

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,) Case No. 08-723-AU-ORD
4901:1-21-14, and 4901:1-29-12 of the)
Ohio Administrative Code.)

ENTRY ON REHEARING

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The Commission finds:

BACKGROUND:

By entry dated June 25, 2008, the Commission presented its Staff's proposed modifications to the rules in Chapters 4901:1-17 and 4901:1-18, Ohio Administrative Code (O.A.C.), 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, O.A.C., (jointly, payment agent rules), and requested comments from interested persons. A technical conference was conducted on July 8, 2008. Initial comments were filed on September 10, 2008, and reply comments were filed on October 14, 2008. On December 17, 2008, after reviewing the Staff's proposal, the initial comments and reply comments, the Commission issued its order adopting amended and new rules in Chapters 4901:1-17 and 4901:1-18, O.A.C. As to the payment agent rules, the Commission determined that the proposed amendments to such rules would not be adopted.

Pursuant to Section 4903.10, Revised Code, any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matter decided. Any application for rehearing must be filed within 30 days of the issuance of the Commission's decision.

On January 16, 2009, the following entities filed applications for rehearing: the Office of the Ohio Consumers' Counsel, Appalachian People's Action Coalition, Consumers for Fair Utility Rates, May Dugan Center, United Clevelanders Against Poverty, Organize Ohio, Communities United for Action, Pro Seniors, Inc., Cleveland Tenants' Organization, HARCATUS Tri-County Community Action Organization, Ohio Farm Bureau Federation, and Edgemont Neighborhood Coalition (jointly, Consumer Groups); The Cleveland Electric Illuminating Company, Ohio Edison Company, and the Toledo Edison Company (jointly, FirstEnergy); AARP Ohio, 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 (Ohio Consumer Advocates); Columbus Southern Power Company and Ohio Power Company (jointly, AEP); Columbia Gas of Ohio, Inc. (Columbia); Duke Energy Ohio, Inc. (Duke); East Ohio Gas Company dba Dominion East Ohio (Dominion); Eastern Natural Gas Company, Pike Natural Gas Company and Southeastern Natural Gas Company (jointly, Clearfield Gas); Vectren Energy Delivery of Ohio, Inc. (Vectren); and The Ohio Gas Company (OGC). Memoranda contra the various applications for rehearing were filed by: Ohio Department of Development (ODOD), Vectren, FirstEnergy, OGC, Ohio Consumer Advocates, Consumer Groups,¹ Columbia and jointly by Constitution Gas Transport Company, Inc.,

¹ Neighborhood Environmental Coalition was included as a signatory to the Consumer Groups' memorandum contra.

Foraker Gas Company, Inc., KNG Energy, Inc. and The Swickard Gas Company (jointly Small LDCs). For purposes of discussion in this entry on rehearing, the rules of Chapters 4901:1-17 and 4901:1-18, O.A.C., will be referred to by the chapter number and rule designation only. Thus, Rule 4901:1-17-02, O.A.C., will be referred to merely as Rule 17-02.

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

Rule 4901:1-17-01 Definitions.

Paragraph (G)

The Commission notes that the definition of the percentage of income payment plan (PIPP) in Chapter 17 does not match the amended adopted definition of PIPP as reflected in Rule 18-01(O). The definition of PIPP at Rule 17-01(G) has been amended to match the definition adopted at Rule 18-01(O).

Rule 4901:1-17-02 General provisions.

Paragraph (D)

Consumer Groups assert that the utilities should not be allowed to consider receipt of public assistance as a factor when determining creditworthiness. Consumer Groups believe that receipt of public assistance should no more be used as a criterion than race, color, religion, gender, national origin, age, handicap or disability. (Consumer Groups Application at 2.)

The Commission notes that the Consumer Groups made the same recommendation in their initial comments but failed to offer any reason for this change to the rule. (Consumer Groups Initial at 63-64.) The Consumer Groups repeat this suggestion in their application for rehearing and again fail to provide any support for making this change. (Consumer Groups Application at 2.) The Commission notes that the substance of the rule as adopted is unchanged from the current rule in effect. We are aware of no issues with this rule and we have not been given any reason or support to consider why it would be appropriate to accept the Consumer Groups' suggestion. We agree with AEP that, while being on public assistance is not necessarily an indication that a customer is a credit risk, it is not unreasonable to use as an indicator and utilities should be able to consider it as one factor. (AEP Reply at 5.) Thus, in the absence of any explicit justification for the requested amendment to Rule 17-02(D), the Commission denies the Consumers Groups' request for rehearing of this matter.

Rule 4901:1-17-03 Establishment of credit.Paragraph (A)

Rule 17-03 sets forth the methods by which an applicant for utility service is able to establish financial responsibility and provides that the utility company may use a credit check as the initial method to establish credit worthiness. Further, the rule provides that if the applicant's credit worthiness is not established as a result of the credit check, the utility must advise the customer of the other means to establish financial responsibility pursuant to the rule.

Consumer Groups assert that by adopting Rule 17-03(A), the Commission has prioritized credit checks as the initial and primary criterion for demonstrating financial worthiness. Consumer Groups claim there is no record supporting the change, and the Commission has no authority to make such a prioritization. Consumer Groups contend that credit checks are only one of the appropriate options available, and that customers should be informed of all the options available, including the ones in Section 4933.17, Revised Code, so that the customer can make an informed decision on how to demonstrate financial responsibility. Consumer Groups characterize the rule as unlawful. (Consumer Groups Application at 3-4.)

Vectren states that the Consumer Groups' allegation that the Commission has added options for demonstrating financial responsibility, which are in addition to and more lenient than those provided in the statute, is inconsistent and lacks support. On a practical level, Vectren states that customers are familiar with credit checks as a method of demonstrating financial responsibility in obtaining other necessary and important services and commodities, like renting housing and purchasing or leasing a car. Vectren notes that credit checks do not require affirmative action on the consumer's part and are a fast and reliable method. Further, Vectren notes that customers still have the other options available pursuant to the rule. (Vectren Memo at 4-5.)

Dominion stated that the Consumer Groups misstate Section 4933.17, Revised Code, and omit a critical phrase - the statute provides that a consumer who "is a freeholder who *is financially responsible*" may not be charged a deposit. Section 4933.17, Revised Code, does not state that a consumer may "demonstrate financial responsibility" merely by showing that he or she is "a freeholder of property." Thus, Dominion reasons that Section 4933.17, Revised Code, authorizes utilities to determine whether consumers are financially responsible. Dominion argues that because credit checks are a means by which to determine "financial responsibility," this practice is entirely consistent with Section 4933.17, Revised Code. Dominion contends that, despite Consumer Groups' representations, Section 4933.17, Revised Code, expresses no limitation on how financial

responsibility may be determined, nor on the Commission's authority regarding to enact rules applying that term. (Dominion Memo at 2-3.)

The Consumer Groups are incorrect when they state that Section 4933.17, Revised Code, provides applicants the right to demonstrate financial responsibility using any one of three methods, including being a freeholder of property, having a guarantor, or providing a deposit. The Commission notes that Section 4933.17, Revised Code, states that no deposit shall be required, "...If the proposed consumer is a freeholder *who is financially responsible* or a person who is able to give a reasonable safe guaranty in an amount sufficient to secure the payment of bills for sixty days' supply." [Emphasis added.] A customer not only has to be a freeholder of property, but financially responsible as well. The Commission believes that a credit check is a quick and easy means for most utilities to establish an applicant's financial responsibility, and as such, can benefit both applicants and utility companies. The applicant still has the option of refusing to provide a social security number, which is needed to perform a credit check. We note that we are not eliminating the other options available to the applicant, but allowing the utilities to quickly establish financial responsibility for the applicant. If the applicant is not determined to be financially responsible based on the credit check, the other options must be offered to the applicant. If the credit check determines the applicant is financially responsible, the applicant and utility company can quickly move on to establishing service. Thus, the Commission denies the Consumers Groups' request for rehearing on this issue.

Consumer Groups assert that the provisions of Rule 17-03(A)(2) defy the Federal Trade Commission's (FTC) guidance under the "Red Flag Rules" by allowing the utilities to request social security numbers without disclosing why the information is being requested, or alternatives to providing this information. It is further stated that the utility companies cannot deny service to someone who declines to give his/her social security number, but the customer may not know this, nor be aware of options available in lieu of providing a social security number. Consumer Groups argue that the Commission needs to be more proactive in ensuring that customers are sufficiently informed to prevent identity theft. (Consumer Groups Application at 6-7.)

Dominion states that, as the Consumer Groups recognize, there is already an agency entrusted with leading the war on identity theft, and that the FTC has promulgated rules that address this precise issue. Also, Dominion argues that these rules apply to and impose obligations on utilities. Given that this situation is already being addressed by the appropriate agency, Dominion posits that the change to Rule 17-03(A)(2) requested by the Consumer Groups would likely do little besides add inconvenience and costs (both direct and indirect) to the processes associated with checking an applicant's credit and establishing identity. (Dominion Memo at 3.)

Columbia argues that several of the grounds that the Consumer Groups raised were addressed in Columbia's prior filings in this proceeding and rebutted at length in its initial comments. (Columbia Initial at 8-11.) As Columbia explains, any rule that discourages applicants from providing their social security numbers would itself expose utility customers to potential identity fraud, because it would deprive utilities of the most effective way of verifying an applicant's identity. Further, Columbia asserts that the utility company has several security procedures in place to prevent social security numbers from falling into the wrong hands. (Columbia Memo at 2.)

The Commission recognizes the Consumer Groups' concern about identity theft, but their argument that the Commission must take a more proactive role to ensure that customers have the information needed to deter identity theft is misplaced in this rule. The Commission believes that the FTC's "Red Flag" requirements for utility companies ensure that the customer's social security number is secure. Accordingly, the Consumer Groups' request for rehearing is denied.

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

Paragraph (A)

Rule 17-05, at paragraph (A) directs the electric, gas and natural gas utility companies to, among other things, provide an applicant/customer with a copy of the relevant rules in this chapter regarding a request for a deposit. In this entry on rehearing, the Commission has amended the rule to specifically state a copy of Rules 17-03 to 17-06 must be provided to the applicant/customer upon request.

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

Rule 4901:1-18-02 General provisions.

Paragraph (B)

As adopted by the Commission, Rule 18-02 at paragraph (B) would permit the Commission to alter or amend the rules in Chapter 18, prescribe different standards for the disconnection or reconnection of electric, gas, or natural gas service as deemed necessary by the Commission, or waive any requirement, standard or rule set forth in Chapter 18 for good cause shown. In its application for rehearing, FirstEnergy asserts that the Commission's amendment of this rule would improperly permit the Commission to forgo the requirements of Section 119.032, Revised Code, and the review and approval process of the Joint Committee on Agency Rule Review (JCARR). FirstEnergy interprets adopted

paragraph (B)(2) to permit 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 without the benefit of comments or the JCARR review process. Moreover, FirstEnergy contends that such action goes beyond the Commission's statutory authority. (FirstEnergy Application 4-5).

FirstEnergy's interpretation of this rule is overly broad. The Commission acknowledges that rule revisions must be accomplished by a comment process and submitted to JCARR before such revisions can become effective. The Commission does find it necessary, on rare occasions, to waive a rule based upon the motion of a party for good cause shown. FirstEnergy has, in fact, requested the waiver of a Commission rule on many occasions. For example, Rule 4901-1-12 requires that memoranda contra a filed motion be filed within 15 days. Rule 4901-9-01 requires a public utility to file an answer to a complaint within 20 days. FirstEnergy has requested extensions of these time periods on numerous occasions. Each time that occurs, FirstEnergy is requesting a waiver of the Commission's rules. FirstEnergy's request for rehearing as to this provision is denied.

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

Paragraph (B)

As adopted by the Commission, Rule 18-05(B) directs utility companies to, among other things, advise customers of all the extended payment plans available, including gas PIPP and electric PIPP. (Electric PIPP offered in accordance with ODOD's rules at Chapter 122:5-3, O.A.C.). FirstEnergy notes that it is unreasonable and unlawful for the Commission to direct utility companies to comply with and inform customers of a proposed rule that is not yet, nor may ever be, in effect. Accordingly, FirstEnergy states the rule is premature as to electric utilities and should be removed. (FirstEnergy Application at 6.)

As of the issuance of this entry on rehearing, the Commission has the benefit of fact that ODOD's rules regarding its electric PIPP program have been through the JCARR process. Therefore, FirstEnergy's concern that the rule is premature is moot, and we continue to find it reasonable to require the utility companies to inform customers of all payment plans pursuant to the adopted rule. Accordingly, FirstEnergy's request for rehearing on this matter is denied.

Consumer Groups oppose the withdrawal of the existing one-sixth payment plan and the replacement of the plan with a modified version. To regulate the up-front payment of current and past due charges places an unreasonable financial burden on customers, according to Consumer Groups. Consumer Groups argue that an unaffordable payment plan can result in collection difficulties, increased costs for utility companies and customers, and increased debt expenses for all ratepayers. Consumer Groups argue that a

15-percent up-front payment for the modified one-sixth plan would meet the good faith requirements proposed by the Staff. Further, Consumer Groups argue that other required payment plans should be adjusted to make payments more affordable. (Consumer Groups Application at 9-11.) Dominion is opposed to lowering or deleting the down payment on the modified one-sixth plan. (Dominion Memo at 3-4.)

Upon further consideration of our decision to adopt the modified one-sixth plan, the Commission hereby withdraws the modified one-sixth plan. The Commission agrees that payment of a 25 percent up-front payment on a customer's current and past due charges may impose a considerable financial burden on the customer. We will instead retain the current one-sixth plan which requires the customer to make six equal payments on the arrearage as well as payment of the current bill. Rule 18-05(B)(1) will be amended accordingly. Since we are not adopting the modified one-sixth plan, Consumer Groups' request for rehearing is moot.

