**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. | ) ) ) ) ) ) ) | Case No. 13-274-AU-ORD |

**MEMORANDUM CONTRA**
**THE JOINT CONSUMER GROUPS' APPLICATION FOR REHEARING OF**
**THE EAST OHIO GAS COMPANY D/B/A DOMINION EAST OHIO**

# I. INTRODUCTION

On July 7, 2014, a consortium of consumer-advocacy groups (the Consumer Groups) filed an application for rehearing. In accordance with Ohio Adm. Code 4901-1-35(B), The East Ohio Gas Company d/b/a Dominion East Ohio (DEO) files its memorandum contra their application for rehearing. DEO opposes several of the Consumer Groups' arguments as explained below, and the lack of opposition to any particular argument should not be construed as support.

# II. ARGUMENT

## A. Rule 4901:1-17-03(A)(2): The Consumer Groups' recommendation to prohibit the use of Social Security numbers to verify identity should be rejected.

The Consumer Groups argue that Rule 4901:1-17-03(A)(2) should be modified so that "Social Security numbers should not be the primary means for a customer to establish identity or creditworthiness" and recommend deleting the rule's authorization to use the numbers to "establish identity." (Rehg. App. at 7.)

The Consumer Groups have provided no reason to modify the rules. Use of the Social Security number is an efficient, cost-effective way to determine the customer's identity; it enables utilities to take advantage of fraud alerts and other protections provided by credit bureaus; and it avoids the problems that can emerge if identity is not reliably verified (such as fraudulent enrollment and uncollectible balances). Moreover, utilities already adhere to consumer-credit laws and regulations, many of which are designed to ensure the privacy of customer information. The Consumer Groups have not justified their request to add more costs and red tape.

Finally, the rule change is simply unnecessary. Customers are not required to provide the Social Security number. Any customer who is concerned about providing his or her number need not do so. This rule change would essentially require utilities to make the less-efficient, higher-cost approach the default approach, regardless of whether the customer desires it. The Consumer Groups' request should be denied.

## B. Rule 4901:1-18-01(O) and -04(C): The Commission properly declined to adopt the balance-transfer rule supported by the Consumer Groups.

The Consumer Groups recommend that the Commission should adopt the balance-transfer rule proposed by Staff, and they note that a rule the Commission relied upon in rejecting the rule only applied to electric utilities. (Rehg. App. at 7.)

The Commission properly declined to adopt the balance-transfer rule proposed by Staff. As DEO and Columbia Gas of Ohio pointed out earlier, the proposed provision would have prohibited a utility from "transfer[ring] balances to or from PIPP Plus accounts." This rule was overbroad and could have been read to prohibit balance transfers that are necessary in the ordinary course of business. For example, this rule could have prohibited necessary transfers of the balance of a PIPP Plus account to a new PIPP Plus account when a PIPP Plus customer moves residences. It would also have prohibited the necessary transfer of the balance of an account that has been finalized to a newly created PIPP Plus account after a qualifying customer pays his or her first installment to join PIPP Plus.

Prohibiting the transfer of a balance to or from a PIPP Plus account would also prevent a utility from crediting the customer with the proper forgiveness when the customer makes a payment on the old balance. If a utility company is permitted to transfer the balance of a delinquent account to any like account held in the customer's name in order to collect the balance from the customer, a utility company should also be permitted to transfer balances to or from PIPP Plus accounts for the same purpose. The Commission properly rejected this new provision.

Similarly, the Commission properly deleted the proposed definition of "like account" in Rule 4901:1-18-01(O). That definition could also have limited otherwise appropriate balance transfers. The proposed definition—that a "like account" is any account "in the same customer's name providing the same tariffed service rate class"—would have created more questions than it would have answered. It could have been read to prohibit certain residential-to-residential transfers, such as those where after a charge-off the account is re-established under a different tariff applicable to residential customers (*i.e.*, from a Choice account to a Standard Service Offer account or from a Standard Service Offer account to a Choice account). This rule would arguably have prohibited the transfer of the balance from one account to the other, even though both are clearly residential in character.

DEO does not have a strong position on whether balance transfers by gas utilities should be addressed in more detail. But the rules supported by the Consumer Groups were vague and overbroad, and the Commission rightly did not adopt them.

**C. Rule 4901:1-18-05(B): The proposed one-twelfth plan should again be rejected.**

The Consumer Groups argue that the rules should "include a one-twelfth plan, allowing customers to pay arrearages over a full year." (Rehg. App. at 8 (emphasis omitted).) They cite a number of statistics regarding disconnection and note that many disconnected customers were not on payment plans.

