

**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.)

**APPLICATION FOR REHEARING
OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

Ohio Partners for Affordable Energy ("OPAE") hereby applies for rehearing of the Finding and Order issued by the Public Utilities Commission of Ohio ("Commission") on November 4, 2020 in this proceeding, the five-year rule review of Ohio Administrative Code Chapters 4901:1-17 and 4901:1-18. OPAE submits that the Commission's Finding and Order is unreasonable and unlawful in the following particulars:

- I. The Order unreasonably and unlawfully requires customers who have been disconnected, dropped from PIPP, or voluntarily left PIPP, to make up to 24 months of PIPP payments to re-enroll in the Program. Finding and Order at 57 and 64.
- II. The Order unreasonably and unlawfully requires that payments made on behalf of clients by a public or private agency that are not HEAP or E-HEAP payments shall first be applied to the customer's current monthly payment obligation. Finding and Order at 62-63.

The PUCO should modify the Order and make the changes to the rules recommended in this Application for Rehearing. 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 OF THE APPLICATION FOR REHEARING
OF
OHIO PARTNERS FOR AFFORDABLE ENERGY**

The Public Utilities Commission of Ohio (“PUCO”) adopted revised rules regarding the establishment of credit for residential utility services and the disconnection of residential gas, natural gas or electric service on November 4, 2020. These rules include the basic protections necessary for consumers. The regulatory compact requires that in return for a monopoly, regulated utilities have a duty to provide services to customers. Connection and disconnection policy give meaning to this duty, prohibiting utilities from denying service unless certain conditions are met. Ohio also includes payment options designed to make utility service affordable. The COVID-19 pandemic has highlighted the importance of protecting consumers by erecting clear standards; providing for payment plans that provide the opportunity to remain connected; and, offering an affordable rate plan that includes an arrearage management component.

On behalf of the 51 community-based nonprofits that provide services to Ohio’s most vulnerable families, Ohio Partners for Affordable Energy (“OPAE”) wants to take this opportunity to note our appreciation of the work done by the PUCO, its Staff, and personnel at the Ohio Development Services Agency (“ODSA”) to ensure customers

have adequate opportunities and resources to remain connected to essential energy services during the COVID-19 pandemic. The extension of the Home Energy Assistance Program (“HEAP”) along with Winter Reconnect Order in the spring ensured tools remained available to help people stay current with bills even when the utility disconnection moratoria were in place. The Summer Cooling Program was restructured to open it to all income-eligible customers. Our member agencies are supplementing these resources with funding provided by the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funding, programmed through the Community Services Block Grant (“CSBG”), to help our clients pay rent or mortgages; pay water and sewer bills; and, pay electric, gas, and propane bills. Decisions were made at the Commission through an open and transparent process that allowed all parties to participate. The early effective date of the Winter Reconnect Order for 2020-2021 is helping ensure the resources to provide a continuum of connection could be used effectively.

While parties can quibble about some details of the system that was created, overall, the Commission, Staff, and ODSA have done a good job. Ohio has effectively created a continuum of connection which provides the programs, policies and resources necessary to continue utility service for vulnerable households, including those affected by the pandemic. We appreciate that these policymakers continue to monitor the situation and are prepared to take additional actions if warranted by the economic impacts of the ongoing pandemic. OPAE members look forward to continuing the cooperative approach that has kept the vast majority of Ohioans connected to service despite the huge increases in unemployment.

In the spirit of continuing the dialogue necessary to ensure Ohioans retain access to essential energy services, OP&E raises the following issues in this application for rehearing:

- I. **The Order unreasonably and unlawfully requires customers who have been disconnected, dropped from PIPP, or voluntarily left PIPP, to make up to 24 months of PIPP payments to re-enroll in the Program.**

The PUCO modifies Ohio Administrative Code (O.A.C.) Sections 4901:1-18-12 (D)(2)(b), 4901:1-18-12 (D)(3), and 4901:1-18-15(F) to require customers who have voluntarily left PIPP, been dropped from PIPP, or been disconnected, to make up to 24 months of missed payments to re-enroll in the program, including payments for months during which the customer was disconnected. The payment is limited to the amount of the customer arrearages at the time of re-enrollment. OP&E offered numerous comments and proposed revisions to these provisions. The Commission did not adopt the comments, but the change it did make was, to be honest, an improvement over the current rules which required the customer re-enrolling to make the monthly PIPP payment in addition to any arrearages the customer accumulated while not on PIPP.