Subparagraph (B)(2)

As adopted by the Commission, Rule 18-05(B)(2) directs electric, gas, and natural gas utility companies to offer, in addition to other plans, a one-twelfth plan to a customer whose account is delinquent or to a customer who desires to avoid delinquency. Columbia, Duke, and FirstEnergy request that the Commission reconsider the adoption of this new one-twelfth payment plan. The new one-twelfth plan allows the customer with an arrearage to make twelve equal payments on the arrearage plus a budget bill payment each billing cycle, although the budget bill portion of the bill may be revised as needed. FirstEnergy states that the one-twelfth plan presupposes that the customer has accumulated a substantial outstanding balance which the utility companies will now be required to carry on their books for an entire year. Further, FirstEnergy notes that there are no guidelines or parameters on the one-twelfth plan to distinguish between customers who need additional time and customers who would rather save the money and pay their utility bill later. FirstEnergy contends that it was unjust and unreasonable for the Commission to adopt the one-twelfth payment plan without any additional qualifying criteria or utility company discretion and, therefore, FirstEnergy requests that the one-twelfth plan be removed from the rule. (FirstEnergy Application at 6-7.)

Columbia notes that Rule 18-05(D) requires the utility company to offer customers without an arrearage a budget or uniform payment plan. The company asserts that offering a one-twelfth plan eliminates one of the incentives for customers to avoid accumulating an arrearage and will lead to increased customer arrearage totals. Columbia offers that, based on the experience of its affiliates, the longer the term of the payment plan, the more likely a customer is to default. Columbia notes that Columbia Gas of Pennsylvania offers a one-year payment plan to its customers with a gross monthly household income between 250 - 300 percent of the federal poverty level. The percentage

of Columbia Gas of Pennsylvania customers on the plan who are more than 30 days in arrears is 74.3 percent.² Further, Columbia asserts that the Commission previously considered and rejected a one-twelfth payment plan. See *In the Matter of the Investigation into Long-Term Solutions Concerning Disconnection of Gas and Electric Service in Winter Emergencies*, Case No. 83-303-GE-COI (83-303), Opinion and Order (November 23, 1983) at p. 9. Columbia notes that in 83-303, the Commission did not implement a one-twelfth payment plan based on the low-income advocates' belief that the plan would not benefit the poor and evidence that the twelve-month plan would fail to provide long-term relief, exacerbate the problem of the customers the Commission sought to help, and increase the costs to be borne by the balance of the utility companies' ratepayers. For the same reasons the Commission previously rejected the adoption of a one-twelfth payment plan, Columbia requests that the Commission reconsider the adoption of a one-twelfth payment plan at this time. (Columbia Application at 3-6.)

Duke argues that the extended payment plans adopted by the Commission create an unreasonable imposition on the utility companies as the companies are required to offer mutually acceptable payment arrangements to any customer that seeks to avoid a delinquency and to offer a modified one-sixth and a one-twelfth payment plan. Duke argues that the payment plans are one-sided, as the plans prohibit the company from accelerating the term or payment and require the company to offer extensions of the repayment term. Duke states that, based upon research of the payment agreements offered to gas and/or electric customers in its service area, only 10.9 percent of the agreements for a term of up to six months were paid in full and, for agreements initiated for a term of 7 to 12 months, only 3.5 percent were paid in full. Thus, Duke reasons that the one-twelfth payment plan will be ineffective in promoting customer payments and, depending on when the one-twelfth plan is initiated, will extend payment into the next winter heating season. (Duke Application at 11-12.)

Ohio Consumer Advocates support the one-twelfth payment plan as another payment option for customers. As to FirstEnergy's claims, the Consumer Groups argue that the debt will still be on the utility companies' books. As to Columbia's claims, the Consumer Groups' argue that the data submitted by Columbia is insufficient. Also, Consumer Groups state Columbia's reliance on 83-303 is misplaced. Consumer Groups assert that the Commission rejected the one-twelfth plan, at that time, because it did not help low income customers and, instead, adopted PIPP. The one-twelfth plan is for customers who are not eligible for PIPP. (Ohio Consumer Advocates Memo at 4; Consumer Groups Memo at 5-6.)

² Columbia states that if rehearing is granted, the company is prepared to offer data regarding the experiences of its affiliates and payment plans of various terms.

The Commission has carefully considered the comments regarding the proposed one-twelfth plan, and finds the payment history information that Columbia and Duke provided to be compelling. While we are interested in providing customers with options that will work optimally within the budgets of customers who have fallen behind in payments, we also are concerned with arrearages continuing to accrue with little hope for full repayment. The intent of any payment program is to offer a window of time for a customer to catch up on arrearages, and then to manage the payment of their regular bills. For all these reasons, we grant rehearing to the utility companies. In a desire to ensure that customers have adequate payment plan options to address significant outstanding bills, we reconsider Duke's proposal to implement a one-ninth plan as suggested in the company's initial comments (Duke Initial at 11-13). Therefore, the Commission will adopt a one-ninth payment plan that also requires the customer to make nine equal payments on the arrearage and to be placed on budget billing. This plan provides for an extended period to repay outstanding debt, yet the repayment window is not so long that the customer could end up still in debt and off the budget plan just as the peak season begins. Further, by being on the budget bill for current services, and the one-ninth bill for outstanding charges, the customer has a less volatile amount due each month on his/her utility bill.

Paragraph (C)

Dominion and Consumer Groups request clarification regarding when the utility company must inform a customer of the availability of PIPP when the customer is in default on one of the extended payment plans offered pursuant to paragraphs (A) or (B) of Rule 18-05. Dominion notes that Rule 18-05(C) requires the company to inform a customer in default on an agreed payment plan or the modified one-sixth or the one-twelfth plan about the qualifications for the PIPP program and directs the utility company to review the payment plan, upon the customer's request, and modify the plan to meet the customer's and the utility company's needs at the utility company's discretion. However, Dominion notes that paragraph (C) fails to indicate whether these provisions apply to a customer in default on the one-third payment plan pursuant to subparagraph (B)(3). Thus, Dominion requests clarification of the information requirements for customers in default on the one-third payment plan. Consumer Groups contend that customers on the one-third plan should be treated like other customers on payment plans. (Dominion Application at 3; Consumer Groups Memo at 6.)

Dominion's and the Consumer Groups' requests for rehearing of this issue is granted. The Commission clarifies that customers on the one-third payment plan, like customers on a mutually agreeable payment arrangement pursuant to Rule 18-05(A) and the payment plans offered pursuant to paragraph (B) of Rule 18-05, shall be informed of the availability of and qualifications for the PIPP program. Thus, Rule 18-05(C) has been amended accordingly.

Paragraph (H)

Adopted paragraph (H) states:

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.

FirstEnergy reiterates its arguments made in the comments that the elimination of the late payment fee for customers who are current on their extended payment plan is unjust and unreasonable. The utility company contends that the late payment fee is not a penalty to the customer but serves as a carrying charge to help compensate the utility companies for carrying the outstanding balance on the companies' books. FirstEnergy states that the company estimates that customer arrearages based on the current payment plan can exceed \$200 million in one year and that the company can not absorb such costs, absent frequent rate cases, with no allowance for late payment fees. FirstEnergy believes that the mere fact that a customer is making a good faith attempt to pay down his/her outstanding balance does not mean that a portion of such balance, namely the late fees, should be written off. Thus, FirstEnergy requests that the Commission grant rehearing on this issue and eliminate paragraph (H) of Rule 18-05. (FirstEnergy Application at 7.) Consumer Groups argue that late payment charges on the accounts of customers on payment plans are inappropriate as those customers are meeting their payment obligations. (Consumer Groups Memo at 7.)

The Commission agrees with Consumer Groups that customers who make timely payments pursuant to the agreed-upon payment plan are meeting their payment obligations and should not be subjected to a late fee. This has been the Commission's policy and is reflected in the tariffs of some of the electric and gas utility companies. Accordingly, FirstEnergy's request for rehearing on this issue is denied.

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

At subsection (3)(C) of Rule 18-06(A) the Commission adopted the following provision:

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 jobs 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.

Duke requests rehearing of this provision. Duke argues that the rule requires the utility company to unlawfully provide customer information to a third party in violation of the privacy restrictions on customer accounts pursuant to Rule 4901:1-10-12(F)(1)-(4), O.A.C. Duke asserts that release of such information is a violation as there is no requirement that the customer authorize the submission of his/her customer information to the department of job and family services. Further, Duke adds that obtaining permission for the customer to provide the information to the county department would be an additional, time-consuming and costly exercise without necessarily providing any benefit. Duke asserts that such information, if needed by the county department, is available from the client. Accordingly, Duke requests rehearing on this provision of the adopted rules. (Duke Application at 13.) Consumer Groups state that the Commission is merely following the statute. (Consumer Groups Memo at 8.)

The Commission denies Duke's request for rehearing. The Commission is merely implementing Sections 4933.12 and 4933.121, Revised Code. These sections require companies, upon request, to provide such notification to the county human services department.

Paragraph (C)

Consumer Groups note, on rehearing, that the very purpose of the medical certification provision rule is to allow customers, including PIPP customers, to avoid the disconnection of their service. Consumer Groups note that the only discussion in the Order of medical certification is in relation to PIPP customers in Rule 18-12 and no further discussion is found on the issue. Consumer Groups argue that there is no evidence of any abuse of the medical certification provisions and, thus, no basis for change. Consumer

Groups further note that the medical certification form was not attached to the Order. Consumer Groups contend that these errors should be addressed before adoption. (Consumer Groups Application at 12-13.)

The Commission recognizes that due to inadvertent oversight, the medical certification form, as well as the other forms for other rules, were not attached to the Order when it was issued. However, pursuant to entries issued December 22, 2008, and January 8, 2009, the forms were posted to the case docket and to the Commission's website. The Commission notes that Consumer Groups requested, in their comments, that the medical certification provisions at paragraph (C) and the form be substantially revised to, among many other things, adopt consumer protection standards to recognize the chronic nature of many illnesses that a customer may experience and the effect that the illness has on the customer's ability to make utility payments and to recognize customers on life-support equipment. Consumer Groups recommended in the comments that such customers be afforded a special income-based payment plan of 3 percent of the customer's income for the period determined to be necessary by a medical professional. (Consumer Groups Initial at 94-103.) Columbia, AEP and FirstEnergy filed reply comments in opposition to the Consumer Groups proposal. (Columbia Reply at 25; AEP Reply at 12-13; FirstEnergy Reply at 15-17.) Based on contacts to the Commission, the Commission is not aware of a significant number of disconnections or the threat of disconnection for customers with chronic illnesses or life-support equipment. Thus, we conclude in this entry on rehearing that significant review of the situation is necessary before the Commission would adopt the sweeping provisions proposed by the Consumer Groups to the medical certification provisions. We also note the Consumer Groups proposed extensive revisions to the medical certification form. The Commission adopted the medical certification form as proposed by the Staff. We believe that Staff's proposed 30-day medical certification form balances the customers' needs and the medical professionals' knowledge and understanding of the situation, while attempting to ensure that the form is easy to complete, provides sufficient information to the utility company and encourages the proper use of the medical certification process. The Commission denies Consumer Groups' request for rehearing of this provision.

Paragraph (F)

As adopted by the Commission, paragraph (F) of Rule 18-06 would require the utility company to respond to Staff inquiries concerning a pending disconnection of service or disconnection within two business days. While Columbia does not object to the two-day response time, Columbia requests that the Commission amend the provision to direct the Staff to clearly mark such e-mails and letters regarding a disconnection or pending disconnection. Columbia contends that it is imperative that the utility companies be able to easily segregate such urgent communication from the mass of less urgent communications from the Staff. (Columbia Application at 6-7.)

Upon further consideration, we find Columbia's request to be reasonable, but do not believe that such actions by Staff must be included in a rule. However, we will, in this entry on rehearing, direct Staff to manage their communications in such a manner so that urgent messages are easily distinguished from regular correspondence.

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

Paragraph (A)

New Rule 18-07(A) provides in relevant part:

[t]he 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.

Columbia requests rehearing to the extent that paragraph (A) would permit some customers to avoid incurring a reconnection charge. Columbia argues that the Commission's intent which allows for different reconnection timelines based on how long service has been disconnected, is undermined by allowing the utility to elect to reconnect service by the next business day or pursuant to the queue for new service requests. Columbia reasons that the new rule will allow similarly situated customers to have different reconnection timelines depending on the utility company's reconnection policy. Thus, some customers who seasonally disconnect their service could receive same-day or next-day reconnection and possibly be reconnected earlier than an applicant for new service. For this reason, Columbia believes the rule should be amended to provide a clear distinction between customers whose service has been disconnected for more than ten business days and those customers whose service has been disconnected for less than ten business days. Columbia recommends that all customers whose service has been disconnected for more than ten business days be on the same timeline for reconnection as applicants for new service. (Columbia Application at 7-8.).

FirstEnergy argues that it is not clear why Columbia opposes the change. It appears to FirstEnergy that Columbia may merely need clarification as to which customers have been disconnected for more than ten days. FirstEnergy is fully aware of which of their

customers have been disconnected for more than ten days and appreciates the balance and flexibility provided in the revised rule. (FirstEnergy Memo at 3.)

Consumer Groups disagree with Columbia's assertion that all companies should be required to treat customers who are disconnected for more than ten days as new customers because, compared to a company that decides not to treat such customers as new, those who are treated as new are placed "at a disadvantage." Consumer Groups believe Columbia's arguments are justification for eliminating the ten-day rule. Columbia's argument, according to Consumer Groups, is that no utility should be allowed to treat its customers more leniently than any other utility company. Consumer Groups argue that Columbia's view "is unreasonable in the extreme." Consumer Groups contend that if you are a "new" customer, you cannot be "reconnected" and such point is another reason why the ten-day rule should be deleted. (Consumers Groups Memo at 9-10.)

