

122:5-3-01      **Definitions.**

Defined terms used in this chapter are as follows:

"Account default" means a PIPP customer's failure to pay monthly PIPP installment amounts causing the PIPP customer's electric service to be subject to disconnection by a utility for nonpayment or actually disconnected for nonpayment.

"Accrued arrearage" means for each PIPP customer such customer's total bill balance, less the current bill amount, owed to the electric distribution utility then providing electric service to such customer.

"Active PIPP customer" means a customer who is both currently enrolled in PIPP and currently using utility service from the electric distribution utility receiving payments from the fund for such customer.

"Annual energy assistance guidelines" means the operating guidelines written by the office of community services and published annually to provide information to staff of the office of community services and local agencies and to the public about the operation of low-income customer assistance programs.

"Annual HWAP plan" means for each program year for the home weatherization assistance program, the home weatherization assistance state plan submitted by the director to the United States department of energy, as such plan may be amended.

"Annual LIHEAP plan" means for each program year for the home energy assistance program, the low-income home energy assistance program federal fiscal year state plan for the state of Ohio submitted by the director to the United States department of health and human services, as such plan may be amended.

"Arrearage credit amount" means an amount calculated for each PIPP customer as described in paragraph (B)(3) of rule 122:5-3-04 of the Administrative Code.

"Business day" means any day that is not a Saturday or a Sunday and not a day on which governmental offices of the state of Ohio are required or permitted to be closed or on which banks are required or permitted to be closed in the state of Ohio.

"Commission" means the public utilities commission of Ohio.

"Current bill balance" means for each monthly billing cycle for a PIPP customer, the difference between such customer's monthly PIPP installment amount and the actual amount billed for electric service for the billing cycle.

"Customer" means any person who enters into an agreement to purchase residential electric service by contract and/or tariff from an electric distribution utility or from a municipal electric utility or electric cooperative that participates in the low-income customer assistance programs.

## Final Filed with JCARR on 12-7-09

"Customer arrearages" means for each PIPP customer such customer's current bill balance, plus the customer's accrued arrearage at the time the customer enrolls in the percentage of income payment plan program, but does not include past due monthly PIPP installments.

"Customer payment" means, for purposes of these rules and arrearage crediting, a payment of a monthly PIPP installment made from the customer's financial resources or paid by a third-party on the customer's behalf, excluding federal funds administered by the office of community services.

"Director" means the director of the Ohio department of development and also includes such other officers or employees of the Ohio department of development who may act for or in the place of the director under this chapter pursuant to rule 122:5-3-09 of the Administrative Code.

"Electrically heated residence" means a residence for which the primary source of heating is an electric appliance such as an electric furnace, heat pump or electric baseboard heater.

"Electric baseload residence" means a residence for which electricity is not the primary source of heating.

"Electric cooperative" means, as defined in division (A)(5) of section 4928.01 of the Revised Code, a not-for-profit electric light company that both is or has been financed in whole or in part under the "Rural Electrification Act of 1936," 49 stat. 1363, 7 U.S.C. 901, and owns or operates facilities in the state of Ohio to generate, transmit, or distribute electricity, or a not-for-profit successor of such company.

"Electric distribution utility" means, as defined in division (A)(6) of section 4928.01 of the Revised Code, an electric utility that supplies at least retail electric distribution service.

"Electric partnership program policies and procedures" means the policies and procedures developed, maintained, and published from time to time by the office of community services for electric partnership program service providers.

"Electric services company" means, as defined in division (A)(9) of section 4928.01 of the Revised Code, an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. "Electric services company" includes a power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.

"Electric utility" means, as defined in division (A)(11) of section 4928.01 of the Revised Code, an electric light company that is engaged on a for-profit basis in the business of supplying a noncompetitive retail electric service in this state or in the businesses of supplying both a noncompetitive and a competitive retail electric service in this state. "Electric utility" excludes a municipal electric utility or a billing and collection agent.

"Eligible customer" means a customer who satisfies the eligibility criteria set forth in rule 122:5-3-02 of the Administrative Code.

## Final Filed with JCARR on 12-7-09

"Energy efficiency and weatherization services" means those services coordinated by the office of community services through its energy efficiency and weatherization programs targeted, but not provided exclusively, to high-cost, high-volume use structures occupied by eligible customers with the goal of reducing the energy bills of such customers.

"Federal poverty guidelines" means the poverty guidelines updated periodically in the Federal Register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2).

"Former percentage of income payment plan customer" (former PIPP customer) means a customer who (i) remains within the service territory of the electric distribution utility that provided electric service to the customer while participating in the PIPP program, (ii) either elects to terminate participation in the PIPP program or is no longer eligible to participate in the PIPP program as a result of an increase in the household income or change in the household size, and (iii) is not enrolled in the graduate PIPP or post-PIPP payment programs provided in accordance with paragraph (B)(5) of rule 122:5-3-04 of the Administrative Code.

"Fund" means the universal service fund established by division (A) of section 4928.51 of the Revised Code.

