

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|  |   |                        |
|--|---|------------------------|
| 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         | ) | Case No. 13-274-AU-ORD |
| Electric Services to Residential Customers   | ) |                        |
| Contained in Chapters 4901:1-17 and          | ) |                        |
| 4901:1-18 of the Ohio Administrative         | ) |                        |
| Code.  | ) |                        |

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**JOINT APPLICATION FOR REHEARING  
BY  
ADVOCATES FOR BASIC LEGAL EQUALITY,  
CITIZENS COALITION,  
LEGAL AID SOCIETY OF CLEVELAND,  
LEGAL AID SOCIETY OF COLUMBUS,  
LEGAL AID SOCIETY OF SOUTHWEST OHIO LLC,  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL,  
OHIO PARTNERS FOR AFFORDABLE ENERGY,  
OHIO POVERTY LAW CENTER,  
PRO SENIORS, INC.,  
AND SOUTHEASTERN OHIO LEGAL SERVICES**

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In a Finding and Order (“Order”) issued on June 4, 2014, the Public Utilities Commission of Ohio (“PUCO”) adopted new rules regarding the establishment of credit for residential utility services and the disconnection of residential gas, natural gas or electric service. These rules offer, among other things, assistance to low-income Ohioans for paying their energy bills. The rule changes also relate to the Percentage of Income Payment Plan Plus (“PIPP Plus”) programs of the PUCO and the Ohio Development Services Administration (“ODSA”).

Advocates for Basic Legal Equality, Citizens Coalition, Legal Aid Society of Cleveland, Legal Aid Society of Columbus, Legal Aid Society of Southwest Ohio, the

Office of the Ohio Consumers' Counsel, Ohio Partners for Affordable Energy, Ohio Poverty Law Center, Pro Seniors, Inc. and Southeastern Ohio Legal Services

(collectively, "Joint Applicants") file this Application for Rehearing of the Order.<sup>1</sup> The PUCO's Order is unreasonable and unlawful in the following respects:

- The Order places consumers at risk of identity theft by allowing utilities to require consumers to provide their Social Security numbers to establish identity.
- The Order, in rejecting rule 4901:1-18-04(C) proposed by the PUCO Staff, relies on an Electric Service and Safety Standards ("ESSS") rule that would not be applicable to gas and water utilities.
- The Order effectively denies use of one-twelfth payment plans for customers even though one-twelfth plans are specified in statute for other purposes.
- The Order, as a means to combat fraud, denies medical certification to customers who have an outstanding balance for a returned check, even though the PUCO found that "the current rules adequately represent a balance between protecting the health, safety, and welfare of the public, and the interest of utilities to mitigate losses due to fraud."<sup>2</sup>
- The Order provides for insufficient notice to residential customers who live in master-metered buildings that their service will be disconnected because the building's owner has requested service disconnection.
- The Order did not allow PIPP Plus customers to reverify their income up to 90 days after their reverification date before being dropped from PIPP Plus.
- The Order did not direct the PUCO Staff to evaluate expanding the eligibility for Graduate PIPP Plus to 18 months after a customer is no longer eligible for PIPP Plus because of an increase in income.

The PUCO should modify the Order and make the changes to the rules recommended by the Joint Applicants in this Application for Rehearing.

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<sup>1</sup> The Joint Applicants file this Application for Rehearing pursuant to Ohio Adm. Code 4901-1-35.

<sup>2</sup> Order at 36.

The grounds for this Application for Rehearing are set forth in the accompanying  
Memorandum in Support.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

Every five years all state agencies must review their rules and determine whether to continue their rules without change, to amend their rules, or to rescind their rules.<sup>3</sup> In this proceeding, the PUCO is reviewing the rules contained in Ohio Adm. Code Chapters 4901:1-17 and 4901:1-18. These rules address the establishment of credit for residential utility services and the disconnection of residential gas, natural gas or electric service. These rules also offer, among other things, assistance to low-income Ohioans for paying their energy bills.

On June 11, 2013, the PUCO issued an Entry that included PUCO Staff-proposed revisions for Ohio Adm. Code Chapters 4901:1-17 and 4901:1-18. The PUCO set out the proposed rules for comment.<sup>4</sup>

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<sup>3</sup> R.C. 119.032.