The Commission recognizes the Consumer Groups' and Columbia's concerns regarding firm timelines for reconnection. Therefore, the Commission will set firm parameters to reconnect service to customers who have been without service for longer than ten business days, and those parameters shall match existing rules in both the minimum gas and electric rules for new customer service connection. Accordingly, the Commission has revised paragraph (A) to require the utility company to connect service disconnected for more than ten business days in the same time frame as for a new customer, in accordance with Rule 4901:1-13-05, O.A.C., and Rule 4901:1-10-09, O.A.C.

Further, Columbia contends the prohibition against charging customers whose service has been disconnected for more than ten business days a reconnection charge should be eliminated. The company states that the cost of reconnecting a customer's service is the same irrespective of how long the service has been disconnected. Columbia states that the cost associated with connecting a new customer's service can be recovered by collecting a customer line extension agreement deposit pursuant to the company's tariff. If adopted, Columbia claims that Rule 18-07(A) prohibits the collection of a reconnection charge from customers whose service has been disconnected more than ten business days, and some customers will actually be encouraged to seasonally disconnect their utility service and avoid the monthly customer charge as well as the reconnection charge. Accordingly, Columbia requests that the Commission delete the last sentence of adopted Rule 18-07(A) and permit electric, gas and natural gas utility companies to collect reconnection charges from all customers in accordance with the companies' tariffs. (Columbia Application at 8-9.)

Consumer Groups argue that the two proposed reconnection standards for disconnected customers are neither necessary nor appropriate. Consumer Groups assert that the new rule would treat almost 40 percent of reconnected customers as new customers. Further, Consumer Groups argue that the rule allows the utilities to decide if

they want to consider a reconnection request as a reconnection or a request for new service. Consumer Groups argue that, under this rule, customers who are disconnected for non-payment for more than ten days may be denied reconnection options that exist within the rules. Consumer Groups state that the Commission should establish firm standards that do not allow reconnection standards at the "whims" of the utilities. (Consumer Groups Application at 15-16.)

Consumer Groups also argue that, in addition to harming customers, the Commission's rule will cost the utilities money. They point out that utilities currently have an opportunity to recover costs associated with reconnection through approved reconnection charges. The Consumer Groups estimate that utilities will no longer have access to about \$3.5 million in revenues to offset costs associated with reconnecting service. (Consumer Groups Application at 15-16).

FirstEnergy argues the Consumer Groups are not aware of the problems with the existing rule. The companies' comments confirmed that, when a customer requests reconnection, a utility's workload may be exponentially increased and the customer should be placed in the company's queue for the reconnection of the customer's service. (FirstEnergy Memo at 3.)

Vectren states that the Consumer Groups' argument that 40 percent of customers that were reconnected between November 2007 and October 2008 were disconnected for more than one week actually supports the Commission's assertion that utility companies are overburdened with requests to reconnect service on the same day that payment is made, particularly when the Winter Reconnect Order takes effect each year and customers that have been disconnected may pay \$175 to be reconnected. Vectren further states that the Consumer Groups have not presented any reason why the adopted rule is unjust or unreasonable. (Vectren Memo at 5-6.)

Dominion states, that according to its company records, approximately one-third, or over 10,000 of its reconnections occur after ten days have elapsed. Dominion asserts that the existing requirement to reconnect all customers on the same day as payment is presented frequently forces field crews to work overtime. Dominion states that such requirements lead to increased expenses and potentially higher rates. Dominion states that the adopted Rule 18-07(A) better enables utility companies to organize and prioritize their reconnection efforts and provides flexibility that is helpful in reducing costs. To the degree that situations occur requiring expedited reconnection, Dominion states there are mechanisms tailored to the task, such as the Winter Reconnect Order. Dominion is not opposed, however, to the Consumer Groups' suggestion that the Commission clarify the application of the rule. Dominion suggests that the last sentence of Rule 18-07(A) be revised to require that, if service has been disconnected for greater than ten business days,

the utility company shall treat the situation as a new service request. (Dominion Memo at 4-5.)

First, as to the Consumer Groups' concern that there is no support in this record that the utilities are overburdened with requests to reconnect service on the same day that payment is made, the Commission refers to the OSCAR report which indicates that in 2007 almost 70 percent of the number of gas customer service reconnections after service had been disconnected for longer than four weeks occurred in the months of October and November. Further, the Commission's own call volumes increase with requests for information relating to the Winter Reconnect Order and how to restore service during the same time period. Also, as Vectren pointed out, the Consumer Groups themselves note in their application for rehearing that 40 percent of customers that were reconnected between November 2007 and October 2008 had been disconnected for more than one week. We agree with Vectren that such information supports the Commission's assertion that the utility companies are overburdened with requests to reconnect service on the same day that payment is made, particularly when the Winter Reconnect Order takes effect each year and customers that have been disconnected may pay \$175 to be reconnected. The Commission's purpose in adopting the new rule was to reduce the likelihood of overburdening the utility companies with requests to restore service with the adoption of the Winter Reconnect Order and to avoid placing applicants for new service at a disadvantage.

Second, the Commission recognizes the Consumer Groups' concern that utility companies will have no obligation to expedite the reconnection of service to those customers whose service has been disconnected for longer than ten business days (Consumer Groups Application at 15.) As stated above, the intent of the new rule was to ease the burden on the utility companies when the Winter Reconnect Order takes effect and requests to restore service greatly increase. The utility companies should make every effort possible to restore service to customers by the end of the following business day when the seasonal demand for reconnection is not an issue or excessive. For these reasons, the Consumer Groups' request for rehearing of Rule 18-07 is denied. Dominion requested that Rule 18-07(A) be clarified to indicate that customers who have been disconnected from service for longer than ten days shall have their service connected pursuant to the same time frame as new customers. Rule 18-07(A) has been amended to make this clarification.

Finally, as to Columbia's request that we permit utility companies to collect reconnection charges from all customers in accordance with the companies' tariffs, we grant rehearing. We have revised Rule 18-07(A) to allow utility companies to charge reconnection fees in accordance with their approved tariffs.

Paragraph (C)

As adopted, Rule 18-07(C) provides that the utility company shall not assess a reconnection charge unless the company actually disconnects the customer's service, but the company may assess the customer a collection charge if the company employee/agent dispatched to disconnect service is presented payment or proof thereof. AEP raises one issue on rehearing. The utility company contends that this provision is unlawful and/or unreasonable to the extent it denies AEP the ability to recover from customers expenses incurred by the company to recover past due charges from customers facing a disconnection of service. AEP notes that the Order recognizes, as requested by Consumer Groups, that, where the disconnection of a customer's service is averted by the receipt of payment or presentation of proof of payment, the utility shall not assess a collection charge. AEP notes that the adopted rule, as interpreted by the Commission in the order, inappropriately limits the imposition of a collection charge to one situation. AEP contends that the basis of the collection charge is that a trip to disconnect a customer that does not end in a disconnection still has a cost. The company notes that the currently effective Rule 18-06(C) states:

The company shall not assess a reconnection charge unless the company has actually disconnected the service. The Company may, however, assess a collection charge if a collection charge is part of the company's approved tariff.

AEP further states that, at the request of Staff, where there are extenuating customer circumstances, AEP will leave at the customer's premises an extra two-day notice, giving the customer additional time to avoid disconnection by paying past due charges or by securing a medical certificate. AEP interprets the current rule to allow the company to charge the customer the collection charge in exchange for providing the extra notice and more time to pay past due charges. The company believes that the new rule will decrease the company's opportunities to collect charges and inform the customer of impending disconnection. AEP requests that the Commission grant rehearing and restore the language of the rule as it is currently effective. (AEP Application at 2-4.)

The Commission is not opposed to a company averting disconnection in order to allow the customer time to make a payment; however, the Commission does not want the customer to be charged a collection charge for repeated attempts to collect for the same delinquent amount. An example of a repeated attempt is when an employee makes a premise visit to disconnect service but, instead, allows a customer an additional two days to pay the past due charges and then returns to the customer's premise two days later, at which time payment or proof of payment is provided to the employee. The delinquent amount at issue in both visits to the customer's premises is the same; therefore, only one collection charge should be assessed. The Commission notes that this provision of the

rules is supported by the Commission's decision in *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices, and for Tariff Approvals*, Case No. 07-551-EL-AIR, et al., Opinion and Order at 40 (January 21, 2009) (FirstEnergy rate case). More specifically, we note that the FirstEnergy rate case order states:

We agreed with Staff to limit the Field Collection Charge of First Energy to one charge per billing cycle. Although FirstEnergy argued that multiple charges furthered cost-causation policies, we believe that imposing multiple charges on customer accounts which are already delinquent has the potential to simply increase uncollectable expenses and PIPP arrearages, which will then be passed on to ratepayers.

For these same reasons, the Commission revises Rule 18-07(C), to limit the utility company to assess one collection charge per billing cycle if the field personnel attempts to collect on a delinquent account. Therefore, AEP's application for rehearing of this issue is granted and the rule shall be amended accordingly.

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

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

Paragraph (D)

Section (1) of Rule 18-12(D) requires all PIPP customers, including those with zero income, to reverify their eligibility to continue participation in the PIPP program at least once every twelve months.

Duke argues that the Commission should require zero-income PIPP customers to reverify their income every two months. The company notes that, currently, zero-income customers are required to reverify every 90 days and that the Commission's extension of this requirement to once every 12 months will provide such customers little incentive to improve their financial position and assume fair responsibility for the utility services they consume. Further, Duke adds that the annual reverification is contrary to the Commission's desire to encourage fiscal responsibility and independence. Accordingly, Duke requests rehearing of this matter and that the Commission require more frequent reverification of zero-income PIPP customers. (Duke Application at 3, 14-15.)

Consumer Groups disagree with Duke's argument that more frequent verification gives zero-income PIPP customers any real incentive to initiate efforts to improve their financial position and assume fair responsibility and independence. Consumer Groups further state that Duke's argument lacks foundation. (Consumer Groups Memo at 12-13.)

The Commission disagrees with Duke that more frequent reverification is necessary for zero-income customers. We note that all PIPP customers, including zero-income PIPP customers, are required to report a change in income or household size within thirty days or be subject to removal from the PIPP program. Also, annual reverification of household income, along with the minimum payment, aligns better with the majority of the gas utility companies' contracts with ODOD for reverification purposes. Further, we note that, pursuant to Rule 18-12(D)(3), the gas utility company can require customers to reverify their household income for good cause. Thus, we deny Duke's request for rehearing of this issue.

Adopted Rule 18-12 at paragraph (D)(2) directs that a PIPP customer must be current on his/her PIPP payments at the customer's anniversary date to be eligible to continue in the program for the subsequent 12 months and that, to avoid being removed from the PIPP program, any missed income-based PIPP payments must be cured within one billing cycle after reverification. Further, Rule 18-17(B) permits removal from the PIPP program for failure to timely reverify eligibility. To re-enroll in PIPP, the customer must make any missed income-based PIPP payments necessary to bring the account current. The PIPP customer is given thirty days to pay any missed PIPP payments. Section (D)(2)(b) states that missed PIPP payments also include any which are due for any months the PIPP customer was disconnected from gas utility service.

In their application for rehearing, the Consumer Groups argue that holding gas PIPP customers responsible for payment even during months when they do not have service is unreasonable, punitive and potentially discriminatory, in violation of Section 4905.35, Revised Code. The Consumer Groups assert that low-income PIPP customers are required to pay all missed PIPP payments as a condition for reconnection of service while other residential customers are not held responsible for paying bills during months in which they do not have service. If customers are disconnected because they cannot afford the service, Consumer Groups argue that holding the customer responsible for missed PIPP payments from the period of disconnection simply makes the restoration of service all the more difficult. According to Consumer Groups, holding gas PIPP customers responsible for services not received is clearly unjust and unreasonable. Consumer Groups note that other customers are not held responsible for missed payments when service is not being provided. Thus, the Consumer Groups contend that this provision will make a gas PIPP customer's ability to reconnect his/her service more difficult and, accordingly, the provision goes against the public interest. (Consumer Groups Application at 18-21.)

Consumer Groups note that the Commission's intent with this rule is to discourage the cycle of seasonal disconnections. The Consumer Groups state that there is a perception that there is a cycle of disconnection for PIPP customers who willfully shirk their responsibilities for payment by forgoing natural gas service in the summer months and then requesting restoration of their utility service at the beginning of winter. The Consumer Groups argue that the Commission has no supporting record in this case that PIPP customers are engaged in a cycle of disconnection to avoid payment. The Consumer Groups also assert that data supports that PIPP customers, like non-PIPP customers, depend on natural gas during the summer months for non home-heating purposes and that no cycle exists. They maintain that, with the PIPP payment reduced to 6 percent, the difference between PIPP payments and actual summer usage is even less and the false perception that PIPP customers are somehow gaming payments will be eliminated. (Consumer Groups Application at 18-21.)

Vectren, Dominion and Columbia disagree with Consumer Groups on this issue and ask the Commission to deny the Consumer Groups' request for rehearing. Vectren argues that the Consumer Groups want to have it both ways for PIPP customers, i.e., PIPP customers get the benefit of being responsible for only the PIPP payment amount when consuming services and the benefit of not paying for anything when no services are consumed. Vectren explains that non-PIPP customers are not required to pay for the months they are not receiving service; however, unlike PIPP customers, when non-PIPP customers are receiving service, they are held accountable for the full amount of service used. (Vectren Memo at 6-7.) Dominion argues that the magnitude of the discount authorized for PIPP customers and the balance of benefits and burdens favors PIPP customers. Dominion further argues that the trade-off of a continuing payment responsibility for all months is reasonable in light of the subsidies and ongoing arrearages. Dominion emphasizes that the payments are being applied to the PIPP customer's arrearages that reflect usage by the customer that would otherwise be paid for by other ratepayers. (Dominion Memo at 5-6.) Columbia argues that, by allowing PIPP customers to maintain their natural gas service while paying for just a fraction of their total gas usage, the program discriminates against non-PIPP customers. Thus, Columbia reasons that it is fair and reasonable to expect PIPP customers to make up any income-based payments that they miss while their service is disconnected. Furthermore, Columbia states that the rule simply requires PIPP customers to continue to pay the past due amounts for service they already received. (Columbia Memo at 3-4.)

