**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| **In the Matter of the Commission's Review of its Rules for the Establishment of Credit for Residential Utility Services and the Disconnection of Gas, Natural Gas, or Electric Services to Residential Customers Contained in Chapters 4901:1-17 and 4901:1-18 of the Ohio Administrative Code and PIPP Plus Rules Contained in Chapter 122:5-3 Ohio Administrative Code** | **Case No. 13-274-AU-ORD** |

# REPLY COMMENTS OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY


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## TABLE OF CONTENTS

## I. INTRODUCTION

Ohio Edison Company ("Ohio Edison"), The Cleveland Electric Illuminating Company ("CEI"), and The Toledo Edison Company ("Toledo Edison") (collectively, the "Companies") hereby file their reply comments to some of the comments proffered by various parties in this case. For organization purposes, the Companies will first discuss the issues where there appears to be a consensus among various parties. Second, the Companies will reply to comments regarding Ohio's Percentage of Income Plan ("PIPP") Program that are contained in the Ohio Development Services Agency's ("ODSA") rules for the PIPP Plus program for electric utilities, Chapter 122:5-3, Ohio Administrative Code ("O.A.C."). Third, the Companies will reply to comments regarding the non-PIPP rules in Chapter 4901:1-17, O.A.C. Finally, the Companies will reply to comments regarding the non-PIPP rules in Chapter 4901:1-18, O.A.C. The Companies respectfully request the Commission consider their reply comments in addition to their initial comments and appropriately modify and/or add the proposed rules.[1]

## II. CONSENSUS AMONG VARIOUS PARTIES

Upon reviewing the comments filed by various parties, it became clear that there is consensus among various parties regarding some of the proposed changes to the rules. The Commission should rule accordingly based on this consensus.

### A. Rule 4901:1-17-02(D)

As the Companies discussed in their comments, electric distribution utilities ("EDUs") should not be included in Chapter 4901:1-17 because they are already subject to rules contained in Chapter 4901:1-10. However, the Companies provided comments to

[1] The Companies' decision not to include a reply to all comments filed in this proceeding may not be interpreted as the Companies' agreement with or acquiescence to other parties' comments.

this chapter. Rule 4901:17-02(D) requires the utility to make its credit procedures available to applicants and customers upon request and shall provide this information either verbally or in writing based upon the applicant's or customer's preference. The Companies commented that this subsection requires a new burden on electric utilities and will likely create customer confusion. Dayton Power & Light ("DP&L") made similar comments.[2] For those reasons, should the Commission amend Chapter 4901:1-10-17 to include EDUs, the Commission should, at a minimum, amend this Rule accordingly.

**B. Rule 4901:1-17-03**

Subsection (A)(5)(b) adds a new burden on electric utilities requiring them to maintain original guaranty agreements. The Companies commented that requiring a utility to maintain the original agreement is unduly burdensome. DP&L made similar comments.[3] The Commission should delete this requirement.

**C. Rule 4901:1-18-01(O): Definition of "Like Account"**

In their comments, the Companies discussed how the proposed definition of 'Like Account," may unintentionally limit the currently accepted practice. The Companies proposed a new definition of like service that is similar to the one proposed for Rule 4901:1-10-22(I)[4] in Case No. 12-2050-EL-ORD:

[2] DP&L Comments at 5. The Office of Ohio Consumers' Counsel ("OCC") commented that utilities should be required to give customers this information in writing. OCC Comments at 31-32. For the same reasons discussed above, the Commission should reject this change.

[3] DP&L Comments at 7.

[4] "The utility may transfer the unpaid balances of a customer's previously rendered final bills to a subsequent bill for a like service account in the name of that same customer. The transfer of bills is limited to like service, for example, residential to residential, commercial to commercial, gas to gas, and electric to electric. Such transferred final bills, if unpaid will be part of the past due balance of the transferee account and subject to the Company's collection and disconnection procedures which are governed by Chapters 4901:1-10 and 4901:1-18 of the Ohio Administrative Code. Any transfer of accounts shall not affect the residential customer's right to elect and maintain an extended payment plan for service under Rule 4901:1-18-10 of the Ohio Administrative Code."

> "Like account" means any accounts in the same customer's name providing like service: residential to residential, commercial to commercial, gas to gas, and electric to electric."

Columbia Gas of Ohio Inc. and the East Ohio Gas Company d/b/a Dominion East Ohio (collectively, "Columbia and DEO") also commented that this provision should be revised so it does not limit the transfer of certain balances.[5] DP&L and Vectren Energy Delivery of Ohio ("Vectren") made similar comments as well.[6] The Commission should accept the Companies' proposed change.

