

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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**AARP, COALITION ON HOMELESSNESS AND HOUSING IN OHIO, OHIO  
ASSOCIATION OF COMMUNITY ACTION AGENCIES, OHIO ASSOCIATION  
OF SECOND HARVEST FOODBANKS, AND  
OHIO PARTNERS FOR AFFORDABLE ENERGY'S  
MEMORANDUM CONTRA  
APPLICATIONS FOR REHEARING**

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AARP, the Coalition on Homelessness and Housing in Ohio, Ohio Association of Community Action Agencies, Ohio Association of Second Harvest Foodbanks, and Ohio Partners for Affordable Energy (collectively "Ohio Consumer Advocates" or "OCA") respectfully submits this memorandum contra the applications for rehearing filed in the above-captioned docket initiated by the Public Utilities Commission of Ohio ("Commission") to review Chapters 4901:1-17 and 4901:1-18 of the Ohio Administrative Code ("OAC") 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, OAC. Herein, OCA responds to the applications for rehearing filed by Columbia Gas of Ohio, Inc. ("Columbia"), Dominion East Ohio ("Dominion"), FirstEnergy Corp. ("FirstEnergy"), Duke Energy Ohio ("Duke"), Vectren Energy Delivery Ohio ("Vectren"), and Ohio Gas Company ("Ohio Gas").

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**1. The Commission's goal to make PIPP more affordable is advanced by a lower percentage of income payment.**

Columbia and Dominion complain that the decrease in the required Percentage of Income Payment Plan ("PIPP") payment amount to 6% of household income will add to arrearages and increase the financial burden on other customers. Both Columbia and Dominion argue that there is no evidence that a lower percentage of income will increase payment compliance. While Columbia continues to support the current 10%, Dominion supports the Commission's originally proposed 8%. Columbia is also concerned that more customers will join the PIPP program if the percentage of income payment is lowered to 6%. Columbia Memorandum in Support of Application for Rehearing at 2-3.

In our initial comments on Rule 4901:1-18-13, OCA's position was that the proposed 8% of income was too high and that the amount should be no more than 6%. OCA might prefer a lower percentage, but the Commission's adoption of 6% is acceptable at this time. While Columbia and Dominion complain that there is no evidence that the lower percentage will increase payment compliance, there is also no support for their contention that the lower percentage will be ineffective. States as diverse as Nevada and New Jersey have total percentages (electric and gas) in the 5-6% range. Data indicates much higher payment compliance which translates into additional revenue from program participants.

As OCA argued on rehearing, 6% should be seen as a means to an end, rather than an end in itself. The Commission's goal should remain affordable

payments in order to have higher payment compliance rates. Other jurisdictions have adopted more affordable payments based on lower percentages of income in order to see higher payment compliance rates. A lower percentage, coupled with a greater emphasis on education and casework, should result in more monthly payments.

If the adopted 6% does not achieve the goal of more affordable payments, a lower percentage may be necessary in the future to achieve the Commission's goal. The Commission should keep an open mind with regard to the percentage of income and continue to analyze the data to assure that the percentage is achieving the goal of affordable monthly payments. Specifically, the Commission should analyze payment compliance under the rule to determine if 6% is allowing the Commission to meet its goals of increased payment compliance. The Commission should review the outcome to determine whether future changes are necessary. If the goal of more affordable payments does not become a reality, the Commission should initiate a proceeding to adjust the percentage downward.

Contrary to the utilities' presumption, if payment compliance does not improve under the 6% rule, the cause may well be that the percentage is still too high, not that the percentage should be increased. Likewise, customers eligible for the PIPP program should be encouraged to enroll, given the alternative of extreme financial distress caused by utility bills.

**2. The Commission should affirm the one-twelfth payment plan.**

Columbia complains that the one-twelfth payment plan will increase customer arrearages. Duke also argues that the default rate for payment plans of more than six months is high and that the one-twelfth payment plan will be ineffective in promoting customer payments. Duke at 12. FirstEnergy also opposes the one-twelfth plan, arguing that the one-twelfth plan rule does not distinguish between customers who need additional time and customers who would simply rather extend payment over twelve months. FirstEnergy argues that the Commission should add to the one-twelfth plan qualifying criteria and discretion on the part of the utility.

OCA supports the one-twelfth plan as adopted by the Commission. There is no reason to believe that customers will seek out the one-twelfth plan simply to extend their payments. The one-twelfth plan will add a valuable option for customers who have difficulty meeting payment obligations under the existing payment plans. It will also help ensure that current bills plus the arrearage are affordable and are paid, thus reducing the amount of bad debt that must be paid by all customers. Ratepayers are best served if bills and arrears are paid even if the payment occurs over twelve months rather than three or six.