First, as to Consumer Groups' implication that Rule 18-12(D)(2)(b) is punitive and potentially discriminatory toward PIPP customers, in violation of Section 4905.35, Revised Code, the Commission would note that any customer disconnected for non-payment is required either to cure the missed payments via a payment plan or pay the entire amount

past due plus a deposit.³ The provision that PIPP customers must pay missed PIPP payments, up to the amount of the arrearage, parallels that requirement. Contrary to the assertion of the Consumer Groups, it is not the intent of the Commission to make it more difficult for PIPP customers to get reconnected. It is our intent, however, to hold PIPP customers responsible for meeting the requirements of the PIPP program in order to continue to receive the significant benefits of the program. PIPP customers are afforded an advantage over other residential customers when making their required PIPP payments on time. In accordance with the restructured PIPP program adopted in this proceeding, PIPP customers are forgiven the balance of their bill for making on-time payments. Additionally, PIPP customers receive a credit toward their accrued arrearages. PIPP customers are also not required to pay a security deposit. The Commission notes that non-PIPP residential customers are required to pay the delinquent amount or the amount sufficient to cure the default on any extended payment plan to be reconnected, in addition to paying a deposit. To be reconnected, and to continue to benefit under the program, it is appropriate that PIPP customers be required to pay the missed PIPP payments while service was disconnected only up to the amount of any arrears on the account. The Commission's intent is to treat PIPP customers in such a manner to encourage and incent responsible payment behavior. After the PIPP customer's service is reconnected, with the customer's next timely PIPP payment, the PIPP customer is entitled to an arrearage credit and the difference between the PIPP payment and total bill. These are two strong incentives to stay connected. The Commission affirms its decision to adopt Rule 18-12(D)(2)(b) and denies Consumer Groups' request for rehearing of the provision.

Adopted Rule 18-12 at paragraph (D)(2) states that a customer will be removed from the PIPP program if he or she does not remain current on PIPP payments and does not cure any missed PIPP payments within one billing cycle after reverification. However, Columbia points out that the rules do not specifically address whether customers who are removed for nonpayment may ever re-enroll in the PIPP program, and if they may, Columbia requests direction and clarification as to the requirements, conditions or timeframes regarding their re-enrollment. (Columbia Application at 10.) The Consumer Groups, in response, state that a customer who is removed from PIPP for nonpayment should be allowed to rejoin the program if the customer makes up the missed payment(s), and the Consumer Groups agree that this provision should be embodied in the rules. (Consumer Groups Memo at 13.)

The Commission agrees that clarification on this matter is needed. Customers will be dropped from the PIPP program one month after the date on which they reverify their

³ Section 4905.35, Revised Code, states, in relevant part:

(A) No public utility shall make or give any undue or unreasonable preference or advantage to any person, firm, corporation, or locality, or subject any person, firm, corporation, or locality to any undue or unreasonable prejudice or disadvantage.

eligibility if they do not make up their missed PIPP payments for the preceding year, including payments for any months for which they were disconnected for non-payment. Upon being dropped from the program, customers will be required to make up all missed PIPP payments, up to the amount of any arrearage. The former PIPP customer will have payment plans at their disposal, but will no longer have the benefit of arrearage crediting. Should the former PIPP customer desire to return to the benefits of PIPP, if income eligible, the customer may do so, but only if the payments they missed prior to their reverification are cured up to, but no more than the amount of their arrearage. When a customer re-enrolls in PIPP, he/she will be considered a "new" PIPP customer, and the monthly payment and arrearage credit will be re-calculated to reflect the current income level and default on the customer's account. Accordingly, we adopt a new Rule 18-12(D)(4).

Dominion asserts that Rule 18-12(D) is unreasonable to the extent that the rules do not require ODOD to serve the PIPP customer with a notice reminding the customer to reverify their eligibility at least one month prior to the customer's anniversary date. Dominion asserts that, because the information sent to the PIPP customer regarding enrollment or reverification will have occurred almost twelve months prior to reverification, it will not likely serve the purpose to remind the PIPP customer to reverify. (Dominion Application at 3-4.)

Consumer Groups agree that reverification notices are important and note that pursuant to ODOD's proposed rules at Chapter 122:5-3-03(C)(1), O.A.C., ODOD will make reasonable efforts to notify PIPP customers in advance of the customer's PIPP verification date/deadline. Consumer Groups propose that, if ODOD's rule requiring notices is not adopted, the Commission adopt a rule requiring the utility companies to provide notice. (Consumer Groups Memo at 11-12.)

The Commission finds no merit in Dominion's request for rehearing. The PIPP rules adopted by the Commission require the utility company to list the PIPP customer's anniversary date on the bill each month. It is the Commission's intent that a PIPP customer's anniversary date will not change, even if the customer reverifies the household income in the interim. Thus, the monthly bill will serve as a frequent and easily accessible reminder of the customer's upcoming PIPP reverification. The focus of these rules is to direct the utility companies as to the requirements for the gas PIPP and graduate PIPP programs rather than attempt to impose requirements on other state agencies. Accordingly, we deny Dominion's application for rehearing on this issue.

Finally, the Commission notes that adopted Rule 18-12(D)(2) requires a PIPP customer to be current on his/her income-based PIPP payments at the customer's anniversary date. Because the Commission has afforded the PIPP customer a grace period of sixty days after the customer's anniversary date to actually reverify eligibility, the

Commission, *sua sponte*, revises Rule 18-12(D)(2) to require the PIPP customer to be current at the PIPP customer's reverification date to be eligible to remain on PIPP. We are amending the rule to refer to the PIPP reverification date instead of the anniversary date to more accurately reflect the reverification process and the intent of Rule 18-12. We have also added to Rule 18-01, at paragraph (R), a definition for "PIPP reverification date."

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

Paragraph (A)

In an effort to make PIPP more affordable and to encourage PIPP customers to make more income-based PIPP payments, the Commission reduced the amount of the payment due from 10 percent of household income to 6 percent, as reflected in adopted Rule 18-13(A)(1). The Commission also implemented a minimum payment of \$10. Thus, under the newly adopted rules, a PIPP customer's payment would be 6 percent of the household income or \$10, whichever is greater. Columbia and Dominion argue that the 6 percent payment percentage amount is unreasonable and should be reconsidered. On the other hand, Consumer Groups request that the Commission grant rehearing and lower the payment percentage to 5 percent, and Ohio Consumer Advocates state that the Commission unreasonably failed to adopt a more flexible approach to the payment percentage.

Columbia and Dominion contend that this aspect of the rule is unreasonable and should be reconsidered. Columbia asserts that there is no evidence that a lower payment amount will lead to more frequent payments from PIPP customers. Columbia notes that the company estimated an increase of \$20 million in its annual arrearage balance based on the Staff's proposal to reduce the percentage to 8 percent of household income and expects an even greater increase in annual arrearages given the Commission's adoption of 6 percent. Columbia believes that customers compare their budget bill payment to the required income-based payment on PIPP and state that reducing the payment percentage to 6 percent will make PIPP a better economic choice for an even greater number of customers, increasing the financial burden on all other utility customers. Further, Columbia notes that over the last four years, as reflected in the OSCAR report, there has been a sizable increase in the number of PIPP customers. Columbia states that throughout the 1990s the number of PIPP customers ranged generally from 30,000 to 40,000.

Columbia states that the number of Columbia PIPP customers doubled from an average of 49,000 customers in 2004 to an average of 99,000 customers for the first six months of 2008. For these reasons, Columbia requests that the Commission reconsider its decision to reduce the PIPP payment percentage from 10 percent to 6 percent or even 8 percent, as originally proposed by Staff. (Columbia Application at 2-3.)

Dominion argues that reducing the PIPP payment percentage from 10 percent to 6 percent will significantly increase the accumulated arrearages that must be collected from other ratepayers through the PIPP rider. Dominion asserts that its level of PIPP arrearages is already significant and that the arrearages are not decreasing with its existing PIPP rider rate of \$0.5653 per Mcf. Dominion posits that the Commission's adopted arrearage crediting program will increase arrearages more quickly than Dominion's existing arrearage crediting program and the situation will only be compounded by the reduced payment percentage. Dominion states that, based on information generated from its billing system, at 6 percent of household income, PIPP customers will need to make more than 10 payments per year to generate the same PIPP revenue that Dominion currently receives from PIPP customers. Dominion states that PIPP customers currently make on average 6.26 payments per year at 10 percent of household income. While Dominion disagrees that any reduction in the payment percentage is justified, the company nonetheless asserts that a moderate reduction, from 10 percent to 8 percent, would at least provide an opportunity to observe to what extent, if any, a correlation exists between payment amounts and payment frequency, while limiting the prospect of skyrocketing arrearages. Thus, Dominion requests the Commission bear in mind the interests of those who must ultimately foot the bill. (Dominion Application at 4-5.)

Ohio Consumer Advocates prefer a lower payment percentage, but state that the 6 percent adopted by the Commission is acceptable at this time. Ohio Consumer Advocates note that while Columbia and Dominion claim there is no evidence that a lower percentage will increase payment compliance, there is no support for Dominion's and Columbia's contention that the lower percentage will be ineffective. However, Ohio Consumer Advocates point to data which indicates that for states such as Nevada and New Jersey that have total percentages for electric and gas in the 5-6 percent range, there is much higher payment compliance, which translates into additional revenue from program participants. Ohio Consumer Advocates reiterate that 6 percent should be a "means to an end, not an end in itself" and that the Commission's goal of affordable payments in order to have higher payment compliance rates should prevail. (Ohio Consumer Advocates Memo at 2.)

Consumer Groups state that they are perplexed by Columbia's argument against lowering the payment amount, which is that more consumers will benefit from the lowered amount. Consumer Groups argue that the alternative, especially in these times of economic crisis, will be that the company and customers will be burdened with the costs of increased disconnections, possibly reconnections, and disconnected customers will suffer the dangers of being without utility service. (Consumer Groups Memo at 14.) The Consumer Groups note that Dominion requests rehearing asserting that there is no evidence that lowering the payment percentage for PIPP customers will increase payment frequency. The Consumer Groups remind the Commission that its initial comments

provided just such evidence.⁴ Further, Consumer Groups believe that Dominion's reluctance regarding the reduced payment percentage is ameliorated by the Commission's commitment to review the results of the restructured PIPP program within two years or sooner if necessary. (Consumer Groups Initial at 19; Consumer Groups Memo at 13-14.)

In Ohio Consumer Advocates' initial comments to the Staff's proposal of 8 percent of household income, Ohio Consumer Advocates argued that 8 percent was too high, noted that the average family's energy burden is 5.9 percent of the household income and advocated that the payment percentage should be no more than 6 percent (Ohio Consumer Advocates Initial at 14, 17; Ohio Consumer Advocate Reply at 12). In the application for rehearing, Ohio Consumer Advocates now assert that 6 percent may not achieve the goal of affordable payments. Ohio Consumer Advocates argue that the goal should be affordable payments in order to achieve better PIPP payment compliance rates. Thus, Ohio Consumer Advocates request rehearing in order that the Commission codify the intention to review payment results under the new payment percentage and, if necessary, make changes to the percentage. (Ohio Consumer Advocates Application at 4-5.)

The Consumer Groups argue that the reduction to 6 percent for a natural gas PIPP payment is still unaffordable considering the total energy burden for low-income Ohioans. The gas PIPP payment should be reduced to 5 percent, according to Consumer Groups, as median income households pay about 5.2 percent of their income towards energy costs. Consumer Groups argue that, with ODOD setting the electric PIPP payment level at 6 percent, Ohio families whose income is at 100 percent of the federal poverty level will have a 12 percent energy burden, more than twice that of median income families. Consumer Groups contend that such high payments are not defensible in the current economy, as this is the time in which the neediest Ohioans depend on PIPP to provide access to essential utility services. The Consumer Groups also argue that the total number of gas and electric disconnections have increased dramatically in the past two years with an overall increase of 16.4 percent when compared to the number of disconnections during the 2004-2005 winter heating season. (Consumer Groups Application at 21-25.)

The Consumer Groups note that the Commission stated its obligation to balance the interests of customers that are not on PIPP and the effect of paying the PIPP riders, thus reducing the natural gas PIPP payment level to six percent. The Commission also restated its goal for restructuring PIPP, namely to "improve payment patterns and to encourage responsible behavior by PIPP customers." The Consumer Groups have serious reservations about the Commission's capability to influence responsible behaviors;

⁴ See APPRISE and Fisher, Sheehan and Colton, "Ratepayer-Funded Low Income Energy Programs: Performance and Possibilities" (Final Report) (July 2007) at 88. Further, Consumer Groups cite such study as justification for a 5 percent payment level and contend that Staff's analysis indicates that a 5 percent payment level will produce the same revenues as a 10 percent payment level, provided PIPP customers make 10-12 payments on average per year.

however, they believe that the Commission can help improve payment patterns. Based on some of the leading research in this topic, the Consumer Groups maintain that affordable payment levels increase the regularity of bill payments and improve customer payment patterns. To improve PIPP customer payment patterns, the Consumer Groups argue that the natural gas PIPP payment should be reduced to five percent. (Consumer Groups Application at 21-25.)

