additional minimum payment of twenty-five dollars. During Duke's year three, the graduate PIPP customers would pay either the current bill amount or budget bill amount and an additional minimum payment of thirty dollars. Duke states that customers would realize a $900 decrease in their PIPP arrearage through these contributions and, coupled with the arrearage crediting and conservation credits, customers would be able to realize a gradual improvement in their financial circumstances through the three-year graduate PIPP program. Duke further states that the average Duke PIPP customer has an arrearage of approximately $1500. (Duke Initial at 23-26.) Ohio Consumer Advocates support the graduate PIPP program proposed by ODOD. (Ohio Consumer Advocates Reply at 12.)

As proposed by Staff, Rule 18-16(E) would allow zero-income PIPP customers who subsequently become ineligible for PIPP, due to an increase in household income, to participate in the graduate PIPP program. Under Staff's proposal, the graduate PIPP customer would continue to make the income-based PIPP payment established at the last eligible reverification (before being determined ineligible). Staff proposed that the zero-income PIPP graduate's first year payment level would be established at the time of the customer's enrollment in the graduate PIPP program. Consumer Groups and Duke seek clarification on how payment levels for former zero-income PIPP customers will be established and by whom. (Consumer Groups Initial at 131; Duke Initial at 27.)

The Commission carefully considered Staff's proposal, ODOD's proposed electric arrearage crediting plan, the current graduate PIPP programs offered by the gas utility companies, the nuances of the gas utility company graduate programs, the success rate for graduate PIPP customers, and the difficulty for a customer in adjusting economically to full bill payments once off PIPP. The Commission therefore adopts the following gas graduate PIPP program:

(a) The PIPP customer shall be eligible to participate in the graduate PIPP program for twelve months following the PIPP customer being determined to be ineligible for regular PIPP or electing to terminate participation in PIPP.

(b) The graduate PIPP customer's payment due each of the twelve billing cycles shall be equal to the average of the prior PIPP income-based monthly payment and the customer's budget bill amount (i.e., the previous income-based PIPP payment plus the customer's monthly budget amount divided by 2).

(c) For each timely payment made of the amount due, the graduate PIPP customer shall receive an arrearage credit equal to the difference between the payment made and the actual month's bill plus one-twelfth of the accumulated arrearages, as calculated at the time of enrollment into the graduate PIPP program.

(d) The graduate PIPP customer will only be eligible to receive such arrearage crediting for the twelve months immediately following enrollment in the graduate PIPP program.

With the Commission's graduate arrearage crediting program, the PIPP graduate has the opportunity to reduce his/her accumulated arrearages to zero after twelve months. Any arrearages that remain on the graduate PIPP customer's account at the end of twelve monthly billing periods may become due and the customer may be placed on one of the extended payment plans offered in Rule 18-05. The Commission's adopted graduate PIPP program is set forth in Rule 18-16, at paragraphs (D) through (G).

Paragraphs (F) and (G)

Given that the Commission has adopted an income-based PIPP payment due, equal to the greater of six percent of the household income or ten dollars, proposed paragraph (F) of Rule 18-16 is unnecessary and should be deleted. Staff also proposed, at paragraph (G) of Rule 18-16, to provide graduate PIPP customers the opportunity to avoid accumulating arrearages with a three-year graduate PIPP program. Given that the

Commission is adopting, as a part of this Order, a one year graduate PIPP plan that will include the opportunity to have the accumulating arrearages credited, the Commission also finds that proposed Rule 18-16(G) should be deleted.

Rule 4901:1-18-17, Removal from or Termination of Customer Participation in PIPP

Paragraph (B)

The paragraph, as proposed, would require the PIPP customer to make any missed PIPP income-based payments upon re-enrollment in the PIPP program. Consumer Groups argue that, when a PIPP customer's service is disconnected, the PIPP customer should not be required to make up any missed PIPP payments incurred while the customer's service was disconnected. Consumer Groups state that customers disconnected for nonpayment are held responsible for the PIPP payments even for the months they are without service and that those amounts are tracked separately from the arrearages and can easily grow to hundreds or even thousands of dollars. Consumer Groups contend that disconnected PIPP customers are required to pay the amount of missed payments before they can reestablish utility service independently by the utility as opposed to Commission rule.[3] Consumer Groups contend that, despite the fact that the missed payments and other PIPP arrearages are owed by the customer, the utility company has been made whole, through the PIPP riders, for all of the amounts owed. Consumer Groups reason that subsequent payments by the PIPP customer, if any such payments are made, are treated as an offset to the PIPP rider.[4] Thus, Consumer Groups contend that requiring the PIPP customer to make the income-based payment for periods when the PIPP customer is without service is unjust and should be explicitly prohibited. Consumer Groups propose that Rule 18-17(B) be modified accordingly. (Consumer Groups Initial at 36, 130, 133.)

The Commission disagrees. While the PIPP customer, whose service is disconnected, will not be accruing any additional arrearages, one of the goals of the restructured PIPP program is to break the cycle of disconnection and reconnection, particularly seasonal disconnection and reconnection. If, under the Commission's adopted arrearage crediting program, the PIPP customer continues to be allowed to go on and off the gas utility company's system at will, no credits can be earned against the PIPP customer's accumulated arrearage and the customer will continue to pay significantly less than the billed number of income-based payments annually. PIPP customers that are allowed to go on and off the gas utility's system at will, without consequence, will not get

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3 Under the Winter Reconnect Order, the customer or the community action agency pays the default amount up to $175 and the balance is shifted to the arrearage.

4 The same occurs on the electric PIPP side through the Universal Service Fund riders.

in the habit of making regular utility payments to improve their payment history. However, the Commission concludes that the re-enrolled PIPP customer shall be required to pay the income-based payments up to, but no more than, the total account balance. The missed income-based payments will go to cure the customer's accumulated arrearages while enrolled on PIPP, and help offset the PIPP rider.

Paragraph (C)

Proposed Rule 18-17(C), reads:

> If a customer is removed from PIPP for failure to timely reverify eligibility and fails to re-enroll in PIPP, the entire account arrearage would become due. Unless the customer makes payment arrangements on the account balance, the former PIPP customer's service may be subject to disconnection in accordance with rules 4901:1-18-03 through 4901:1-18-06 of the Administrative Code.

Consumer Groups state that this provision, as proposed, will permit the entire account arrearage to become due where a customer has merely failed to timely reverify and re-enroll. Consumer Groups propose that the paragraph be modified to, as the commenter asserts, prevent the arrearage from becoming due when the customer has merely failed to reverify the household income and re-enroll in PIPP. (Consumer Groups Initial at 133.)

The Commission finds that customers who do not wish the account balance to become due must reverify their household income or qualify for graduate PIPP pursuant to Rule 18-16. If the customer fails to qualify for graduate PIPP within one billing cycle of leaving PIPP, the account arrearage shall become due and the customer will need to make a payment arrangement for that balance, pursuant to Rule 18-05. To do otherwise would create great confusion as to when the customer enters the graduate PIPP program and could encourage the customer to delay enrollment in graduate PIPP during the summer months when gas bills are generally lowest.

Paragraph (D)

Staff proposes, at Rule 18-17(D), that PIPP customers be prohibited from receiving E-HEAP funds to restore or prevent the disconnection of the customer's gas utility service and to require the PIPP customers to pay the missed PIPP payments and any other non-recurring fees (i.e. reconnection fees, collection charges, trip charges, bad check charges) to bring the account current and restore gas or natural gas service.

Consumer Groups contend that this provision does not belong within a rule regarding "Removal from or Termination of Customer Participation in PIPP" and, more

importantly, that the Commission can not dictate the customers' uses of E-HEAP receipts. Further, Consumer Groups reiterate their position that PIPP payments should not be required for any months in which the customer does not have service. (Consumer Groups Initial at 133; Consumer Groups Reply at 79.) Columbia, Ohio Consumer Advocates and ODOD assert that the Commission lacks jurisdiction to prohibit PIPP customers from receiving E-HEAP funds (Columbia Initial at 29; Ohio Consumer Advocates Reply at 12; ODOD Initial at 13.) ODOD further states that, while it concurs with Staff's proposal to require PIPP customers to make payments in order to stay on their payment plans, ODOD believes it can best service its HEAP clients if it has more discretion to determine the best way to apply HEAP funds for the benefit of eligible recipients. ODOD recommends that the Commission's rules provide that HEAP funding will be applied in the manner determined by ODOD in its Low-Income Home Energy Assistance Program Federal Fiscal Year State Plans for the State of Ohio, submitted annually to the United States Department of Health and Human Services. (ODOD Initial at 13.)

As we previously concluded, in recognition of ODOD's concerns, the Commission has decided not to codify the amount or the source of the funds which can be used to reconnect service during the winter heating season.

Paragraph (E)

At Rule 18-17(E), Staff proposes that a customer be required to make restitution and be prohibited from participating in PIPP for 24 months if it is determined that the customer was fraudulently enrolled in the program.

Consumer Groups propose certain amendments to the rule, to in the commenter's opinion, clarify that there is no "restitution" required. Consumer Groups assert that, under PIPP, the customer continues to owe the difference between PIPP payments and the actual bill. Further, Consumer Groups note that the proposed rule does not specify when the 24-month disqualification begins to run and proposes that it begin when the fraud is discovered. (Consumer Groups Initial at 133-134.) DEO disagrees with Consumer Group's proposal to delete the provision for restitution of fraudulently obtained PIPP credits and notes that Consumer Groups offer no explanation for this change. DEO believes that the customer should be responsible for the full payment of the bill from the time the fraud occurred, which is only fair to the remaining ratepayers who may ultimately have to bear the unpaid charges. (DEO Reply at 12.)

The Commission finds this discussion surprising, as the currently effective Rule 4901:1-13-09, Fraudulent practice, tampering and theft of gas service, has been in effect since December 7, 2006. We expect PIPP customers, like all other customers, to indemnify ratepayers for the arrearage credits and benefits received during the period in which the customer was fraudulently enrolled in PIPP or otherwise inappropriately acquired gas

utility service. We clarify that the twenty-four month period of disqualification from PIPP participation shall commence from the date when the customer is removed from PIPP. In regard to restitution, the Commission finds that restitution is appropriate and the determination of when the fraud commenced shall be used to determine the amount of restitution.