"Graduate percentage of income payment plan customer" (graduate PIPP customer) means a customer who (i) continues to receive electric service from the electric distribution utility that provided service to the customer while participating in the PIPP program, (ii) was previously enrolled in a percentage of income payment plan, and (iii) who is enrolled in the transitional phase of the PIPP program provided in accordance with paragraph (B)(5)(a) of rule 122:5-3-04 of the Administrative Code.

"Household income" means the total gross income before taxes of all household members except earned income of dependent minors under eighteen years old, any income expressly excluded under federal rules for the administration of the home energy assistance program, and any income otherwise expressly excluded by the director as provided in paragraph (B) of rule 122:5-3-02 of the Administrative Code. Gross household income includes, but is not limited to, wages, interest, dividends, annuities, and pensions. Sources of income excluded from "household income" shall be those sources of income identified as excluded by the director annually as part of the annual LIHEAP plan and published in the annual energy assistance guidelines.

"Inactive PIPP customer" means a customer who is not currently enrolled in the PIPP program, the graduate PIPP payment program, or the post-PIPP payment program and such customer has a PIPP arrearage balance greater than zero dollars.

"Local agency" means a community action agency or other local service provider designated by the director to assist with the administration of low-income customer assistance programs at the local level.

"Low-income customer assistance programs" means the percentage of income payment plan program, the home energy assistance program, the home weatherization assistance program,

## Final Filed with JCARR on 12-7-09

the electric partnership program (formerly known as the targeted energy efficiency and weatherization program) and such other programs as may be developed by the director as permitted or required by law.

"Monthly PIPP installment amount" means for each PIPP customer the amount of such customer's household income to be paid each month for electric service as determined in accordance with paragraph (A) of rule 122:5-3-04 of the Administrative Code.

"Municipal electric utility" means, as defined in division (A)(20) of section 4928.01 of the Revised Code, a municipal corporation that owns or operates facilities to generate, transmit, or distribute electricity.

"Office of community services" means the office within the Ohio department of development designated as the agency to receive federal funding from United States departments of health and human services and energy for home energy assistance and home weatherization assistance, respectively.

"On-time payment" means, for purposes of these rules and arrearage crediting, a PIPP installment received by the electric distribution utility prior to the date that the next bill for electric service is issued.

"Percentage of income payment plan program," or "PIPP program," means the program administered by the director in accordance with section 4928.53 of the Revised Code and the rules set forth in this chapter of the Administrative Code allowing eligible customers to pay a percentage of household income in lieu of the actual bill for residential electric service. For purposes of marketing the PIPP program to eligible customers, the director may assign a distinct program name or title to the PIPP program.

"PIPP anniversary date" means the calendar date by which the PIPP customer's PIPP arrearage credit amount will be reviewed and may be recalculated. The PIPP anniversary date shall be at or about twelve months from when the customer is enrolled in PIPP. For transition purposes, the PIPP anniversary date for existing PIPP customers will be the customers' first billing date to occur on or after November 1, 2010.

"PIPP annual verification date" means the calendar date at or about twelve months from the PIPP customer's most recent reverification date.

"PIPP customer" means a customer who participates in the percentage of income payment plan program.

"PIPP reverification date" means the actual date on which the PIPP customer documented his or her household income and household size to continue in the PIPP program or the PIPP graduate program.

"Post-percentage of income payment plan customer" (post-PIPP customer) means a customer who (i) no longer has electric service from the electric distribution utility that provided service to the customer while participating in the PIPP program, (ii) was previously enrolled in a percentage of income payment plan, and (iii) is enrolled in the transitional phase

## Final Filed with JCARR on 12-7-09

of the PIPP program provided in accordance with paragraph (B)(5)(c) of rule 122:5-3-04 of the Administrative Code.

"Universal service rider" means the rider on retail electric distribution service rates authorized by section 4928.52 of the Revised Code and established from time to time by petition of the director to the commission as provided therein.

"Weatherization program standards" means the standards developed, maintained, and published from time to time by the office of community services which relate to the installation of weatherization materials and energy efficiency products, services and measures and to performance evaluation of such materials, services, and measures.

122:5-3-02      Criteria for customer eligibility.

(A) Customer of a participating utility. An individual must be a residential customer of an electric distribution utility or a participating electric cooperative or municipal electric company to participate in the PIPP program.

(B) Household income

(1) Compared to federal poverty guidelines. Any customer whose annual household income is one hundred fifty per cent or less than the federal poverty guideline for the corresponding household size shall be eligible to participate in the PIPP program. A customer will be considered to meet the income eligibility requirement if either (a) the customer's household income for the three months prior to enrollment, if annualized, is one hundred fifty per cent or less than the federal poverty guideline for the corresponding household size, or (b) the customer's actual household income for the twelve months prior to enrollment is one hundred fifty per cent or less than the federal poverty guideline for the corresponding household size.