Dominion and Columbia disagree with the Consumer Groups. Dominion opposes the Consumer Groups' proposal to reduce the PIPP payment from 6 percent to 5 percent, for the same reason Dominion opposes reducing the PIPP payment percentage from 10 percent to 6 percent. Dominion also opposes the Consumer Groups' proposal to eliminate the proposed \$10 minimum charge for PIPP customers. Dominion estimates that such changes will increase the company's revenue shortfall by about \$23.8 million, which other ratepayers will have to bear. Dominion contends that, according to its data, if the PIPP payment is reduced to 5 percent of a PIPP customer's household income, even 12 payments a year at that level would not compensate for the additional revenue shortfall (Dominion Memo at 6). Columbia finds the Consumer Groups' argument based on the combined "energy burden" for customers enrolled in both electric and gas PIPP is flawed. The Consumer Groups claim that families could be billed more on the PIPP program than their actual energy bill and, therefore, the Consumer Groups conclude that the PIPP payment level is unaffordable and the payment percentage should be reduced so that more customers sign up for PIPP. Columbia responds that because a residential customer's bills may be lower than the PIPP payment amount does not mean that the customer's payment level is unaffordable; it may mean that the customer is managing his or her usage and keeping bills low. Furthermore, Columbia concludes, if the percentage payment is lowered because it is a better economic choice for a greater number of customers, it would further increase Columbia's PIPP arrearage. Columbia urges the Commission to reject the Consumer Groups' application for rehearing and to restore the gas PIPP payment percentage to 10 percent of household income. (Columbia Memo at 5.)

In regard to the gas PIPP payment percentage, the Commission notes that we lowered the rate for PIPP customers from 10 percent to 6 percent, which was below the Staff's proposal of 8 percent. The Commission concluded that 6 percent was reasonable as it more closely aligns the energy burden of Ohio's low income families with that of Ohio's median income families. The information provided by companies as to the number of payments necessary to provide comparable revenue as currently received from PIPP customers, Staff's analysis, and information cited to in the APPRISE study by Consumer Groups, lead us to conclude that 6 percent is reasonable. The Commission further considered the new requirements to be effective with the restructured PIPP program (minimum payment, the requirement to make-up missed PIPP payments and payment incentives) in making the decision to reduce the PIPP payment. In doing so, we seek to balance the benefits of the PIPP program with the expectations for a reasonable and

efficient program in the interest of all ratepayers. The Commission recognizes that, as Columbia asserts in its application, the total cost of the PIPP program will rise if the PIPP customer population continues to grow as it has in the last ten years (Columbia Application at 2-3). The Commission also recognizes that, with the expected growth in the number of PIPP customers, it is imperative that PIPP payment patterns improve and the program become more efficient and effective.

Furthermore, the Commission agrees with Ohio Consumer Advocates that the payment percentage is not an end in itself, but is a means to an end, to optimize the combination of affordability and cost. As stated in the Order, the Commission plans to review and evaluate the overall effectiveness of the changes to the PIPP program at an appropriate time. This matter is discussed in greater detail in this entry after the discussion of Rule 18-17.

The Consumer Groups also argue that the Commission Order unreasonably requires a \$10 minimum monthly payment for Ohio's poorest consumers. They state that there is no evidence in the case indicating that a \$10 minimum payment is justified, required or appropriate. Consumer Groups assert that the Order does not explain why, in these troubled economic times, this change needs to be made. (Consumer Groups Application at 25-28). Consumer Groups state that the Ohio Supreme Court has held that "[w]hen the commission has made a lawful order, it is bound by certain institutional constraints to justify that change before such order may be changed or modified."⁵ Consumer Groups state the Court also held that "[a]lthough the commission should be willing to change its position when the need therefore is clear and it is shown that prior decisions are in error, it should also respect its own precedents in its decisions to assure the predictability which is essential in all areas of the law, including administrative law."⁶ Thus, Consumer Groups reason that neither of the circumstances justifying change is present in this situation and the Commission has not justified the change to a minimum payment.

Furthermore, according to Consumer Groups, the Commission fails to recognize that a \$10 minimum payment means the lowest income Ohioans - those with incomes below \$165 per month - will pay a greater percentage of their income for natural gas than will other low-income customers. For example, the Consumer Groups state that low-income customers with \$100 of income per month will be paying 10 percent of their income for natural gas compared to 6 percent for customers that make \$165 per month. The Consumer Groups contend that the Commission rule, coupled with the ODO rule,

⁵ *Ohio Domestic Violence Network v. Pub. Util. Comm.* (1994), 70 Ohio St.3d 331, 323.

⁶ *Cleveland Electric Illuminating Co. v. Public Utilities Commission* (1975), 42 Ohio St.2d 403, 431. Consumer Groups note that PIPP was upheld by the Ohio Supreme Court in *Montgomery County Bd. of Comm'rs v. Public Utilities Commission* (1986), 28 Ohio St.3d 171, 174.

now makes the true minimum payment for utility service at \$20 per month for our most vulnerable citizens. It is unreasonable, argues Consumer Groups, to narrowly view the minimum payment as only \$10, when most customers rely upon both gas and electric for heating. Consumer Groups also note that the costs to disconnect the service for customers who are unable to pay the \$10 minimum for gas PIPP are far greater than the minimum payment. Thus, Consumer Groups reason that the Commission should not impose a \$10 minimum payment requirement on gas PIPP customers. (Consumer Groups Application at 25-28.)

The Commission acknowledges that the adopted rules require a \$10 minimum PIPP payment even if it is greater than 6 percent of the qualified gas PIPP customer's household income. The Commission balanced the need to require a \$10 minimum payment against the proposed reductions from 10 percent to 6 percent for the PIPP payment, with the need to help meet the goal of improving payment patterns. In addition, insofar as it is the rest of the gas customers that pay the bulk of the burden of the PIPP program, it is appropriate to require PIPP participants to share the burden of the PIPP program by requiring the PIPP customer to contribute at least a minimum amount for the value of the gas service the customer receives. The Commission believes that even a zero-income PIPP customer has some level of responsibility to the community of ratepayers to contribute to the cost of his/her gas utility service. In addition, by having the customer pay a minimum \$10 charge, the customer is able to participate in the arrearage crediting program, thereby providing the customer the opportunity to remain debt free with respect to their gas utility bill. While a zero-income PIPP customer today does not have to make a payment, that customer also accumulates significant arrearages thereby increasing the customer's chances of never getting out from under their debt. In these trying economic times, we believe that the minimum payment with arrearage crediting has far more value for that customer than the current zero-income PIPP program. The Commission also continues to see value in having a program that encourages customer payment responsibility. By having a customer make a payment every month, the customer remains cognizant of the value of the services received and gets in the habit of making monthly gas bill payments.

Paragraph (C)

At section 2 of adopted Rule 18-13(C), the Commission directs gas or natural gas utility companies regarding how funds received from sources other than the Home Energy Assistance Program (HEAP) or Emergency-HEAP (E-HEAP) shall be applied to the PIPP customer's account. Columbia notes that ODOD, through E-HEAP, provides assistance once per heating season to eligible households that are disconnected, threatened with disconnection, or have less than a ten-day supply of bulk fuel. Columbia interprets this rule to suggest that E-HEAP funds are not to be treated like other funds provided on an irregular or emergency basis. The company requests that the Commission clarify this rule or, if necessary, revise the rule so that E-HEAP funds are treated the same as other monies

provided on an irregular or emergency basis by a public or private agency. (Columbia Application at 10-11). The Consumer Groups request that the Commission clarify Rule 18-13(C)(2) so that that E-HEAP money is treated similar to other money provided on an irregular or emergency basis by a public or private agency. (Consumer Groups Memo at 15.)

Further, Rule 18-13(C) states that any money provided by a public or private entity for the purpose of paying utility bills shall not be considered as household income when calculating PIPP eligibility. Paragraph (C)(1) explains how money from the Home Energy Assistance Program (HEAP) should be addressed in terms of household income and how it should be applied to a PIPP customer's account. Paragraph (C)(2) deals with money other than HEAP or Emergency HEAP (E-HEAP). The Consumer Groups argue that the Commission Order fails to clarify if PIPP customers can use E-HEAP funds to reconnect service. In its Finding and Order, the Commission stated its intention to defer any decision on how E-HEAP funding can be applied to reconnect gas PIPP customers to the annual Winter Reconnect Order, after considering ODOD's annual funding plan. However, Consumer Groups note that the adopted rules effectively limit the use of E-HEAP because they imply that neither HEAP nor E-HEAP can be applied to defaulted income-based payments. Consumer Groups request that if the Commission's intention was not to limit the use of E-HEAP in preventing the disconnection or reconnection of PIPP customers as stated in the order, the reference to E-HEAP in rule 4901:1-18-13(C)(2) should be deleted. E-HEAP and any other money that is provided on an irregular or emergency basis can then be applied to defaulted income-based payments, according to the Consumer Groups. (Consumer Groups Application at 28-29.)

In response to Columbia's and the Consumer Groups' requests for clarification of Rule 18-13(C) regarding the use of money other than HEAP or emergency HEAP (E-HEAP), the Commission affirms the adoption of Rule 18-13(C) and notes that it is substantially similar to the currently effective Rule 18-04(C). However, as stated in the Order it is not our intent to decide now how to apply E-HEAP funds. Rather, the Commission intends to defer any specific decision about how E-HEAP funding can be applied to reconnect gas PIPP customers until we are informed of the ODOD's annual funding plan and we issue the annual Winter Reconnect Order.

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

The Consumer Groups argue that the Commission's Order, as part of its incentive program, failed to accept their recommendation for any up-front arrearage crediting. They had recommended that a credit of 50 percent of a PIPP customer's accumulated arrearage be applied to the accounts of new and existing PIPP customers, former PIPP customers, and graduate PIPP customers upon the adoption of the restructured PIPP rules or when a new PIPP customer enrolls. The Consumer Groups note that Communities

United for Action (CUFA) argued that a precedent for such a credit has already been established by the Commission. In *Cincinnati Gas & Electric Company's 2001 gas rate case*, in *In the Matter of the Application of the Cincinnati Gas & Electric Company for an Increase in Rates, Approval of an Alternative Rate Plan for its Gas Distribution Service, Approval to Change Accounting Methods*, Case Nos. 01-1228-GA-AIR, 01-1478-GA-ALT, and 01-1539-GA-AAM (CG&E 2001 rate case), Opinion & Order (May 30, 2002), the Commission approved a stipulation that eliminated approximately \$30 million in arrearages from all PIPP accounts.⁷ Duke endorsed a similar approach to electric PIPP in its electric alternative regulation case, *In the Matter of the Application of the Cincinnati Gas & Electric Company to Modify its Nonresidential Generation Rates to Provide for Market-Based Standard Service Offer Pricing and to Establish an Alternative Competitive Bid Service Rate Option Subsequent to the Market Development Period, Authority to Modify Current Accounting Procedures for Certain Costs Associated with the Midwest Independent Transmission System Operator, Authority to Modify Current Accounting Procedures for Capital Investment in its Electric Transmission and Distribution System and to Establish a Capital Investment Reliability Rider to be Effective After the Market Development Period*, Case Nos. 03-93-EL-ATA, 03-2079-EL-AAM, 03-2081-EL-AAM, and 03-2080-EL-ATA (CG&E ETP case), Opinion & Order (September 29, 2004). Consumer Groups assert that Dayton Power & Light Company (DP&L) and FirstEnergy have taken the same position in comments filed on proposed ODOT electric PIPP rules. (Consumer Groups Application at 30-32.)

Further, Consumer Groups argue that currently little hope exists for PIPP customers to pay off their arrearages unless they experience a significant increase in income as PIPP arrearages have become an impediment to some low-income consumers from taking employment. Consumer Groups assert that an additional incentive in the form of a 50 percent upfront reduction in accrued PIPP arrearages furthers one of the Commission's stated goals by encouraging customers to migrate from PIPP. (Consumer Groups Application at 30-32.)

Columbia, Dominion, and Vectren continue to oppose the Consumer Groups' request for a 50 percent upfront arrearage credit. Dominion asserts that the credit will sever the connection between arrearage crediting and responsible payment behavior. Further, Dominion argues that the adopted arrearage crediting program provides PIPP customers adequate rewards for timely payments. (Dominion Memo at 7; Columbia Memo at 6-7; Vectren Memo at 7.)

The Commission finds that the Consumer Groups have offered no persuasive arguments regarding why a 50 percent upfront reduction in accrued PIPP arrearages

⁷ The former Cincinnati Gas & Electric Company is now Duke. See *In the Matter of the Joint Application of Cinergy Corporation, On Behalf of The Cincinnati Gas & Electric Company, and Duke Energy Holding Corporation for Consent and Approval of a Change of Control of The Cincinnati Gas & Electric Company*, Case No. 05-732-EL-MER.

would encourage PIPP customers and graduate PIPP customers to make their monthly income-based payments on-time each month or to successfully migrate to the non-PIPP residential customer class. The restructured PIPP program offers a strong incentive for customers to pay the income-based payment monthly on time. A credit of one-twenty-fourth of the accumulated arrearages is credited for each timely payment. Under the Commission's restructured gas PIPP program, in as little as two years, the PIPP customer could eliminate all accrued PIPP debt by making monthly on-time, income-based payments. Additionally, during the summer months when the PIPP and graduate PIPP customers' PIPP income-based payment may be higher than the actual gas utility bill, the incentive of a monthly credit for the accumulated arrearages is a significant benefit and possibly the only benefit that may keep the PIPP customer connected to the utility system. If, as the Consumer Groups request, the Commission approved an up-front arrearage credit of 50 percent, the incentive to pay monthly in the summer is greatly reduced as the one twenty-fourth credit is greatly reduced. The Commission previously considered the Consumer Groups' arguments in support of a 50 percent up-front reduction in accrued PIPP arrearages and continues to find the proposal and the request for rehearing inconsistent with the stated goals of the gas PIPP program. Accordingly, Consumer Groups request for rehearing is denied.

Paragraph (A)

Rule 18-14(A) sets forth the incentives available to PIPP and graduate PIPP customers for making timely payments of the required amount. For PIPP customers, the arrearage credit is 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." For graduate PIPP customers, the arrearage credit is 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."