Columbia and Duke propose that this provision also include PIPP customers involved in meter tampering or utility service theft. (Columbia Initial at 30; Duke Initial at 28.) Although Consumer Groups are not opposed to including meter tampering as a prohibition from participating in PIPP, Consumer Groups recommend that meter tampering be included as a separate paragraph in this rule, given the distinction between fraud and tampering in the definitions. (Consumer Groups Reply at 79.) The Commission agrees that meter tampering should also be addressed as a part of Rule 18-17 and has amended paragraph (E) accordingly.

Rule 4901:1-18-18, Payment Agreement for Former PIPP Customers.

Duke opposes the proposed repayment program, and asserts that the program, as proposed by Staff, would be burdensome to administer and the repayment period of sixty months is too lengthy to yield valuable results. Thus, Duke recommends that, if the Commission elects to adopt a repayment program for former PIPP customers, the program should be offered to those former PIPP customers who remain within the utility's service territory and should allow customers no more than three years to repay their arrearages. (Duke Initial at 29-30.)

Clearfield Gas argues that proposed Rule 18-18 is beyond the Commission's authority, as once the customer moves beyond the natural gas company's service area to another state or to a master-metered residence, there is no longer a public utility-customer relationship. The commenter reasons that the relationship between the gas utility company and the former customer then becomes that of a creditor-debtor and the Commission has no authority to issues rules governing that type of relationship. Clearfield Gas relies on *Lucas Cty. Commrs. v. Pub. Util. Comm.* (1997), 80 Ohio St.3d 344, to support its position. In *Lucas*, the Ohio Supreme Court held that the Commission is not statutorily authorized to order a refund of, or credit for, charges previously collected by a public utility where those charges were calculated in accordance with an approved rate. Accordingly, Clearfield Gas contends that Rule 18-18 must be stricken. (Clearfield Gas Initial at 4-5.) Columbia proposes that the portion of this rule which requires the company to give former PIPP customers arrearage credits for timely payment, be stricken. Columbia and Duke assert that the cost of additional programming to implement this program is high and that arrearage credits are unlikely to encourage any former PIPP customer to make payments that they would not otherwise make. (Columbia Reply at 33-34; Duke Initial at 29-30.)

The Commission disagrees with the commenter's application of *Lucas* to the circumstances presented in proposed Rule 18-18. Nonetheless, the Commission concurs that Rule 18-18, as proposed by Staff, would be extremely burdensome and, therefore, is not adopting proposed Rule 18-18. However, if a customer informs the gas or natural gas utility company of the former PIPP customer's new location and the former PIPP customer desires to make payments on the remaining arrearages, the Commission expects the utility company to enter into a payment arrangement.

RULES IN OTHER CHAPTERS

Staff proposed amendments to Rules 4901:1-5-07(E), 4901:1-10-22(D), 4901:1-13-11(E), 4901:1-15-17(D), 4901:1-21-14(D), and 4901:1-29-12(C), which would prohibit utility companies from contracting with a check-cashing business to be an authorized payment agent. Several commenters strongly objected to Staff's proposals. The Commission finds that, in light of the recent enactment of H.B. 545 and its subsequent ratification by the November 4, 2008 election, Staff's concerns have been addressed. For this reason, Staff's proposed amendments to 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 will not be adopted.

MOTIONS FOR INTERVENTION

CUFA and OCC moved to intervene in this proceeding. No other entities that filed comments in this proceeding have sought intervention.

Upon consideration and given the nature of the proceeding, the Commission finds that granting intervention is not necessary for the Commission to fully consider the issues, and concerns presented in this case through the established public comment process. This is a quasi-legislative proceeding, not a quasi-judicial proceeding. Such a distinction has been recognized by the Supreme Court. See *In re Appeal of Buckeye Power, Inc.* (1975), 42 Ohio St.2d 508, 330 N.E.2d 430. In *Buckeye Power*, the Court held that the making or revising of rules is a quasi-legislative proceeding that cannot be reviewed by the Court. Similarly, in referencing *Ohio Domestic Violence Network* in its recent decision cited to by OCC, the Court explained that the case was a quasi-judicial proceeding and noted that if an alternative avenue existed for parties to state their positions or raise their concerns, intervention may not be necessary. *Ohio Consumers' Counsel v. Public Util.* Comm. 2006), 111 Ohio St.3d 384, 2006-Ohio-5853 (citations omitted).

The Commission has fully considered CUFA's and OCC's comments filed in this rulemaking proceeding, as well as the comments of all entities. Thus, the granting of interventions is unnecessary in order to consider the positions of the commenting parties

in this quasi-legislative proceeding. Accordingly, we find that cause to grant intervention under Section 4903.221, Revised Code, has not been shown.

ORDER:

It is, therefore,

ORDERED, That the attached amendments and new rules in Chapters 4901:1-17 and 4901:1-18, O.A.C., be adopted. It is, further,

ORDERED, That Rule 4901:1-17-09, O.A.C., be rescinded. It is, further,

ORDERED, That copies of the new and amended rules in Chapters 4901:1-17 and 4901:1-18, O.A.C., be filed with the Joint Committee on Agency Rule Review, the Legislative Services Commission, and the Secretary of State, in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the five-year review date for Chapters 4901:1-17 and 4901:1-18, O.A.C., be established as November 30, 2013. It is, further,

ORDERED, That the electric, gas, and natural gas utility companies are granted a waiver of Rule 4901:1-18-06(A)(5)(g), O.A.C., for 90 days from the effective date of that rule. It is, further,

ORDERED, That the electric, gas, and natural gas utility companies shall update their landlord-tenant forms to comply with the landlord-tenant forms on the Commission's website, within 30 days from the effective date of Rule 4901:1-18-08, O.A.C. It is, further,

ORDERED, That a copy of this order, but not the attached rules or appendices, be served upon all commenters, all telecommunications providers, electric distribution companies, gas or natural gas companies, waterworks and/or sewage disposal companies, Franklin County Department of Job and Family Services, the Office of the Ohio Consumers' Counsel, the Ohio Department of Development, and any other interested persons of record. The rules adopted or amended and attached hereto shall be posted on the Commission's web site.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Ronda Hartman Fergus

Valerie A. Lemmie

Cheryl L. Roberto

JKS/GNS:ct/vrm

Entered in the Journal

DEC 17 2008

Reneé J. Jenkins
Secretary

# *** DRAFT – NOT FOR FILING ***

4901:1-17-01 **Definitions.**

For purposes of this chapter, the following definitions shall apply:

(A) "Applicant" means any person who requests or makes application with a utility company for any of the following residential services: gas, natural gas, waterworks, or sewage disposal.

(B) "Class of service" means a description of utility service furnished to a customer used to denote its use either as residential or nonresidential.

(C) "Consumer" means any person who is an ultimate user of the gas, natural gas, waterworks, or sewage disposal utility services.

(D) "Customer" means any person who enters into an agreement, whether by contract or under a tariff, to purchase: gas, natural gas, waterworks, or sewage disposal utility service.

(E) "Fraudulent act" means an intentional misrepresentation or concealment by the customer or consumer of a material fact that the gas, natural gas, waterworks, or sewage disposal system utility company relies on to its detriment. "Fraudulent act" does not include tampering.

(F) "Past due" means any utility bill balance that is not paid by the bill due date.

(G) "Percentage of income payment plan" (PIPP) means the energy maintenance plan, for low-income, residential customers served by a regulated gas or natural gas utility company.

(H) "Regulated service" means a service offering regulated by the commission.

(I) "Tampering" means to interfere with, damage, or by-pass a utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter. Tampering includes the unauthorized reconnection of a gas, natural gas, or waterworks meter or a conduit or attachment that has been disconnected by the utility company.

(J) "Utility company" means all persons, firms, or corporations in the business of providing gas, natural gas, waterworks, or sewage disposal service to consumers as defined in division (A)(5) of section 4905.03, division (G) of section 4929.01, and divisions (A)(8) and (A)(14) of section 4905.03 of the Revised Code, respectively. Rules for the establishment of credit for an electric utility company are included in Chapter 4901:1-10 of the Administrative Code.

# *** DRAFT – NOT FOR FILING ***

4901:1-17-02 **General provisions.**

(A) The rules in this chapter apply to all gas, natural gas, waterworks, and sewage disposal utility companies who provide service to residential customers.

(B) Nothing contained in this chapter shall in any way preclude the commission from any of the following:

(1) Altering, or amending, in whole or in part, these rules and regulations.

(2) Prescribing different standards for the establishment of credit for utility service as deemed necessary by the commission in any proceeding.

(3) Waiving any requirement, standard, or rule set forth in this chapter for good cause shown, as supported by a motion and supporting memorandum. The application for a waiver shall include the specific rule(s) requested to be waived. If the request is to waive only a part or parts of a rule, then the application should identify the appropriate paragraphs, sections, or subsections to be waived. The waiver request shall provide sufficient explanation, for each rule provision sought to be waived, to allow the commission to thoroughly evaluate the waiver request.

(C) The rules of this chapter supersede any inconsistent provisions, terms, and conditions of utility company tariffs. A utility company may adopt or maintain tariffs providing greater protection for customers or consumers.

(D) Each utility company shall establish and maintain written credit procedures consistent with these rules that allow an applicant for residential service to establish, or an existing residential customer to reestablish, credit with the utility company. The procedures should be equitable and administered in a nondiscriminatory manner. The utility company, without regard to race, color, religion, gender, national origin, age, handicap, or disability, shall base its credit procedures upon the credit risk of the individual as determined by the utility company without regard to the collective credit reputation of the area in which the residential applicant or customer lives. The utility company shall make its current credit procedures available to applicants and customers upon request and shall provide this information either verbally or in writing, based upon the applicant's or customer's preference. The utility company may also provide its applicants or customers with a summary of the utility company's credit procedures, which shall be written in plain English. This summary must be reviewed and approved by commission staff before distribution to the utility company's applicants or customers.