<sup>4</sup> See Entry (June 11, 2013) at 5.

In response to the Entry, numerous agencies and organizations that serve the interests of consumers<sup>5</sup> jointly filed Comments and Reply Comments on the PUCO Staff's proposed rules. The Consumer Groups suggested several changes to the proposed rules that would add needed consumer protections and clarity to the rules.

On June 4, 2014, the PUCO issued the Order in this proceeding adopting the new credit and disconnect rules. The Order made several modifications to the PUCO Staff's proposed rules, including some changes recommended by the Consumer Groups. The Joint Applicants appreciate the PUCO's effort to adopt rules that balance the needs of consumers and utilities. Nevertheless, the Joint Applicants urge the PUCO to grant the rehearing they seek in this Application, to provide additional consumer protections.

This Application for Rehearing addresses seven aspects of the rules that need greater consumer protection:

- To help protect consumers from identity theft, the PUCO should change rule 4901:1-17-03(A)(2) to remove the phrase "and to establish identity," so that consumers would not be required to provide their Social Security numbers for purposes of establishing identity.
- The PUCO should adopt staff-proposed rule 4901:1-18-04(C). In rejecting the rule, the Order cites to an ESSS rule that would not be applicable to gas and water utilities.
- The PUCO should allow customers the option to use one-twelfth payment plans in rule 4901:1-18-05(B). The Order allows, but does not require, utilities to offer customers a one-twelfth payment plan. But customers, not utilities, should have the choice of a one-twelfth payment plan option.
- The PUCO should delete rule 4901:1-18-06(C)(5), which allows utilities to reject a medical certification if a customer has an outstanding balance

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<sup>5</sup> Advocates for Basic Legal Equality, Citizens Coalition, Coalition on Homelessness and Housing in Ohio, Legal Aid Society of Cleveland, Legal Aid Society of Columbus, Legal Aid Society of Southwest Ohio, the Office of the Ohio Consumers' Counsel, Ohio Partners for Affordable Energy, Ohio Association of Area Agencies on Aging, Ohio Association of Community Action Agencies, Ohio Association of Foodbanks, Ohio Poverty Law Center, Pro Seniors, Inc. and Southeastern Ohio Legal Services (collectively, "Consumer Groups").

for a returned check. The PUCO inserted this provision “in response to the overall concerns addressed related to reducing fraudulent activities and customers taking advantage of the system....”<sup>6</sup> But nothing in the Order, or in the record of this proceeding, connected returned check fees with fraudulent activities or customers taking advantage of the system. In fact, the PUCO found that “the current rules adequately represent a balance between protecting the health, safety, and welfare of the public, and the interest of utilities to mitigate losses due to fraud.”<sup>7</sup>

- The PUCO should amend rule 4901:1-18-08(K) so that persons who live in buildings that have a master meter will have more notice if the building’s owner has requested service disconnection. The ten-day notice in the rule is insufficient notice to individuals facing disconnection that is not the result of their own actions.
- The PUCO should amend rule 4901:1-18-12(D)(1) to allow PIPP Plus customers to reverify their income within 90 days after their reverification date before being dropped from PIPP Plus. The current rule allows only 60 days.
- The PUCO should direct the PUCO Staff to evaluate expanding the eligibility for Graduate PIPP Plus to 18 months after a customer is no longer eligible for PIPP Plus because of an increase in income.

## **II. STANDARD OF REVIEW**

Applications for rehearing are governed by R.C. 4903.10. The statute allows that, within 30 days after issuance of a PUCO order, “any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding.” The Joint Applicants filed Comments and Reply Comments in this proceeding.

R.C. 4903.10 requires that an application for rehearing must be “in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful.” In addition, Ohio Adm. Code 4901-1-35(A)

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<sup>6</sup> Order at 36.

<sup>7</sup> Id.

states: “An application for rehearing must be accompanied by a memorandum in support, which shall be filed no later than the application for rehearing.”

In considering an application for rehearing, R.C. 4903.10 provides that “the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear.” The statute also provides: “If, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed.” As shown herein, the statutory standard to modify the Order is met here.