**D. Rule 4901:1-18-04**

As the Companies discussed in their comments, the Companies believe that the Commission should delete the provision in new subsection (C) prohibiting the transfer of balances to or from PIPP Plus accounts. Columbia and DEO, Vectren, Ohio Power Company ("AEP Ohio") and DP&L made the same comment.[7] For those reasons, the Commission should reject Staff's proposal to prohibit transfers to or from PIPP Plus[8] accounts.

**E. Rule 4901:1-18-06 (C)(3)(a): Medical Certification Forms**

In Subsection (3)(a), Staff proposed changing the required form the utilities' must use from being contained in an appendix to posting it on the Commission website. The Companies commented that having the form publicly available on the Commission website will increase the likelihood of abuse as well as customer confusion on how the form must be submitted including the information that must be included on the form.

[5] Columbia and DEO Comments at 5.
[6] DP&L Comments at 8; Vectren Comments at 1.
[7] Columbia and DEO Comments at 4; Vectren Comments at 3; AEP Ohio Comments at 2; DP&L Comments at 8.
[8] Staff's proposed amendment is also unclear as to whether it applies to post-2010 PIPP Plus accounts or also to PIPP accounts that existed prior to 2010.

Duke Energy Ohio ("Duke") made similar comments.[9] Thus, the Commission should not make this change to Subsection (C)(3)(a).

**F. Rule 4901:1-18-06(F)**

Staff proposed a new Subsection (F) to address the circumstances of a landlord/property owner who elects to leave the utility service on at a particular service location under the provisions of a landlord reversion agreement. As the Companies commented, this provision is problematic because it places an undue burden on the utility to know the terms of a private lease agreement and also to proactively determine when the customer of record should change from the landlord to the tenant. Columbia and DEO, DP&L, Duke and Vectren made similar comments.[10] Thus, the Commission should delete Subsection (F)(3).

**G. Rule 4901:1-18-06(H)**

In Subsection (H) of the proposed rules, Staff proposed an amendment to the required response to an inquiry concerning an imminent disconnection or actual disconnection from two business days to one business day. The Companies commented that the Commission should reject this change because of the new administrative burden that this change will impose upon the Companies. DP&L made similar comments.[11] The Commission should reject this change.

**H. Rule 4901:1-18-07**

This rule provides for the circumstances under which an electric utility must reconnect residential service. The Companies proposed adding additional amounts

[9] Duke Comments at 12.
[10] Columbia and DEO Comments at 6; DP&L Comments at 9; Duke Comments at 11; Vectren Comments at 4-5.
[11] DP&L Comments at 10.

related to nonpayment of tariffed service that must be paid prior to reconnecting service. Specifically, the Companies propose amending Subsection (A) to read:

> Upon payment or proof of payment of the delinquent amount as stated on the disconnection notice plus any amounts for which service was not disconnected, but is now past due at the time of reconnection….

DP&L also commented that "requiring only the amount delinquent as stated on the disconnection notice to be paid to restore service in many instances causes the utility to reconnect service with a past due balance still left owing."[12] The Companies agree that utilities should be able to collect the entire amount past due when they make collection attempts. For those reasons, the Commission should amend this rule accordingly.

## III. COMMENTS REGARDING CHAPTER 122:5-3, O.A.C.

### A. Rule 122:5-3-02(H)(1)(b)

OCC recommends that this rule be modified to give PIPP customers ninety days to make any missed payments after the customer's anniversary date.[13] Currently, the rule gives customers thirty days. OCC asserts that this will allow customers who are authorized to delay payments under the medical certification procedure have the same amount of time before being removed from PIPP. Amending the rule to accommodate this class of customers is not appropriate. Customers are notified well in advance of the deadline before he or she is dropped from PIPP including individuals on medical certification. In addition, medical certification is only permitted for thirty days for each certification which is consistent with the current rule. For those reasons, the ODSA should reject this change.

[12] *Id.* at 10.
[13] OCC Comments at 7.

### B. Rule 122:5-3-03(C)(1)

OCC recommends that PIPP customers be given ninety days to re-verify income before he or she is dropped from PIPP. However, OCC indicates that there is a "dramatic decrease" in PIPP customers who are dropped for failure to re-verify income and that "customers now better understand the annual re-verification requirements for PIPP Plus and are learning how to better comply with these requirements."[14] This suggests that the current time limit is adequate and that a change is not necessary. For those reasons the ODSA should reject this change.