(E) The rules of this chapter allow the use of electronic transactions and notices, if the customer and the utility company are both in agreement with such use, and such use is consistent with commission requirements or guidelines.

*** DRAFT – NOT FOR FILING ***

# *** DRAFT – NOT FOR FILING ***

4901:1-17-03 **Establishment of credit.**

(A) Each utility company may require an applicant for residential service to satisfactorily establish financial responsibility. If the applicant has previously been a customer of that utility company, the utility company may require the residential applicant to establish financial responsibility pursuant to paragraph (C) of rule 4901:1-17-04 of the Administrative Code. Each utility company may use a credit check, pursuant to paragraph (A)(2) of this rule, as the first criterion by which an applicant may establish financial responsibility. If the results of the credit check, at the time of the application do not establish financial responsibility for the applicant, each utility company shall then advise the applicant of each of the remaining criteria available under this rule to establish financial responsibility. If the utility company requires an applicant to provide additional information to establish financial responsibility, such as identification or written documentation, then the utility company shall confirm with the applicant when it receives the requested information. An applicant's financial responsibility will be deemed established if the applicant meets any one of the following criteria:

(1) The applicant is the owner of the premises to be served or of other real estate within the territory served by the utility company and has demonstrated financial responsibility, under either of the following conditions:

(a) With respect to that property, if the applicant owns only the premises to be served.

(b) With respect to any other real estate within the service territory served by the utility company, if the applicant owns multiple properties.

(2) The applicant demonstrates that he/she is a satisfactory credit risk by means that may be quickly and inexpensively checked by the utility company. ~~In determining whether the applicant is a financially responsible person,~~Under this provision, the ~~public~~ utility company may request ~~from the applicant and shall consider information including, but not limited to, the following: name of employer, place of employment, position held, length of service, letters of reference, and names of credit cards possessed by the applicant~~applicant's social security number in order to obtain credit information and to establish identity. The utility company may not refuse to provide service if the applicant elects not to provide his/her social security number. If the applicant declines the utility company's request for a social security number, the utility company shall inform the applicant of all other options for establishing creditworthiness.

(3) The applicant demonstrates that he/she has ~~–~~had the same class and a similar type of utility service within a period of twenty-four consecutive months preceding the date of application, unless utility company records indicate that the applicant's service was disconnected for nonpayment during the last twelve

consecutive months of service, or the applicant had received two consecutive bills with past due balances during that twelve-month period and provided further that the financial responsibility of the applicant is not otherwise impaired.

When an applicant requests a copy of his/her payment history to satisfy paragraph (A)(3) of this rule, each utility company shall provide a customer, at his/her request, written information reflecting the customer's payment history. The utility company shall provide this information within five business days of this request.

(4) The applicant makes a cash deposit to secure payment of bills for the ~~utility's~~ utility company's service as prescribed in rule 4901:1-17-05 of the Administrative Code. Utility companies are prohibited from requiring percentage of income payment plan customers to pay a security deposit.

(5) The applicant furnishes a creditworthy guarantor to secure payment of bills in an amount sufficient for a sixty-day supply for the service requested. If a third party agrees to be a guarantor for a utility customer, he or she shall meet the criteria as defined in paragraph (A) of this rule or otherwise be creditworthy. The guarantor and/or the utility company shall also comply with the following:

(a) ~~Telecommunications service providers shall further comply with the provisions set forth in rule 4901:1-5-14 of the Administrative Code~~The guarantor shall be a customer of the utility company.

(b) ~~For all utilities, including telecommunications service providers, the~~The guarantor shall sign a written guarantor agreement that shall include, at a minimum, the information shown in the appendix to this rule. The utility company shall provide the guarantor with a copy of the signed agreement and shall keep the original on file during the term of the guaranty.

(c) ~~For all utilities, including telecommunications providers, the~~The utility company shall send to the guarantor a copy of all disconnection ~~notifications for~~ notices sent to the guaranteed customer ~~also to the guarantor, unless the guarantor affirmatively waives that right~~.

(d) ~~For all utilities, including telecommunication providers, the~~The utility company shall send a notice to the guarantor when the guaranteed customer requests a transfer of service to a new location. The transfer of service notice shall display all of the following information:

(i) The name of the guaranteed customer.

(ii) The address of the current guaranteed ~~customer~~ customer's service location.

(iii) A statement that the transfer of service to the new location may affect the guarantor's liability.

(iv) A statement that, if the guarantor does not want to continue the guaranty at the new service location, the guarantor must provide thirty days' written notice to the utility company to end the guaranty.

(e) Under the circumstances where a guarantor's utility service is subject to disconnection, the utility company shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the date of the notice to the guaranteed customer). The utility company shall also advise the customer that, prior to the specific end date stated in the notice, he/she must reestablish credit through one of the alternate means set forth in paragraph (A) of this rule, or be subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-15 of the Administrative Code (waterworks and/or sewage disposal) and Chapter 4901:1-18 of the Administrative Code (gas and natural gas).

(B) The establishment of credit under the provisions of these rules, or the reestablishment of credit under the provisions of rule 4901:1-17-04 of the Administrative Code, shall not relieve the applicant or customer from compliance with the regulations of the utility company regarding advance payments and payment of bills by the due date, and shall not modify any regulations of the utility company as to the discontinuance of service for nonpayment.

(C) Upon default by a customer who has furnished a guarantor as provided in paragraph (A)(5) of this rule, the utility company may pursue collection actions against the defaulting customer and the guarantor in the appropriate court, ~~or if~~ the ~~guarantor is a customer of the same utility, that~~ utility company may transfer the defaulting customer's bill to the guarantor's account. The defaulted amount transferred to the guarantor's ~~bill~~ account shall not be greater than the amount billed to the defaulting customer for sixty days of service or two monthly bills. After thirty days from the transfer, the utility company may make the guarantor subject to disconnection procedures, if the amount transferred still remains unpaid.

(D) An applicant who owes an unpaid bill for previous residential service, whether the bill is owed as a result of service provided to that applicant or is owed under a guarantor agreement, shall not have satisfactorily established or reestablished his/her financial responsibility as long as the bill remains unpaid.

# *** DRAFT – NOT FOR FILING ***

4901:1-17-04 **Deposit to reestablish creditworthiness.**

(A) A utility company may require a customer to make a deposit or an additional deposit on an account, as set forth in this rule and pursuant to rules 4901:1-17-03 and 4901:1-17-05 of the Administrative Code, to reestablish creditworthiness for tariffed service based on the customer's credit history on that account with that utility company. ~~After considering the totality of the circumstances, the~~ The utility company may require a customer whose service has been disconnected to pay a deposit, ~~the delinquent bill, and the reconnection charges prior to restoring service~~in addition to any charges under the applicable reconnection rules in Chapter 4901:1-15 of the Administrative Code (waterworks and/or sewage disposal) and Chapter 4901:1-18 of the Administrative Code (gas and natural gas).

(B) ~~A~~After considering the totality of the customer's circumstances, a utility company may require a deposit if the customer ~~account meets one of the following criteria:~~has not made full payment or payment arrangements for any given bill containing a previous balance for regulated services provided by that utility company.

~~(1) The customer has not made full payment or payment arrangements by the due date for two consecutive bills during the preceding twelve months.~~

~~(2) The customer has been issued a disconnection notice for nonpayment on two or more occasions during the preceding twelve months.~~

(C) A utility company may require a deposit if the applicant for service was a customer of that utility company, during the preceding twelve months, and had service disconnected for nonpayment, a fraudulent ~~practice~~act, tampering, or unauthorized reconnection.

# *** DRAFT – NOT FOR FILING ***

4901:1-17-05 **Deposit administration provisions.**

(A) No ~~public~~ utility company, as defined in this chapter~~, except telecommunications providers,~~ shall require a cash deposit to establish or reestablish credit in an amount in excess of one-twelfth of the estimated charge for ~~—~~regulated service(s) provided by that ~~distribution~~ utility company for the ensuing twelve months, plus thirty per cent of the monthly estimated charge. ~~No telecommunications provider shall require a cash deposit to establish or reestablish credit in an amount in excess of that prescribed in rule 4901:1-5-13 of the Administrative Code.~~ Each utility company, upon request, shall furnish a copy of these rules to the~~—~~ applicant/customer from whom a deposit is required. If a copy of the rule is provided to ~~a customer/applicant,~~ the applicant/customer, the utility company shall also provide the name, address, website address, and telephone number of the public utilities commission of Ohio.

(B) Upon receiving a cash deposit, the utility company shall furnish to the applicant/customer a receipt that displays all of the following information:

(1) The name of the applicant/customer.

(2) The address of the premises to be served.

(3) The billing address for the service.

(4) The amount of the deposit and a statement that the rate of interest to be paid on the deposit will be not less than three per cent per annum if the deposit is held for one hundred eighty days or longer.

(C) Each utility company shall accrue interest at a rate of at least three per cent per annum per deposit held for one hundred eighty days or longer. Interest shall be paid to the customer when the deposit is refunded or deducted from the customer's final bill. A utility company shall not be required to pay interest on a deposit it holds for less than one hundred eighty days. No utility company shall be required to pay additional interest on a deposit after discontinuance of service, if the utility company has made a reasonable effort to refund the deposit. A utility company shall dispose of any unclaimed deposit, plus accrued interest, in conformity with Chapter 169. of the Revised Code.

# *** DRAFT – NOT FOR FILING ***

4901:1-17-06 **Refund of deposit and release of guarantor.**

(A) After discontinuing service, the utility company shall promptly apply the customer's deposit, including any accrued interest, to the final bill. The utility company shall promptly refund to the customer any deposit, plus any accrued interest, remaining, unless the amount of the refund is less than one dollar. A transfer of service from one customer location to another within the service area of the utility company does not prompt a refund of the deposit or a release of the guarantor.