### **III. ARGUMENT**

#### **A. The Order places consumers at risk of identity theft by allowing utilities to require consumers to provide their Social Security numbers to establish identity.**

Ohio Adm. Code 4901:1-17-03(A)(2) allows utilities to request an applicant’s Social Security number for the purpose of obtaining credit information and to establish identity. In our comments, the Consumer Groups argued that, while the use of the Social Security number may be necessary for performing credit checks, the Social Security number should not be used as a primary means for applicants to establish their identity.<sup>8</sup>

The Consumer Groups noted that the Social Security Administration has initiated programs encouraging businesses and others to use alternative identifiers instead of Social Security numbers to help protect the integrity of individual Social Security numbers. The Consumer Groups pointed to the following excerpt from the Social Security Administration’s website:

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<sup>8</sup> Consumer Groups Comments at 36.

*In an effort to curtail identity theft, the Social Security Administration (SSA) is initiating a public information program to encourage the use of alternate identifiers in place of the Social Security Number (SSN.) Many organizations including businesses, government agencies, medical facilities and educational institutions continue to use the SSN as the primary identifier for their record keeping systems. We are seeking your support, as well as the support of the general public, in helping to ensure the integrity of individual SSNs.*

*Identity theft is one of the fastest growing crimes in American society. The routine and often indiscriminate use of SSNs as identifiers creates opportunities for individuals to inappropriately obtain personal information. Repetitive use and disclosure of SSNs in organizational record keeping systems, multiplies the susceptibility of persons to potential identity theft. Through misuse of SSNs, individuals are subject to the danger of identity theft and its repercussions. Access to an individual's SSN can enable an identity thief to obtain information that can result in significant financial difficulties for the victim. While this can be disruptive for the individual, it can also lead to civil liability for the organization and its individual employees if someone is harmed by information that has been made available to others.*

*An organization's collection and use of SSNs can increase the risk of identity theft and fraud. Each time an individual divulges his or her SSN, the potential for a thief to illegitimately gain access to bank accounts, credit cards, driving records, tax and employment histories and other private information increases. Because many organizations still use SSNs as the primary identifier, exposure to identity theft and fraud remains.<sup>9</sup>*

The Consumer Groups recommended that the PUCO prohibit utilities from using an applicant's Social Security number as the primary means for establishing identity, and should require utilities to use alternative identifiers instead.<sup>10</sup>

In the Order, the PUCO rejected the Consumer Groups' recommendation. The PUCO stated that applicants have options. The PUCO stated that a utility cannot refuse

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<sup>9</sup> Id. at 35-36, citing <http://www.ssa.gov/phila/ProtectingSSNs.htm>.

<sup>10</sup> Id. at 36.

service because an applicant declines to provide a Social Security number.<sup>11</sup> Instead, the PUCO stated, the utility must then provide information regarding other methods to establish creditworthiness.<sup>12</sup> The PUCO expressed its belief “that accepting the Consumer Groups’ recommendation may require the utilities to create and follow programs that are different from the universally accepted processes for establishing creditworthiness, regardless of the fact that they would be in compliance with laws based on those accepted processes.”<sup>13</sup> The PUCO’s Order, however, misses the point.

The PUCO’s Order focuses on establishing creditworthiness, but the Joint Applicants are concerned about the use of Social Security numbers “to establish identity.” Customers and applicants should not be required to disclose their Social Security numbers simply for identification purposes. There are other, safer means for customers to establish their identities. For example, driver’s licenses or other government-issued identification cards contain the individual’s picture, and thus are more reliable than Social Security numbers for establishing identity. For telephone or online transactions, utilities could require a password or allow customers to submit responses to security questions. These and other means for establishing identity are less susceptible to identity theft.

As for creditworthiness, utilities must inform a customer of alternative means for establishing creditworthiness if the customer refuses to disclose his or her Social Security number. Nevertheless, customers can be pressured to provide the Social Security number

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<sup>11</sup> Order at 10.

<sup>12</sup> Id.

<sup>13</sup> Id.

even for purposes of creditworthiness. Social Security numbers should not be the primary means for a customer to establish identity or creditworthiness.

The PUCO should grant the Joint Applicants rehearing on this issue. The PUCO should remove the phrase “and to establish identity” from rule 4901:1-17-03(A)(2).

