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Staff and by OSDA. OCC generally supports these proposed changes to the rules. But more substantive changes are necessary and appropriate to protect Ohioans. This especially includes easing consumers' re-entry into PIPP Plus, clarifying rules surrounding disconnections and reconnections for fairness and consistency as discussed herein, and additional protections for customers of submeterers. The PUCO should adopt OCC's proposed changes to the rules.

These comments address what has been designated as Section I in the PUCO's June 19, 2019 Entry. That is, the PIPP Plus rules contained in Ohio Adm. Code Chapters 4901:1-18 and 122:5-3, with rules unique to the PUCO for natural gas PIPP Plus and the Ohio Development Services Agency ("ODSA") for electric PIPP Plus discussed separately. Additionally, these comments address proposed changes to non-PIPP Plus rules in Ohio Adm.Code 4901:1-18. OCC's comments include references to specific PUCO or ODSA rule provisions per the Entry's direction. OCC has no comments on what has been designated as Section II, the PUCO's rules contained in Ohio Adm.Code Chapter 4901:1-17, or Section III, ODSA's rules contained in Ohio Adm.Code Chapter 122:5-3 that are unrelated to the PIPP Plus program. However, OCC reserves the right to file reply comments.

II. SECTION ONE RECOMMENDATIONS (PIPP PLUS RULES AND NON-PIPP PLUS RULES CONTAINED IN OHIO ADM. CODE CHAPTERS 4901:1-18 AND 122:5-3).

A. PUCO PIPP Rules Recommendations.

1. The PUCO should modify Ohio Adm.Code 4901:1-18-12(d) to help PIPP customers remain on the program.

PIPP is a vital link between over 400,000 low-income Ohioans and their ability to maintain access to natural gas and electric service. Under the current PUCO rules,

natural gas PIPP customers must adhere to very stringent payment requirements as a condition of staying enrolled in the PIPP program. For example, customers are responsible for making PIPP payments even during periods of time in which customers are using medical certifications, are disconnected for non-payment, or have elected to terminate gas service. These “missed PIPP payments” must be made up within one billing cycle of the customer’s PIPP anniversary date, or the customer will be removed from the program.

For low-income customers who are removed from PIPP, trying to get back on the program can be very challenging. This is because the payment obligation continues to accrue even during months in which the customer is not actively on PIPP. And considering that almost half of all PIPP customer households have annual incomes below 75% of the Federal Poverty Guidelines, monthly incomes are often insufficient to make the missed payments.

According to information provided at a recent Public Benefits Advisory Board meeting,² approximately 74% of PIPP payments were made in-full and on-time during the period of April 2018 through March 2019.³ This indicates that a substantial majority of PIPP customers are making their monthly PIPP payments. However, the rules need to be more accommodating to help the 26% of customers who were unable to make all of their monthly PIPP payments remain on PIPP.

ODSA has proposed modifications to the electric PIPP rules to limit the missed PIPP payments to only those months that customers are actively enrolled in PIPP. This should help limit the amount of money that customers must pay in order to get re-

² Public Benefits Advisory Board Meeting (May 21,2019).

³ Presentation during the May 21, 2019 PBAB meeting.

enrolled in PIPP. The PUCO should adopt rules that are similar to the ODSA rules and limit the obligation for missed PIPP payments to only those months that customers were actively enrolled in PIPP.

Thus, the following modifications should be made to the Staff proposed rules in 4901:1-18-12(D):

“(D) In addition to the requirements set forth in paragraphs (B) and (C) of this rule, a PIPP plus customer must also periodically reverify his/her eligibility.

(1) All PIPP plus customers must provide proof of eligibility to the Ohio development service agency of the household income at least once every twelve months at or about the customer's PIPP plus reverification date. The customer shall be accorded a grace period of **ninety** ~~sixty~~ days after the customer's PIPP plus reverification date to reverify eligibility.

