

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In The Matter of the Commission's                    )  
Review of Ohio Adm. Code Chapters                ) Case No. 19-52-AU-ORD  
4901:1-17 and 4901:1-18                            )

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**COMMENTS**  
**OF OHIO PARTNERS FOR AFFORDABLE ENERGY**

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July 19, 2019

## INTRODUCTION

Ohio is recognized nationally for having strong consumer protections in its statutes and regulations. The rules in Ohio Administrative Code Chapters 4901:1-17 and 4901:1-18 are the core of these protections. The provisions of Chapter 4901:1-17 include a just and reasonable approach for the establishment of credit for utility service. The rules include provision for a guarantor, to ensure that customers of limited ability can be provided with the support necessary to remain connected to utility service. There are affirmative duties placed on the utility to ensure that customers are made aware of credit requirements, and the availability of the Percentage Income Payment Plan Plus (PIPP Plus) and other assistance. The method of calculating deposits is transparent, and customers may challenge that calculation.

Chapter 4901:1-18 covers disconnection procedures, payment plan options, and PIPP Plus. Ohio Partners for Affordable Energy (OPAЕ) observes that new technologies that no longer require utilities to send field technicians to a residence to disconnect customers are beginning to have an impact on notice requirements. The Commission has issued waivers which deny customers the consumer protections embedded in this Chapter. This rulemaking offers the opportunity to firm up these protections so abbreviated technological messaging does not replace notice that makes customers aware of their rights to challenge the bill, utilize alternative payment plans, or utilize benefits available to continue essential utility service.

This Chapter also includes the natural gas PIPP Plus rules. OPAЕ believes these rules have veered from their original intent. PIPP Plus was designed to improve the affordability of utility service. The average family taking utility service in Ohio has an

energy burden – the percentage of family income spent on utility service – of 3.0 percent. <https://www.energy.gov/eere/slsc/maps/lead-tool>. By comparison, the low income household with an income under 100 percent of the Federal Poverty Line (FPL) has an average energy burden of 17 percent. Families with incomes between 100 and 150 percent of FPL have an energy burden of 8 percent, and those with incomes between 150-200 percent FPL have burdens of just over 5 percent. Ibid. PIPP+ customers are required to pay 10 percent (if all electric) or 12 percent of their income for regulated utility service, or roughly 263 – 447 percent of an average median income family.

Eligibility for PIPP Plus is set at 150 percent of the federal poverty line, but most customers participating in the Program have incomes of less than 90 percent of the federal poverty line. There are obvious conclusions that can be drawn from this information: 1) PIPP Plus customers are the poorest of the poor; 2) PIPP Plus is only beneficial to customers with an energy burden of greater than 10 or 12 percent of the family budget; and, 3) PIPP Plus customers live in the most energy inefficient housing. Public data sources make clear that low income customers generally use less electricity and natural gas than families of average income. For many income-eligible families, low usage and currently low natural gas prices allow them to afford their utility bills. The Home Energy Assistance Program (HEAP), PIPP Plus, and the weatherization programs address the needs of households that are high users or low on the income scale.

The purposes of PIPP Plus are to improve affordability and help ensure families remain connected to essential energy services. The percentage of income required is

very high compared to average energy burden for median income or many low income customers. We must acknowledge the reality that many PIPP Plus customers will fail to make every payment.

OPAE's recommendation is to apply standard disconnection rules to PIPP Plus customers. If the customer fails to make payments for an extended period of time, they will be subject to disconnection. In order to be reconnected the customer should have to make up the payments missed prior to disconnection. If the customer is not disconnected, the missed payments and accompanying arrearages should be folded into the arrearages subject to crediting annually. This will allow customers to remain connected, remain on PIPP Plus, and continue to make payments.

The following are OPAE's specific comments on the rules. We have included a Section IV to provides comments specific to the disconnection rules contained in Chapter 4901:1-18. OPAE's recommendations are in blue, while Staff proposed changes are in red. Failure to comment on any proposed change should not be interpreted as support for or opposition to the revision.

## **Section I – Comments on PIPP Plus Rules Contained in Ohio Adm.Code Chapters 4901:1-18 and 122:5-3.**

### ORC 4901:1-01 and 122:5-3-01 – Definitions

OPAE recommends the Public Utilities Commission of Ohio (PUCO) rules utilize the definition of “[f]ormer percentage of income payment plan customers” from the Ohio Development Services Agency (ODSA) rules. The ODSA definition is clearer. In fact, all the definitions should be made consistent. Alternate versions only complicate the rules for customers, and for agency staff that work with the rules daily.