(2) Sources of income. For purposes of determining eligibility for low-income customer assistance programs, "household income" includes all sources of income except sources of income expressly excluded. The director shall review sources of income annually and publish specific exclusions from household income as part of the annual LIHEAP plan. After such public hearings as required by federal law for the annual LIHEAP plan, the director shall publish exclusions from household income in the annual energy assistance guidelines, which the director shall make available through various publication channels throughout the state, including at local agencies, by request to the office of community services and by publication on the department of development website. To assist local agencies and potential PIPP customers, the director may also compile and publish with the exclusions a non-exhaustive list of items included in the determination of household income.

(C) Commitment to participate in a payment plan program. Any customer who enrolls in the PIPP program must be willing to participate actively in the program and contribute in a meaningful way to the cost of their electric service. A customer will satisfy this eligibility requirement by undertaking to pay a monthly PIPP installment calculated as provided in these rules, but not less than ten dollars subject to the limited exception provided in paragraph (A)(2) of rule 122:5-3-04 of the Administrative Code.

(D) Participation in other energy assistance programs. Any customer enrolling in the PIPP program shall also apply to participate in any other energy assistance program for which such customer may be eligible. If a customer is determined to be eligible for energy assistance through other programs, then as condition of continuing eligibility for the PIPP program such customer shall actively participate in any such energy assistance programs that do not require payment from the customer as a condition for participation.

**Final Filed with JCARR on 12-7-09**

- (E) Participation in energy efficiency and weatherization programs. Any PIPP customer who is the owner of a residence for which energy efficiency and weatherization services are offered by the director shall be required to accept such services as a condition for continuing eligibility for the PIPP program. If a PIPP customer resides in a rental property and energy efficiency and weatherization services are offered by the director for such rental property, such PIPP customer shall be required to accept such services as a condition for continuing eligibility for the PIPP program unless the residence owner refuses consent for energy efficiency and weatherization services. Department-authorized service providers that perform energy efficiency and weatherization services will solicit consent from rental property owners as further described in paragraph (C) of rule 122:5-3-08 of the Administrative Code. A PIPP customer shall not be required to accept energy efficiency and weatherization services that require payment by the customer. The obligation of a PIPP customer to accept energy efficiency and weatherization services as provided in this rule shall continue as long as the PIPP customer continues to participate in the PIPP program.
- (F) Payment reminders. The director, through the office of community services, a local agency, or other agent or contractor, may (but shall not be required to) send reminders to PIPP customers in advance of bill due dates to make on-time payments, and receipt of any such payment reminders that may be given shall be considered a condition for participation in the PIPP program. Payment reminders may be given by telephone, mail, electronic mail or any other communications method selected by the director. The director will not send past due notices to PIPP customers nor take any action on behalf of utilities to collect past due amounts.
- (G) Participation in consumer education programs encouraged. PIPP customers shall be encouraged by the office of community services and local agencies to participate in any consumer education programs, including programs about energy conservation and demand reduction, made available to customers at their local agencies, readily accessible in their local communities, or offered locally by their electric distribution utility.
- (H) Eligibility following account default or disconnection by a utility.
- (1) Account default.
- (a) If a PIPP customer fails to pay monthly PIPP 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 customer to avoid disconnection by paying the minimum amount as provided by the commission in paragraph (B) of rule 4901:1-18-04 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 customer's account prior to non-payment of monthly PIPP installment amounts. None of the delinquent amounts, including any past due monthly PIPP installment

## Final Filed with JCARR on 12-7-09

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 installment amounts), shall be charged to or paid from the fund. A customer will cease to be an active PIPP customer if a utility disconnects electric service to such PIPP customer for non-payment and electric service remains disconnected through two monthly reports of customer-level information to the office of community services. Electric distribution utilities will identify in monthly reports PIPP customers disconnected from service for non-payment, and the office of community services will issue a notice to the utility to drop a customer from the PIPP program if such customer continues to be in disconnect status at the time of the next monthly customer report submitted by the utility. A PIPP customer who has ceased to be an active PIPP customer as a result of disconnection for non-payment shall be ineligible to participate in the PIPP program until such customer pays any delinquent amounts through the date the office of community services identifies the customer for removal as an active PIPP customer, including any past due monthly PIPP installment amounts, 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 is a condition to re-enroll in the PIPP 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) If a customer fails to pay two consecutive monthly PIPP installment amounts, the office of community services may take action to terminate such customer's participation in the PIPP program for failure to comply with program requirements. The office of community services will issue a written notice to the affected customer, and the customer will have thirty days after the date of the notice to pay past due monthly PIPP installment amounts. If past due monthly PIPP installment amounts are not paid, the office of community services will notify the applicable electric distribution utility to drop the customer from the PIPP program, and such customer will cease to be an active PIPP customer. A PIPP customer who has ceased to be an active PIPP customer as a result of non-payment of monthly PIPP installment amounts shall be ineligible to participate in the PIPP program until such customer pays any delinquent monthly PIPP installment amounts through the date the office of community services identifies the customer for removal as an active PIPP customer.
- (2) Transition rule for 2010-2011 winter heating season. Notwithstanding paragraph (H)(1) of this rule, a PIPP customer whose electric service is subject to disconnection by an electric distribution utility or actually disconnected by an electric distribution utility for non-payment of charges prior to the effective date of these rules will be eligible to re-enroll in the PIPP program upon reconnection of



## Final Filed with JCARR on 12-7-09

service as provided under any commission rule or order then in effect, including any rule or order that provides for the customer to maintain or reconnect electric service by paying less than the delinquent amounts and reconnect charges. Any portion of the delinquent amounts remaining when payments are made as provided in such a commission rule or order will be considered an accrued arrearage of the customer and paid from the fund as provided in paragraph (B)(1) of rule 122:5-3-04 of the Administrative Code. This rule applies to customers who owe delinquent amounts for electric service and continue to participate or re-enroll in the PIPP program during the 2010-2011 winter heating season only (November 1, 2010 through April 15, 2011).