**3. Late payment fees should not apply to customers who are current on their extended payment plan.**

FirstEnergy complains that a late payment fee is not a penalty to the customer, but a carrying charge to help compensate the utility for carrying the outstanding balance on its books. According to FirstEnergy, even if a customer is paying down his balance in accordance with the extended payment plan, the late fees should still be charged. FirstEnergy at 7.

If a customer is properly paying his extended payment amount, there should be no late fees. It makes no sense to extend a payment plan to a customer, have the customer comply with the terms of the payment plan, and then charge a late fee even when the customer has complied.

Moreover, FirstEnergy's distribution rates take into consideration and account for the revenues that FirstEnergy receives from late payment charges in the test year. The absence of late payment fees on extended payment plans is, therefore, a consideration in setting distribution rates.

**4. There is no need to extend the implementation of the rules for eighteen months or to grant an eighteen-month waiver.**

Vectren argues that the Commission should make the effective date of the rules eighteen months after the date in which the rules would finish the Joint Committee on Agency Rule Review process. In the alternative, Vectren argues that the Commission should grant all companies affected by the rules an eighteen-month waiver to implement the rules. Ohio Gas requests a similar extension.

Administrative rules of all Ohio state agencies are reviewed every five years. R.C. 119.032. There is no secret that the rules are subject to review every five years and that proposals for revisions will be made. The Commission's credit rules, reconnection rules, as well as the PIPP rules, are under review pursuant to well-established state law. Moreover, the Commission issued its Entry proposing modifications to these rules on June 25, 2008. It is not possible that any public utility doing business in the state of Ohio is unaware of the changes contemplated and is unprepared to comply with rule revisions in a timely fashion. Under the circumstances, the Commission should not allow for an eighteen-month waiver to utilities to implement the new rules.

**5. The Commission should grant rehearing to consider the inconsistencies between the electric PIPP rules and the gas PIPP rules.**

Duke points out differences between the electric PIPP rules administered by the Ohio Department of Development and gas PIPP rules administered by the Commission. In general, as OCA argued in its application for rehearing, the two PIPP programs should have the same rules. The Commission should consider the inconsistencies, grant rehearing, and harmonize the rules. Upon rehearing, the inconsistencies should be resolved to the maximum extent possible.

OCA would not necessarily resolve the inconsistencies in the same manner as Duke. In our application for rehearing, OCA argued that minimum monthly payments for zero-income PIPP customers should be waived for the first 180 days, as set forth in the electric PIPP rules, but not in the gas PIPP rules.

We also argued that an on-time payment should be one made five days after the due date, as set forth in the electric PIPP rules, but not in the gas PIPP rules.

Duke asks the Commission to reconcile the gas and electric arrearage crediting requirements for the PIPP and graduate PIPP programs. OCA's reading of the Finding and Order is that the Commission adopted the electric arrearage crediting program. Finding and Order at 65. If OCA is correct, the Commission should clarify that it has adopted the electric PIPP arrearage crediting program.

Another inconsistency is the requirement for zero-income PIPP customers to re-verify their income. Under the current gas PIPP program rule, which Duke supports, zero-income customers are required to re-verify their income every ninety days. Duke at 15. Under the proposed gas PIPP rules, zero-income PIPP customers re-verify their household income annually. Under the electric PIPP program, zero-income PIPP customers re-verify their household income by at least 180 days after enrollment.

In keeping with the general need for the PIPP gas and electric program rules to be harmonized, OCA believes it is appropriate to follow the electric PIPP rules and allow for re-verification of income by 180 days after enrollment in the program. Certainly, the ninety-day re-verification under the current gas PIPP rules is not appropriate. The ninety-day re-verification rule merely increases traffic into the local community agencies for no good purpose. There is rarely, if ever, a change in zero-income status over a ninety-day period. Re-verification every ninety days has been a waste of time and resources for the local agencies, which are not compensated adequately for this needless requirement. OCA

supports the adoption into the gas PIPP rules of the electric PIPP rules for the verification and re-verification of income of zero-income PIPP customers.

## **Conclusion**

As OCA stated in its application for rehearing, the Commission should work to harmonize the gas PIPP program with the electric PIPP program. The Commission should grant OCA's application for rehearing and deny the applications for rehearing filed by Columbia, Dominion, FirstEnergy, Vectren, Ohio Gas, and Duke to the extent set forth herein.




Respectfully submitted,



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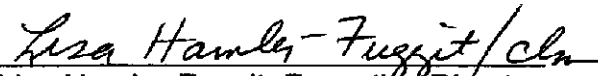
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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra was served by

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