**B. The Order, in rejecting rule 4901:1-18-04(C) proposed by the PUCO Staff, relies on an Electric Service and Safety Standards rule that would not be applicable to gas and water utilities.**

In proposed rule 4901:1-18-04(C), the PUCO Staff proposed that utilities may transfer the balance of a delinquent account to any like account held in the customer’s name, but specifically excluded transfers to or from PIPP plus accounts.<sup>14</sup> In rejecting this proposed rule, the PUCO stated that “the provisions of Ohio Adm. Code 4901:1-10-22(I) sufficiently address the situations where the transfer of balances occurs.”<sup>15</sup> The PUCO’s decision, however, is faulty.

Ohio Adm. Code Chapter 4901:1-10 applies only to electric companies. Chapter 4901:1-10 does not address gas or water companies. Thus, the PUCO has left gas PIPP Plus customers unprotected.

The PUCO should grant the Joint Applicants rehearing on this issue. In order to enhance consumer protections, the PUCO should modify the Order and adopt rule 4901:1-18-04(C) proposed by the PUCO Staff, as well as the definition of “like accounts” in PUCO Staff-proposed rule 4901:1-18-01(O).

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<sup>14</sup> Entry, Attachment C page 6 of 33.

<sup>15</sup> Order at 28. See also *id.* at 23 where the PUCO rejected the definition of “like accounts” in proposed rule 4901:1-18-01(O).

**C. The Order effectively denies use of one-twelfth payment plans for customers even though one-twelfth plans are specified in statute for other purposes.**

Proposed rule 4901:1-18-05(B) provides that if the customer fails to propose payment terms acceptable to the utility, the utility is required to inform the customer and provide information regarding the one-sixth plan, one-ninth plan, winter heating season plan, and PIPP Plus. The Consumer Groups suggested that the PUCO include a **one-twelfth** plan, allowing customers to pay arrearages over a full year.<sup>16</sup>

The Consumer Groups noted that in 2012 there were 355,341 residential natural gas and electric customers disconnected for non-payment.<sup>17</sup> However, there were approximately 128,100 residential customers during the same year who were able to avoid disconnection by using extended payment plans that were offered by the utility.<sup>18</sup> For the customers who were disconnected, 67,401 (or approximately 19 percent) were on extended payment plans prior to their disconnection.<sup>19</sup> Therefore, the vast majority of disconnected customers (287,940) were on no extended payment plan at the time they were disconnected.

The Consumer Groups, in comments, expressed a concern that such a high percentage of residential customers either did not know about the availability of extended payment plans or were unable to obtain favorable payment terms if they contacted the utility. Further, the Consumer Groups said they are concerned about the relatively high number of customers (the 67,401) who defaulted on an extended payment plan and were then disconnected. In addition to the health and safety issues associated with

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<sup>16</sup> Consumer Groups Comments at 38-40.

<sup>17</sup> Id. at 39, citing PIPP Plus Metrics Summary Report for 2012, Extended Payment Plan Data.

<sup>18</sup> Id.

<sup>19</sup> Id.

disconnection of utility services, default in utility payments results in late payment charges, collection trip charges, reconnection fees, deposits, higher uncollectible debt riders and all the other costs associated with not having services.

The PUCO, however, rejected including the one-twelfth payment plan option in the rules. The PUCO stated that it encourages utilities to adopt plans designed to assist customers in taking care of delinquent balances, and “would not prohibit utilities from enacting a one-twelfth plan, if they so choose.”<sup>20</sup> The PUCO went on to state that “the current required plans are sufficient to act as a baseline.”<sup>21</sup> The PUCO is in error, however.

Rather than serving as a baseline, the current rules serve as a ceiling. The utilities’ comments cited in the Order show that no utility will “choose” to offer a one-twelfth plan. Duke sees the one-twelfth plan as merely as way to “encourage additional development of arrearage and enhance the ability of a customer to develop debt.”<sup>22</sup> AEP Ohio believes the three extended payment plans currently in the rules provide sufficient payment options that customers can reasonably expect to meet, and that an additional payment option would only increase the utility’s costs.<sup>23</sup> DP&L and FirstEnergy also oppose the one-twelfth option.<sup>24</sup>

In leaving the one-twelfth payment plan option as merely a choice for utilities to provide at their discretion, instead of a requirement, the PUCO has eliminated the one-twelfth payment plan option for consumers. Utilities will not offer it, even though it will

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<sup>20</sup> Order at 30-31.