The Consumer Groups argue that the requirement to pay by the due date restricts PIPP customers' opportunities for arrearage crediting. In its Order, the Commission acknowledged that over 47 percent of non-PIPP electric and natural gas customers fail to pay their bill each month by the due date. The Consumer Groups argue, however, that a PIPP customer must pay his/her bill by the due date with no leeway in order to obtain any arrearage crediting for the month. Such a restriction is unreasonable and places unnecessary restrictions on only PIPP customers. (Consumer Groups Application at 29-30.)

The Consumer Groups note that ODOG has proposed that a timely payment be defined as payment being made within 5 days of the due date, which is an improvement

over the Commission's rules, but even that requirement will still make it difficult for PIPP customers to receive arrearage credits. The Consumer Groups believe that an "on-time payment" for purposes of arrearage crediting should be "before the next bill is generated." They do acknowledge that "before the next bill is generated" will be more ambiguous to the customer than the "due date," but it is not realistic to require these customers, with their shaky financial status, to make the payments by the due date. According to Consumer Groups, timely payment can be much more problematic for PIPP customers who live on fixed incomes and the timing for when income is available may not precisely line up with the due date on the bill. In addition, the utilities are not required to offer adjusted due dates for customers. The Consumer Groups also note that utilities do not currently track payments made five days after the due date, but that they do currently track payments made by the time the next bill is generated. The Consumer Groups argue that there is no practical reason for more explicit tracking of PIPP customer payments. They say defining an on-time payment for purposes of arrearage crediting as payment being made before the next bill is generated harms no party and creates no administrative burden. (Consumer Groups Application at 29-30.)

Vectren and OGC state that, despite the claims of Ohio Consumer Advocates, tracking an additional 5 days is not an easy programming task in light of the other bill system modifications necessary to implement the adopted rules. Further, Vectren asserts that the request for the PIPP customer to make a payment by the due date requires minimal effort in contrast to the reward for a timely payment. (Vectren Memo at 2-3; OGC Memo at 3.)

The Commission still believes that defining the payment of the PIPP income-based or minimum payment as timely if received within five days of the due date or before the next billing cycle is more ambiguous to the customer than the due date. It was the Commission's intention to require the PIPP payment by the due date in order to encourage responsible payment behavior and encourage PIPP customers' successful migration from the PIPP program. We note that ODOD acknowledges this difference in the electric and gas PIPP programs, and nonetheless endorses the Commission's adoption of the gas PIPP rules as set forth in the Order (ODOD Memo at 2). Furthermore, the Commission notes that most natural gas companies are approved to charge a late payment fee. PIPP customers have no penalty for late payment, only an incentive for on-time payment. Our goal for PIPP customers is to move on to graduate PIPP and then to the non-PIPP residential class. The Commission is offering a significant incentive for PIPP customers who pay by the due date. The Commission wishes to clarify that PIPP customers are to be treated like all other customers for the purposes of payment posting. The Commission will maintain the on-time payment as the bill due date and denies rehearing on this issue.

Duke, in its application for rehearing, requests that the Commission reconsider paragraph (A) and make the process for determining the arrearage credits for gas PIPP

and graduate PIPP customers consistent. If its request is not granted, Duke asserts that reconciliation of the different programs demands costly internal system modifications. Thus, Duke requests that the Commission grant rehearing on this issue and make the arrearage crediting requirements for gas PIPP and graduate PIPP uniform. (Duke Application at 15-16.)

The Commission denies Duke's request for rehearing on this issue. The Commission notes that ODOD's electric PIPP rules provide for a twelve-month graduate program. Further, the Commission notes the process to determine what dollars are eligible for incentive credits is the same for both the PIPP and graduate PIPP programs. The only difference in these programs is the amount of time over which the arrearage credits are based. Gas PIPP customers are required to make on-time payments twenty-four months in order to reduce the accumulated arrearages to zero. However, the graduate PIPP customer is leaving the PIPP program and needs to transition to the payment requirements for residential customers as soon as possible. Therefore, the graduate PIPP customer is required to make twelve months of on-time payments to reduce the accumulated arrearages to zero.

Other waivers

In its application for rehearing, Ohio Consumer Advocates allege in their third and fourth requests for rehearing that the Commission Order is unreasonable and unlawful to the extent that the Commission failed to conform its rules to ODOD's proposed electric PIPP program which offers zero-income electric PIPP customers: (a) an initial waiver of the minimum payment requirement for 180 days after enrollment; and (b) a hardship payment waiver of the minimum bill amount. The \$10 minimum payment, according to Ohio Consumer Advocates, may be a burden on customers who are in an ongoing emergency situation, such as a customer processing a disability application or a customer who has exhausted unemployment benefits but has not yet found employment. Ohio Consumer Advocates also believe that the \$10 minimum payment is too much and a minimum payment of \$1-2 is reasonable and sufficient to justify arrearage crediting.

In regard to the initial 180-day waiver, Ohio Consumer Advocates argue that the waiver period recognizes that zero-income customers need their gas utility service and will ensure that the customer is not unduly penalized by the minimum bill provision. Further, the Ohio Consumer Advocates contend that, if the Commission perceives the initial 180-day waiver as too favorable, the Commission should recognize that, during this period, the customer is not eligible for arrearage crediting and the customer's income must be reverified at the conclusion of the waiver period and the minimum bill instituted if the customer's income continues to be zero. Consumer Groups agree with Ohio Consumer Advocates and emphasize that, under ODOD's proposed electric rules, the \$10.00 minimum payment requirements for zero-income customers for electric PIPP can be

waived for up to 180 days. The Commission's gas PIPP rules provide no waiver requirements and the \$10.00 minimum payment level is applicable immediately upon enrollment in PIPP. The Commission's failure to adopt an initial waiver, according to Consumer Groups, overlooks time that is necessary to apply for, and obtain assistance, such as disability benefits under social security and unemployment benefits in Ohio. They argue that zero-income gas PIPP should be available for customers who have exhausted available benefits while they continue to seek employment. (Ohio Consumer Advocates Application at 7-8; Consumer Groups Application at 26-28.)

Vectren opposes the implementation of an initial 180-day payment waiver and the hardship waiver, as both would require the utility companies to track and maintain customer-specific information that the company's current billing system is not equipped to handle (Vectren Memo at 3-4).

The Commission has previously rejected the initial 180-day waiver. The need to balance low-income and zero-income customers' needs with the impact of PIPP recovery on non-PIPP customer bills continues to cause the Commission to believe that some minimum payment is necessary from the onset of joining PIPP. The Commission's adopted rules make significant changes to the PIPP program and considering these changes in total, along with the goals of the program, a hardship waiver for zero-income gas PIPP customers is inappropriate. The Commission continues to believe that zero-income PIPP customers should participate in a reasonable manner by paying \$10 a month to receive all the natural gas the customer needs. By paying \$10, the customer is eligible to receive an accumulated arrearage credit and forgiveness of the difference between the \$10 payment and the actual monthly usage. Zero-income PIPP customers will have the opportunity to lower their debt by paying a monthly income-based payment timely. The concept of a waiver where no payment is made for a period of time not only goes against the goal of encouraging responsible payment behavior, but almost certainly ensures that the customer will accumulate debt from which they will likely never recover. Further, the Commission finds that the Ohio Consumer Advocates have not presented any new rationale that the Commission has not previously considered as to why the minimum payment should be reduced to \$1-2 per billing cycle. Accordingly, the Commission denies this request for rehearing.

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

Paragraph (B)

Dominion asserts that Rule 18-15(B) is unreasonable to the extent that it does not permit the utility to apply a security deposit paid by a customer prior to enrolling in the

PIPP program to the customer's account where there is a balance due at enrollment in PIPP. Rule 18-15(B) states, in relevant part:

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.

Dominion asserts that the rule does not address treatment of the deposit if the customer has a balance due upon entering the PIPP program. The company asserts that, in this situation, the utility company should be permitted to apply the previously collected deposit to the existing account balance to reduce amounts that will otherwise have to be collected through the PIPP rider. Thus, Dominion seeks rehearing on this provision and requests that the rule be revised accordingly. (Dominion Application at 5.) The Consumer Groups disagree with Dominion and advocate for the retention of the rule as adopted by the Commission (Consumer Groups Memo at 15).

Upon reconsideration, the Commission agrees with Dominion that the utility company should be permitted to apply the previously collected deposit of a new PIPP customer to his/her existing account balance in order to reduce the arrearage. One of the goals of this revised PIPP program is to reduce the arrearages, both overall and on an individual level, and returning the deposit to the customer does nothing to achieve this goal. Thus, the rule has been rewritten to reflect this amendment.

Paragraphs (B) and (C)

Dominion requests clarification as to whether graduate PIPP customers may be charged a deposit or incur late fees. The company notes that Rule 18-15 at paragraphs (B) and (C) specifically preclude "PIPP customers" from being charged a deposit or incurring late fees. However, Dominion states that the rules are unclear as to whether such prohibitions apply to participants in the graduate PIPP program. (Dominion Application at 5-6).

The Commission wishes to clarify our intent regarding graduate PIPP customers, deposits and late fees. A graduate PIPP customer is transitioning from the PIPP program to an interim payment plan to full bill payment in twelve months. The graduate PIPP customer may be just above 150 percent of the poverty income level, and the Commission wishes to afford such customers a continuing opportunity to further reduce or eliminate the customer's accumulated arrearage through continued good payment habits. Therefore, late payment fees will not apply. As to deposits, the Commission finds that graduate PIPP customers should not be charged a deposit during the twelve months of

this payment plan. If the graduate PIPP customer's payment history at the end of the graduate PIPP program warrants a deposit to be charged pursuant to Rule 17-04, then a deposit should be levied at the conclusion of the graduate PIPP. Consistent with the Commission's clarification, Rule 18-16 has been amended to include two new paragraphs. The Commission does wish to clarify that, while a deposit may not be assessed on a graduate PIPP customer while the customer is participating in the program, should the graduate PIPP customer be disconnected from service for non-payment, the customer will be considered a regular customer at that time and the provisions of 17-04(A) and 18-07(A) will apply. The Commission requests that the utility companies work with the customer and Commission Staff to assist former graduate PIPP customers, who may be required to pay a deposit, to avoid an unmanageable deposit requirement.

The Consumer Groups assert that the Commission's Order failed to implement their recommendation to provide customers with an annual PIPP account summary. Although PIPP information on the bill includes current PIPP payment, PIPP default payments, total PIPP amount due, and the total account arrearage, Consumer Groups argue that the bill does not include payment history, arrearage credits, and other public benefits which may help the consumer. In addition, much of the information on the bill is specific for the month in which the bill was generated. The proposed annual PIPP statement aggregates this information over a year to provide customers the perspective needed for how to manage their PIPP account. If arrearage crediting is used as an incentive for timely payments, the amount of credits that occurred over time or that could have occurred is important information for consumers, especially on an annual basis. Consumer Groups request that the Commission reconsider its decision and add a new provision to this rule to require the companies to provide an annual PIPP account statement disclosing the monthly payment requirements, payment and usage history over the previous 12 months, and arrearage credit history. (Consumer Groups Application at 32-33.)

OGC notes that the Commission already considered the same request and arguments of the Consumer Groups in its Order. OGC continues to oppose the proposal for an annual PIPP statement. The company asks that the Commission deny the Consumer Groups' request for rehearing. (OGC Memo at 3-4.)

The Consumer Groups' additional language regarding an annual statement of the customer's PIPP account was recommended in the initial comments. At that time, the Commission considered this recommendation and determined that much of the information being requested is already available either on the monthly natural gas bill or in the information provided to PIPP customers at enrollment or reverification. Upon reconsideration of the issue, the Commission will leave open this issue for further consideration as we work through implementation issues.

Rule 4901:1-18-16, Graduate PIPP ProgramParagraph (G)

In accordance with the rules adopted in the Order, a PIPP customer that elects to terminate participation in PIPP or becomes income ineligible to participate and remains in the utility company's service territory shall automatically be enrolled in graduate PIPP. A graduate PIPP customer shall be billed the average of his/her income-based payment and the customer's budget bill amount for the subsequent twelve billing periods. See adopted Rules 18-13(A)(2) and 18-16(G).

Columbia notes that the adopted rules do not explain how the utility is to calculate the budget bill portion of the graduate PIPP payment. Columbia states that its current practice is to calculate the customer's budget bill based on usage history and projected natural gas prices. Columbia claims that, if actual usage or natural gas prices are significantly different than expected, the utility company may adjust the budget amount over the course of the budget period and that, at the end of the budget period, the utility company will "true-up" the bill to resolve any difference between the budget payments and the cost of the customer's actual gas usage. Columbia requests that the Commission clarify that the company's existing process for calculating and revising a customer's budget bill payment applies to the calculation of a graduate PIPP customer's payment. (Columbia Application at 10-11).

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. The budget bill should be determined the same as a non-PIPP customer's budget. The Commission understands that this amount may change periodically as budgets are reset throughout the year. An example of the calculation would be as follows:

Budget for premises	\$130.00
Prior PIPP payment	\$ 80.00
Total	\$210.00
Graduate PIPP payment	\$105.00 (\$210.00 divided by 2)

Accordingly, the Commission expects the graduate PIPP customer's bill may be adjusted periodically to reflect actual usage or fluctuation in the price of natural gas prices that are significantly different than expected to minimize the effect of any true-up on the graduate PIPP customer.

The Consumer Groups also request rehearing of Rule 18-16. As previously noted, the rule requires graduate PIPP customers to make a monthly payment equal to the

average of the customer's most recent PIPP income-based payment and the customer's budget bill amount for twelve months. Consumer Groups argue that this provision will be difficult for the natural gas companies to implement. To simplify matters, the Consumer Groups recommend that a graduate PIPP customer should be required to pay the amount of his/her budget bill for purposes of receiving arrearage credits and the graduate PIPP program should be extended to 24 months with the customer receiving a one-twelfth credit for each timely payment. Consumer Groups see no sound public policy reason to limit the arrearage crediting to twelve months and reason that such customers should be afforded a minimum of 24 months to obtain arrearage credits and that these credits should be applied if the customer pays the budget bill amount before the next bill is issued. (Consumer Groups Application at 34.)