(2) Except as provided in this paragraph, the PIPP plus customer must be current on his/her income-based PIPP plus payments at the customer's PIPP plus anniversary date to be eligible to remain on PIPP plus for the subsequent twelve months. The customer will have **up to three months** ~~one billing cycle~~ after the PIPP plus anniversary date to pay any missed PIPP plus payments before being removed from the program. Missed PIPP plus 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 past due monthly PIPP installment amounts owed while the customer was active on PIPP.** ~~missed payments, including PIPP plus payments which would have been due for the months the customer is disconnected from gas utility service. The amount due shall not exceed the amount of the customer's arrearage and shall be paid prior to the restoration of utility service.~~

(3) PIPP plus customers who have been dropped from the PIPP plus program due to nonpayment or not meeting the terms of the program (e.g. failure to reverify or to bring account current at the anniversary date) and who were otherwise eligible for PIPP plus, may re-enroll in the program after all missed PIPP plus payments

~~are made for all past due monthly PIPP installment amounts owed while the customer was active on PIPP. and monthly charges for any months the customer was not enrolled in the program but maintained service (less any payments made by the customer) have been cured. This includes PIPP plus payments for any months in which the customer maintained service or was disconnected. The dropped PIPP plus customer is not eligible for any incentives or credits in accordance with rule 4901:1-18-14 of the Administrative Code for payments made pursuant to this provision. The amount due shall not exceed the amount of the customer's arrearage.~~

(4) All PIPP plus 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.”

2. Ohio Adm.Code 4901:1-18-15(E) and (F) should permit customers who voluntarily go off of the program to re-enroll after any past due PIPP payments are made for months in which the customer was actively enrolled in PIPP.

Under the current PUCO rules, customers who voluntarily leave PIPP and seek to re-enroll within 12 months are required to make missed PIPP payments for the months in which the customer was not on PIPP. Any payments made by customers after they go off PIPP serve as an offset to the amount due in missed PIPP payments. These rules were presumably structured to discourage customers from voluntarily leaving PIPP during non-winter months and then re-enrolling during the winter heating months.

But if customers voluntarily go off PIPP with no arrearages, the customers should be able to re-enroll at any time by making their initial PIPP payment. In addition, the rules should be modified to prevent customers from being responsible for missed PIPP payments for months in which customers are not actively enrolled in PIPP.

Ohio Adm.Code 4901:1-18-15(E) and (F) should be modified as follows:

“(E) A PIPP plus customer who voluntarily leaves PIPP plus **with no outstanding arrearages** and who was otherwise eligible for PIPP plus, and then within twelve months re-enrolls in PIPP plus must

pay the **first PIPP payment to re-enroll in PIPP.** ~~plus payments due for the months the customer received service but was not on the program, less payment made by the customer during the same time period.~~

(F) A PIPP plus customer who voluntarily leaves PIPP plus with no outstanding arrearages and who was otherwise eligible for PIPP plus, and then re-joins PIPP plus after twelve months, the customer would be required to pay his or her first PIPP plus payment. If the customer re-joins PIPP plus after twelve months and has outstanding arrearages at the time he/she left the PIPP plus program, the customer would be required to pay **all outstanding past due PIPP installments owed while the customer was actively enrolled in PIPP.** ~~the missed PIPP plus payments for the number of months that he or she was not enrolled in PIPP plus, less any payments made by the customer up to the amount of the customer's arrearages at the time he/she left the PIPP plus program."~~

3. Ohio Adm.Code 4901:1-18-15(G) should be modified to provide additional time for former PIPP customers to take advantage of the post PIPP program to mitigate any remaining PIPP debt.

Under the current PUCO rules, PIPP customers who no longer receive natural gas service from the local distribution company ("LDC") may participate in the post PIPP program to discharge any debt that was accrued while they were enrolled in PIPP.

However, the post-PIPP program is only available for 12 months from the date that the PIPP account was finalized. Many customers may not be aware of the program because notice of the availability is provided only on the final bill. In addition, customers who are moving to new locations can incur significant time and expenses getting settled in their new homes.

Because any payments that are made by former PIPP customers (regardless when they are made) helps reduce the overall cost of the PIPP riders, there is no reason to limit the availability of post-PIPP to the initial 12 months after the account is finalized.

Customers should have at least three years to make the 12 required post PIPP payments

to have PIPP debt fully discharged. Furthermore, the LDCs should be required to periodically inform former PIPP customers about the availability of the post PIPP program.

Ohio Adm.Code 4901:1-18-15(G) should be modified as follows:

(G) Post PIPP plus. The gas or natural gas utility company shall offer on the final bill **and in an annual letter thereafter**, a payment agreement for PIPP plus customers with arrearages who are closing their utility account due to:

(1) Moving beyond the gas or natural gas company's service territory,

(2) Transferring to a residence where utility service is not in the former PIPP plus customer's name, or

(3) Moving to a master-metered residence.