OPAE also recommends a revision to the phrase “PIPP Plus anniversary date” as follows:

(NN) "PIPP Plus anniversary date" ~~means the calendar date by which the PIPP plus customer must be current on his/her income-based PIPP plus payments to continue participation in PIPP plus for the subsequent twelve months.~~ It is also the date by which the PIPP plus customer's arrearage credit amount will be reviewed and may be recalculated. The PIPP plus anniversary date shall be at or about twelve months from when the customer is enrolled in PIPP plus.

This change makes the definition consistent with not requiring all missed PIPP Plus payments to be made up prior to re-enrolling. The PUCO rules should also use this definition.

The phrase “PIPP Plus reverification date” should be modified to read as follows in

both sets of rules:

"PIPP plus reverification date" means the calendar date by which the PIPP plus customer must document his or her household income and household size to continue participation in the PIPP plus program or participate in the graduate PIPP plus program. ~~The reverification date shall be every twelve months from when the customers last reverified as determined by the Ohio Development Services Agency.~~

There is little point in having both an anniversary date and a reverification date. However, PIPP Plus enrollments ebb and flow during the year. For management purposes, however, ODSA should have the discretion to set a date for reverification that allows for better management of the program.

#### ORC 4901:1-18-12 and 122:5-3-02

The approaches to determining eligibility for natural gas and electric PIPP Plus should be the same. ODSA uses 30 days of income annualized to determine eligibility, with an option to look at the annual income if the 30-day income exceeds eligibility requirements. The PUCO rules should be modified to use the same standard. This will

simplify administration of the program by using a consistent measure rather than requiring intake personnel to do the income calculation twice, which could lead to the anomalous situation of having someone qualify for electric PIPP Plus but not gas PIPP Plus.

OPAE opposes continuing the requirement that participants in PIPP Plus be required to make up all missed payments by the anniversary date. The ODSA rules do make changes in this area, recognizing that curing all missed payments is unreasonable for the customers on PIPP Plus. OPAE supports and its members encourage and work with clients to ensure they make all payments. However, given the trials of poverty that PIPP Plus clients confront every day, there is a more reasonable approach. Following are OPAE recommendations for modification to the PUCO rules. After these comments, we offer minor edits to the modifications proposed by ODSA, with which we generally agree.

(A) 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. 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 sixty days after the customer's PIPP plus reverification date to reverify eligibility.

~~(1) 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 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 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.~~

- (2) PIPP plus customers who have been ~~dropped from the PIPP plus programs disconnected~~ 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~~ are otherwise eligible for PIPP plus, may re-enroll in the program after making all PIPP plus payments which would have been due for the months the customer is disconnected from gas utility service. ~~After all missed PIPP plus payments, 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. Customers who are dropped from the program for failure to reverify may reenroll in the program by establishing income eligibility for the program. This rule is not intended and should not be interpreted to prevent any customer from taking advantage of any commission rule or order otherwise available to the customer to maintain or reconnect electric service by paying less than the delinquent amounts and reconnect charges.

OPAE suggests the follow changes to the ODSA-proposed version of 122:5-3-

02(H):

- (A) Eligibility following account default or disconnection by a utility.

(1) Account default.

~~(a) If a PIPP plus customer fails to pay monthly PIPP plus installment amounts and such non-payment causes the customer's electric service to be subject to disconnection by a utility for non-payment or actually disconnected by a utility for non-payment, it shall be the responsibility of the PIPP plus customer to avoid disconnection by paying the minimum amount as provided by the commission in paragraph (B) of rule 4901:1-18-05 of the Administrative Code (or any successor rule of substantially the same effect) or to have service reconnected as provided by the commission in rule 4901:1-18-07 of the Administrative Code (or any successor rule of substantially the same effect), except that for purposes of this rule, the minimum amount to avoid disconnection or to reconnect will not include accrued arrearages on the PIPP plus customer's account prior to non-payment of monthly PIPP plus installment amounts. None of the delinquent amounts, including any past due monthly PIPP plus installment amounts and other charges commission rules permit the utility to collect from a customer to avoid disconnection or to reconnect electric service (but not including accrued arrearages prior to the non-payment of monthly PIPP plus installment amounts), shall be charged to or paid from the fund. A~~

~~customer will cease to be an active PIPP plus customer if a utility disconnects electric service to such PIPP plus customer for non-payment and electric service remains disconnected through the end of, that billing cycle and the utility shall report such customer as an inactive customer.~~ A PIPP plus customer who has ceased to be an active PIPP plus customer as a result of ~~disconnection for~~ disconnection due to non-payment or voluntarily leaving the PIPP plus program shall be ineligible to participate in the PIPP plus program until such customer pays any ~~delinquent amounts through the date the office of community assistance identifies the customer for removal as an active PIPP plus customer, including any~~ past due monthly PIPP plus installment amounts. ~~the installment amount for those months that they were not enrolled in the PIPP plus program, including payments for any months in which the customer was disconnected (not to exceed the account balance), and other charges commission rules permit the utility to impose to reconnect service as provided in rule 4901:1-18-07 of the Administrative Code (or any successor rule of substantially the same effect).~~ The requirement in this rule for a customer to pay delinquent amounts and reconnect charges, past due monthly PIPP plus installment amounts owed while the customer was active on PIPP plus and is a condition of re-enroll in the PIPP plus program. This rule is not intended and should not be interpreted to prevent any customer from taking advantage of any commission rule or order otherwise available to the customer to maintain or reconnect electric service by paying less than the delinquent amounts and reconnect charges.

