

PUCO Changes to Credit Termination + Collection Rules

Kegler Brown Energy + Environment News

On June 4, 2014, the Public Utilities Commission of Ohio issued its final rules for the establishment of credit for residential utility service and the disconnection of gas, natural gas, or electric service to residential customers. Please note: the final rules have not yet been filed with the Joint Committee on Agency Rule Review (JCARR) which is a prerequisite to becoming effective. It is not anticipated that JCARR will reject or modify these final rules. The filing with JCARR must take place at least 65 days prior to the date that the rule is filed with the Ohio Secretary of State and the Legislative Services Commission, and becomes effective on the tenth day following such filing.

The rules regarding Ohio's PIPP program are contained in both the Commission's rules for gas utilities (Ohio Adm. Code Chapter 4901:1-18) and in the Ohio Development Services Agency's (OSDA) rules for electric utilities (Ohio Adm. Code Chapter 122:5-3). The staffs of the two agencies coordinated any revisions to ensure clear and consistent rules for both gas and electric utilities.

OAC Chapter 4901:1-17. Establishment of Credit for Residential Service

1. Generally.

Throughout this chapter, amendments have been made to add electric utilities to the provisions addressing credit for residential services (gas, natural gas, waterworks, and sewage disposal were already included).

Throughout this chapter, the terms "percentage of income payment plan" and "PIPP" have been changed to "percentage of income payment plan **plus**" and "PIPP **plus**."

2. Rule 1-17-01. Definitions.

(J) Removes the reference to the separate rules regarding electric utility companies because it is unnecessary now that electric utilities are covered by this chapter. This is not a substantive change.

3. Rule 1-17-02. General provisions.

(D) Removes the reference to an optional method for delivery of credit procedures to applicants and customers. This does not, however, eliminate the Commission's authority to review customer information materials prior to their dissemination.

4. Rule 1-17-03. Establishment of credit.

(A)[5] This subsection allows residents to furnish a creditworthy guarantor to establish financial responsibility and secure service.

(b) In an effort to create uniformity, this subsection now requires utility companies to use the form provided in Appendix A for the Guarantor Agreement, rather than only requiring that guarantor agreements contain the same information provided in the appendix example.

(f) New subsection, added in response to the comments. States that if an applicant for residential services uses a guarantor, that guarantor cannot be enrolled in PIPP plus, Graduate PIPP plus, or have PIPP arrearages. If a guarantor enrolls in any of these programs, the customer must provide another form of security.

5. Rule 1-17-03 Appendix. Guarantor Agreement.

The content of the appendix is unchanged. See attached.

6. Rule 1-17-04. Deposit to reestablish creditworthiness.

(B) Adds language to clarify that a utility company, after considering the totality of the customer's circumstances, may require a deposit if the customer has not made adequate payment arrangements for any given bill containing a previous **past due** balance for that utility company's regulated services. This is not a substantive change.

PUCO Changes to Credit Termination + Collection Rules

7. Rule 1-17-05. Deposit administration provisions.

No changes.

8. Rule 1-17-06. Refund of deposit and release of the guarantor.

No changes.

9. Rule 1-17-07. Record of deposit.

Extends the length of time that utility companies must maintain the record of cash deposits to **at least one year after** the deposit is refunded or otherwise disposed of in accordance with applicable law.

10. Rule 1-17-08. Applicant and/or customer rights.

(C) Minor changes in the information utility companies are required to provide to an applicant/customer when responding to a customer's dissatisfaction with the utility company's decision to require a cash deposit to establish or reestablish service:

(1) Adds the requirement that the utility company inform the applicant/customer of how the deposit was calculated.

(2) Removes the requirement that the utility company must specifically instruct the applicant/customer how to show creditworthiness, but the utility company must still provide information on how to contest the decision.

(4) Technical changes to the wording of the notice of the customer's right to have the Commission verify the utility company's compliance with these rules. No substantive changes.

OAC Chapter 4901:1-18. Termination of Residential Service

1. Generally.

Throughout this chapter, the terms "percentage of income payment plan" and "PIPP" have been changed to "percentage of income payment plan plus" and "PIPP plus."

2. Rule 1-18-01. Definitions.

(B) In response to comments requesting clarification of whether "account balance" has a different meaning than "arrearages," clarifies the definition of "arrearages." States that "arrearages" are equal to a customer's accrued charges at time of enrollment plus charges accumulated while enrolled in PIPP plus, but does not include current or past due monthly PIPP plus payments.