<sup>21</sup> Id. at 31.

<sup>22</sup> Id. at 30, citing Duke Reply Comments at 4-5.

<sup>23</sup> Id., citing AEP Ohio Reply Comments at 3-4.

<sup>24</sup> Id.

allow more customers to avoid disconnection of service. The PUCO has acted unreasonably.

The PUCO should grant Joint Applicants rehearing on this issue. The one-twelfth payment plan option should be a choice available to consumers, at consumers' discretion. Consumers should have more options available to them for avoiding disconnection.

In addition, there is a statutory basis for the one-twelfth plan. In addressing the issue of backbilling for undercharges, the General Assembly set forth a one-twelfth plan: "The maximum portion of the undercharge for unmetered gas or electricity rendered that may be recovered from the customer in any billing month shall be determined by dividing the amount of the undercharge by twelve and the quotient is the maximum portion of the undercharge that the company may, subject to division (C) of this section, recover from the customer in any billing month, in addition to either regular monthly charges of any type or regular level payment amounts billed in accordance with an agreement between the customer and the company."<sup>25</sup>

Under R.C. 4928.33(C), whether the amount should be collected in a shorter amount of time is at the consumer's discretion: "Nothing in this section shall be construed to prevent the customer from paying an undercharge or any portion thereof in a time shorter than that stated in this section." Utilities may only provide a longer time frame: "Nothing in this section shall be construed to prevent a gas, natural gas, or electric light company from collecting an undercharge or any portion thereof in a time longer than that stated in this section."<sup>26</sup>

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<sup>25</sup> R.C. 4933.28(A).

<sup>26</sup> R.C. 4933.28(C).

The PUCO's rules on payment plans should be as consumer friendly as R.C. 4933.28. The PUCO should modify its Order and include the one-twelfth payment plan option – at the customer's discretion – in Ohio Adm. Code 4901:1-18-05(B).

**D. The Order, as a means to combat fraud, denies medical certification to customers who have an outstanding balance for a returned check, even though the PUCO found that “the current rules adequately represent a balance between protecting the health, safety, and welfare of the public, and the interest of utilities to mitigate losses due to fraud.”**

In the Order, the PUCO rejected several proposed changes to the medical certification provision in Ohio Adm. Code 4901:1-18-06(C). The PUCO stated that “the current rules adequately represent a balance between protecting the health, safety, and welfare of the public, and the interest of utilities to mitigate losses due to fraud.”<sup>27</sup>

But then the PUCO surprisingly stated “in response to the overall concerns addressed related to reducing fraudulent activities and customers taking advantage of the system, the Commission will add a rule to codify the practice of denying medical certification to customers with outstanding balances related to returned checks.”<sup>28</sup> The PUCO added a new rule 4901:1-18-06(C)(5), which allows utilities to deny medical certifications to a customer whose account has an outstanding balance for a returned check charge:

If there is an outstanding balance for a returned check on the customer's account, the utility company may refuse the medical certification, so long as notice has been given to the customer in accordance with rules 4901:1-10-20 and 4901:1-13-09 of the Administrative Code. Such notice shall also advise the customer that there is a returned check balance on the account and that the utility company may deny the customer's use of medical certificates if that balance is not paid.

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<sup>27</sup> Order at 36.

<sup>28</sup> Id.

The PUCO's action is unreasonable and unlawful. The new rule is unreasonable because it assumes that returned check charges are somehow related to fraudulent acts. The PUCO's definition of "fraudulent act" requires an intent on the customer's part to defraud a utility: "'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."<sup>29</sup> But the PUCO should not assume that returned check charges are the result of a customer's intentional act.

Such charges can accrue for a variety of reasons that are not the customer's fault or intent. The customer's bank might have charged a fee for a service that the customer was unaware of. The customer's spouse might have transferred funds to another account without telling the customer. Returned check fees are often the result of honest mistakes with no intent to defraud. But the PUCO's new rule 4901:1-18-06(C)(5) places a presumption of intent or guilt on the customer.