~~(b) To be eligible to continue in the PIPP plus program for the subsequent twelve months, the PIPP plus customer my be current on his/her PIPP plus installment on his/her anniversary date.~~

~~(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 on 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 recalculate the customer's arrearages by including the total of the missed payment during the prior year;~~

~~(i) The utility shall reinstate the PIPP plus customer into PIPP plus when the PIPP plus customer pays all past due monthly PIPP plus missed installment amounts owed while the customer was active on PIPP plus, s and current monthly charges for those months when the PIPP plus customer was not enrolled in the program, less any payments the customer has made (up to the account arrearage). The utility shall provide notice to the office of community assistance of both the drop and the reinstatement through the nightly confirmation files.~~

~~(c) A PIPP customer who is income eligible, voluntarily leaves PIPP plus, and within twelve months re-enrolls in PIPP plus, must pay the difference between the PIPP plus installments for the months the customer received service but was not on the~~



~~program, less payments made by the customer during the same time period up to the amount of the customer's arrearage.~~

~~(d) A PIPP plus customer who is income eligible, voluntarily leaves PIPP plus, and then re-enrolls in PIPP plus after twelve months and has no accrued arrearage, is required to pay only his/her first PIPP plus payment upon re-enrollment. If the customer re-enrolls in PIPP plus after twelve months and has an accrued arrearage, the customer is required to pay the missed PIPP plus payments for the number of months that he/she was not enrolled in PIPP plus, less any payments made by the customer up to the amount of the customer's arrearages, in addition to his/her first PIPP plus payment.~~

(B) 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 sixty 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 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.~~

Section 122:5-3-04

OPAE contends that funds that are provided monthly outside of HEAP or emergency HEAP should be first applied to current bills by modifying Subsection 3 as follows:

(2) Money other than HEAP, ~~or emergency HEAP, or money provided on a monthly basis by a public or private agency for the purpose of paying utility bills~~ shall first be applied to the customer's defaulted current monthly payment obligation (this could be PIPP plus default, graduate PIPP plus default, or extended payment plan default), if any,

then applied to the customer's current monthly income-based payment obligation (this could be PIPP plus installment, graduate PIPP plus installment, or extended payment plan obligation), and lastly, shall be applied to the customer's arrearages. Money provided on a monthly basis by a public or private agency for the purpose of paying utility bills shall be applied to the customer's current monthly income-based payment obligation, then to the customer's defaulted payment obligation, and lastly, if any, shall be applied to the customer's arrearages.

#### 4901:1-18-15

OPAE suggests changes to this Section consistent with its overall recommendations to reduce barriers to customers remaining on PIPP Plus:

~~(E) A PIPP plus customer who voluntarily leaves PIPP plus and who was otherwise eligible for PIPP plus, and then within twelve months re-enrolls in PIPP plus must pay the 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 an outstanding arrearages at the time he/she left the PIPP plus program, the customer would be required to pay 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.~~

#### 4901:1-1-16(H)

Again, OPAE suggests removing barriers to participating in PIPP Plus by modifying Section (H) has follows:

(H) An active or former graduate PIPP plus customer may re-enroll in PIPP plus at any time, provided that he or she meets the income qualifications. ~~The active or former graduate PIPP plus customer must be current with his or her graduate PIPP plus payments or cure any missed graduate PIPP plus default prior to re-enrollment in PIPP plus.~~

122:5-3-06

This Section should be rewritten to reflect current law, specifically 4928.54, et.seq.

**Section II – Comments on Ohio Adm.Code Chapter 4901:1-17.**

OPAE supports the changes proposed by Staff, and offers no other comments to this Chapter.

**Section III – Comments on Ohio Admin.Code, Chpater 122:5-3 that are Unrelated to the PIPP Plus Program.**

ODSA has proposed no changes to the provisions of the rules that are unrelated to the PIPP Plus Program. OPAE has no recommended changes for these provisions.