- (3) Disconnection for fraud, tampering, or theft. If a utility disconnects electric service to the residence of a PIPP customer as permitted by commission rules due to any fraudulent act to obtain service, tampering, or theft of service by the customer or any consumer who is a member of the customer's household, the customer shall cease to be eligible to participate in the PIPP program while such fraud, tampering, or theft continues and until the customer completes the actions required to reconnect service as provided in applicable commission rules. No charges for electric service accrued during any period that the customer is ineligible to participate in the PIPP program pursuant to this rule and none of the costs described in paragraph (E)(3) of rule 4901:1-18-03 of the Administrative Code or any other commission rule providing for reconnection of service following disconnection for fraud, tampering, or theft shall be charged to or paid from the fund. This rule is not intended and should not be interpreted as creating new or different standards or procedures for utility response to fraud, tampering, or theft or as involving the department of development in any determination that any fraudulent act to obtain service, tampering, or theft of service has occurred. This rule addresses only the effect of fraudulent acts to obtain service, tampering, and theft, as those acts may be defined by commission rules, on eligibility to participate in the PIPP program and reflects that households that participate in fraudulent acts to obtain service, tampering, or theft of service should not benefit from ratepayer funded assistance until corrective action as prescribed by applicable commission rules, if any, has been completed.
  
- (I) Removal from PIPP for fraudulent enrollment. In the event that there is an allegation of fraudulent enrollment regarding a PIPP customer, the director, through the office of community services, will investigate such allegation. In the event the director finds that a PIPP customer is enrolled in the PIPP program or continues to participate in the PIPP program as a result of fraud or deception by the customer or any consumer who is a member of the customer's household, the director shall terminate such customer's enrollment in the PIPP program with immediate effect, demand that the customer make restitution of all payments made from the fund for the benefit of such customer during the period the customer was fraudulently enrolled in the PIPP program, and reverse any arrearage credits received by such customer during the period the customer was fraudulently enrolled in the PIPP program. In addition, any such customer found to have fraudulently enrolled in the PIPP program shall be ineligible to participate in the PIPP program for twenty-four months after the finding of fraudulent enrollment and until any demand for restitution is satisfied.

122:5-3-03      Procedures for verifying customer eligibility.

(A) One-stop application and eligibility determination process.

- (1) Local agency. To the extent practicable, the director shall maintain a one-stop application and eligibility determination process for customers administered by the office of community services. Applications may be accepted by the office of community services and, at the local level, by a local agency. The eligibility determination process shall include periodic verification of continuing eligibility to participate in the PIPP program. The office of community services and local agencies designated by the director to accept applications for the PIPP program shall collect information from customers in the form required by the director from time to time. The director may also require such local agencies to use such computer programs and web-based applications as the director may provide in connection with the administration of the PIPP program.
  
- (2) Referrals. All requests by customers to participate in the PIPP program shall be referred for eligibility determination to the office of community services or a local agency designated by the director to accept applications for the PIPP program. The director shall provide information about the referral process to electric distribution utilities and to the commission. The director shall also make reasonable efforts to make referral information generally available to the public, including by publication on the department of development website. Customers may not be enrolled in the PIPP program directly by utility companies. The requirement that utilities refer customers to the office of community services or a local agency for PIPP enrollment is not intended and should not be interpreted to impose on electric distribution utilities different or additional requirements for establishing customer accounts for electric service or for processing service transfers (changes of service address within the utility's service territory) for PIPP customers. Consistent with the commission rule set forth in paragraph (A) of rule 4901:1-18-15 of the Administrative Code (or any successor rule of substantially the same effect), a PIPP customer who is current on his/her payment of monthly PIPP installment amounts shall not be denied a transfer of service to a new address based solely on the customer's accrued arrearages. PIPP customers relocating within the service territory of an electric distribution utility are not required to re-enroll or reverify eligibility to participate in the PIPP program as a condition for transferring electric service.

(B) Eligibility determination.

- (1) Application. The director shall identify the customer-level information necessary and useful for purposes of determining customer eligibility and administering customer participation in the PIPP program. The director shall prepare a form of application, which may be a single combined application for all low-income customer assistance plans. The director shall make applications for the PIPP program available to customers at various locations and through various publication channels throughout the state, including at local agencies, by request to

## Final Filed with JCARR 12-7-09

the office of community services and by publication on the department of development website. The application form may be updated from time to time by the director.