Vectren states that because the Consumer Groups gave no reason why the adopted rule is unreasonable or unlawful, the Commission should deny Consumer Groups' request for rehearing (Vectren Memo at 7).

The Commission's intention for this rule is to encourage the graduate PIPP customer to make on-time monthly payments and become a full-paying customer as soon as practical. Some graduate PIPP customers' incomes will be just above the 150 percent federal poverty level, and this program will permit such customers to pay a transitional amount. If a graduate PIPP customer pays on time for twelve months, the accumulated arrearage is reduced to zero and, at that time, the customer should be able to be a standard paying residential customer. We have previously addressed the requirements for on-time payment for PIPP and graduate PIPP customers as part of the discussion of Rule 18-14 and, therefore, will not address that aspect of the Consumer Groups' request in relation to this rule. The purpose of the graduate PIPP program is to accommodate the graduate PIPP customer's transition and to motivate the customer to become a residential customer with a good payment history (avoiding the need for a deposit to reestablish the customer's credit and the threat of disconnection) as soon as possible. The Commission sees no need, at this time, to extend the graduate PIPP program, as we believe twelve months is sufficient time to acclimate graduate PIPP customers to the billing and payment process with which other residential customers comply. The Consumer Groups' request for rehearing of Rule 18-16 is denied.

The Commission notes, consistent with the discussion above in regard to paragraphs (B) and (C) of Rule 18-15, that Rule 18-16 has been amended to include two new paragraphs which clarify deposit requirements and late fees on graduate PIPP customer accounts.

Rule 4901:1-18-17, Removal from or Termination of Customer Participation in PIPPParagraph (A)

As adopted by the Commission, Rule 18-17(A) states:

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

Dominion argues that this provision puts the utility company in the unreasonable position of being required to take timely action based on information that is not in the company's possession but must be provided to the company by ODOD. Dominion states that the utility company depends on ODOD to obtain and transmit the information regarding a PIPP customer's compliance with eligibility requirements in a timely manner. Therefore, Dominion requests rehearing on this paragraph and recommends that the Commission amend the rule to require that the company must receive notice from ODOD that the customer has failed to comply with eligibility requirements before removing the customer from PIPP. (Dominion Application at 6).

The Commission notes that the gas companies have chosen to operate under arrangements or contracts with ODOD to process PIPP applications and to determine the initial and continued eligibility of customers to participate in the PIPP program. The adopted rule does not alter the responsibility of the gas companies to terminate a customer's participation in the PIPP program when a customer does not comply with eligibility requirements. The Commission, therefore, expects that the gas companies are prepared to comply with the requirements of adopted Rule 18-17(A). The Commission also notes that, should the business processes fail to be adequate, the gas companies should immediately notify the Director of the Commission's Service Monitoring and Enforcement Department and work with ODOD to adjust the processes to ensure compliance with Rule 18-17(A). The Commission, therefore, declines to amend paragraph (A) of Rule 18-17 as requested. Dominion's application for rehearing for this issue is denied.

Paragraph (D)

This rule requires that a PIPP customer found to have fraudulently enrolled in the PIPP program be terminated from the program and be required to make restitution of credits or benefits received during the period in which the customer was fraudulently enrolled.

The Consumer Groups argue that the Commission erred by not specifying the "restitution" required of customers found to have fraudulently participated in PIPP. Consumer Groups note that the Order merely stated that Rule 4901:1-13-09, "Fraudulent Practice, Tampering and Theft of Gas Service," has been in effect since December 7, 2006. Consumer Groups point out that the rule does not contain the term "restitution." The Finding and Order also stated that, "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." The Consumer Groups argue that it is unclear what is meant by the "other benefits received" and request that the Commission clarify this rule to define the items that are subject to restitution. (Consumer Groups Application at 35-36.)

In the Order, we noted that Rule 4901:1-13-09, O.A.C., entitled "Fraudulent Practice, Tampering and Theft of Gas Service," would apply to all customers, including PIPP customers, where the customer is fraudulently participating in the PIPP program. In Rule 18-17(D), the use of the phrase "restitution of benefits or credits received" was intended to mean that a PIPP customer would be required to pay the gas utility the actual bill for gas that the customer consumed during the time that the customer was fraudulently enrolled minus previously paid PIPP payments. In addition, any arrearage credits which accrued to the customer's account would be reversed and the customer would be responsible for payment on the accrued arrearages. We have amended 18-17(D) to make this clearer. Further, the Commission clarifies that consistent with Rule 4901:1-13-09, O.A.C., the gas or natural gas company is not required to reconnect service, if disconnected, until the customer pays or makes satisfactory arrangements to pay the bill for service which was fraudulently obtained or maintained, including any security deposit and/or reconnection and investigation charges.

MISCELLANEOUS ISSUES

1. Implementation time

Dominion notes that the Order did not state an effective date for the adopted rules and, therefore, reasons like Columbia and Vectren that the rules will likely become effective as soon as possible after the conclusion of the JCARR review process. Columbia states that the time that it takes the rules in Chapters 17 and 18 to go through the JCARR review process (as early as 75 days after the rules are filed with JCARR) is insufficient for the company to complete the necessary computer programming to implement the rules. In addition to programming, Vectren and OGC add that implementing the rules amended or adopted in this proceeding will consume additional internal resources to test the changes and ensure that billing systems function properly and to train call center and other employees on the changes. Without specifying in its application for rehearing the time needed for programming changes, Columbia requests that the Commission establish

an effective date that acknowledges the programming changes necessary to implement the restructured PIPP rules. Dominion, OGC, and Vectren request that the effective date of the rules adopted in this proceeding be delayed 18 months. (Dominion Application at 2-3; Columbia Application at 12; OCG Application at unnumbered 13-14; Vectren Application at 2-7.)⁸ Clearfield requests that, if the Commission does not exempt all small natural gas companies from compliance with the PIPP rules, irrespective of whether the company has a PIPP rider, that the Commission delay the effective date of Rules 18-12 to 18-17 for two years (Clearfield Application at 5).

Ohio Consumer Advocates assert that the utility companies should be well aware that the Commission's rules are subject to review every five years and, therefore, 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 the rule revisions in a timely fashion. Thus, Ohio Consumer Advocates urge the Commission not to grant the utility companies 18 months to implement the rules adopted in this proceeding. (Ohio Consumer Advocates Memo at 5-6.)

The Commission recognizes that the restructuring of the PIPP program is a major overhaul to a program that has existed, with little change, for 25 years. With the best of intentions to implement this program as soon as possible, we also recognize the pragmatic parameters that face the industry with the magnitude of the changes being adopted in this proceeding, not only with respect to the PIPP rules, but also in other areas of Chapters 17 and 18. Additionally, the Commission acknowledges the time it will take to train industry employees, call center employees, and community action agency representatives on the new gas PIPP program, as well as the time necessary to educate the public regarding the new program. We conclude, therefore, that a delay in the effective date of our rules is necessary to ensure an orderly transition to our newly restructured gas PIPP program. Accordingly, we delay the effective date of our rules to allow time for the Commission to collaborate with ODOD, the utilities, and other stakeholders to address implementation issues such as coordination with the new electric PIPP program, technology issues, education and training, billing and collection practices, and performance measures and reporting requirements. The utilities shall immediately begin the programming changes necessitated by the new gas PIPP program and changes to the provisions of Chapters 17 and 18. The Commission will address by subsequent entry the timeline for implementation.

⁸ Vectren further states that it believes it can implement the changes necessitated by the new payment plans in Rule 18-05(B) by the second quarter of 2010 and have all other changes to comply with adopted 18-06(D) and the restructured PIPP program as set forth in Rules 18-12 to 18-17 by the fourth quarter of 2010 at the earliest.

Finally, we note that ODOD's electric PIPP rules have completed the JCARR process. In order to ensure that there is no gap in rules before ODOD's new electric PIPP rules are actually implemented, the current electric PIPP rules shall remain in effect until ODOD notifies the Commission in this docket that it has implemented the new electric PIPP rules.

2. Cost recovery

Clearfield submits that the Order is unreasonable and unlawful to the extent that the Order failed to address the cost of the implementation of the PIPP or graduate PIPP program and how the cost would be recovered. Clearfield argues that, although this is a rulemaking proceeding and not a rate case, the Commission can not merely order upgrades to the computer system and require credits to customer arrearages without at least articulating how such costs and credits will be recovered. See *Elyria Tel. Co. v. Public Utilities Commission of Ohio* (1953), 158 Ohio St, 441, 447; 110 N.E. 2d 59, 63. Thus, Clearfield requests that the Commission provide some guidance on rehearing as to if and how such costs and credits will be recovered by small natural gas companies. (Clearfield Application at 4-5).

The Commission notes that Clearfield's PIPP rider is the vehicle for recovering uncollectible PIPP amounts and PIPP arrearages and credits. To the extent that other implementation costs associated with the new PIPP program are reasonable and prudently incurred, those costs could be recoverable by a gas utility through a rate proceeding under Chapter 4909 of the Revised Code.

3. Gas PIPP as Compared to Electric PIPP

One of the issues raised by Duke in its application for rehearing is the lack of consistency between the gas PIPP rules adopted by the Commission and the proposed electric PIPP rules as administered by the Ohio Department of Development (ODOD). Duke notes the aspects of the electric PIPP and gas PIPP rules and how they vary. Duke contends that differences create an inevitable conflict with respect to reporting requirements, company reimbursement amounts and external notifications.⁹ Duke states that the differences in the two programs will cause customer confusion, significant expense to comply with different procedures, and dedication of considerable resources of the company, state agencies and community action agencies to resolving customer confusion. Accordingly, Duke requests that the Commission grant rehearing to further consider revising the gas PIPP rules for consistency with ODOD's electric PIPP rules. (Duke Application at 5-11).

⁹ The Commission notes that the gas PIPP rules at Rules 18-12 to 18-17 do not address gas utility company reimbursement.

As noted in the Order, the Commission understands the complexities Duke faces as a combination utility company and the need for them to have consistent administrative, reporting and programming functions for those customers who are on both electric and gas PIPP. The Commission reiterates that we are also mindful of the potential for confusion of customers and local community action agencies where Duke's gas and electric PIPP programs differ. We do not expect Duke to operate under differing scenarios and thus, we direct Duke to work with our Staff to mitigate those issues. After doing so, and if necessary, Duke may file a request for waiver of certain rules in Chapter 4901:1-18.

4. PIPP Waiver for Small Gas Companies

In response to comments filed by Clearfield Gas, the Commission stated in its Opinion and Order, at page 51, that it would waive the requirements of adopted Rules 18-12 through 18-17 for gas and natural gas utility companies that do not have a PIPP rider and have fewer than 15,000 customers. Consumer Groups argue that the waiver granted to small utility companies is not actually what Clearfield Gas requested. Consumer Groups note that the Clearfield Gas initial comments, at page 3, state:

Public utilities such as the Companies and those defined as small utilities in Case No. 08-558-AU-ORD [*In the Matter of the Commission's Review of Chapter 4901-7, Ohio Administrative Code, Standard Filing Requirements for Rate Increase Filed Pursuant to Chapter 4909, Revised Code*] should be exempted from those rules that require modified payment plans, arrearage forgiveness programs, and the conservation arrearage program rider.

Consumer Groups contend that the Commission should not deny the low-income customers of these smaller utilities the protection of PIPP.

As Clearfield notes in its application for rehearing, in response to the company's request to be exempted from compliance with the restructured PIPP rules at 18-12 to 18-17, the Commission acknowledged that, although the customers of small regulated utility companies are facing difficult economic times, the cost of programming changes necessary to implement the adopted restructured PIPP program for those gas and natural gas utility companies that do not have a PIPP rider and have fewer than 15,000 customers may outweigh the benefits. (Order at 51-52). Clearfield notes that each of its gas or natural gas utility companies (Eastern, Pike, and Southeastern) has less than 15,000 customers but has a PIPP rider and, thus, is disqualified from the PIPP exemption. Clearfield argues that the mere fact that a company has a PIPP rider should not distinguish the company from other small companies for purposes of the Commission's exemption for the PIPP program. Clearfield argues that it is difficult for companies with less than 15,000 customers to

comply with the newly adopted PIPP rules as such companies lack the financial resources and Staff to access more sophisticated computer systems. Thus, Clearfield requests that the Commission waive compliance with Rule 18-12 to 18-17 for all gas or natural gas companies with fewer than 15,000 customers, including those who currently have a PIPP rider. (Clearfield Application at 3-4.)

Similar to the arguments of Clearfield, OGC argues that the Commission's Order is unreasonable and unlawful to the extent that the exemption for small gas and natural gas utility companies was limited to those companies with fewer than 15,000 customers. OGC argues that it is uniquely situated among the gas and natural gas distribution companies in Ohio as it serves approximately 45,000 customers. OGC notes that the next largest gas distribution company is Vectren which serves approximately 315,000 customers.¹⁰ OGC states that, to its knowledge, the next largest natural gas utility company with a PIPP rider is Pike Natural Gas Company [part of Clearfield] with approximately 7,200 customers (Clearfield Initial at 1). Like Clearfield, OGC posits that the Commission should not base the small gas utility exemption on whether or not the company has a PIPP rider. OGC requests that gas or natural gas utility companies with fewer than 75,000 customers be exempt from offering the graduate PIPP program and the arrearage crediting incentives for PIPP and graduate PIPP customers.