### C. Rule 122:5-03-04(B)(5)(c)

Claiming that it is not in the public interest, OCC recommends that the twelve-month arrearage reductions be extended to 24 or 36 months.[15] OCC has not presented any evidence that the twelve-month period is overly restrictive or causing customers to not successfully complete paying the arrearages. Contrary to OCC's belief, extending these arrearages will not reduce the cost of the PIPP Plus program – rather it will increase the costs due to the administrative burden and uncollectible amounts that may result from not pursuing these arrearages in a timely fashion. For those reasons, the ODSA should reject this change.

## IV. COMMENTS REGARDING NON-PIPP RULES IN CHAPTER 4901:1-17 O.A.C.

### A. Rule 4901:1-17-03(A)

OCC recommends that the Commission modify Subsection (A) to require utilities to inform applicants for service of all options to establish financial responsibility rather

[14] *Id.* at 4.
[15] *Id.* at 12.

than providing this information after the credit check.[16] In addition, OCC recommends that the Commission require utilities to perform a privacy impact assessment. Last, OCC recommends that subsection (A)(2) be modified to restrict a utility company from using the applicant's social security number for the primary purpose of establishing identity. As discussed in their Comments, the requirements for establishing credit with an electric utility is already included in Rule 4901:1-10-14. Indeed, Rule 4901:1-17-03 conflicts with Rule 4901:1-10-14. For that reason alone, the Commission should not adopt OCC's changes.

The Commission should reject OCC's recommendations that the utility inform the customer of all options to establish financial responsibility and to restrict the utility from utilizing a social security number to establish identity. Utilities have credit procedures set in place to establish credit based on an initial credit check. If a customer passes the credit check, then there is no need to discuss an alternative to establish financial responsibility. Requiring utilities to offer several methods of establishing credit prior to a credit check even being performed is unnecessary, burdensome and a waste of resources. Likewise, OCC has not indicated how a utility can establish identity other than utilizing a social security number.

Moreover, as discussed in their reply comments in Case No. 12-2050-EL-ORD, the Companies oppose any requirement to perform a privacy impact. OCC has not gone into detail on how it would work, whether any value for customers exists or who would bear the costs. The Commission has already begun reviewing privacy of customer information in Case Nos. 11-277-GE-UNC and 11-5474-AU-UNC. In Case No. 11-277-GE-UNC, the Commission noted that "it is evident from the comments and reply

[16] *Id.* at 34.

comments that there are numerous, complex issues that the various stakeholders believe should ultimately be addressed by the Commission in some fashion, and that coordination with the development of federal standards should be an important consideration as well."[17] The Commission concluded that it was more appropriate for Staff to develop next steps including technical working groups rather than a formal proceeding and directed Staff "form a proposal recommending the appropriate next steps for our review of consumer privacy protection and customer data access issues in light of the comments and reply comments and to file its proposal in a new docket."[18] OCC has not justified the reason for its recommendation, the Commission should reject this suggestion and allow Staff to handle privacy issues as it recommended in Case Nos. 11-277-GE-UNC and 11-5474-AU-UNC.

## V. COMMENTS REGARDING NON-PIPP RULES IN CHAPTER 4901:1-18, O.A.C.

### A. Rule 4901:1-18-05

#### 1. One-Twelfth Payment Plan

OCC recommends the addition of a one-twelfth (1/12) payment plan to Rule 4901:1-18-05. In Case No. 08-723-AU-ORD, on rehearing, the Commission reconsidered its original decision to require a one-twelfth plan and decided to not adopt the one-twelfth plan as a required option.[19] As the Companies argued in that case, 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

[17] *In the Matter of the Review of the Consumer Privacy Protection and Customer Data Access Issues Associated with Distribution Utility Advanced Metering and Smart Grid Programs*, Case No. 11-277, GE-UNC; *In the Matter of the Commission Review of Cyber Security Issues Related to Entities Regulated by the Commission*, Case No. 11-5474-AU-UNC, Finding and Order at 20 (May 9, 2012).
[18] *Id.* at 21.
[19] *In the Matter of the Commission Review of Chapters 4901:1-17 and 4901:1-18*, Case No. 08-723-AU-ORD, Entry on Rehearing at 6-9 (April 1, 2009).

entire year. There are also 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.

Columbia noted that Rule 4901:1-18-05(D) requires the utility company to offer customers without an arrearage a budget or uniform payment plan. Also, 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. Likewise, the Commission previously considered and rejected a one-twelfth payment plan.[20]

Duke argued in that case that the extended payment plans adopted by the Commission creates 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. Thus, Duke reasoned 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.