**Section IV – Comments on Ohio Admin.Code Chapter 4901:1-18 that are Unrelated to the PIPP Plus Program**

ORC 4901:1-18-02

OPAE recommend the following changes to subsection (B):

- (A) Nothing contained in this chapter shall in any way preclude the commission from any of the following:
  - (1) Altering, or amending, in whole or in part, the rules and regulations in this chapter through a rulemaking process under Chapter 106.
  - ~~(2) Prescribing different standards for the disconnection and reconnection of electric, gas, or natural gas service as deemed necessary by the commission.~~
  - ~~(3) Waiving any requirement, standard, or rule set forth in this chapter for good cause shown, as supported by a motion and supporting the memorandum. The application for a waiver shall include the specific rule(s) requested to be waived. If the request is to waive only a part or parts of a rule, then the~~

~~application should identify the appropriate paragraphs to be waived. The waiver request shall provide sufficient explanation, by rule, to allow the commission to thoroughly evaluate the waiver request.~~

The intent of this change is to require that any change to this Chapter be accomplished through a rulemaking process, not through waivers.

ORC 4901:1-18-05

OPAE recommends that the phrase “or other community-based nonprofit organization designated by the Ohio development services agency” be added after ‘the local community action agency’. This change recognizes that agencies are involved in providing PIPP Plus services that are not community action agencies.

ORC 4901:1-18-06

OPAE disagrees with the Staff proposal to allow disconnection later in the day on Fridays or other days when utility offices will be closed the following day in subsection (A)(1). Disconnecting customers at 3:30 pm provides little opportunity for a customer to gather the funds necessary to be reconnected, meaning the disconnection will last through a two-day or longer holiday weekend. Food stored in refrigerators will spoil over that time, exacerbating the financial situation of the customer. The timeframe of the current rule should be retained.

Utilities regularly aver that some customers are difficult or even dangerous to deal with, and that fact, coupled with the technology to support remote disconnection, supports elimination of the personal visit on day of disconnection. OPAE believes that

rather than a wholesale waiver, an appropriate exception does make sense, and proposes inclusion of the following language in this section:

(3) A company is not required to provide a personal notice if a reasonable man would conclude there is a threat of bodily harm to the utility personnel attempting to deliver the notice.

The next subsection, 4901:1-18-06(A)(3)(c) requires notice of a pending disconnection be provided to the county department of job and family services when it the utility has been provided with a written request for notification. This should be extended to “local community action agencies, or other community-based nonprofit organization designated by the Ohio development services agency,” by inserting this language after the three instances where ‘county department of job and family services’ appears. This will enhance the ability of agencies helping manage HEAP and PIPP Plus in providing case management services to its clients.

OPAЕ also notes that the requirements for the disconnection notice contained in 4901:1-18-06(A)(5) are far more extensive than what can be included in a tweet or robocall. Without these notices, customers are not receiving the level of protection from disconnection embodied in these rules. There should be no waivers of the requirement to provide these notices on the day of disconnection.

It should be made clear that electronic contracts can only be substituted for written notifications with a customer’s consent. Section 4901:1-18-06(B)(1) should be modified by included the following sentence at the end of the Section: “Electronic contacts are permitted only with permission of the customer.”

New technologies permit remote disconnection and reconnection of electric utility service. The business cases for smart meter systems assume significant savings associated with this capability because there is no longer need for a truck role to effectuate disconnection. These savings should be reflected in the fee paid by customers that are being reconnected, consistent with the principal of cost causation. OPAE recommends that the reconnect fee be capped at \$10.00 during regular business hours and \$15.00 for reconnection during the evening or on weekends.

## CONCLUSION

OPAE appreciates the efforts of staff from both agencies to update and improve these important rules. By and large, OPAE agrees with the suggested modifications. However, OPAE remains convinced that because the participants in PIPP Plus are among the most vulnerable utility customers. The PIPP Plus program is critical to these families maintaining service, but there must be a recognition that the percentage of income we are insisting these customers pay far exceeds the energy burden of the average family. As a result, there needs to be a recognition that customers may not make every payment annually. Requiring customers to make up all payments by an anniversary date is tantamount to preventing future participation in the program. A better option is to add the missed payments to the arrearages and recalculate the amount of arrearages subject to forgiveness monthly. PIPP Plus has improved payment performance, but the 'loaves and fishes' are not adequate for every family to make or make-up every payment. A recognition of that fact will better protect the

elderly, disable, and families with children that make up the bulk of PIPP Plus participants.

Respectfully Submitted,

*/s/ David C. Rinebolt*

David C. Rinebolt  
Executive Director and Counsel  
Ohio Partners for Affordable Energy  
P.O. Box 1793  
Findlay, Ohio 45839-1793  
Telephone: (419) 425-8860  
Cell: (614) 975-8692  
[drinebolt@opae.org](mailto:drinebolt@opae.org)

(willing to accept e-mail service)

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