The new rule is unlawful because the PUCO has no basis in the record for determining that rejecting medical certifications because of an outstanding returned check balance will reduce fraudulent activities and customers taking advantage of the system. No commenters could prove that the new rule would serve as a means for reducing fraudulent activities and customers taking advantage of the system. And the PUCO's Order pointed to no support in the record for this new rule. Thus, the PUCO has not adequately explained its decision to allow utilities to deny medical certifications to customers who have outstanding balances that include returned check charges.

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<sup>29</sup> Ohio Adm. Code 4901:1-18-01(L).

New rule 4901:1-18-06(C)(5) is unlawful and unreasonable. The PUCO should grant the Joint Applicants rehearing on this issue and remove new rule 4901:1-18-06(C)(5).

**E. The Order provides insufficient notice to residential customers who live in master-metered buildings that their service will be disconnected because the building's owner has requested service disconnection.**

The Consumer Groups had proposed that utilities give tenants residing in master-metered premises 30 days' notice that the building's owner has requested service disconnection, instead of the ten-day shut-off notice provided in rule 4901:1-18-08(K).<sup>30</sup> The Consumer Groups noted that the experience of many of the Consumer Groups has been that ten days is inadequate to expect a family to locate a new home, enter into a rental agreement, pay a rental deposit, and relocate.<sup>31</sup> Because the rule already provides that the owner is responsible for the cost of service during the notice period, an extended notice period presents no additional expense to the utility.<sup>32</sup>

The PUCO denied the Consumer Groups' recommendation. The PUCO stated that the recommendation "is not substantiated and the rule strikes the appropriate balance for protecting the interests of the utilities and the property owners or tenants."<sup>33</sup> The PUCO, however, is in error.

The rule allows utilities to notify residents at least ten days before disconnection of service "by mail to the residential tenants or by posting the notice in conspicuous places on the premises." But some utilities do not "record or track individual premise

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<sup>30</sup> Consumer Groups Comments at 45.

<sup>31</sup> Id.

<sup>32</sup> Id.

<sup>33</sup> Order at 46.

addresses associated with a master-metered account,”<sup>34</sup> even though they are required by PUCO rules to do so.<sup>35</sup> Thus, there is no guarantee that residential tenants in buildings with master-metered accounts will receive personal, mail notice of the impending disconnection. And the posting of a notice in “conspicuous places on the premises” is strictly at the utility’s discretion; the utility determines which places are “conspicuous” in each location. If a utility cannot follow the letter of the PUCO rule on tracking individual premise addresses, it cannot be expected to follow the spirit of the “conspicuous notice” rule.

The PUCO should grant the Joint Applicants rehearing on this issue, and should modify the Order to provide residents of master-metered premises additional notice of impending disconnection due to the owner’s request. The PUCO should change the rule to require 30 days’ notice.

**F. The Order did not allow PIPP Plus customers to reverify their income within 90 days after their reverification date before being dropped from PIPP Plus.**

Ohio Adm. Code 4901:1-18-12(D)(1) requires PIPP Plus customers to reverify their income within 60 days after their reverification date. Customers who fail to reverify in that time will be dropped from PIPP Plus. The Consumer Groups recommended that this paragraph be amended to provide customers with a minimum of 90 days after the annual verification date to reverify income before being dropped from the PIPP plus program. The Consumer Groups noted that there are no indications that customers who have not timely reverified their income are not paying their monthly utility bills.<sup>36</sup>

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<sup>34</sup> See id. at 45, citing DP&L Comments at 11.

<sup>35</sup> Ohio Adm. Code 4901:1-18-08(H).

<sup>36</sup> Consumer Groups Comments at 2-5.

The PUCO rejected the Consumer Groups' recommendation, stating that it was unfounded and not supported with data.<sup>37</sup> However, in 2013, there were 103,616 PIPP Plus customers who were dropped from active participation in the program for various reasons. According to the PIPP Plus Metrics Report for 2013, 54,232 customers were dropped from the program for reasons that are coded as "other" and therefore, the specific reason why these customers were dropped remains unknown. Another 24,765 of the customers were dropped for failure to re-verify eligibility, 21,331 were dropped for non-payment, 3,274 were dropped for being income ineligible, and 14 were dropped for failure to pay for two consecutive months.