- (2) Submission of applications. Applications for the PIPP program may be submitted by customers to local agencies designated by the director to accept such applications or by mail to the office of community services.
- (3) Income verification. Income eligibility determinations shall be made based upon income information provided by an applicant and reviewed using the same income verification procedures employed by the director for the home energy assistance program. The director shall review the verification procedures annually and shall publish such procedures in the annual energy assistance guidelines. The director shall provide copies of the annual energy assistance guidelines to the local agencies and shall make the guidelines available to the public, including by publication on the department of development website.
- (4) Notice of eligibility. The office of community services or the local agency, whichever accepts a customer application to participate in the PIPP program, shall notify such applicant in writing of the eligibility determination and, if the applicant is determined to be eligible, such customer's monthly PIPP installment amount. If a customer is determined not to be eligible to participate in the PIPP program, the office of community services or the local agency shall include in the notice a reasonably detailed description of the reason for that determination. The office of community services shall notify electric distribution utilities about eligibility determinations through electronic data transfers made each business day. Electric distribution utilities shall update customer records promptly to reflect customer enrollment information and return to the office of community services an electronic file confirming that customer account records have been updated to reflect enrollment and/or noting any exceptions for PIPP account files that could not be processed or reconciled with customer account records and specifying for each exception the proper exception code from the list of exception codes provided by the office of community services. Electric distribution utilities will work with the office of community services to resolve any exceptions, including the correction of any error in the customer information. Electric distribution utilities shall not unilaterally change a customer's monthly PIPP installment amount from the amount provided in the office of community services electronic data transfer. Electric distribution utilities are not required to send PIPP customers separate written notices of PIPP enrollment or monthly PIPP installment amounts following enrollment, but electric distribution utilities shall reflect a PIPP customer's monthly PIPP installment amount on such customer's bills as required by applicable commission rules.
- (5) Request for reconsideration. Any customer who disputes his/her eligibility determination, including the results of the income verification or evaluation of any other eligibility factor, and/or the calculation of the monthly PIPP installment amount, may request reconsideration by the office of community services or by the local agency that made the initial determination or installment calculation.

## Final Filed with JCARR 12-7-09

Requests for reconsideration may be made verbally or in writing but, in either case, must provide a reasonably detailed basis for the dispute and such supporting documentation as may be reasonably requested by the office of community services or the local agency. Requests for reconsideration must be made within sixty days after the date of the disputed determination or installment calculation, and shall be considered and resolved promptly by the office of community services or the local agency receiving the request. Responses to requests for reconsideration shall be made to the customer in writing.

(C) Continuing eligibility.

- (1) Annual verification of income eligibility. Income eligibility will be subject to annual verification at or about 12 months from the PIPP customer's most recent PIPP reverification date. The director will use reasonable efforts to notify PIPP customers in advance of annual verification deadlines. PIPP customers will be required to submit then-current application information to the office of community services 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 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 program, and the office of community services will send the affected utility by electronic data transfer a drop file to remove such customer as an active PIPP customer. Failure to complete the annual reverification process does not prevent a customer from later applying to re-enroll in the PIPP program, provided, however, that if the customer has not made payments to the electric distribution utility during the time the customer was not an active PIPP customer in an aggregate amount equal to the customer's monthly PIPP installment amount for each month of that period, the customer shall be required as a condition for re-enrollment to pay the electric distribution utility the difference between any customer payments made and monthly PIPP installment amounts that would have been owed to the electric distribution utility had the customer remained an active PIPP customer.
- (2) Updating customer records. The office of community services or the local agency, whichever reverifies a customer's continuing eligibility to participate in the PIPP program, shall notify such PIPP customer in writing of the reverification determination and, if the PIPP customer continues to be eligible, the monthly PIPP installment amount based on reverified income. If a customer is determined not to be eligible for continued participation in the PIPP program, the office of community services or the local agency shall include in the notice a reasonably detailed description of the reason for that determination and the customer may request reconsideration as provided in paragraph (B)(5) of this rule. The office of community services shall notify electric distribution utilities about reverification determinations through electronic data transfers made each business day. Electric distribution utilities shall update customer records promptly to reflect customer reverification information and return to the office of community services an electronic file confirming that customer account records have been updated to

## Final Filed with JCARR 12-7-09

reflect reverification and/or noting any exceptions for PIPP account files that could not be processed or reconciled with customer account records and specifying for each exception the proper exception code from the list of exception codes provided by the office of community services. Electric distribution utilities will work with the office of community services to resolve any exceptions, including the correction of any error in the customer information. Electric distribution utilities shall not unilaterally change a customer's monthly PIPP installment amount from the amount provided in the office of community services electronic data transfer. Electric distribution utilities are not required to send PIPP customers separate written notices of changes to monthly PIPP installment amounts following reverification, but electric distribution utilities shall reflect a PIPP customer's monthly PIPP installment amount on such customer's bills as required by applicable commission rules. Promptly after receipt of notice that a PIPP customer is not eligible to continue in the PIPP program, the electric distribution utility shall remove the affected customer from PIPP billing and notify the customer about any payment plans or other utility-sponsored programs for which the customer may be eligible as a former participant in PIPP. The customer notice sent by the office of community services or the local agency as provided in this rule will also suggest that such customer contact his/her electric distribution utility for information about other payment plans and utility-sponsored programs that may be available to the customer.