(B) The utility company shall review each account holding a deposit or a guarantor agreement every twelve months and promptly refund the deposit, plus any accrued interest in accordance with paragraph (A) of this rule, or release the guarantor, if the account meets the following criteria:

(1) The customer has paid his/her bills for service for twelve consecutive months without having had service disconnected for nonpayment.

(2) The customer has not had more than two occasions in the preceding twelve months on which his/her bill was not paid by the due date.

(3) The customer is not ~~then~~ delinquent in the payment of his/her bills at the time of the review.

(C) The utility company shall promptly return the deposit, plus any accrued interest in accordance with paragraph (A) of this rule, upon the customer's request at any time the customer's credit has been otherwise established or reestablished, in accordance with this chapter of the Administrative Code.

(D) Once the customer satisfies the requirements for release of the guarantor, pursuant to paragraph (B) of this rule, the utility company shall notify the guarantor in writing, within thirty days, that the guarantor is released from all further responsibility for the account.

(E) If a guarantor submits a written request to the utility company for a release of financial responsibility related to a customer's account, the utility company shall, within ten calendar days, advise the customer who provided the guarantor that the guarantor's responsibility to the customer's account will end by a specific date (thirty days from the receipt of the guarantor's request). The utility company shall also advise the customer that prior to the specific end date of the guarantor's responsibility, he/she must reestablish creditworthiness through an alternate means as prescribed by paragraph (A) of rule 4901:1-17-03 of the Administrative Code, or be subject to disconnection according to the applicable disconnection rules in Chapter 4901:1-15 of the Administrative Code (waterworks and/or sewage disposal) and Chapter 4901:1-18 of the Administrative Code (gas and natural gas).

# *** DRAFT – NOT FOR FILING ***

4901:1-17-07 **Record of deposit.**

Until the deposit is refunded or otherwise disposed of in accordance with applicable law, each utility company holding a cash deposit shall maintain a record that displays all of the following information:

(A) The name and current or last known billing address of each depositor.

(B) The amount and date of the deposit.

(C) Each transaction concerning the deposit.

# *** DRAFT – NOT FOR FILING ***

4901:1-17-08 **Applicant and/or customer rights.**

(A) Each ~~public~~ utility company that ~~requires~~ requests a cash deposit shall notify the applicant/customer of all options available to establish credit as listed in paragraph (A) of rule 4901:1-17-03 of the Administrative Code.

(B) If an applicant for gas or natural gas service indicates that his/her household income is such that the applicant may be eligible for the gas percentage of income payment plan (PIPP) program, the gas or natural gas utility company shall advise the applicant that he/she may apply for the gas PIPP program, in accordance with rule 4901:1-18-12 of the Administrative Code.

~~(B)~~(C) If a ~~public~~ utility company requires a cash deposit to establish or reestablish service and the applicant/customer expresses dissatisfaction with the ~~utility's~~ utility company's decision, the utility company shall inform the applicant/customer of the following:

(1) The reason(s) for its decision.

(2) How to contest the ~~utility's~~ utility company's decision and show creditworthiness.

(3) The right to have the ~~utility's~~ utility company's decision reviewed by an appropriate utility company supervisor.

(4) The right to have the ~~utility's~~ utility company's decision reviewed by the commission staff, and provide the applicant/customer the ~~local or~~ toll-free ~~numbers~~ and~~/or~~ ~~TDD/~~TTY numbers, address, and the website address of the public utilities commission of Ohio as stated below:

~~The public utilities commission~~"If you wish to contest the decision for a security deposit, you may call the Public Utilities Commission of Ohio ~~(PUCO) toll free~~ for assistance at 1-800-686-7826 ~~or 1-614-466-3292,~~ (toll free) or for ~~TDD/~~TTY ~~toll free~~ at 1-800-686-1570 ~~or 1-614-466-8180,~~ (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or ~~the PUCO website~~ at www.PUCO.ohio.gov."

~~(C)~~(D) ~~Each public utility, upon~~Upon request, each utility company shall ~~provide in writing to the applicant/customer~~ send the information required by paragraph ~~(B)~~(C) of this rule to the applicant/customer, in writing, within five business days of the request.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-01 **Definitions.**

For purposes of this chapter, the following definitions shall apply:

(A) "Applicant" means any person who requests or makes application with a utility company for any of the following residential services: electric, gas, or natural gas.

(B) "Arrearages" means for each percentage of income payment plan (PIPP) customer such customer's current bill balance, plus the customer's accrued arrearage at the time the customer enrolls in the PIPP program, but does not include past due monthly PIPP payments.

(C) "Bona fide dispute" means a complaint registered with the commission's call center or a formal complaint filed with the commission's docketing division.

(D) "Collection charge" means a tariffed charge assessed to a residential customer by a utility company when payment or proof of payment is given to a utility company employee or agent sent to disconnect the service and who is authorized to accept payment in lieu of disconnection.

(E) "Commission" means the public utilities commission of Ohio.

(F) "Consumer" means any person who is an ultimate user of electric, gas, or natural gas utility service.

(G) "Customer" means any person who enters into an agreement, whether by contract or under a tariff, to purchase: electric, gas, or natural gas utility service.

(H) "Customer premise" means the service address where the customer receives the residential electric, gas, or natural gas utility service.

(I) "Default" means the failure to make the required payment on an extended payment plan by the due date.

(J) "Extended payment plan" means an agreement between the customer and the company that requires the customer to make payments over a set period of time to the company on unpaid amounts owed to the company.

(K) "Former percentage of income payment plan customer" (former PIPP customer) means a customer that remains within the gas or natural gas utility company's service territory who elects to terminate participation in the percentage of income payment plan program or is no longer eligible to participate in a percentage of income payment plan as a result of an increase in the household income or change in the household size and is not in a graduate percentage of income payment plan.

(L) "Fraudulent act" means an intentional misrepresentation or concealment by the customer or consumer of a material fact that the electric, gas, or natural gas utility company relies on to its detriment. "Fraudulent act" does not include tampering.

(M) "Graduate percentage of income payment plan customer" (graduate PIPP customer) means a customer who was previously enrolled in a percentage of income payment plan and who meets the requirements, as set forth in rule 4901:1-18-16 of the Administrative Code, to participate in the transitional phase of the income-based payment plan for low-income, residential customers served by regulated electric, gas, and natural gas utility companies.

(N) "Household income" has the meaning attributed to it by the Ohio department of development, office of community services, in the administration of the home energy assistance program.

(O) "Percentage of income payment plan" (PIPP) means the income-based payment plan for low-income, residential customers served by regulated electric, gas, and natural gas utility companies.

(P) "PIPP anniversary date" means the calendar date by which the PIPP customer must document his or her household income and household size to continue participation in the PIPP program or participate in the graduate PIPP program. The anniversary date shall be every twelve months from when the customer was enrolled in PIPP.

(Q) "PIPP customer" means the customer currently enrolled in PIPP.

(R) "Tampering" means to interfere with, damage, or by-pass a utility meter, conduit, or attachment with the intent to impede the correct registration of a meter or the proper functions of a conduit or attachment so as to reduce the amount of utility service that is registered on the meter. Tampering includes the unauthorized reconnection of an electric, gas, or natural gas meter, or a conduit or attachment that has been disconnected by the utility company.

(S) "Utility company" means all persons, firms, or corporations engaged in the business of providing electric, gas, or natural gas service to consumers as defined in division (A)(11) of section 4928.01, division (A)(5) of section 4905.03, and division (G) of section 4929.01 of the Revised Code, respectively.

(T) "Winter heating season" means the time period from November first through April fifteenth.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-02 **General provisions.**

(A) The rules in this chapter apply to all electric, gas, and natural gas utility companies that provide service to residential customers, including residential consumers in master-metered premises, and residential consumers whose utility services are included in rental payments.

(B) Nothing contained in this chapter shall in any way preclude the commission from any of the following:

(1) Altering, or amending, in whole or in part, these rules and regulations.

(2) Prescribing different standards for the disconnection and reconnection of electric, gas, or natural gas service as deemed necessary by the commission.

(3) Waiving any requirement, standard, or rule set forth in this chapter for good cause shown, as supported by a motion and supporting the memorandum. The application for a waiver shall include the specific rule(s) requested to be waived. If the request is to waive only a part or parts of a rule, then the application should identify the appropriate paragraphs, sections, or subsections to be waived. The waiver request shall provide sufficient explanation, by rule, to allow the commission to thoroughly evaluate the waiver request.

(C) Except as set forth in this rule, the rules of this chapter supersede any inconsistent provisions, terms, and conditions of electric, gas, and natural gas companies' tariffs. Electric, gas, and natural gas companies may adopt or maintain tariffs providing greater protection for customers or consumers.

(D) These rules allow the use of electronic transactions and notices, if the customer and the utility company are both in agreement of such use and such use is consistent with commission requirements or guidelines. The utility company shall advise the customer that if he/she chooses this option, the disconnection notice will only be provided electronically.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-03 **Reasons for disconnecting residential electric, gas, or natural gas service.**

Electric, gas, or natural gas utility companies under the jurisdiction of the commission may disconnect service to residential customers only for the following reasons:

(A) When a customer/consumer uses electricity, gas, or natural gas in a manner detrimental to the service to other consumers.

(B) When providing service is in conflict or incompatible with any order of the commission, court of law, laws of the state of Ohio or any political subdivision thereof, or of the federal government or any of its agencies.

(C) When the customer has moved from the service location, and the property owner is subject to notice under paragraph (A)(3)(d) of rule 4901:1-18-06 of the Administrative Code.

(D) When supplying electricity, gas, or natural gas creates a safety hazard to consumers or their premises, the public, or to the company's personnel or facilities or where, because of conditions beyond the consumer's premises, disconnection of the supply of electricity, gas, or natural gas is reasonably necessary. The company shall not restore service until the hazardous condition(s) has been corrected.

(E) When a customer, consumer, or his/her agent does any of the following:

(1) Prevents utility company personnel from reading the meter for a year or more.