Concerned with arrearages continuing to accrue with little hope for full repayment, the Commission granted rehearing to the utility companies and instead adopted 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. For those same reasons, the Commission should reject OCC's recommendation for a one-twelfth payment plan.

[20] *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 9.

### 2. Cap

OCC recommends that regardless of the payment plan chosen, the extra payment should be capped at $50.[21] OCC ignores the fact that $50 may not be enough for a customer to cure his or her arrearage. In reality, a cap would extend a customer's payment to 12, 18 or even 24 months depending on the arrearage and render the required 1/6 and 1/9 payment plans useless. This cap would not avoid a large build-up of arrears as OCC suggests, rather, it would extend the arrearage. For those reasons, the Commission should reject this recommendation.

## B. Rule 4901:1-18-06(C): Medical Certifications

### 1. Additional Criterion

OCC recommends that the Commission add a new criterion for certification of need:

> If the disconnection of service would be especially dangerous to an elderly or handicapped person who is a permanent resident of the premises.[22]

This provision is not necessary because if an elderly or handicapped person has a medical condition that requires electricity it can apply for a medical certification under the existing criteria. This rule could be read to include individuals who happen to be elderly or handicapped regardless of medical condition. Further, the rule is ambiguous as no definitions for elderly or handicapped are provided and it ignores that other extended payment options are available. Therefore, the Commission should not adopt this change.

### 2. Removal of "Any Residential Customer"

[21] OCC Comments at 40.
[22] *Id.* at 41.

The Companies do not understand the rationale for removing the language "any residential customer" from subsection (3)(a). The Companies do not believe that the utilities' interpretation of this subsection is a problem as OCC alleges. For those reasons, the Commission should reject this change.

#### 3. Medical Certification Form

OCC has recommended several changes to the medical certification form. Specifically, OCC has recommended removing the requirement that the medical professional has examined the individual requesting certification and information pertaining to the medical or life supporting equipment used by the patient. Accepting the OCC's changes would increase the amount of fraudulent medical certifications and also not provide the Companies with enough information to accept the medical certification. For those reasons, the Commission should reject OCC's changes to the medical certification form.

### C. Rule 4901:18-06(F): Landlord/Tenant Issues

#### 1. Copies of Reversion Agreements

OCC recommends that the Commission require the utility to provide notice to the tenant that the utility has an agreement with the landlord.[23] The Companies oppose this change because the Companies should not be involved with the relationship between a landlord and tenant. The landlord's arrangements with the utility are subject to privacy rules so that a utility cannot give the tenant information about the landlord. For those reasons, the Commission should reject OCC's recommendation.

[23] *Id.* at 43.

### 2. Subsection (F)(3)

OCC recommends revising subsection (F)(3) to fix the liability of a tenant for utility service from the date that the tenant establishes an account with the utility company.[24] While the Companies agree with OCC that Staff's proposed subsection (F)(3) is problematic because tenancies often begin with no lease and it will be impossible for a utility to establish when a tenant has occupied a premise, the Companies do not agree with OCC's recommendation to establish service on the date the tenant establishes an account with the utility company. Again, it is the landlord who is responsible for having the tenant establish an account. If the tenant fails to do so and the landlord requests that service be taken out of its name, then the Companies must follow those instructions. Therefore, the Companies request that the Commission delete subsection (F)(3).

### D. Rule 4901:1-8-08(K) and (L)

OCC recommends that the ten-day shut off notices to tenants be expanded to thirty days.[25] While thirty days may be the amount of time a landlord has to give a tenant notice to vacate, it is not appropriate for a utility company to hold a landlord responsible for electric service when the landlord has requested a turn off of services. OCC has not presented any evidence that extending this time is necessary. If a tenant requires additional time to vacate a premise then he or she can pay the current charges to maintain service. For those reasons, the Commission should reject OCC's recommendation.

[24] *Id.*
[25] OCC Comments at 43.

## VI. CONCLUSION

The Companies again appreciate the opportunity to comment on the proposed rules. The Companies urge the Commission to adopt the recommendations of the Companies set forth in both their initial and reply comments.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

On August 2, 2013, the foregoing document was filed on the Public Utilities Commission of Ohio's Docketing Information System and is available for viewing by any interested party.

/s/ *Carrie M. Dunn*
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Summary: Reply Comments electronically filed by Ms. Carrie M Dunn on behalf of Ohio Edison Company and The Toledo Edison Company and The Cleveland Electric Illuminating Company