122:5-3-04      Payment and crediting arrangements and responsibilities.

(A) Customer payments.

- (1) Monthly PIPP installment amount. For a PIPP customer with an electric baseload residence, the monthly PIPP installment amount shall be the greater of six per cent of such customer's monthly household income, as determined based on current income information provided by the PIPP customer at the time of application or subsequent income verification, or the minimum monthly PIPP installment amount described in paragraph (C) of rule 122:5-3-02 of the Administrative Code. For a PIPP customer with an electrically heated residence, the monthly PIPP installment amount shall be the greater of ten per cent of such customer's monthly household income, as determined based on current income information provided by the PIPP customer at the time of application or subsequent income verification, or the minimum monthly PIPP installment amount.
  
- (2) Exception to minimum monthly PIPP installment. A limited exception to the minimum monthly PIPP installment amount shall be provided to any eligible customer who is determined at the time of enrollment in the PIPP program, or at a future date during program participation, to have a monthly household income of zero dollars. For a zero-income customer, the minimum monthly PIPP installment amount shall be waived for a period of up to one hundred eighty days not more than once in any five-year period. If during such one hundred eighty day period the customer's household income changes, the customer shall notify the office of community services or a local agency as soon as practicable and provide information necessary for the office of community services or the local agency, as applicable, to reverify household income and calculate a new monthly PIPP installment amount. If the customer's monthly PIPP installment amount has not been reverified during the one hundred eighty day period in response to a change in household income, then the customer shall be required at the end of the one hundred eighty day period to have his/her monthly household income reverified and such customer shall be required after reverification to pay a monthly PIPP installment amount calculated as set forth in paragraph (A)(1) of this rule using the customer's reverified monthly household income or the minimum monthly PIPP installment amount, whichever is greater.
  
- (3) Payment to electric utility. PIPP customers shall be required to remit their monthly PIPP installment amounts directly to electric distribution utilities each month. Subject to commission rules applicable to customer billing, paragraph (G) of rule 4901:1-10-22 of the Administrative Code (or any successor rule of substantially the same effect), and any agreements between the director and electric distribution utilities regarding PIPP procedures, the monthly PIPP installment amounts will be shown on monthly bills for electric service. Customer payments shall be credited to the accounts of PIPP customers by each electric distribution utility in accordance with payment crediting rules of the commission. Consistent with the commission rule as set forth in paragraph (C) of rule 4901:1-18-15 of the Administrative Code (or any successor rule of substantially the same effect), electric distribution utilities shall not charge late payment fees to any PIPP customer as

## Final Filed with JCARR on 12-7-09

long as such customer continues to be an active PIPP customer and no late fees shall be charged to or payable from the fund.

(B) Customer arrearages.

- (1) Customer arrearages paid from fund. Since the administration of the PIPP program was transferred to the department of development pursuant to section 4928.53 of the Revised Code, electric distribution utilities have been paid for customer arrearages from the fund. Accrued arrearages have generally been charged to the director and paid to the affected electric distribution utility upon enrollment of an eligible customer in the PIPP program. Current bill balances have been charged to the director monthly and paid from the fund. From and after the effective date of this rule, the director shall continue to pay from the fund accrued arrearages upon initial enrollment of an eligible customer in the PIPP program and monthly current bill balances according to the payment procedures described in rule 122:5-3-05 of the Administrative Code. Each electric distribution utility will maintain accurate records of all customer arrearages paid or reimbursed to the utility through any percentage of income payment plan mechanism, and such records shall be maintained in a form that such electric distribution utility can readily report customer arrearages on a per customer and aggregate basis. Electric distribution utilities shall not be paid any amount included in any customer arrearages that has previously been paid or reimbursed to the utility through any percentage of income payment plan mechanism.
- (2) Monthly payment amounts not counted as arrearages. Electric distribution utilities shall not be entitled to recover from the fund, and they shall not charge to the director, any deficiencies accruing as a result of a PIPP customer's failure to pay monthly PIPP installment amounts. Such deficiencies also shall not be counted as customer arrearages for purposes of the arrearage crediting program provided by this rule.
- (3) Arrearage credits for eligible customers. Each PIPP customer who makes an on-time payment of the monthly PIPP installment amount shall receive a credit applied in the same month as the on-time payment against customer arrearages as described in this paragraph. A PIPP customer shall not be eligible to receive an arrearage credit for any month during which the minimum monthly PIPP installment amount is waived for such customer pursuant to paragraph (A)(2) of this rule. The amount of the arrearage credit that may be earned by a PIPP customer each month for making an on-time payment of the monthly PIPP installment amount shall be the sum of the current bill balance, plus an accrued arrearage credit determined by the electric distribution utility as provided in this rule. The accrued arrearage credit shall be the amount that would reduce the PIPP customer's accrued arrearages to zero over a twenty-four month period assuming on-time payment of all monthly PIPP installment amounts during that period. The amount of the accrued arrearage credit will be determined initially based on the customer's accrued arrearages at the time the customer enrolls in the PIPP program. The electric distribution utility shall calculate the customer's arrearage credit amount upon the customer's enrollment in the PIPP program and provide

