

# CSI - Ohio

## The Common Sense Initiative

### Business Impact Analysis

Agency Name: Ohio Development Services Agency

Regulation/Package Title: Chapters 122:5-3 O.A.C PIPP Plus Rules

Rule Number(s): 122:5-3-01, 122:5-3-02 , 122:5-3-03, 122:5-3-04, 122:5-3-05, 122:5-3-06,  
122:5-3-07, 122:5-3-08 , 122:5-3-09, 122:5-3-10

Date: June 14, 2013

**Rule Type:**

☐ New  
☒ Amended

☒ 5-Year Review  
☐ Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

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## **Regulatory Intent**

### **1. Please briefly describe the draft regulation in plain language.**

**Please include the key provisions of the regulation as well as any proposed amendments.**

The Percentage of Income Payment Plan Plus (PIPP Plus) program is a low-income customer assistance program whereby income-eligible customers of gas and electric utilities subject to the jurisdiction of the Public Utilities Commission of Ohio (PUCO) can retain or restore service by paying a specified percentage (six percent for gas and six percent for electric if the home is heated by gas or 10 percent for the electric if the home is heated by electricity) of their household income each month to the gas and/or electric utility instead of their current monthly utility bill.

Historically, the utilities were made whole for the difference between the amounts billed to PIPP customers and the amounts paid by PIPP customers by means of a PUCO-approved tariff rider (the PIPP rider) that was designed to recover this difference through a rate charged to all their customers. However, Amended Substitute Senate Bill 3 (SB 3), the 1999 legislation that restructured Ohio's electric distribution utilities (EDU) industry, transferred responsibility for the administration of various low-income customer assistance programs, including the electric PIPP program, from the state's EDUs to ODSA (see Section 4928.53, ORC), thereby changing the manner in which EDUs are compensated for the cost of the PIPP program.

Under the PIPP regulations, there were differences between the electric PIPP rules and the gas PIPP rules. In addition, the costs of these programs continued to increase as did the arrearages that the participants owed to the utility companies. The percentage of payments made on time was low. Because of these issues, ODSA, in collaboration with the PUCO, obtained input from stakeholder groups and the EDUs to revise and align the PIPP rules. PIPP Plus was the result of these initiatives. The revised rules were adopted in 2009 and implemented on November 1, 2010. These revised rules provided incentives for the participant to make regular, timely payments (arrearage credits) and disincentives for not following the rules (being dropped from the program and having to make up missed payments).

Although the 2009 revised rules did align the majority of the gas and the electric PIPP Plus rules, there were still differences that caused confusion on the part of the agencies that provide the services (providers) and the participants in the program. Analysis of the data showed that some of the revisions worked better than others in achieving the desired outcomes. The PUCO in its April 1, 2009 Entry on Rehearing, which adopted new and amended rules in Chapter 4901:1-17 and 4901:1-18, stated its intent to review the PIPP Plus rules within two years of their implementation. ODSA, upon review of its PIPP Plus data and the PUCO metrics report, decided to revisit the rules in order to improve sections that were not producing the desired outcomes and to further align with the PUCO.

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**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Chapters 122:5-3, 4901:1-17 and 4901:1-18 of the Ohio Administrative Code.

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

No

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

N/A

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

From 2008 through 2012, the number of Ohioans enrolled in electric PIPP Plus increased from 235,672 to 358,056. During this time period, the average cost of electricity billed for these participants increased by 12.08 percent; from an average of \$1,183 per participant to \$1,326. As the costs for these services continue to increase, they cause an ever increasing burden on income-challenged citizens to pay for the necessary utilities in addition to paying for basic needs, e.g. food, water, rent, prescriptions, etc. This program provides an opportunity for income-eligible Ohioans to maintain electric service at an affordable price in return for regular monthly payments. The EDU benefits through the guaranteed payment of the difference between the amount the PIPP Plus participant must pay and the amount of the current monthly billing. This secure revenue helps to reduce the utilities' uncollectable costs. In addition, because bills are paid and service is maintained, the EDU's credit and collection costs are lowered and it maintains its customer base which lowers costs to all ratepayers.

EDU service is vital to maintain and insure the safety of communities. People who have regulated utility service are less likely to use kerosene heaters, ranges, or other potentially dangerous methods to keep their homes warm in the winter. These alternate methods of heating create fire hazards that can impact public funds for fire safety and cause the neighborhood to deteriorate.