The monthly payment shall be no more than the total accumulated arrearage divided by sixty. Each time the former PIPP plus customer makes his or her required payment by the due date, the company shall reduce the account arrearage by one-twelfth. This payment agreement is available to the former PIPP plus customer for **thirty-six months** ~~twelve months~~ from the time the account finals.

4. Ohio Adm.Code 4901:1-18-17(B) should be modified to provide special payment plans for former PIPP customers who have been involuntarily removed from PIPP.

When customers are removed from the PIPP program involuntarily, their entire account arrearages become due under Ohio Adm.Code 4901:1-18-17(B). For customers who have been on PIPP over a long period of time, these arrearages can be substantial. Customers can be subject to disconnection for non-payment if these arrearages are not timely paid. While the PUCO requires the utilities to offer the standard PUCO- ordered payment plans in accordance with 4901:1-18-05(B), these payment plans (like the one-sixth and one-ninth plan) can result in payments that are cost-prohibitive for low-income

consumers. The PUCO Staff proposed an amendment to this rule to include a reference to Ohio Adm.Code 4901:1-18-05(A) that would provide for extended payment plans on terms that are agreeable to the customer and the utility. While the Staff-proposed amendment is helpful if the utilities are agreeable to longer term and more customized payment plans, there is no explicit requirement for the utilities to offer these plans.

To help former PIPP customers avoid disconnection of service due to large PIPP arrearages, a requirement should be added to the rule that the payment plan cannot exceed twenty-five dollars in addition to the utility current charges. Ohio Adm.Code 4901:1-18-17(B) should be amended as follows:

(B) If a customer is removed from PIPP plus for failure to timely reverify eligibility and fails to reverify and re-enroll in PIPP plus or to qualify for graduate PIPP plus 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 paragraphs (A) and (B) of rule 4901:1-18-05 of the Administrative Code. **The payment amount towards the PIPP arrearages under the extended payment plan shall not exceed twenty-five dollars plus current charges.** If the customer fails to make payment under the agreed payment plan, the former PIPP plus 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.

B. ODSA PIPP rules recommendations.

ODSA proposed substantial changes in Ohio Adm. Code 122:5-3-02(H) that help limit the level of missed PIPP payments that customers can be obligated to pay to remain on the program or to re-enroll in PIPP. The proposed ODSA rules limit the missed PIPP payments to only those months that the customers are actively enrolled in PIPP. This is a substantial improvement in the electric PIPP rules and one that should help customers maintain their service.

1. Ohio Adm. Code 122:5-3-02(H)(1)(b)(i) should be modified to provide customers additional time after their anniversary date to pay any past due PIPP installment amounts.

Under the ODSA rules, customers must make all past due PIPP installment payments within one billing cycle following the anniversary date on the bill to remain on the PIPP program. This can be difficult for many customers who may be behind in payments because of medical issues, job losses, or other family situations.

Under Ohio Adm. Code 4901:1-18-06, customers can avoid disconnection for non-payment by using medical certifications. Each Ohio household has the opportunity to use up to three medical certifications in a 12-month period (each for 30 days).

PIPP customers should not be required to make all past due payments within 30 days of the anniversary date, given the circumstances customers can face, including using medical certifications to avoid utility shut-off. Customers should have at least 90 days from the anniversary date to make any past due PIPP installment payments before they are removed from PIPP.

(I) If the customer is not current on his/her anniversary date, the electric distribution utility will issue a notice on the customer's bill, and the customer will have **ninety days** ~~one billing cycle~~ after the date of the notice to pay past due monthly PIPP plus installment amounts. If such amounts are not timely paid, the electric distribution utility will drop the customer from the PIPP plus program, and such customer will cease to be an active PIPP plus customer.

2. Ohio Adm. Code 122:5-03(C) should be amended to limit the missed PIPP payments that customers may be required to make to re-enroll in PIPP to only past due monthly PIPP installment from when the customer was active on PIPP.

Under the current ODSA rules, customers can be required to make missed PIPP payments for months in which the customer was not on PIPP or when service was

disconnected as a condition for re-enrolling in PIPP. However, under the proposed ODSA rules, missed PIPP payments are only required for months in which the customer was active in PIPP. Ohio Adm.Code 122:5-03-02(H) should be amended as follows:

(C) Continuing eligibility.