such customer's PIPP arrearage credit amount to the office of community services via an electronic data transfer. The accrued arrearage credit amount shall be reviewed annually by the electric distribution utility at or about the customer's PIPP anniversary date and, for each PIPP customer who has not made each monthly payment on-time during the prior year, adjusted to account for months for which the on-time payment credit was not earned by the customer. The recalculated accrued arrearage credit shall be an amount equal to one twenty-fourth of the customer's accrued arrearages, including any accrued arrearage amount for which a credit was not earned during the prior year and any current bill balance(s) for which a credit was not earned during the prior year, but not including any missed monthly PIPP installment amounts. The electric distribution utility shall provide such customer's recalculated PIPP arrearage credit amount to the office of community services via an electronic data transfer. For a PIPP customer who made each monthly payment on-time during the prior year, the accrued arrearage credit amount shall remain the same as during the prior year. For a PIPP customer with no accrued arrearage, the monthly arrearage credit would be an amount equal to the customer's current bill balance for that billing cycle. Arrearage credits will be applied against customer arrearages only. PIPP customers may not earn arrearage credits pursuant to this rule for any missed monthly PIPP installment amounts. Arrearage credits may not be accumulated on a customer account that is current and applied against future service.

- (4) Notice of accrued arrearage credit amounts. The office of community services shall notify each PIPP customer of the customer's accrued arrearage credit amount promptly after it is received from the electric distribution utility via the electronic data transfer described in paragraph (B)(3) of this rule. Such electric distribution utility shall apply arrearage credits for such customer beginning with the next billing after the calculation or recalculation of such customer's accrued arrearage credit amount. Electric distribution utilities shall apply arrearage credits to each bill for which an on-time payment of the monthly PIPP installment amount is made.
- (5) Graduate PIPP transition assistance and post-PIPP arrearage credits. If a customer ceases to participate in the PIPP program voluntarily (which does not include being dropped from the PIPP program for failing to provide information necessary to complete periodic eligibility reverification or comply with other PIPP program requirements) or because the customer is no longer eligible to participate based on income, such customer may nevertheless receive transition assistance and arrearage credits against customer arrearages accumulated but not paid at the time such customer ceases to participate in the PIPP program. To qualify for graduate PIPP transition assistance and post-PIPP arrearage credits, a customer must pay all missed monthly PIPP installment amounts, if any, owed to the electric distribution utility for which transition assistance or arrearage credits will be provided. A customer will be eligible to receive graduate PIPP transition assistance and post-PIPP arrearage credits under this rule based on payments made during the twelve months immediately following the last billing cycle during which the customer ceases to participate in the PIPP program. Graduate PIPP and post-PIPP arrearage credits under this rule will be applied only against customer arrearages accumulated at the time the customer ceases to participate in the PIPP program. Arrearage



## Final Filed with JCARR on 12-7-09

credits may not be accumulated on a customer account that is current and applied against future service.

- (a) Graduate PIPP - customer continues electric service. A graduate PIPP customer continues to receive electric service from the same electric distribution utility after ceasing to be in PIPP. The customer shall select one of the three payment options in this paragraph at the time such customer is enrolled in the graduate PIPP program by the electric distribution utility. A graduate PIPP customer will be eligible to receive arrearage credits under this rule if the customer makes regular payments for electric service under one of the following options: (1) the transition installment amount described in this paragraph, (2) a budget payment amount established under a twelve-month budget plan offered by the electric distribution utility, or (3) the charges for the cost of electric service as billed. The transition installment amount shall be the average of the customer's most recent monthly PIPP installment and the customer's budget bill amount if the customer were placed on a twelve-month budget plan. If such customer's graduate PIPP transition installment amount would not reduce each current monthly bill balance to zero, then during the twelve-month period under this rule, the electric distribution utility shall apply a credit to the graduate PIPP customer's account for the difference between the transition installment amount and the actual cost of service and may submit such credit amount to the fund for reimbursement as transition assistance. The graduate PIPP arrearage credit will be earned and shall be applied to such customer's account for each month during the twelve-month period that the customer makes an on-time payment for electric service to the electric distribution utility until the customer arrearage has been fully credited. If the customer fails to make twelve on-time payments for electric service during the twelve-month graduate PIPP arrearage credit period, the uncredited balance of the customer arrearage shall remain on the customer's account. Upon notice from the office of community services to the electric distribution utility that the customer has ceased to participate in PIPP, the utility shall determine the customer arrearages as of the effective date of such notice and calculate the monthly arrearage credit as an amount equal to one-twelfth of such customer arrearages, but not including any missed monthly PIPP installment amounts. The electric distribution utility shall notify the office of community services of the monthly graduate PIPP arrearage credit amount, and the utility shall apply the graduate PIPP arrearage credit as provided in this paragraph.
- (b) Customers on company-specific arrearage crediting payment plans as of the effective date. This rule is not intended to preclude any customer from completing any other arrearage crediting plan that may be offered by an electric distribution utility according to the requirements of such other plan as of the effective date of these rules. If a former PIPP customer is participating in an arrearage crediting plan offered by an electric distribution utility as of the effective date of these rules, such former PIPP customer may elect within ninety days after the effective date of these rules as an alternative to completing such other plan to receive post-PIPP arrearage credits as described

## Final Filed with JCARR on 12-7-09

in paragraph (A) of this rule provided that such customer makes regular payments for electric services under a budget plan offered by the electric distribution utility or for the cost of electric service as billed.