(2) After notice and a reasonable period of time, prevents utility company personnel from calibrating, maintaining, or replacing the utility company's meter, metering equipment, or other utility company property used to supply service.

(3) Resorts to any fraudulent act to obtain electric, gas, or natural gas service, is the beneficiary of the fraudulent act, or tampers with the utility company's meter, metering equipment, or other property used to supply the service. If the customer does not contest the disconnection, under the circumstances stated in this paragraph the company need not restore service until the consumer or customer has completed each of the following:

(a) Given satisfactory assurance that the fraudulent or tampering act has been discontinued.

(b) Paid to the utility company an amount estimated by the company to be reasonable compensation for unauthorized usage obtained and not paid for at the time of disconnection.

(c) Paid for any damage to property of the utility company including any cost to repair the damage.

(d) Paid all other fees and charges authorized by tariff resulting from the fraudulent act or tampering.

(F) For repairs, provided that notice to customers is given prior to scheduled maintenance interruptions in excess of six hours.

(G) Upon the request of the customer. If the customer is a landlord, then the provisions of paragraph (K) of rule 4901:1-18-08 of the Administrative Code, shall also apply.

(H) For nonpayment of regulated services provided by the utility company, including nonpayment of security deposits.

(I) For good cause shown.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-04 **Delinquent bills.**

(A) Individually metered residential service accounts will be considered delinquent and subject to the utility company's disconnection procedures for nonpayment if the account meets one of the following criteria:

(1) The customer has not made full payment or arrangements for payment by the due date, for any given bill containing a previous balance for regulated services provided by the utility company.

(2) The customer is in default on an extended payment plan.

(3) The customer fails to make the initial payment on an extended payment plan.

(B) The minimum payment necessary in order to avoid the disconnection procedures shall not be greater than the delinquent amount, i.e., that portion of the bill that represents a previous balance for regulated services provided by the utility company.

# *** DRAFT – NOT FOR FILING ***

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

(A) Upon contact by a customer whose account is delinquent or who desires to avoid a delinquency, the utility company shall inform the customer that it will make reasonable extensions or other extended payment plans appropriate for both the customer and the utility company. If the customer proposes payment terms, the utility company may exercise discretion in the acceptance of the payment terms based upon the account balance, the length of time that the balance has been outstanding, the customer's recent payment history, the reasons why payment has not been made, and any other relevant factors concerning the customer including health, age, and family circumstances.

(B) If the customer fails to propose payment terms acceptable to the utility company, the utility company shall then advise the customer of the availability of all of the following extended payment plans and the percentage of income payment plan (PIPP). If a customer requests additional information about PIPP, the utility company shall inform the customer of the eligibility requirements as set forth in paragraph (C) of rule 4901:1-18-12 of the Administrative Code (gas PIPP) or to Chapter 122:5-3 of the Administrative Code (electric PIPP), and provide the customer with a copy of PIPP literature and direct the customer to the local community action agency:

(1) Modified one-sixth plan - A plan that requires the customer to pay twenty-five per cent of his/her total balance (arrearage plus current charges) and also to enter into a one-sixth payment plan for the remaining balance, with the first one-sixth payment to begin with the next billing cycle in addition to full payment of current bills.

(2) One-twelfth plan - A plan that requires twelve equal monthly payments on the arrearages in addition to a budget payment plan for the projected monthly bills, which will end twelve months from the initial payment. The budget portion of the payments may be adjusted periodically during the twelve-month period as needed.

(3) In addition to the two plans listed above, during the winter heating season, the utility company shall offer the one-third payment plan for any bills that include any usage occurring from November first to April fifteenth of each year. The one-third plan requires payment of one-third of the balance due each month (arrearages plus current bill). For any outstanding balance remaining after the last one-third bill has been rendered, the utility company shall remove the customer from the one-third payment plan and shall offer the customer the option to pay the balance, or to enter into one of the plans in paragraph (B) of this rule, or to enroll in PIPP, provided that he/she meets the qualifications for that PIPP plan.

(C) A customer who is in default on an agreed-upon extended payment plan in paragraph (A) of this rule shall be offered the payment plans in paragraph (B) of this rule and PIPP, provided that he/she meets the qualifications for that plan. A customer who is in default on one of the extended payment plans in paragraphs (B)(1) to (B)(2) of this rule shall be offered PIPP, provided that he/she meets the qualifications for that PIPP plan. If a customer is having difficulty complying with any payment plan and requests that the utility company review that payment plan, the utility company may agree to modify the payment plan to meet both the customer's and utility company's needs.

(D) For customers without arrearages, the utility company shall also offer a budget plan (a uniform payment plan).

(E) If a customer informs the utility company of a medical problem, the utility company shall inform the customer of the medical certification program as provided in paragraph (C) of rule 4901:1-18-06 of the Administrative Code.

(F) A customer's failure to make any payment under one of the payment plans in paragraph (B) of this rule or PIPP shall entitle the utility company to disconnect service in accordance with the procedures set forth in rule 4901:1-18-06 of the Administrative Code.

(G) The utility company shall advise the customer, who enters into an extended payment plan, that it will provide the customer with the terms of the plan in writing. The utility company shall also advise the customer that failure to make a payment under the extended payment plan may result in the disconnection of service in accordance with the procedures set forth in rule 4901:1-18-06 of the Administrative Code.

(H) No utility company shall charge late payment fees to customers that are current on the payment plans identified in paragraphs (A) or (B) of this rule or PIPP.

# *** DRAFT – NOT FOR FILING ***

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

(A) If a residential customer is delinquent, as defined in paragraph (A) of rule 4901:1-18-04 of the Administrative Code, in paying for regulated services, the utility company may, after at least fourteen days' notice, disconnect the customer's service during normal utility company business hours in compliance with all of the following conditions.

(1) No disconnections for nonpayment shall be made after twelve-thirty p.m. on the day preceding a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed.

(2) On the day of disconnection of service, the utility company shall provide the customer with personal notice. If the customer is not at home, the utility company shall provide personal notice to an adult consumer. If neither the customer nor an adult consumer is at home, the utility company shall attach written notice to the premises in a conspicuous location prior to disconnecting service.

(3) Third-party or guarantor notification.

(a) Each utility company shall permit a residential customer to designate a third party to receive notice of the pending disconnection of the customer's service and any other credit notices sent to the customer. If the customer has a guarantor, the guarantor shall receive notice of the pending disconnection of the guaranteed customer's service and any other credit notices sent to the guaranteed customer, pursuant to rule 4901:1-17-03 of the Administrative Code. The utility company shall notify the third party or the guarantor at least fourteen days prior to disconnecting the customer's service.

(b) The utility company shall inform the third party that his/her receipt of such notices does not constitute acceptance of any liability by the third party for payment for service provided to the customer unless the third party has also agreed, in writing, to be a guarantor for the customer.

(c) In compliance with division (E) of section 4933.12 and division (D) of section 4933.121 of the Revised Code, if the utility company plans to disconnect the residential utility service of a customer for the nonpayment of his/her bill, and that customer resides in an Ohio county in which the department of job and family services has provided the utility company with a written request for notification of residential service disconnection prior to the disconnection, then the utility company shall provide, during the period of the fifteenth of November to the fifteenth of April, the appropriate county

department of job and family services with a listing, electronically if feasible, of those customers whose service will be disconnected for nonpayment. This information will include at a minimum, the customer's first name, middle initial, last name, service address, and county of residence, and shall be made available to the county department of job and family services simultaneous with the generation of any ten-day disconnection notices being distributed to customers. The county department of job and family services may use this information to assist customers in the payment of delinquent utility bills in an effort to avoid disconnection of service.

(d) Upon the request of a property owner or the agent of a property owner, each utility company shall provide the property owner or the agent of a property owner with at least three days' advance notice when service to his/her property is to be disconnected either at the request of a residential customer who is a tenant or for nonpayment.

(4) Utility company employees or agents of the utility company who disconnect service at the premises may or may not, at the discretion of the utility company, be authorized to make extended payment arrangements. Utility company employees or agents who disconnect service shall be authorized to complete one of the following:

(a) Accept payment in lieu of disconnection.

(b) Dispatch an employee to the premises to accept payment.

(c) Make available to the customer another means to avoid disconnection.

(5) The disconnection notice may be mailed separately or included on the regular monthly bill. If the notice is included on the regular monthly bill, it shall be prominently identified as a disconnection notice. The following information shall be clearly displayed either on the disconnection notice or in documents accompanying the disconnection notice:

(a) The delinquent billing account number, the total amount required to prevent disconnection of the regulated services provided by the utility company and/or any security deposit owed at the time of the notice.

(b) The earliest date when disconnection may occur.

(c) The local or toll-free number and address of the utility company's office for customers to contact about their account.

(d) The following statement:

"If you have a complaint in regard to this disconnection notice that can not be resolved after you have called (name of utility company), or for general utility company information, residential and business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov.

Residential customers may also contact the Ohio Consumers' Counsel for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org."

(e) A statement that the customer's failure to pay the amount on the disconnection notice at the utility company's office or to one of its authorized agents before the date specified on the disconnection notice may require payment of a security deposit and a charge for reconnection. The statement shall also include the amount of the security deposit and the reconnection charge.

(f) If applicable, a statement that the failure to pay charges for nontariffed products or services may result in the loss of those products and/or services.

(g) An explanation of the payment plans and options available to a customer whose account is delinquent, as provided in this rule and rule 4901:1-18-05 of the Administrative Code, and percentage of income payment plan (PIPP), pursuant to rule 4901:1-18-12 of the Administrative Code, and, when applicable, rule 4901:1-18-09 of the Administrative Code.

(h) If disconnection of service is to occur as a result of nonpayment, a statement that a medical certification program and forms are available from the utility company for customers or consumers where the disconnection of service would be especially dangerous to the health of those persons.

(i) A statement that a listing of the utility company's authorized payment agents is available by calling the utility company's toll-free customer service number.