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**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

Success will be determined by a number of metrics:

1. Increase in the number of PIPP Plus participants who make their payments in-full and on-time;
2. Increase in the number of PIPP Plus participants who have had their arrearages reduced to \$0.00;
3. Decrease in arrearages owed to the utilities or to the Universal Service Fund;
4. Decrease in the number of PIPP Plus participants' electric service disconnections due to non-payment;
5. Decrease in the number of PIPP Plus participants receiving disconnection notices for their electric bills;
6. Decrease in the number of PIPP Plus participants using the Winter Reconnect Order; and
7. Decrease in the number of PIPP Plus participants using the winter crisis funds.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

**If applicable, please include the date and medium by which the stakeholders were initially contacted.**

In January, 2013, ODSA surveyed the agencies that provide the PIPP Plus services to the participants to gather their input on which rule (gas or electric) they felt made for the best program. Those results were compiled and referred to during the rule revision process.

A joint workshop conducted by the Public Utilities Commission of Ohio and Ohio Development Services Agency was held on March 5, 2013. Stakeholders included Ohio Consumers Council, Ohio Partners for Affordable Energy, Regulated Gas and Electric Utilities, Legal Aid, Local Program Provider Agencies and other interested parties.

ODSA staff also met separately with Office of Consumer's Council staff and staff of the Ohio Poverty Law Center to get their input as to the revised rules.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

Stakeholders asked that ODSA (the agency that administers the Electric PIPP) and the PUCO (the agency that has oversight of the Gas PIPP) better align their rules. The stakeholders requested that the rules provide more leeway to the client.

The staff of ODSA and the PUCO charted the differences between the gas and the electric rules. A meeting was held to discuss the merits of each rule, which had better outcomes and which rule would best help the participants and provide the desired outcomes of more payments made and lower costs to the program.

ODSA proposed changes to better align the rules include the following:

- The client must make up missed installments if dropped from the program and must maintain utility service in order to re-enroll in the program.
- A participant who voluntarily leaves the program and wants to re-enroll within 12 months must pay the difference between the PIPP Plus payment and the payments made during the same time period.
- A participant who voluntarily leaves the program and wants to re-enroll after 12 months and has no outstanding balance must pay the first PIPP Plus payment. Participants who have an outstanding balance are required to pay the missed PIPP Plus payments for the number of months he/she was not enrolled in the program, minus any payments made.
- Utility allowances paid to the utility for the PIPP Plus participant must be applied to the PIPP Plus payment, the difference between the PIPP Plus payment and the actual monthly usage and then the arrearages. Any credits remaining on the account shall be refunded to the participant at the time the participant ceases to be a ratepayer of the utility.
- Elimination of the 180 day waiver of the PIPP Plus payment for clients with zero countable income.
- Participants on Graduate PIPP Plus will only have one payment option, the average of the PIPP Plus installment and the budget billing amount.
- The participant must make up any missed PIPP Plus installments on the anniversary date of his/her enrollment into PIPP Plus.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Consultation and data was provided by the gas utilities and EDUs to ODSA and PUCO to determine the impacts of the 2009 rules changes. The PUCO metrics report and ODSA's monthly customer information report provide utility data on payment and disconnection frequencies. This data was reviewed to determine how to best achieve the goals of the program.

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**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

ODSA considered providing Graduate PIPP Plus participants with additional time to make payments and earn arrearage credits because the success rate for this program was lower than desired. It was decided not to make the change since it would increase program costs.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.**

A performance based regulation is not appropriate in this instance. The rules must be designed to ensure compliance with the PIPP Plus program.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The original regulation for the PIPP program was implemented in 1983 and administered by the Public Utilities Commission of Ohio. In 1999 the Ohio legislature in Senate Bill 3, moved the administration of the electric PIPP program to the Department of Development, now known as the Development Services Agency. Since that time the PUCO has administered the gas PIPP Plus program rules (Chapter 4901:1-18) and ODSA administered the electric PIPP Plus rules. ODSA worked with the PUCO to ensure that the two sets of rules aligned to afford more consistency to the programs.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

- For the Utilities:
  - ODSA staff will schedule a series of conference calls/meetings with the utilities to review the rule changes, address EDU concerns and provide guidance to insure that the rules are implemented.
  - ODSA will hire an outside accounting agency to perform a series of "agreed upon procedures" to test that the electric utilities have properly implemented the new rules.
  - Reports will be generated in house to monitor the impact of the rules and to look for areas that may not have been correctly implemented.