(D) Technical change to clarify that only **authorized** agents or employees may accept collection charges.

(O) New subsection. Defines "on-time payment" as a PIPP plus installment received prior to the date the gas or natural gas company issues the next bill, for the purpose of applying incentive credits.

(Q) In response to comments, clarifies the definition of "PIPP plus anniversary date." States that "PIPP plus anniversary date" is based on the date payments are current, which is required in order to continue participating in the PIPP plus, rather than based on the documentation of household income and size.

The "PIPP plus anniversary date" is at or about every 12 months from when the customer enrolled, rather than exactly 12 months from when the customer enrolled.

Adds language to clarify that this date is used to calculate when missed payments are due and to review and recalculate arrearage credit if necessary.

PUCO Changes to Credit Termination + Collection Rules

(S) In response to comments, clarifies the definition of “PIPP plus reverification date.” States that “PIPP plus reverification date” the calendar date on which the customer has documented his or her household income and size, which is required to continue participation in the PIPP plus or to participate in the Graduate PIPP plus.

Adds that the reverification date is every 12 months from when the customer last reverified.

(U) Technical change to a cross-reference. No substantive changes.

3. Rule 1-18-02. General provisions.

Technical change. No substantive changes.

4. Rule 1-18-03. Reasons for disconnecting residential electric, gas, or natural gas service.

(E) Adds property owner and landlord to the list of individuals whose specified actions may warrant the disconnection of service.

(2) Adds prevention of access to the utility company’s meter, equipment, or other property after notice and a reasonable period of time to the list of reasons a utility company may disconnect service.

(3) Removes the language stating the requirements a customer must fulfill before a utility company must restore service after the customer tampered with utility equipment or reconnected services without authorization.

Note: This language has been reenacted in rules 4901:1-18-07(E)(2)(a) to (d).

(F) Changes the requirement that utility companies must provide notice to their customers of any interruption in service longer than four hours, rather than six hours.

5. Rule 1-18-04. Delinquent bills.

No changes.

6. Rule 1-18-05. Extended payment plans and responsibilities.

(B) Changes the term “arrearages” to “past due balances” because “arrearage,” as now defined in rule 4901:1-18-01, is only applicable to a PIPP plus account balance, not these other extended payment plans. This is not a substantive change.

7. Rule 1-18-06. Disconnection procedures for electric, gas, and natural gas utilities.

(A)(3)(a) Changes the term “credit notice” to “delinquent payment reminder notice.” This is not a substantive change and does not create any new obligations for the utility companies.

(C)(3) Requirements for the utility company regarding medical certification requirements to disallow disconnection of service for medically related reasons.

(a) States that the medical certification form is to be posted on the Commission’s website, rather than provided in an appendix to this rule.

(b) Eliminates the requirement that the medical certification include the nature of the medical condition. Requires only a statement of the need for the medical or life-supporting equipment, rather than an explanation of that need, if applicable.

(C)(5) New subsection added in response to comments to address overall concerns related to reducing fraudulent activities and customers taking advantage of the system.

PUCO Changes to Credit Termination + Collection Rules

States that 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 the customer has been notified in accordance with rules 4901:1-10-20 and 4901:1-13-09. The notice must also specifically state that there is a returned check balance on the account and medical certificates may be denied so long as that balance remains unpaid.

(D) New subsection. Addresses circumstances where a utility company cannot gain access to disconnect service after receiving a request for disconnection from the customer of record.

(1) If the utility company is denied access, it may disconnect for good cause shown, pursuant to rule 4901:1-18-03(I).

(2) If the property is a multi-unit dwelling, the utility company must comply with the provisions governing landlord-tenant residential utility services (see rule 4901:1-18-08).

(3) The customer of record that requested termination of service is not financially responsible for the utility service consumed after the date of move-out.

EXCEPTIONS: (a) If the customer of record is the individual who denied the utility company's access to disconnect service, or (b) the customer of record continues to reside on the premises.

Also states that the utility company may require the customer to affirm in writing the date on which the customer vacated the premises.

(F) New subsection. While not requiring utility companies to have a reversion agreement, this rule sets forth the applicable requirements if the utility company chooses to adopt one. Enables the landlord/property owner to elect to leave the utility service on at a particular location for the landlord/property owner's convenience under the provisions of a landlord reversion agreement with the utility company.