- (1) Annual verification of income eligibility. Income eligibility will be subject to annual verification at or about twelve months from the PIPP plus customer's most recent PIPP plus re-verification date. The director will use reasonable efforts to notify PIPP plus customers in advance of annual verification deadlines. PIPP plus customers will be required to submit then-current application information to the office of community assistance or a local agency. The director shall use such application information to determine continuing income eligibility. Local agencies and electric distribution utilities will cooperate with the director to facilitate the income verification process. If a PIPP plus customer fails to submit information sufficient to verify continuing eligibility within ~~ninety~~^{ninety} days after the customer's annual verification date, the customer will be ineligible to continue in the PIPP plus program, and the office of community assistance will send the affected utility by electronic data transfer a drop file to remove such customer as an active PIPP plus customer. PIPP plus customers who have been dropped from the PIPP plus program for not meeting the terms of the program, including failure to re-verify their income, may re-enroll in the program after all **past due monthly PIPP installment amounts owed while the customer was active on PIPP are paid.** ~~missed PIPP plus installments have been cured and monthly charges for any months the customer was not enrolled in the program but maintained services (less any payments made by the customer) have been paid. This includes PIPP plus payments for any months that the customer was disconnected. The amount due shall not exceed the amount of the customer's arrearage.~~

3. Ohio Adm. Code 122:5-3-04(B)(5)(c) should be amended to provide former PIPP customers additional time to participate in the Post-PIPP program.

Under the current ODSA rules, PIPP customers who no longer receive electric service from the electric distribution utility (“EDU”) may participate in the post- PIPP

program to discharge any debt that was accrued while they were enrolled in PIPP.

However, the post- PIPP program is available for only 12 months from when the PIPP account was finalized.

Many customers may not be aware of the program since notice of its availability is only required to be published on the final bill. In addition, customers who are moving to new locations can incur significant time and expenses getting settled in their new homes. Because any payments that are made by former PIPP customers (regardless when the payment is made) helps reduce the overall cost of the PIPP program through the Universal Service Fund rider, there is no reason to limit the availability of post PIPP to the initial 12 months after the account is finalized. Customers should have at least three years to make the 12 required post-PIPP payments to have their PIPP debt fully discharged. Furthermore, EDUs should be required to periodically inform former PIPP customers about the availability of the post PIPP program.

Ohio Adm.Code 122:5-3-04(B)(5)(c) should be modified as follows:

- (c) Post-PIPP plus - customer account closed. When an electric distribution utility closes the account of a PIPP plus customer (i.e., account "finaled"), the utility shall report to the office of community assistance the amount of any customer arrearage for which the utility was previously paid by the fund or through any other percentage of income payment plan mechanism. Each electric distribution utility shall notify such PIPP plus customer **on the final bill and annually thereafter** that post-PIPP plus arrearage credits will be available during the next **thirty-six month** ~~twelve-month~~ period to reduce the customer's final bill amount and request that such customer contact the utility company for additional information. Each electric distribution utility shall enter into a payment arrangement with any former PIPP plus customer who will agree to make payments against such customer's arrearage on a finaled account. A post PIPP plus customer who makes payments against the customer's arrearage on a finaled account as provided in

this rule will be eligible for post-PIPP plus arrearage credits. In order to receive a post-PIPP plus arrearage credit, the amount of the customer payment must be at least one-sixtieth of the customer arrearage on the finaled account. The post-PIPP plus customer will earn an arrearage credit for each such payment made to the electric distribution utility during the twelvemonth period after the customer's account is closed. The post-PIPP plus arrearage credit shall be calculated by the electric distribution utility as of the customer arrearage on the finaled account, and the electric distribution utility shall apply the credit against the customer arrearage each time that a customer payment is made as described in this paragraph. If a post-PIPP plus customer fails to make payments against customer arrearages on a finaled account during the -month post-PIPP plus arrearage credit period, the uncredited balance of the customer arrearage shall remain on the customer's account.