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- For the agency staff that provides the services to the participants, a notification will be sent to the providers to inform them of the changes.
- ODSA will provide webinars and regional training.
- ODSA will provide a session on the changes at its annual agency training, scheduled for September 25, September 26, October 2 and October 3, 2013. .
- For the PIPP Plus participants:
  - ODSA will send a letter or email to all participants advising them of the changes.
  - ODSA will develop brochures, posters, and other educational materials that will be provided to the participants and will be available on the ODSA website and Facebook page.
  - ODSA, in collaboration with the PUCO, may develop a video highlighting the changes in the program. This video would be given to the agencies to play in their offices while the participants are waiting to receive services. It would also be posted to the ODSA, and possibly the PUCO, website and the ODSA Facebook page.
  - ODSA will also investigate the possibility of developing public service announcements for radio and television.

### **Adverse Impact to Business**

#### **14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

##### **a. Identify the scope of the impacted business community;**

Businesses, just like all residential customers of regulated gas and electric utilities pay a nominal rider on their gas and electric bill. This rider supports the Universal Service Fund (USF). The PIPP program is paid for by the USF rider.

The EDUs will be required to modify their customer information systems to support the rule changes and to provide data to evaluate the changes. These modifications will add additional costs to the EDU. The EDU's customer service personnel will have to be trained on the new procedures and rules. Depending on the extent of the changes, the costs of the modifications could be added to the rates of the EDU's ratepayers.

Participants and providers will have to learn the new rules, but the proposed rule changes align the two sets of rules and should streamline the process for all involved in the program. These changes are not as extensive as the 2009 changes that created PIPP Plus.



**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The EDUs will incur costs to change their customer information systems and to train their staff that works with the PIPP Plus program on the changes. ODSA will work with the EDUs to determine a timeline by which time the rules will be implemented.

The providers (community action agencies and not-for-profit entities) will be required to attend additional training on the new rules. This training will be given by ODSA staff and will consist of a two hour webinar.

**c. Quantify the expected adverse impact from the regulation.**

**The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a “representative business.” Please include the source for your information/estimated impact.**

ODSA has requested information from the electric utilities to estimate the dollar amount and the time required to change their IT systems in order to implement the changes to the PIPP Plus rules. ODSA will provide additional cost data should the utilities respond to our request.

The cost to the EDUs may be mitigated by one of the rule changes. ODSA is proposing to eliminate a section of the present rules that requires the EDUs to continue to maintain their programs that assist former PIPP Plus customers in eliminating their arrearages. These customers will be moved into the Graduate PIPP Plus program, still enabling them to eliminate their arrearages by making in-full and on-time payments, but eliminating the cost to the EDUs to maintain the computer programing necessary to manage the program.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The long range effects of these changes will have a positive effect on the regulated business community. The alignment of the rules incorporates the most effective of the gas and the electric rules and includes additional measures to collect any missed payments. This will make the rules easier for the participant to understand and to follow.

Annually, ODSA compiles the cost of the PIPP Plus program, the cost of the administration of the program, the cost of the energy efficiency component, the utility rate increase, the balances of the fund's accounts, and deficiencies in the funding for the most recent year, to adjust the rider on the electric utility bills that pay for the program. This is done to ensure

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that the rider is properly collecting funds to administer the program. The 2009 PIPP Plus rule changes did result in a decrease in the cost of PIPP Plus. In the 2013 Universal Service Fund (the fund that the revenue collections from the utilities to pay for the PIPP Plus program are deposited) Rate Case, Duke Energy Ohio and the First Energy Companies showed a cost reduction; the increased costs for American Electric Power and Dayton Power and Light were due to rate and enrollment increases rather than the inherent costs of the program. By aligning and using the most effective rules, the intent is to reduce the cost of the program to all ratepayers of regulated gas and electric companies.

The costs of providing the services to the participants should also decrease with the implementation of the rules. The alignment of the rules will make it easier and less time consuming for agency staff to explain the program to the participants.

### **Regulatory Flexibility**

#### **16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No. ODSA will work with small businesses to ensure compliance with the rules. In the joint workshop with the PUCO, stakeholders and the general public, including small businesses, were invited to discuss potential revisions to the rules that could decrease or eliminate any adverse effects on businesses. Small businesses may comment on the proposed rule changes either through the PUCO Entry 13-274-AU-ORD or by emailing ODSA at [Rule.Comment@development.ohio.gov](mailto:Rule.Comment@development.ohio.gov).

#### **How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

N/A

#### **17. What resources are available to assist small businesses with compliance of the regulation?**

ODSA will meet with and provide educational materials on the rule changes to agencies that provide services to the same population as ODSA and to the management personnel of subsidized housing. See answer to #13 for additional information.

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