(B) During the period of November first through April fifteenth, if payment or payment arrangements are not made to prevent disconnection before the disconnection date stated on the fourteen-day disconnection notice, the utility company shall not disconnect service to residential customers for nonpayment unless the utility company completes each of the following:

(1) Makes contact with the customer or other adult consumer at the premises ten days prior to disconnection of service by personal contact, telephone, or hand-delivered written notice. Utility companies may send this notice by regular, U.S. mail; however, such notice must allow three calendar days for mailing.

This additional notice shall extend the date of disconnection, as stated on the fourteen-day notice required by paragraph (A) of this rule, by ten additional days.

(2) Informs the customer or adult consumer that sources of federal, state, and local government aid for payment of utility bills and for home weatherization are available at the time the utility company delivers the notice required in paragraph (B)(1) of this rule, and provides sufficient information to allow the customer to further pursue available assistance.

(3) Informs the customer of the right to enter into any of the payment plans set forth in paragraph (B) of rule 4901:1-18-05 of the Administrative Code, or to enroll in PIPP. If the customer does not respond to the notice described in paragraph (B)(1) of this rule, or refuses to accept a payment plan or fails to make the initial payment on a payment plan referenced in this paragraph, the utility company may disconnect service after the ten-day notice expires.

(C) Medical certification

(1) In accordance with the certification requirements of this rule, the utility company shall not disconnect residential service for nonpayment for either of the following situations:

(a) If the disconnection of service would be especially dangerous to the health of any consumer who is a permanent resident of the premises.

(b) When the disconnection of service would make operation of necessary medical or life-supporting equipment impossible or impractical.

(2) The medical condition or the need for medical or life-supporting equipment shall be certified to the utility company by a licensed physician, physician assistant, clinical nurse specialist, certified nurse practitioner, certified nurse-midwife, or local board of health physician.

(3) The utility company shall act in accordance with the following medical certification requirements:

(a) Upon request of any residential consumer, the utility company shall provide a medical certification form to the customer or to any of the health care professionals identified in paragraph (C)(2) of this rule. The utility company shall use the medical certification form provided in the appendix to this rule.

(b) The certification of the medical condition or the need for the medical or life-supporting equipment required by paragraph (C)(1) of this rule shall be in writing and shall include the name of the person to be certified; a statement

that the person is a permanent resident of the premises in question; the name, business address, and telephone number of the certifying party; the nature of the medical condition; an explanation of the need for the medical or life-supporting equipment, if applicable; and a signed statement by the certifying party that disconnection of service will be especially dangerous to the health of a permanent resident of the premises.

(c) Initial certification by the certifying party may be by telephone if written certification is forwarded to the utility company within seven calendar days.

(d) Certification shall prohibit disconnection of service for thirty calendar days.

(e) If a medical certificate is used to avoid disconnection, the customer shall enter into an extended payment plan prior to the end of the medical certification period or be subject to disconnection. The initial payment on the plan shall not be due until the end of the certification period.

(f) If service has been disconnected for nonpayment within twenty-one calendar days prior to the certification of either a special danger to the health of a qualifying resident or the need for medical or life-supporting equipment, the utility company shall restore service to that residence once the certifying party provides the required certification to the utility company and the customer agrees to an extended payment plan.

(g) If certification is provided to the utility company prior to three-thirty p.m., the utility company shall restore the customer's service within the same day. If the certification is received after three-thirty p.m., the utility company shall reconnect service by the earliest time possible on the following business day. Also, if the certification is received after three-thirty p.m. on a day that precedes a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed, the utility company shall make an effort to restore service by the end of that day.

(h) A consumer may renew the certification two additional times (thirty days each) by providing additional certificates to the utility company. The total certification period may not exceed ninety days per household in any twelve-month period.

(4) The electric utility company shall give notice of availability of medical certification to its residential customers by means of bill inserts or special notices at the beginning of the winter heating period and at the beginning of the summer cooling period. The natural gas utility company shall give notice of the availability of medical certification to its residential customers by means of bill inserts or special notices at the beginning of the winter heating period.

(D) This provision is to address circumstances where an electric, gas, or natural gas utility company elects to leave the utility service on at a particular service location for the utility company's convenience after receiving a request for disconnection from the customer of record.

(1) If the new resident does not contact the utility company to establish service, the utility company may subsequently disconnect the utility service in accordance with the fraud provisions in paragraph (C) of rule 4901:1-10-20 of the Administrative Code (electric) and paragraph (C) of rule 4901:1-13-09 of the Administrative Code (gas and natural gas).

(2) Under the circumstance where the new resident becomes an applicant for service and is required to pay a deposit to establish financial responsibility, the utility company must advise the applicant of the date that the utility service may be disconnected for nonpayment of the deposit.

(3) Under either circumstance above where the new resident becomes a consumer of the electric, gas, or natural gas service that was left on by the utility company, the consumer will be financially responsible for the utility service consumed from the date of move-in.

(E) Upon request of the customer, the utility company shall provide an opportunity for review of the initial decision to disconnect the service. The utility company shall review the circumstances surrounding the disconnection, escalate the review to an appropriate supervisor if requested, and inform the customer of the decision upon review as soon as possible. At the customer's request, the utility company shall respond in writing.

(F) The utility company when contacted by the commission's staff shall respond to an inquiry concerning a pending disconnection or actual disconnection within two business days. At the request of commission staff, the utility company shall respond in writing. Commission staff will notify the customer of the utility company's response.

(G) The utility company shall include in its tariff its current standard practices and procedures for disconnection, including any applicable collection and reconnect charges. Any utility company proposing changes to its disconnection notice shall submit a copy to commission staff for review.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-07 **Reconnection of service.**

The utility company shall reconnect service that has been disconnected for nonpayment pursuant to the following provisions:

(A) Upon payment or proof of payment of the delinquent amount as stated on the disconnection notice, or of an amount sufficient to cure the default on any extended payment plan described in rule 4901:1-18-05 of the Administrative Code, or the percentage of income payment plan (PIPP), including any reconnection charge, the utility company shall reconnect service by the close of the following regular utility company working day, unless service has been disconnected for greater than ten business days. If service has been disconnected for greater than ten business days, the utility company may treat the situation as a new service request and connect the service consistent with the timeframes in paragraph (A) of rule 4901:1-10-09 and/or paragraphs (A) and (C) of rule 4901:1-13-05 of the Administrative Code. The amount sufficient to cure the default includes all amounts that would have been due and owing under the terms of the applicable extended payment plan, absent default, on the date that service is reconnected. Under paragraph (E)(2)(b) of rule 4901:1-18-12 of the Administrative Code, PIPP customers are required to pay any missed PIPP payments, but not more than the arrearage balance. If the utility company treats the restoration of serviced as a new service request, in accordance with paragraph (A) of rule 4901:1-10-09 and/or paragraphs (A) and (C) of rule 4901:1-13-05 of the Administrative Code, the utility company may not bill the customer for a reconnection charge.

(B) If service is disconnected for nonpayment of service for no greater than ten business days and the customer wishes to guarantee the reconnection of service the same day on which payment is rendered:

(1) The customer must provide proof of payment, as required in paragraph (A) of this rule to the utility company no later than twelve-thirty p.m.

(2) If the customer requests that reconnection occur after normal business hours, and such service is offered by the utility company, the utility company may require the customer to pay or agree to pay the utility company's approved tariff charges for after-hours reconnection. The utility company may collect this fee prior to reconnection or with the customer's next monthly billing.

(C) The utility company shall not assess a reconnection charge unless the utility company has actually disconnected the service. The utility company may, however, assess a collection charge if the utility company employee or agent sent to perform a disconnection receives either payment or proof of payment in lieu of disconnection and if the collection charge is part of the utility company's approved tariff.

(D) If the utility company accepts a guarantor in order to reestablish service, it shall follow all of the requirements of paragraph (A)(5) of rule 4901:1-17-03 of the Administrative Code.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-08 **Landlord-tenant provisions.**

This rule is to address circumstances where the utility company knows that the customer is the landlord for a multi-unit dwelling (i.e., tenants who receive master-metered services) or for a single-occupancy dwelling where the utilities are included in the rent. A utility company may disconnect the utility service of these consumers, for nonpayment by the landlord, only in accordance with the following:

(A) The utility company shall give a notice of disconnection of service to the landlord/agent at least fourteen days before the disconnection would occur. If, at the end of the fourteen-day notice period, the customer has not paid or made payment arrangements for the bill to which the fourteen-day notice relates, the utility company shall then make a good faith effort by mail, or otherwise, to provide a separate ten-day notice of pending disconnection to the landlord/agent, to each unit of a multi-unit dwelling (i.e., each tenant who receives master-metered service), and to single-occupancy dwellings where the utilities are included in the rent. This ten-day notice shall be in addition to the fourteen-day notice given to the landlord/agent. This notice requirement shall be complied with throughout the year. In a multi-unit dwelling, written notice shall also be placed in a conspicuous place.

(B) The utility company shall also provide all of the following information in its ten-day notice:

(1) A summary of the remedies tenants may choose to prevent disconnection or to have service reconnected.

(2) A statement to inform tenants that a list of procedures and forms to prevent disconnection or to have service reconnected are available from the utility company upon request. A model form of the tenants' ten-day notice is attached as appendix A to this rule.

(C) The utility company shall inform any consumer inquiring about the notice, posted pursuant to paragraph (A) of this rule, of the amount due for the current month's bill and that the disconnection of service may be prevented if the consumer(s) makes a single payment to the utility company in the amount of the current month's bill.

(D) The utility company shall credit to the appropriate account any payment made by tenants equal to or exceeding the landlord's current bill for those premises. The utility company is under no obligation to accept partial payment from individual tenants. The utility company may choose to accept only a single payment from a representative acting on behalf of all the tenants.

(E) No utility company shall disconnect service to master-metered premises, or to a single-occupancy dwelling where utilities are included in the rent, when all of the following actions take place:

(1) A tenant delivers to the utility company a copy of the written notice required by division (A) of section 5321.07 of the Revised Code, signed by fifty per cent or more of the tenants of the occupied dwelling units in a multi-unit dwelling, or the tenant in a single-occupancy dwelling, which notice shall designate the imminent disconnection of utility service (as shown by the disconnection notices received) as a reason for the notice.