C. Non-PIPP PUCO rules (Ohio Adm.Code 4901:1-18) recommendations.

- 1. The PUCO should adopt a definition for “Active PIPP Customer” in Ohio Adm.Code 4901:1-18-01 for consistency with the active PIPP customer definition that is used by ODSA.**

ODSA rules contained in Ohio Adm.Code 122:5-3-01(C) provide a definition for “Active PIPP Customer” to explicitly define an electric PIPP customer as one who is currently enrolled in PIPP and is currently using utility service from an Ohio EDU.

There is not a definition for active natural gas PIPP customers in the PUCO rules. The definition for an active PIPP customer is important in identifying the obligation that customers have for making PIPP payments during the time that customers are enrolled in PIPP, or if they go off the program and later seek to re-enroll in PIPP.

The PUCO should adopt portions of the ODSA definition for an active electric PIPP customer in the rules that pertain to natural gas PIPP customers. A proposed

definition for active PIPP customers that the PUCO should include in Ohio Admin. Code 4901:1-18-01 is provided as follows:

“Active PIPP Customer” means a customer who is both currently enrolled in PIPP and currently using utility service from a local distribution company.”

2. **The PUCO should amend Ohio Adm.Code 4901:1-18-03 to remove any ambiguity surrounding the reasons why residential customers can be disconnected by an electric or natural gas utility.**

Ohio Adm.Code 4901:1-18-03 provides the eight reasons why residential utility service can be disconnected by a gas or electric utility. Outside these eight reasons, an electric or natural gas utility does not have the authority to disconnect services to a residential customer. One of the reasons why services can be disconnected is for “good cause shown.” This rule is ambiguous and could possibly lead to customers’ services being disconnected according to terms that are solely based on the discretion of the utility. In addition, the disconnection of natural gas or electric services for “good cause shown” is not supported under Ohio law. Ohio Revised Code 4933.12 and 4933.121 provide specific reasons why electric or natural gas services can be disconnected. Good cause shown is not one of those reasons. The PUCO should delete Ohio Adm.Code 4901:1-18-03(I) to safeguard that electric and natural gas utilities remain compliant with Ohio law.

3. **The PUCO should not amend Ohio Adm.Code 4901:1-18-06(A)(1) as proposed by Staff to permit disconnections for non-payment to occur after 12:30 p.m. for customers who are served with meters that have remote reconnection capabilities.**

Under the current PUCO rules, disconnections for non-payment must occur before 12:30 p.m. on a day that proceeds a day when the utility is not regularly scheduled

to perform reconnections of service. Payments made before 12:30 p.m. should assure that the services are reconnected on the same day they are disconnected. The purpose of having the 12:30 p.m. restriction on the time when disconnections must be performed is to provide customers time to make payment for services to be reconnected on the next regular business day.

The PUCO Staff proposed amending this rule to extend the time period in which disconnections can occur until 3:30 p.m. if the customer is served with a meter that has remote reconnection capabilities. However, the proposed Staff rule also extends the time period in which customers can be eligible for reconnection from 12:30 p.m. to 3:30 p.m. This can result in customers with remote reconnection capabilities having less time to arrange payment arrangements with the utility in order to get their services restored on the next business day. Therefore, these customers can potentially be disconnected for longer periods of time.

The remote reconnection capabilities that are part of the advanced metering infrastructure (“AMI” or smart meters”) that have been installed by some of the Ohio EDUs are touted as a benefit in reducing the amount of time customers remain disconnected after payment is made. This is because the remote reconnection can occur electronically from the utility offices without the need to dispatch an employee to the customers home to physically reconnect service. The PUCO rules should support customers with AMI meters being reconnected within one hour any time after payment is made and not an outcome where customers with remote reconnection capabilities can be off for longer periods of time. Ohio Adm. Code 4901:1-18-06(A)(1) should be amended as follows:

(1) No disconnections for nonpayment shall be made after twelve-thirty p.m. on the day preceding a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed. ~~Where a meter with remote reconnection capabilities is installed, the customer shall be reconnected within one hour after payment is made. ~~o disconnections for nonpayment shall be made after three thirty p.m. on the day preceding a day on which all services necessary for the customer to arrange and the utility company to perform reconnection are not regularly performed.~~~~

4. The PUCO should clarify that utility service cannot be disconnected after November 1st without providing customers the additional ten-day notice required under the rules, even if the disconnection was originally scheduled to occur before November 1st.