The Commission properly rejected the proposed additional plan. The extended payment plans currently being offered to consumers, along with the PIPP Plus program, are sufficient to protect customers. As currently stated, the rule requires utilities to offer several specified payment plans *and* allows utilities discretion to work out suitable payment arrangements with customers. More required plan offerings are unnecessary.

The Consumer Groups assert that "the vast majority of disconnected customers . . . were on no extended payment plan at the time they were disconnected." (Rehg. App. at 8.) Assuming for sake of argument that these facts are correct, they do not suggest that new payment plans are needed. The fact that most disconnected customers were *not* on plans suggests that the remedy is for customers to avail themselves of *existing* plans, not to create new ones.

As for the Consumer Groups' so-called "statutory basis for the one-twelfth plan," it is no basis at all. They point out that when "backbilling for undercharges, the General Assembly set forth a one-twelfth plan," which they describe as "consumer friendly." (Rehg. App. at 10–11.) But they fail to recognize that the statute governs the recovery of undercharges due to "metering inaccuracy or other continuing problem under [the utility's] control." R.C. 4933.28(A). It is only fair that a utility should give a customer time to pay when the utility or its equipment was at fault for past underbilling. But the present situation concerns underpaying customers, not underbilling utilities. Thus, the policy behind R.C. 4933.28 does not support the Consumer Groups' argument.

The Commission should continue to reject the proposed one-twelfth plan.

### D. Rule 4901:1-18-06(C): The Commission should uphold its rule permitting the denial of medical certification to customers who have not remedied bad checks.

The Consumer Groups argue that a new rule permitting utilities to "deny[] medical certification to customers with outstanding balances related to returned checks" should be removed. (Rehg. App. at 11 (internal quotations removed).) They rely entirely on the notion that the rule will punish innocent customers for inadvertent errors in managing their checking accounts. (*Id*. at 12.)

On the contrary, the rule does not punish innocent customers. It merely requires them to make up bad-check balances before receiving a medical certification. (*See id*. at 11 (quoting new rule: "the utility company may deny the customer's use of medical certificates if [the returned check] balance is not paid").) If the customer had sufficient funds for the check, but was merely stymied by an ill-timed deposit or unexpected withdrawal, then the returned-check balance should be readily curable. But if the customer simply lacks funds to pay the bad check—which is all the rule requires the customer to do—then the customer likely *knew* the check would not clear, which represents precisely the kind of fraudulent conduct the rule is intended to prevent.

The Commission's rule recognizes this obvious reality; the Consumer Groups choose to ignore it. The rule does not unreasonably punish innocent customers and should be upheld.

### E. Rule 4901:1-18-08(K): The Consumer Groups provide no sensible basis for extending the notice period.

The Consumer Groups argue that the rules should require utilities to "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." (Rehg. App. at 13.) Their sole argument is essentially that utilities either fail or "cannot be expected" to provide "'conspicuous notice'" as required by rule. (*Id*. at 14.)

The Commission properly rejected this proposal the first time. Tellingly, the Consumer Groups' sole argument in favor of their proposal must assume that utilities are *not* complying with the *existing* notice rules. But if any utility is not complying with the existing rules, the answer is to comply with those rules, not to adopt new ones. Ironically, the Consumer Groups' rule would not even solve this alleged problem: if a utility failed to post a conspicuous notice, more time to respond would be of no help at all.

The Consumer Groups' argument only confirms that the existing rules do not require modification.

**F. Rule 4901:1-18-12(D)(1): The Consumer Groups have not shown that customers need more time for reverification.**

The Consumer Groups argue that Ohio Adm. Code 4901:1-18-12(D)(1) should "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." (Rehg. App. at 14.) This recommendation has already been rejected by the Commission and it should be rejected again.

The Consumer Groups have not supported their recommendation. Their only argument is essentially that more time might help. But the problem is that they have not shown that two months is not enough time to reverify. It is speculative to suppose that any customer who failed to reverify despite two months' opportunity would finally do so in the third month. In fact, there are good reasons *not* to expand the window for reverification. Adding more time could actually have a negative impact on customer behavior under the program, by eliminating or counteracting incentives to take timely action.

The Consumer Groups have not justified this proposal, and it should be rejected.

## III. CONCLUSION

For these reasons, DEO respectfully requests that the Commission deny the Consumer Groups' application for rehearing.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of DEO's Memorandum Contra the Consumer Groups' Application for Rehearing was served by electronic mail this 17th day of July 2014 to the following:

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