OGC states that as of January 2009, the company had 743 PIPP customers, with an average of less than 540 PIPP customers per month in 2008. OGC further states, that in 2008, only 10 customers moved from PIPP to another payment plan as a result of no longer qualifying for PIPP. Accordingly, OGC reasons that, because the payment in the graduate PIPP program is more than the payment on PIPP, the only incentive for the customer to voluntarily terminate enrollment in PIPP is to reduce the customer's accumulated arrearage more quickly. OGC reiterates, that the company has developed a successful payment plan, in addition to the Commission-ordered payment plans, to accommodate the needs of its customers, including those customers who are not eligible for PIPP. The company states that it prefers to continue with its payment plans to work out mutually agreeable payment arrangements with its customers and, thus, former PIPP customers who might otherwise benefit from the graduate PIPP program will retain their gas utility service while also paying their arrearages at a manageable pace. Thus, OGC reasons that the cost burden that would be carried by the company's non-PIPP customers to implement the program pursuant to the rules adopted in this proceeding outweigh the benefits that might accrue to OGC's PIPP and graduate PIPP customers pursuant to the rules adopted in this proceeding. Accordingly, OGC requests that the Commission grant rehearing and exempt gas utility companies with fewer than 75,000 customers from compliance with the

¹⁰ *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case Nos. 07-1080-GA-AIR, et al., Application at 1 (November 20, 2007).

graduate PIPP program and the arrearage crediting provisions of the PIPP and graduate PIPP programs.

In the alternative, OGC requests that, if the Commission does not grant the request to exempt gas utility companies with fewer than 75,000 customers, the Commission modify Rule 18-14(A) to require such companies with fewer than 75,000 customers to require 12 consecutive monthly payments before granting arrearage credits. The company states that the monthly arrearage crediting aspect of the adopted rules is the most costly aspect of compliance with the adopted rules and will require at least some manual intervention for each and every credit required. OGC states that allowing small companies to compute and award arrearage credits on a yearly basis will allow the companies to implement the arrearage crediting program through manual calculations and avoid the information technology costs. OGC states that, because monthly arrearage crediting imposes such an undue burden on small utility companies as compared to the expected benefits, the Commission should require PIPP and graduate PIPP customers to make 12 consecutive monthly payments and, once the customer makes 12 consecutive monthly payments, the entire arrearage would be forgiven. (OGC Application at 2-9).

As for small gas and natural gas utility companies, defined as those companies with less than 15,000 customers, the Commission will continue its long standing practice of not requiring them to offer the PIPP program. However, the Commission does expect these companies to continue to work with their customers to help the customer retain utility service, just as the companies do today.

The Commission believes that the mid-size gas companies (fewer than 75,000 customers) like OGC should continue to offer PIPP. We recognize, however, that the new arrearage crediting and graduate PIPP programs may present issues unique to the mid-size companies, since they have relatively fewer PIPP customers and fewer non-PIPP customers over which to spread the costs of these new programs. Therefore, we are willing to consider a company specific request for a waiver of the arrearage crediting and graduate PIPP programs where the costs to non-PIPP customers outweigh the benefits and where an alternative proposal might meet the spirit of the rules. Thus, should OGC have a specific concern OGC should make a company specific request in a separate filing for our consideration.

5. OSCAR report

In the Order, the Commission stated that the revisions to the Ohio Statistics on Customer Accounts Receivable (OSCAR) report would be addressed by subsequent order (Order at 27). OGC argues that the Commission decision to wait to address the proposed revisions to the OSCAR report is unreasonable as the information technology changes required to track and accumulate all of the data proposed by Staff to be included in the

OSCAR report will involve costly and complex information technology upgrades. OGC contends that without knowing the changes to the OSCAR report, utility companies can not determine the information technology changes necessary to upgrade their computer systems. OGC further asserts that the Commission has not explained the usefulness of the data in analyzing the programs. Thus, OGC contends that the Commission must address the revisions to the OSCAR report to provide all stakeholders a comprehensive understanding of the changes needed to implement the rules adopted in this proceeding. (OGC Application at 10-11.)

The Commission understands and appreciates the companies' desire and need to know the information which will be expected of them in order that the Commission may evaluate the impacts of the revisions to the PIPP program. Indeed, it is in recognition of this, among other things, that the Commission has delayed implementation of the restructured PIPP program until implementation issues are resolved. To that end, the Commission directs Staff to work with interested stakeholders to determine the appropriate information to be sought and the feasibility of obtaining it. Staff should also afford stakeholders the opportunity to provide input on what they believe will be valuable in assessing the PIPP program. Based on this input, the Commission will establish the new reporting requirements.

6. Commission-ordered investigation and public hearings

Consumer Groups assert that the Order is unreasonable to the extent that the Commission failed to initiate an investigation to accommodate "meaningful" changes to the disconnection rules and to conduct local public hearings throughout the state to seek input directly from consumers. Thus, they argue that the record fails to include evidence under which the proposed changes could be meaningfully assessed by Ohioans that will be subjected to the rules. For example, Consumer Groups contend that the Commission has unilaterally determined that the hardship waiver is too onerous and cumbersome to implement and failed to acknowledge that one of the major faults of the PIPP program is the complexity and PIPP customers' lack of understanding regarding the program. Consumer Groups therefore assert that the Commission's failure to hold public hearings lead to a lack of first-hand knowledge of how to structure the program to be understandable for PIPP customers. Consumer Groups note that the Commission held local public hearing in the 83-303 proceeding in which PIPP was initially created. (Consumer Groups Application at 38-39; Consumer Groups Memo at 17.)

The Commission notes that Consumer Groups filed the same request on September 10, 2008, to which AEP, FirstEnergy and the Ohio Gas Association filed memoranda contra the request.¹¹ Dominion reiterates its opposition to the request

¹¹ The Ohio Gas Association represents Columbia, Duke, Dominion and Vectren.

(Dominion Memo at 8). We note that Consumer Groups and Ohio Consumer Advocates represent a very broad base and significant cross-section of residential customers. As reflected in the Order and this entry on rehearing, the Commission has drawn upon its Staff's experience and contacts with residential customers and the extensive experience of the Consumer Groups and Ohio Consumer Advocates and the utility companies as reflected in their comments, to adopt and amend credit and disconnection provisions that balance the interest of residential customers, including low-income customers, and the utility companies. Commission Staff also actively participated in ODOD's public process for adoption of the electric PIPP rules, and the Commission considered ODOD's comments and new rules in shaping the gas PIPP rules. Furthermore, the Commission has expressed our plan to review the results of the amendments to the rules two years after implementation, or sooner if necessary, based on practical experience. Thus, we deny Consumer Groups' request for rehearing of this issue which would only serve to further delay the implementation of the rules. We further note that under Section 119.032, Revised Code, there is no statutory requirement for the Commission to conduct an investigation and hold local public hearings in a rulemaking proceeding.

7. Review of restructured PIPP program

As stated above, the Commission intends to evaluate the restructured PIPP program after two years of accumulating data, or sooner if necessary, to determine if further adjustments are necessary. Consumer Groups assert that the Commission Order is unreasonable to the extent that the Order failed to state clear objectives and the necessary data to analyze the effects of the restructured PIPP program, including disconnections and reconnections.

It is our intent that the new reporting requirements will provide the data necessary to review the overall success of the program. We believe that the stakeholders will be better equipped to then explore and suggest alternatives for program affordability, payment frequency, program cost efficiency, and effectiveness of the state goals. The Commission will rely on the Staff to analyze the data and report the results of the analysis with its conclusions and recommendations to the Commission after two years from the effective date of the rules adopted pursuant to this proceeding or sooner if needed. Interested stakeholders will have an opportunity for input at that time.

ORDER:

It is, therefore,

ORDERED, That the applications for rehearing are granted in part and denied in part as discussed in this entry. It is, further,

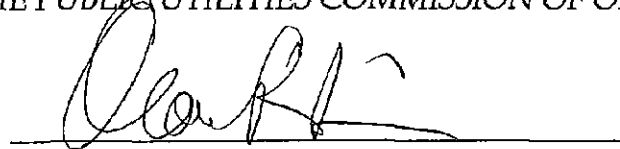
ORDERED, That Rules 17-01, 17-03, 17-05, 18-01, 18-05, 18-07, 18-09, 18-12, 18-15, 18-16 and 18-17 are revised as discussed and attached to this entry on rehearing. It is, further,

ORDERED, That the current rules be rescinded or amended, as necessary to adopt the rules in Chapter 4901:1-17 and 4901:1-1-18, O.A.C., as adopted by the Commission on December 17, 2008 or revised herein and that such rules 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,

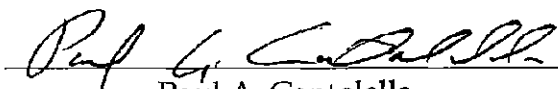
ORDERED, That the five-year review date for Chapters 4901:1-17 and 4901:1-18, O.A.C., be established as November 30, 2013. It is, further,

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

THE PUBLIC UTILITIES COMMISSION OF OHIO



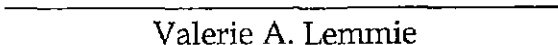
Alan R. Schriber, Chairman



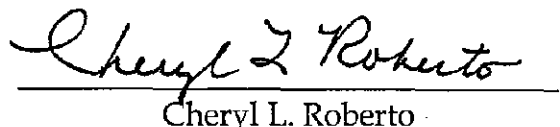
Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

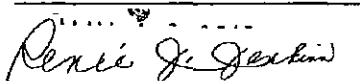


Cheryl L. Roberto

GNS:ct

Entered in the Journal

APR 01 2009



Renee 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 income-based payment 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 *****

4901:1-17-03 **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 or the applicant refuses to provide his/her social security number, 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

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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.

***** DRAFT – NOT FOR FILING *****

- (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.

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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 4901:1-17-03 to 4901:1-17-06 of the Administrative Code, to the applicant/customer from whom a deposit is required. If a copy of the rule these rules 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.

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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 the 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.

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- (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) "PIPP reverification date" means the actual date on which the PIPP customer documented his or her household income and household size to continue participation in the PIPP program or graduate PIPP program. This date is used to calculate when any missed PIPP payments are due for continued PIPP program participation.
- (S) "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.
- (T) "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.
- (U) "Winter heating season" means the time period from November first through April fifteenth.

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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) One-sixth plan - A plan that requires six equal payments on the arrearages in addition to full payment of the current bill.
- (2) One-ninth plan - A plan that requires 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.
- (3) Winter heating season plan - In addition to the one-sixth and one-ninth plans in this paragraph, during the winter heating season, the utility company shall offer to any customer not on a payment plan, 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 the 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 other plans in this paragraph, 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

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in default on one of the extended payment plans in paragraph (B) of this rule shall be offered PIPP, provided that he/she meets the qualifications for the 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.

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4901:1-18-07

Reconnection of service.

(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 an extended payment plan or the percentage of income payment plan (PIPP), applicable reconnection charge, the utility company shall reconnect service that has been disconnected for nonpayment pursuant to the following provisions:

(1) For customers disconnected from service for ten business days or less, the utility company may assess a reconnection charge and shall reconnect service by the close of the following regular utility company working day. Pursuant to rule 4901:1-18-05 of the Administrative Code, the amount sufficient to cure the default for customers on extended payment plans shall include 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 (D)(2)(b) of rule 4901:1-18-12 of the Administrative Code, the amount sufficient to cure the default for PIPP customers includes all amounts that would have been due for any missed PIPP payments, but not more than the arrearage balance.

(2) For customers disconnected from service for more than ten business days, the utility company may treat the customers as new customers and connect service consistent with the timeframes in rules 4901:1-10-09, 4901:1-13-05 and paragraph (C) of rule 4901:1-17-04 of the Administrative Code. In addition, the utility company may assess the customer a reconnection charge in accordance with approved tariffs. Pursuant to paragraph (D)(2)(b) of rule 4901:1-18-12 of the Administrative Code, PIPP customers shall be required to pay any missed PIPP payments but not more than the arrearage balance. PIPP customers shall not be required to pay a deposit pursuant to rule 4901:1-18-15 of the Administrative Code.

(B) If service is disconnected for nonpayment for no more 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)(1) 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.

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- (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 collection charge is part of the utility company's approved tariff. A collection charge shall not be assessed more than once per billing cycle.
- (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.

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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.

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- (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.

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

(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.

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- (2) Except as provided in this paragraph, the PIPP customer must be current on his/her income-based PIPP payments at the customer's PIPP reverification date to be eligible to remain on PIPP for the subsequent twelve months. The customer will have one billing cycle after the PIPP reverification date 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) Any missed payments, including PIPP payments which would have been 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.
- (4) PIPP customers who have been dropped from the PIPP program due to nonpayment may re-enroll in the program after all missed PIPP payments, from the time of enrollment or the PIPP reverification date, up until re-enrollment, have been cured. This includes payments for any months in which the customer was disconnected. The amount due shall not exceed the amount of the customer's arrearage.
- (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.

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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, upon enrollment in PIPP, be credited to the customer's outstanding arrearage.
- (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.

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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.

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- (G) The graduate PIPP customer shall be billed the average of his/her income-based PIPP payment and the customer's budget bill amount, calculated using the utility company's normal methodology, $(\text{PIPP payment} + \text{budget bill amount}) \div 2$ 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 may be 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.
- (H) No gas or natural gas utility company shall require a deposit on graduate PIPP customer accounts while the customer is enrolled in graduate PIPP. The gas or natural gas utility company may assess the customer a deposit, pursuant to rule 4901:1-17-04 of the Administrative Code, if the customer elects to terminate participation in graduate PIPP or the customer's participation in PIPP is terminated.
- (I) No gas or natural gas utility company shall apply late fees to a graduate PIPP customer's account.

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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 pay the gas utility the actual bill for gas that the customer consumed during the period in which the customer was fraudulently enrolled minus previously paid PIPP payments. Any arrearage credits which accrued to the customer's account shall be reversed. The customer 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 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. 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.