Under Ohio Revised Code 4933.12 and 4933.121, gas and electric utilities are required to provide a ten-day notice between November 1st and April 15th before services can be disconnected for non-payment. The existing PUCO rules address the ten-day notice in addition to the 14-day notice that is provided year-round. However, there may be ambiguity if the customer's service is supposed to be disconnected before November 1st but does not in fact occur until after November 1st.

The PUCO's rules should clarify that any disconnection of utility service cannot occur after November 1st unless the customer first receives the additional ten-day notice required under the rules. This should apply to disconnections that were scheduled to occur before November 1st.⁴

Ohio Admin. Code 4901:1-18-06(B)(1) should be modified as follows to clarify the statutory intent of the additional ten-day notice:

(1) Makes contact with the customer or other adult consumer at the premises ten days prior to disconnection of service by personal contact, telephone, or hand-delivered written notice. Utility

⁴ See, *In the Matter of Complaint of Gail Lykins vs. Duke Energy for Wrongful Death Pursuant to Improper Disconnect of Utilities*, Case No. 15-298-GE-CSS, *Opinion and Order* (August 30, 2017) ¶ 58-59.

companies may send this notice by regular, U.S. mail; however, such notice must allow three calendar days for mailing. This additional notice shall extend the date of disconnection, ~~as stated on the fourteen-day notice required by paragraph (A) of this rule,~~ by ten additional days.

5. The PUCO should modify the medical certification form to protect customer privacy consistent with HIPAA rules and regulations.

Under current Ohio Adm.Code 4901:1-18-06(C), customers are protected from disconnections for non-payment if the disconnection would be especially dangerous to health or if the disconnection would limit operation of life-support equipment. Customers must obtain approval from medical professionals of a medical certification form, which can be located on the PUCO website. The form includes specific language that customers must sign that states: “I certify that I advised my patient that disclosure of the requested information may be subject to redisclosure by the recipient and no longer protected by the HIPAA rules and regulations”⁵

The purpose of the Health Insurance Portability and Accountability Act (HIPAA) privacy rules are to safeguard the protection of personal health information without patient authorization. Information on the medical certification form is provided to utilities for the specific purpose of certifying that customers have medical needs that warrant preventing the disconnection of gas or electric service. The information is not provided to the utilities to redisclose to any other person or party. And utilities are responsible for protecting the information from further redisclosure. Therefore, the disclosure language should be removed from the form.

⁵ <https://www.puco.ohio.gov/puco-forms/30-day-medical-certification-form/>

6. The PUCO should accelerate the time in which customers who are served with meters with remote reconnection capabilities can pay past-due balances to have services restored the same day.

Staff proposed modifying Ohio Adm.Code 4901:1-18-07(B)(1) to enable customers who are served with meters that have remote reconnection capabilities until no later than 3:30 p.m. on the day services are disconnected to make payment to have services restored the same day. This is a positive change that requires the electric utilities to use the capabilities that customers are paying for in the AMI meters in a way that is beneficial for customers.

However, the 3:30 p.m. deadline for making payment may be an unnecessary restriction that can result in customers being disconnected for longer than necessary. It is unclear why the electric utilities would not have the ability to reconnect services at any time after customers make payment given that the reconnection occurs electronically through utility systems that are managed by the utility. The proposed rule in Ohio Admin. Code 4901:1-18-07(B)(1) should be modified as follows to enable expeditious remote reconnections to occur as soon as practical after customers make payment.

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. Where a meter with remote reconnection capabilities is installed, the **utility during normal business hours shall reconnect service within one hour from when the** customer ~~must~~ provides proof of payment.

7. The PUCO should modify Ohio Adm.Code 4901:1-18-09 to require combination utilities to separately list the balances for the natural gas service and the electric service on a combined utility bill.

The PUCO's rules require combination utility companies to apply payments that are made by customers separately to their gas and electric accounts. However, there is no explicit requirement for the account balances to be separately listed on the bill or

disconnection notices so that customers can manage how payments are applied. The PUCO rules also provide customers with special rights to apply payments in a manner that enables the customer to retain either the gas or electric service if faced with disconnection. However, the separate account balances are not readily available on the combined bill or disconnection notices to help customers decide which service they may wish to retain. Ohio Adm. Code 4901:1-18-09(B) should be modified as follows to require combination utilities to separate account balances for both the natural gas and electric service.