In recommending that the PUCO provide customers with at least 90 days after the annual verification date to re-verify eligibility, the Consumer Groups reasoned that customers could be paying their monthly PIPP bill and conforming to all the other rules regarding PIPP Plus participation, but were still being removed from the program merely because they had not, for whatever reason, been able to re-verify eligibility in a relatively short period of time.<sup>38</sup> The data from 2013 concerning the specific reasons customers are dropped from PIPP Plus supports this reasoning. Only 14 customers were dropped for failure to pay for two consecutive months. If customers were not paying their bill, they would be dropped from PIPP Plus for non-payment. In fact, 21,331 PIPP Plus customers were dropped from the program as a result of non-payment in 2013.

Since the 2013 data demonstrates that customers are being dropped from PIPP Plus even though they are paying their monthly PIPP installments, additional time to complete the re-verification process should help reduce the number of customers who are

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<sup>37</sup> Order at 50.

<sup>38</sup> Consumer Groups Comments at 4.

being involuntarily removed from the program. The relatively small number of customers who were dropped from PIPP Plus because they were no longer income-eligible (3,274) suggests that the additional time for customers to re-verify eligibility should have minimal (if any) impact on the program costs.

Because PIPP Plus is essential for many low-income consumers to maintain utility service, the PUCO should grant the Joint Applicants rehearing. The PUCO should modify its Order and provide customers with at least 90 days after their annual verification date to re-verify eligibility before being dropped from the program.

**G. The Order did not direct the PUCO Staff to evaluate expanding the eligibility for Graduate PIPP Plus to 18 months after a customer is no longer eligible for PIPP Plus because of an increase in income.**

Graduate PIPP Plus is available to customers who become ineligible for PIPP due to an increase in income. This plan is available for “twelve billing cycles following enrollment in the program.” The customer pays the “average” of the PIPP Plus payment and the budget bill amount (i.e., the PIPP Plus payment + the budget payment ÷ 2). The customer continues to receive the incentive reduction in the outstanding arrearages. The arrearages are reduced by the difference between the amount of the required payment and the current monthly bill, plus one-twelfth of the arrearages as calculated at the time of enrollment in Graduate PIPP Plus.

After twelve billing cycles, the Graduate PIPP Plus customer is no longer eligible for arrearage credits. Any remaining arrearages may become due, and the customer may be placed on one of the extended payment plans in Ohio Adm. Code 4901:1-18-05.

The Consumer Groups recommended that the PUCO Staff analyze the impact of expanding the Graduate PIPP Plus program to at least 18 months. The Consumer Groups noted that the PUCO Staff’s review of the program did not analyze Graduate PIPP Plus

data and therefore it is difficult to evaluate the impact that the twelve-month restriction had on preventing customers from successfully completing Graduate PIPP Plus.<sup>39</sup>

The PUCO rejected the Consumer Groups' recommendation. The Order stated:

The Commission finds that, given the incentives available while enrolled on PIPP plus, customers should have little to no accumulated arrears. Therefore, we believe that 12 months is sufficient time to pay off arrears after leaving a utility's service territory. Accordingly, we find that the recommendation by the Consumer Groups is without merit and should be denied.<sup>40</sup>

The PUCO appears to have misinterpreted the Consumer Groups' recommendation. The Consumer Groups were not recommending extension of the Graduate PIPP Plus program to 18 months at this time. The recommendation was that the PUCO analyze the impact of an extension to 18 months, in order to determine whether it would enable more customers to successfully complete the Graduate PIPP Plus plan.

The PUCO should grant the Joint Applicants rehearing on this issue, and should modify its Order to require the PUCO Staff to evaluate the impact of expanding the eligibility for Graduate PIPP Plus to at least 18 months after the customer is no longer eligible for PIPP Plus. An extension to 18 months may allow more customers to complete the Graduate program successfully.

### **III. CONCLUSION**

The Joint Applicants appreciate the PUCO's efforts to protect consumers in the rules adopted in this proceeding. The PUCO's Order, however, should be modified to provide adequate consumer protections. The PUCO should grant the rehearing the Joint Applicants seek in this Application for Rehearing.

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<sup>39</sup> Consumer Groups Comments at 23.

<sup>40</sup> Order at 63.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Application for Rehearing was served by electronic service to the persons listed below, on this 7<sup>th</sup> day of July 2014.

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