(1) Requires that the landlord/property owner be given a copy of the reversion agreement, specifically identifying when the services revert back to the landlord/property owner and the cost of the reversion services.

(2) When an applicant is required to pay a deposit to establish financial responsibility, the utility company must inform the applicant of the date the utility service may be disconnected for nonpayment of the deposit.

(3) When a new resident becomes a consumer of a utility service that was left on pursuant to a landlord/reversion agreement, the consumer becomes financially responsible for the utility service as of the date of move-in.

Note: This rule does not impose any responsibilities or obligations upon utility companies as it relates to the landlord-tenant relationship.

(H) Changes when a utility company must respond to an inquiry from the Commission staff from matters related to a pending or actual disconnection to matters related to an imminent or actual disconnection.

Also changes the amount of time for the utility company's response from two business days to **one business day**.

8. Rule 1-18-07. Reconnection of service.

(B) Technical change, no substantive changes.

(E) New subsection. This provision addresses cases of tampering and unauthorized reconnection of services.

PUCO Changes to Credit Termination + Collection Rules

(1) States that there is a rebuttable presumption that the person in possession or control of the meter is the responsible party in cases of tampering or unauthorized connection of services and is therefore obligated to pay for the service rendered through that meter.

(2)(a) to (d) These were formerly rules 4901:1-18-03(E)(3)(a) to (d). No substantive changes.

(3) States that a utility company may not deny reconnection service when the responsible party, as determined by paragraph (E)(1) of this rule, is either a tenant or consumer who no longer resides at the premises or a property owner who took possession after the tampering or unauthorized reconnection occurred.

(4) If the responsible party was a tenant who no longer resides at the premises where the tampering occurred, the utility company may deny service to that party until the responsible party has provided satisfactory assurance that the fraudulent or tampering act has been discontinued and has paid reasonable compensation for the unauthorized usage and for all charges, fees, and damages resulting from the act, in accordance with subsection (E)(2) of this rule.

9. Rule 1-18-08. Landlord-tenant provisions.

(G) No substantive changes. Text has been divided into new subsections (G)(1) to (4).

(M) New subsection. States that if service is disconnected without notice where the utility company is not made aware of a landlord-tenant situation, the utility company shall promptly restore service and provide proper notification as required by the rules in this chapter.

10. Rule 1-18-08 Appendices. Notices.

No changes.

11. Rule 1-18-09. Combination utility companies.

No changes.

12. Rule 1-18-10. Insufficient reasons for refusing service or for disconnecting service.

No changes.

13. Rule 1-18-11. Restrictive language prohibition.

No changes.

14. Rule 1-18-12. Percentage of income payment plan plus program eligibility for gas utility service.

Generally, technical changes throughout to update the reference to the renamed Ohio development service agency, rather than the Ohio department of development.

(C)(2) Adds the requirement that customers must not only apply for, but also **accept all weatherization programs** for which the customer is eligible in order to participate in PIPP plus.

(D) States the requirements a customer must fulfill in order to reverify his or her eligibility.

(1) Changes the date that customers must provide proof of eligibility of household income to at or about the customer's PIPP plus reverification date, rather than their anniversary date.

(2) Changes the date on which the customer must be current on his or her PIPP plus payments to the customer's PIPP plus anniversary date, rather than their reverification date.

(b) Technical changes, no substantive changes.

PUCO Changes to Credit Termination + Collection Rules

(3) This was formerly subsection (D)(4) of this rule. Adds “not meeting the terms of the program” (such as failure to reverify or bring the account current upon the anniversary date) to the reasons a customer may be dropped from the PIPP plus program, in addition to nonpayment.

Clarifies that the customer may only reenroll in the PIPP plus program after all missed PIPP plus payments and the 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 incorporates the requirements of former rule 4901:1-18-17(B).

This subsection does not require customers to be responsible for paying both their current bill and the PIPP plus bill for months in which they are not enrolled in PIPP plus.

(4) This was formerly subsection (D)(3) of this rule. No substantive changes.

(E) Changes one of the required elements in the PIPP plus literature that utility companies are required to provide to customers upon their enrollment in PIPP plus and at reverification. Rather than stating the arrearage at plan initiation, utility companies must provide the **current arrearage**.