(B) A combination utility company shall provide separate account balances on customer bills and notices, and 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...

...

- D. As part of this broad rulemaking concerning the credit and disconnection rules, the PUCO should extend the consumer protections of the modified *Shroyer* test to all residential customers of submetered utility service where the submeterer is determined to be a public utility.**

Submetered service is utility service that is resold to consumers through the use of one or more submeters. The gas or electricity may originate from a local public utility as defined in R.C. 4905.02, a municipal utility, a non-profit cooperative, or a competitive retail electric or natural gas service provider. But the service is procured by a submetering company, a landlord, or a condominium association and is then resold to consumers who reside in apartment buildings, trailer parks, or condominiums under the submeterer's exclusive control.

Thousands of residential consumers have been victimized by submeterers' abusive pricing and business practices. These consumers have been subjected to excessively high prices for utility service, which in many cases has resulted in threatened disconnection of service for nonpayment. But the submeterers do not follow the PUCO's disconnection rules. And consumers of submetered utility service do not have the protections of the PUCO's rules.

The PUCO provided some protection to residential consumers in its 2015 investigation of submetering.⁶ In determining whether a submeterer is a public utility subject to PUCO jurisdiction, the PUCO adopted a rebuttable presumption based on the price the submeterer charges residential consumers. This is known as the modified *Shroyer* test.⁷ The PUCO's decision was limited to the reselling of a public utility's service, however.⁸ The PUCO stated that the reselling of municipal or non-profit cooperative utility service was not addressed in the submetering investigation. The current broader rulemaking does not suffer from the same limitation as the submetering investigation.

In this rulemaking proceeding, the PUCO should affirmatively state that the disconnection provisions of its rules apply to any submeterer that is found to be operating as a public utility – even if the submeterer resells municipal or non-profit cooperative utility service. A public utility is a public utility, regardless of where its gas or electricity comes from.

⁶ *In the Matter of the Commission's Investigation of Submetering in the State of Ohio*, Case No. 15-1594-AU-COI, Finding and Order (December 7, 2016).

⁷ *See In the Matter of the Commission's Investigation of Submetering in the State of Ohio*, Case No. 15-1594-AU-COI, Second Entry on Rehearing (June 21, 2017), ¶¶11.

⁸ *See id.*, Second Entry on Rehearing (June 21, 2017), ¶¶11, 49.

A submeterer that resells municipal utility service is not itself a municipal utility. It is not owned or operated by a municipal corporation, and thus is not exempt from PUCO regulation under R.C. 4905.02(A)(3). Its rates are not set by municipal ordinance and it is not accountable to the citizens of the municipality for its actions.

Likewise, a submeterer that resells the utility service of a non-profit cooperative is not itself a non-profit cooperative. It is not “owned and operated exclusively by and solely for the utility’s customers” and does not procure utility service “solely for the consumer’s or consumers’ own intended use as the end user or end users....”⁹ Thus, it is also not exempt from PUCO jurisdiction under Ohio law. Its management is not accountable to a board of directors elected by the cooperative’s members. And it is likely a for-profit entity.

All consumers of over-priced submetered utility service need the protections found in the PUCO’s disconnection rules. In determining whether a submeterer is a public utility, the PUCO should apply the modified *Shroyer* test to all submeterers that resell utility service, no matter whose utility service they resell.

III. CONCLUSION

While OCC generally supports the changes proposed by PUCO Staff and by ODSA, additional changes need to be made to the rules as discussed in these comments. The circumstances under which low-income consumers can re-enter PIPP to allow these customers to maintain their gas and/or electric service should be clarified, which also eases the burden on all customers who pay for PIPP through various riders. Rules surrounding disconnections and reconnections should be clarified for fairness and

⁹ R.C. 4905.02(A)(2).

consistency as discussed herein. Another change extends additional PUCO protections to customers of submeterers that are acting as public utilities. The PUCO should adopt OCC's proposals.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 19th day of July 2019.

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Summary: Comments Comments by Advocates for Basic Legal Equality, Inc., The Legal Aid Society of Cleveland, The Legal Aid Society of Columbus, The Legal Aid Society of Greater Cincinnati, the Office of the Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc. and Southeastern Ohio Legal Services electronically filed by Ms. Deb J. Bingham on behalf of Botschner-O'Brien, Amy