Despite the modification, the provision remains onerous and will inhibit participation in PIPP. The Commission bases its position on the need to prevent customers from gaming the system by dropping off gas PIPP during the non-heating months. Opinion and Order at 54. PIPP customers are placed on a budget payment plan, which necessitates making payments each month, just like any other customer on a budget plan. When a non-PIPP customer on a budget plan chooses to disconnect service, the customer will be liable for the entire balance of the bill in the final billing. The Commission appears to be attempting to ensure consistent treatment of PIPP and

non-PIPP customers. However, requiring an ex-PIPP customer to pay up to 24 months of PIPP payments in order to re-enroll in the Program is unreasonable.

PIPP is both an affordable rate and an arrearage management program. Customers who enroll in PIPP, most of whom have household incomes lower than 100% FPL, are the most vulnerable of Ohio's utility customers. Still, some of the households with incomes under 100% of the poverty line somehow manage to pay their bills without taking advantage of PIPP. There are a number of factors that affect affordability. Those participating in PIPP are in the most difficult financial position. Asking a family in this situation to come up with 24 months of missed PIPP payments is unreasonable.

OPAE is not restating its position in the comments and reply comments. Rather, OPAE recommends that the regulations be modified to limit the repayment to six (6) months of PIPP payments. This will address the Commission's concern about gaming the system during the summer months because it would require a customer that re-enrolls to make payments covering the summer bills. This will still be difficult, but it is more likely that clients can scrape up six months of PIPP payments than as many as 24 months.

The Commission recognized the challenges faced by PIPP customers who have missed payments when it issued this year's Winter Reconnect Order. The Order specifically permits customers that have been disconnected, or dropped from PIPP or voluntarily left PIPP and now have a disconnection notice, to re-enroll in PIPP even if they have missed payments. OPAE appreciates and supports this response to the financial hardship faced by families because of the pandemic. But for some

households, financial hardship existed before the pandemic and/or will exist after the pandemic. Reducing the amount of past PIPP payments required to re-enroll in the program recognizes the difficult choices low-income families face, while preventing the gaming of the system which concerns the Commission. OPAE urges the Commission to reduce the number of past PIPP payments which must be made up from 24 months to 6 months.

II. The Order unreasonably and unlawfully requires that payments made on behalf of clients by a public or private agency that are not HEAP or E-HEAP payments shall first be applied to the customer's PIPP payment obligation.

PIPP customers have limited resources and are constantly juggling bills in order to keep house and home together. Choosing between heating (or cooling), eating, and paying for health care are not a position anyone wants to be in. These families get behind on their bills, even if the bill is the limited, modest payments required by PIPP.

OPAE understands the determination of the Commission to require that HEAP or E-HEAP benefits first to past arrearages, and then to current bills. The Commission wants to ensure that public resources managed by the State are used in a certain way. Given that these resources are controlled by the State, it arguably has the authority to make this decision.

However, in O.A.C. 4901:1-13(C)(2), the Commission exceeds its authority when it seeks to require that funds provided to a household by charities that do not originate from a government program should apply to arrearages first, and only to current bills if the payment cures the arrearages. The funds should be applied to missed PIPP payments first, and then current PIPP payments, rather than applying to all arrears. For example, if a customer has been off PIPP for six months and wishes to re-enroll, the

rules require customers to make up missed PIPP payments, but not pay off all arrears. It is difficult for a poor family to come up with six months of payments without obtaining help from a charity. Yet, if the household is able to obtain a portion of the funds from a charity to cover the PIPP payments, the rules require that those resources must be applied to arrearages. This limits the ability of a customer to cure missed PIPP payments because it prohibits these families from using charitable benefits for this purpose. All customers will benefit if charitable funds not managed by the state government are applied to missed PIPP payments and current bills.

Conclusion

OPAE requests that the Commission modify the regulations as proposed in this application for rehearing.

Respectfully submitted,

/s/ David C. Rinebolt

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Summary: App for Rehearing of Ohio Partners for Affordable Energy electronically filed by Mr. David C Rinebolt on behalf of Ohio Partners for Affordable Energy