15. Rule 1-18-13. Payment requirements for percentage of income payment plan plus customers.

(C)(2) Changes how money (other than HEAP, E-HEAP, or money provided on a monthly basis by a public or private agency for the purpose of paying utility bills) is credited to a customer’s arrearages. Now, money is paid to the customer’s defaulted current monthly payment obligation before the customer’s current monthly income-based payment obligation. The customer’s arrearages are still paid last.

(D) New subsection. States that any overpayment of PIPP plus or Graduate PIPP plus payments shall be applied to future PIPP plus or Graduate PIPP plus payments once any default balance has been paid.

16. Rule 1-18-14. Incentive programs for percentage of income payment plan plus and Graduate percentage of income payment plan plus customers.

(A) Grants an incentive of a reduction in outstanding arrearages for customers who make on-time payments, rather than timely payments. Payments need only be received before the next bill is generated in order to be considered on-time, as opposed to timely payments which must be received on their due date.

Also changes the phrase “time of reverification” to “anniversary date” in order to be consistent with these terms as redefined in rules 4901:1-18-01(Q) and (S).

(B) New subsection. States that if a PIPP plus customer’s account balance becomes a credit balance, the customer is no longer eligible for incentive credits until the account balance is no longer a credit.

If the credit is not a result of any incentive credits, the credit balance may be refunded to the customer upon request. Upon refund, the utility company shall remove the account from PIPP plus and inform the customer of other payment plan options. reenrollment procedures are outlined in rule 4901:1-18-15(E).

(C) New subsection. States that at the completion of the Graduate PIPP plus plan, any credit balance resulting from incentive credits shall be applied as an offset to the PIPP plus rider, rather than applied to the customer’s arrearage.

17. Rule 1-18-15. General percentage of income payment plan plus provisions.

(E) New subsection. Customers who voluntarily leave PIPP plus and within twelve months reenroll, must pay the PIPP plus payments due for the months the customer received service but was not on the program, less payments made by the customer during that time period.

PUCO Changes to Credit Termination + Collection Rules

(F) New subsection. Customers who voluntarily leave PIPP plus with no outstanding arrearages and within twelve months reenroll, must pay their first PIPP plus payment.

Customers who voluntarily leave PIPP plus with outstanding arrearages and within twelve months reenroll, must pay the missed PIPP plus payments for the number of months the customer 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 the customer left the PIPP plus program.

(G) New subsection. Requires that the utility company offer, on the final bill, a payment agreement for PIPP plus customers with arrearages who are closing their utility account due to: moving beyond the utility company's service territory; transferring to a residence where utility service is not in the former PIPP plus customer's name; or moving to a master-metered residence.

The monthly payment shall be no more than the total accumulated arrearage divided by 60 and, each time the former PIPP plus customer makes his or her payment by the due date, the utility company shall reduce the account arrearage by one-twelfth.

The payment agreement is available to former PIPP plus customers for 12 months from the time the account final.

18. Rule 1-18-16. Graduate percentage of income payment plan plus program.

(C) Technical change to update cross reference.

Removes language that is reenacted in rule 4901:1-18-17(C).

(G) Technical change, no substantive changes.

(H) New subsection. An active or former Graduate PIPP plus customer may reenroll in PIPP plus at any time, provided that the applicant 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 reenrollment in PIPP plus.

19. Rule 1-18-17. Removal from or termination of customer participation in the percentage of income payment plan plus.

Former subsection (B) has been removed, as its substance is now covered in rule 4901:1-18-12(D)(3).

(C) New subsection. This subsection combines the language previously found in former rules 4901:1-18-16(C) and 4901:1-18-17(D) pertaining to customers fraudulently enrolled in PIPP plus or Graduate PIPP plus.

Adds language to clarify that this rule also applies to customers found to be non-compliant by the Ohio development services agency, as well as customers fraudulently enrolled.

Adds a requirement that the customer is not eligible to participate in PIPP plus or Graduate PIPP plus until any demand for restitution is satisfied, in addition to the existing requirement that the customer be off PIPP plus for at least 24 months.

All existing requirements remain the same.

The language of former subsection (D) has been combined with language from former rule 4901:1-18-16(C) and reenacted as new rule 4901:1-18-17(C) above.

(D) This was formerly subsection (E) of this rule. Technical changes to update cross-references. No substantive changes.