(2) A tenant informs the utility company in writing of the date of the last day on which rent may be paid before a penalty is assessed or the date on which default on the lease or rental agreement can be claimed.

(3) The tenants timely invoke the remedies provided in divisions (B)(1) and (B)(2) of section 5321.07 of the Revised Code, including but not limited to:

(a) Depositing all rent that is due and thereafter becomes due to the landlord, with the clerk of the municipal or county court having jurisdiction.

(b) Applying to the court for an order to use the rent deposited to remedy the condition or conditions specified in the tenant's notice to the landlord (including but not necessarily limited to payment to the utility company rendering the disconnection notice).

(F) Each utility company that delivers notice pursuant to paragraph (A) of this rule shall provide to each tenant, upon request, the procedures to avoid disconnection or to have service reconnected as described in appendix B to this rule. The forms referenced in appendix B to this rule shall be made available by the utility company and also will be available on the commission's website at http://www.puc.ohio.gov/PUCO/rules or by contacting the commission's call center at 1-800-686-7826 (toll free) or TTY at 1-800-686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays. The utility company shall also identify for the tenant any resources in the community where he/she can obtain assistance in pursuing his/her claim, including but not limited to:

(1) The telephone number(s) of the local legal services program (in cities over one hundred thousand served by that utility company).

(2) The toll-free number(s) for the Ohio state legal services association.

(3) The toll-free number(s) of the office of consumers' counsel.

(4) The telephone number(s) of the local bar association.

(5) The telephone number(s) of the local tenant organization(s).

(G) If a utility company disconnects service to consumers whose utility services are included in rental payments or who are residing in master-metered premises, the utility company, upon inquiry, shall inform the consumer that service will be reconnected upon payment of the amount due for the current month's bill plus any reconnection charge if the payment is made within fourteen days of disconnection. The utility company shall continue service at the premises as long as the tenant's representative continues to pay for each month's service (based upon actual or estimated consumption) by the due date of the bill for that service. The utility company shall also reconnect service for those consumers who, within fourteen days of the disconnection of service, invoke the provisions of section 5321.07 of the Revised Code, as specified in paragraph (E) of this rule. If the consumers choose to have their service reconnected by paying the current month's bill and payment is not made by the due date each month, the utility company shall post the notice in a conspicuous location on the premises and make a good faith effort by mail or otherwise to notify each household unit of a multi-unit dwelling, or tenant receiving service in the master-metered premises, or tenant in a single-occupancy dwelling, of the impending service disconnection. The utility company is not required to reconnect service pursuant to this paragraph where the landlord resides on the premises.

(H) The utility company shall provide service to a master-metered premise only if the customer is the landlord/owner of the premises. Company acceptance of new applications for service to master-metered premises requires the landlord/owner to provide to the company an accurate list specifying the individual mailing addresses of each unit served at the master-metered premises.

(I) The utility company may charge the landlord/owner of the master-metered premises, or of a single-occupancy dwelling, a reasonable fee, as set forth in the utility company's tariffs, designed to pay the utility company's incurred cost for providing the notice to tenants required by paragraph (A) of this rule.

(J) The utility company has the burden of collecting from the landlord/owner any billed amounts unpaid at the next billing cycle.

(K) If a customer, who is a property owner, landlord, or the agent of a property owner, requests disconnection of service when residential tenants reside at the premises, the utility company shall perform both of the following actions:

(1) Provide at least a ten-day notice prior to the disconnection of service by mail to the residential tenants or by posting the notice in conspicuous places on the premises.

(2) Inform such customer of the customer's liability for all utility service consumed during the ten-day notice period.

(L) Notwithstanding any notice requirement for a utility company under paragraph (K) of this rule and paragraph (A)(3)(d) of rule 4901:1-18-06 of the Administrative Code, a utility company will not be found to have violated these rules if either the following occurs:

(1) The utility company uses reasonable efforts to determine the status of the customer/consumer as either a property owner, landlord, the agent of a property owner, or a tenant.

(2) The customer/consumer misrepresents the status of the customer/consumer as the property owner, the landlord, the agent of a property owner, or a tenant.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-09 **Combination utility companies.**

(A) The residential customers and consumers of a combination utility company that provides both natural gas and electric service shall have the same rights pursuant to Chapter 4901:1-18 of the Administrative Code as customers and consumers who are served by separate natural gas and electric companies. In the event of disconnection or pending disconnection of both gas and electric services, a residential customer of a combination utility company has the right to choose to retain or have reconnected both utility services or one service, either gas or electric.

(B) A combination utility company shall apply the payments from residential customers to their gas and electric accounts separately and shall apportion the payments based on the total balance for each service, including any arrearage plus the current month's charge(s). For purposes of applying these payments:

(1) For customers billed only for services provided by the combination utility company, the utility company shall apply payments first to past due amounts, then to current regulated charges, and finally to any nontariffed charges.

(2) For customers billed by the combination utility company for any competitive services provided by either a competitive retail natural gas supplier and/or a competitive retail electric provider, the utility company shall apply payments as provided for under paragraph (H) of rule 4901:1-10-33 of the Administrative Code.

(C) Whenever a residential customer receiving both gas and electric service from a combination utility company has received a disconnection of service notice, the utility company shall give the customer each of the following options:

(1) An extended payment plan for both gas and electric as provided for in rule 4901:1-18-05 of the Administrative Code.

(2) An extended payment plan to retain either gas or electric service as chosen by the customer. Such extended payment plan shall include an extended payment plan as provided in rule 4901:1-18-05 of the Administrative Code.

(D) )If a residential customer of a combination utility company who has entered into one extended payment plan for both gas and electric service receives a disconnection of service notice and notifies the utility company of an inability to pay the full amount due under such plan, the utility company shall offer the customer, if eligible pursuant to paragraph (B) of rule 4901:1-18-05 of the Administrative Code, another payment plan to maintain both services. The utility company shall give the customer the opportunity to retain only one service by paying the defaulted payment plan portion for either the gas or electric service, as selected by the customer.

(E) If both the gas and electric service of a residential customer of a combination utility company have been discontinued for nonpayment, the utility company shall reconnect both services, or either service, as designated by the customer, pursuant to rule 4901:1-18-07 of the Administrative Code.

(F) The combination utility company shall in its disconnection of service notice, as provided for in Chapter 4901:1-18 of the Administrative Code, advise combination residential customers of their rights to select the service(s) for retention or reconnection as provided for in paragraphs (C), (D), and (E) of this rule. The notice shall state with specificity the conditions under which customers may exercise their rights and shall state the telephone number and business address of a utility company representative to be contacted to inquire about those rights.

(G) For a customer who has received a disconnection of service notice and who contacts the combination utility company, the utility company shall inform the customer of the total past due amount for each service, and with respect to the extended payment plans available under this rule, the monthly payment due on the past due amount for each service.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-10 **Insufficient reasons for refusing service or for disconnecting service.**

The utility company shall not refuse service to or disconnect service to any applicant/customer for any of the following reasons:

(A) Failure to pay for service furnished to a former customer unless the former customer and the new applicant for service continue to be members of the same household.

(B) Failure to pay for nonresidential service.

(C) Failure to pay any amount which is in bona fide dispute. Where the customer has registered a complaint with the commission's call center or filed a formal complaint with the commission that reasonably asserts a bona fide dispute, the utility company shall not disconnect service if the customer pays either the undisputed portion of the bill, if known or can reasonably be determined, or the amount billed for the same billing period in the previous year.

(D) Failure to pay any nontariffed service charges, including competitive retail electric service.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-11 **Restrictive language prohibition.**

Except as provided in Chapter 4901:5-37 and rule 4901:5-25-06 of the Administrative Code, or other commission-approved curtailment provisions, no gas, natural gas, or electric utility company shall deny service to a prospective customer or discontinue service to a present customer because the utility company would be or is providing only auxiliary, stand-by or emergency service as an alternative energy source.

Upon application to and approval by the commission, a gas, natural gas, or electric utility company may file a separate applicable tariff containing rates which reflect the costs incurred by that company to provide such services.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-12 **Percentage of income payment plan program eligibility - gas.**

(A) Rules 4901:1-18-12 to 4901:1-18-17 of the Administrative Code, apply to the percentage of income payment plan (PIPP) for residential service from a gas or natural gas utility company. PIPP rules and requirements for residential electric utility service are located in Chapter 122:5-3 of the Administrative Code.

(B) A customer is eligible for PIPP if the customer meets one of the following criteria:

(1) The household income for the past three months, if annualized, would be less than or equal to one hundred fifty per cent of the federal poverty guidelines.

(2) The annualized household income for the past three months is more than one hundred fifty per cent of the federal poverty guidelines, but the customer has a household income for the past twelve months which is less than or equal to one hundred fifty per cent of the federal poverty guidelines.

(C) If the customer meets the income eligibility requirements, as set forth in paragraph (B) of this rule, to participate in PIPP, the customer must also:

(1) Apply for all public energy assistance for which the customer is eligible.

(2) Apply for all weatherization programs for which the customer is eligible.

(3) Sign and submit a release to the Ohio department of development and the affected jurisdictional gas or natural gas utility company giving permission for that entity to receive information from any public or private agency that provides income or energy assistance to the customer, or from any member of the customer's household, and/or from any public or private employer of the customer or member of the customer's household as it relates to PIPP eligibility.

(4) Notify the local agency designated by the Ohio department of development, within thirty days, of any change in income or household size.

(D) In addition to the requirements set forth in paragraphs (B) and (C) of this rule, a PIPP customer must also periodically reverify his/her eligibility.

(1) All PIPP customers must provide proof of eligibility to the Ohio department of development of the household income at least once every twelve months at or about the customer's PIPP anniversary date. The customer shall be accorded a grace period of sixty days after the customer's PIPP anniversary date to reverify eligibility.

(2) The PIPP customer must be current on his/her income-based PIPP payments at the customer's PIPP anniversary date to be eligible to remain on PIPP for the

subsequent twelve months. The customer will have one billing cycle after reverification to pay any missed PIPP payments before being removed from the program. Missed PIPP payments include:

(a) Any delayed payments as a result of the customer's prior use of a medical certificate in accordance with paragraph (C) of rule 4901:1-18-06 of the Administrative Code.

(b) PIPP payments which are due for the months the customer is disconnected from gas utility service. These missed PIPP payments must be paid prior to the restoration of utility service. The amount of the PIPP payments due shall not exceed the amount of the customer's arrearage.

(3) All PIPP customers must also provide proof of eligibility to the gas or natural gas utility company upon request. No gas or natural gas utility company shall request such proof without justification.

(E) Upon the customer's enrollment in PIPP and at reverification, the gas or natural gas utility company shall provide the customer with a copy of PIPP literature including, at a minimum, the customer's monthly payment, service address, arrearage at plan initiation, nonrecurring fees, timely payment incentives, reverification requirements including the customer's anniversary date, and customer responsibilities when the customer is no longer eligible for the program.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-13 **Payment requirements for the percentage of income payment plan customers.**

(A) The payment requirements for a percentage of income payment plan (PIPP) or graduate PIPP customer, as referenced in Chapter 4901:1-18 of the Administrative Code, shall be calculated as set forth below.

(1) PIPP. Each PIPP customer shall be billed six per cent of his/her household income or ten dollars, whichever is greater, per billing cycle by the jurisdictional gas or natural gas utility company that provides the customer with his/her source of heat.

(2) Graduate PIPP. Each graduate PIPP customer shall be billed the average of the customer's most recent PIPP income-based payment and the customer's budget bill amount, per billing cycle by the jurisdictional gas or natural gas utility company that provides the customer with his/her source of heat.

(B) Customers who are also enrolled in the PIPP program for their electric utility service should refer to Chapter 122:5-3 of the Administrative Code, for the applicable payment requirement(s).

(C) Any money provided to the jurisdictional gas or natural gas utility company by a public or private entity for the purpose of paying utility bills shall not be considered as household income when calculating PIPP eligibility.

(1) 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.

(2) Money other than HEAP or emergency HEAP (E-HEAP). Money provided on an irregular or emergency basis by a public or private agency shall first be applied to the customer's defaulted income-based payment, if any, then applied to the customer's current bill and, lastly, shall be applied to the customer's arrearages.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-14 **Incentive programs for percentage of income payment plan and graduate percentage of income payment plan customers.**

(A) Percentage of income payment plan (PIPP) and graduate PIPP customers shall be provided the incentive of a reduction in their outstanding arrearages in return for making timely payments.

(1) PIPP customer. Each time the PIPP customer makes his/her required income-based payment or more, as determined pursuant to rule 4901:1-18-13 of the Administrative Code, to the gas or natural gas utility company by the due date, the gas or natural gas utility company shall reduce the customer's account arrearage by the difference between the amount of the required income-based payment and the current monthly bill plus one twenty-fourth of the customer's accumulated arrearages, as calculated at the time of enrollment or in the event of late or missed payments, at the time of reverification.

(2) Graduate PIPP customer. Each time the graduate PIPP customer makes his/her required payment or more, as determined pursuant to rule 4901:1-18-13 of the Administrative Code, to the gas or natural gas utility company by the due date, the gas or natural gas utility company shall reduce the customer's account arrearage by the difference between the amount of the required payment and the current monthly bill plus one-twelfth of the customer's accumulated arrearages, as calculated at the time of enrollment in the graduate PIPP program.

(B) PIPP and graduate PIPP customers are not eligible to have any credit balance appearing on his/her account refunded to the customer. When a PIPP or graduate PIPP customer's account is finaled, any credit balance on the customer's account shall first be applied to the customer's arrearage and then as an offset to the gas or natural gas utility company's PIPP rider. When a PIPP or graduate PIPP customer transfers service to a new address within the company's service area, any credits on the customer's account shall be applied to service at the new address.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-15 **General percentage of income payment plan provisions.**

(A) A PIPP customer who is current on his/her PIPP payments shall not be disconnected, refused reconnection, or denied a transfer of service to a new address, based solely on outstanding arrearages accrued while in the PIPP program.

(B) No gas or natural gas utility company shall require a deposit on PIPP customer accounts or new or reconnected accounts where the customer has signed up for PIPP. The gas or natural gas utility company may assess the customer the deposit if it is determined that the customer is ineligible for PIPP. Any deposit paid by a customer prior to signing up for PIPP, to initiate, retain or restore service, shall be refunded to the PIPP customer or applied to the PIPP customer's account, as requested by the PIPP customer, within sixty days of verification of eligibility and compliance with the requirements set forth in rule 4901:1-18-12 of the Administrative Code.

(C) No gas or natural gas utility company shall apply late fees to a PIPP customer's account.

(D) The gas or natural gas utility company shall include the PIPP customer's anniversary date on each monthly bill.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-16 **Graduate percentage of income payment plan program.**

(A) Percentage of income payment plan (PIPP) customers that remain within the gas or natural gas utility company's service territory shall automatically be enrolled in the graduate PIPP program when one of the following occurs:

(1) The customer elects to terminate participation in the PIPP program.

(2) The customer is no longer eligible to participate in PIPP as a result of an increase in the household income or a change in the household size.

(B) PIPP customers removed from the program due to fraudulent enrollment in the PIPP program are not eligible to participate in graduate PIPP.

(C) Any graduate PIPP customer who tampers with the gas or natural gas utility company's meter, metering equipment or other property, or is the beneficiary of such act, shall comply with the requirements of paragraphs (E)(3)(a) to (E)(3)(d) of rule 4901:1-18-03 of the Administrative Code. Any former PIPP customer determined by the Ohio department of development or the gas or natural gas utility company to have been fraudulently enrolled in the PIPP program shall be required to pay the gas or natural gas utility company the difference between any PIPP income-based payments made and the actual bill amount and to pay any arrearage credits accrued for timely payments during the period the customer was fraudulently enrolled in PIPP and the graduate PIPP program. The gas or natural gas utility company shall credit such amounts received to the company's PIPP rider. For a period of twenty-four months, the gas or natural gas utility company shall treat such customer as subject to rules 4901:1-18-01 to 4901:1-18-11 of the Administrative Code, should the customer return to the gas or natural gas utility company.

(D) To be enrolled in graduate PIPP, a former PIPP customer must be current with his/her income-based payments on the gas or natural gas utility company account or cure any missed PIPP payments within one billing cycle of the customer's enrollment in graduate PIPP.

(E) Upon enrollment in graduate PIPP, the gas or natural gas utility company shall provide the graduate PIPP customer with a copy of the graduate PIPP participation requirements including, at a minimum, the customer's monthly payment plan over the next twelve months, service address, mailing address, the account arrearage at graduate PIPP initiation, applicable fees, if any, arrearage credit, and the customer's responsibilities.

(F) Graduate PIPP customers shall be provided the incentive of a reduction in their outstanding arrearages in return for continuing to make timely payments of the amount due, as set forth in rule 4901:1-18-14 of the Administrative Code.

(G) The graduate PIPP customer shall be billed the average of his/her income-based PIPP payment and the customer's budget bill amount ([PIPP payment + budget bill amount] ÷ 2) for the twelve billing cycles following enrollment in the program. The income-based payment shall be based on the income and household size immediately prior to the PIPP customer becoming ineligible for PIPP or electing to terminate participation in PIPP. After twelve billing cycles, the graduate PIPP customer is no longer eligible for arrearage credits. Any remaining arrearage on the customer's account may become due and the customer placed on one of the extended payment plans in rule 4901:1-18-05 of the Administrative Code. If the arrearage remains on the customer's account and the customer fails to make extended payment arrangements, the gas or natural gas utility company may initiate disconnection procedures for failure to pay the remaining arrearage.

# *** DRAFT – NOT FOR FILING ***

4901:1-18-17 **Removal from or termination of customer participation in the percentage of income payment plan.**

(A) The gas or natural gas utility company shall remove a percentage of income payment plan (PIPP) customer from PIPP when the customer fails to comply with the requirements set forth in paragraphs (C), (D), or (E) of rule 4901:1-18-12 of the Administrative Code.

(B) After removal from PIPP for failure to timely reverify eligibility, the former PIPP customer may re-enroll in PIPP and must make any missed income-based payments to bring the account current.

(C) If a customer is removed from PIPP for failure to timely reverify eligibility and fails to reverify and re-enroll in PIPP or to qualify for graduate PIPP pursuant to paragraph (D) of rule 4901:1-18-16 of the Administrative Code, the entire account arrearage will become due. The gas or natural gas utility company shall offer the customer an extended payment plan pursuant to paragraph (B) of rule 4901:1-18-05 of the Administrative Code. If the customer fails to make payment under the agreed payment plan, the former PIPP customer's service may be subject to disconnection in accordance with rules 4901:1-18-03 to 4901:1-18-06 of the Administrative Code.

(D) Fraud. The gas or natural gas utility company shall terminate a customer's participation in PIPP when it is determined that the PIPP customer was fraudulently enrolled in the program. The customer shall be required to make restitution of credits or benefits received during the period in which the customer was fraudulently enrolled and shall not be eligible to participate in PIPP, graduate PIPP, or to receive any other benefits available to PIPP customers or graduates for twenty-four months from when the customer is removed from PIPP.

(E) Any PIPP customer who tampers with the gas or natural utility company's meter, metering equipment or other property, or is the beneficiary of such act, shall comply with the requirements of paragraphs (E)(3)(a) to (E)(3)(d) of rule 4901:1-18-03 of the Administrative Code. Furthermore, to clarify the application of paragraph (E)(3)(b) of rule 4901:1-18-03 of the Administrative Code, the amount of the arrearages generated by the unauthorized usage shall be removed from the customer's arrearages and shall be paid by the customer before service is restored. Any usage charges previously credited to the customer as a result of the arrearage crediting program shall be reversed and are also due before service shall be restored.