- (c) Post-PIPP - customer account closed. When an electric distribution utility closes the account of a PIPP customer (i.e., account "finaled"), the utility shall report to the office of community services 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 customer that post-PIPP arrearage credits will be available during the next 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 customer who will agree to make payments against such customer's arrearage on a finaled account. A post-PIPP customer who makes payments against the customer arrearage on a finaled account as provided in this rule will be eligible for post-PIPP arrearage credits. In order to receive a post-PIPP 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 customer will earn an arrearage credit for each such payment made to the electric distribution utility during the twelve-month period after the customer's account is closed. The post-PIPP arrearage credit shall be calculated by the electric distribution utility as one-twelfth 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 customer fails to make payments against customer arrearages on a finaled account during the twelve-month post-PIPP arrearage credit period, the uncredited balance of the customer arrearage shall remain on the customer's account.
- (6) Limitations on arrearage credits. The arrearage credits provided in paragraph (B) of this rule apply only to customer arrearages for which electric distribution utilities have been paid through a percentage of income payment plan mechanism. Arrearage credits provided in paragraph (B) of this rule may not be earned based on payments made from federal funds administered by the office of community services.
- (C) Evaluation of program effectiveness. The director shall periodically review and analyze data collected in connection with the administration of the PIPP program and evaluate the payment and arrearage crediting arrangements, the operation and performance of the PIPP program as a means of assisting low-income households to maintain electric service and the fiscal implications of the PIPP program for ratepayers, generally.

122:5-3-05

**Procedures for disbursing public funds to electric utilities; timely remittance of revenue.**

- (A) Application of customer deposits. If an electric distribution utility has collected a deposit from a customer who subsequently enrolls in the PIPP program, the electric distribution utility shall apply the deposit to the customer's account in a manner consistent with rule 4901:1-10-14 of the Administrative Code (or any successor rule of substantially the same effect) promptly following delivery of notice by the director that the customer has enrolled in the PIPP program. Consistent with the commission rule set forth in paragraph (B) of rule 4901:1-18-15 of the Administrative Code (or any successor rule of substantially the same effect), electric distribution utilities shall not charge or collect deposits from any PIPP customer as long as such customer continues to be an active PIPP customer and customer deposits shall not be charged to or payable from the fund.
- (B) Payment for electric service. The director shall make monthly payments from the fund to electric distribution utilities on behalf of active PIPP customers. For each active PIPP customer, the director shall pay an amount equal to the difference between the cost of electric service provided by the relevant electric distribution utility to such active PIPP customer during the applicable billing cycle and the monthly PIPP installment amount for such customer for the corresponding billing cycle whether or not the customer has paid the monthly PIPP installment amount. It shall be the responsibility of each electric distribution utility to collect monthly PIPP installment amounts, which shall not be paid from the fund for any electric service provided after the effective date of this rule. The director shall also make monthly payments from the fund to electric distribution utilities for transition assistance for eligible graduate PIPP customers as provided in paragraph (B)(5)(a) of rule 122:5-3-04 of the Administrative Code. Electric distribution utilities may not bill the director for electric service or any other charges to a customer's account for any time during which electric service to such customer was disconnected or for any time during which such customer was not an active PIPP customer, and no such amounts will be paid from the fund. Electric distribution utilities shall submit invoices to the director monthly by the fifteenth day of the month for all billing cycles ended during the preceding revenue month. "Revenue months" shall be periods established by each electric distribution utility corresponding to its respective billing activities and listed in an annual schedule that shall be provided to the director. If the fifteenth is not a business day, invoices may be submitted on the next business day after the fifteenth. Invoices shall be in the form further described in paragraph (F)(1) of this rule. The director shall use its commercially reasonable efforts to remit payments from the fund to the electric distribution utility within fifteen days after receipt of a proper invoice for such services. In the event the director fails to remit payment within thirty days after receipt of a proper invoice for services, the director shall be obligated to pay interest on the late payment at the rate then provided for in section 126.30 of the Revised Code.

- (C) Municipal electric utility or electric cooperative. In the event a municipal electric utility or an electric cooperative elects to participate in the low-income customer assistance programs as permitted by section 4928.51 of the Revised Code, such municipal electric utility or electric cooperative shall be subject to all applicable conditions and requirements of sections 4928.51 to 4928.61 of the Revised Code and the rules in this chapter of the Administrative Code. For purposes of applying the rules in this chapter to a municipal electric utility or electric cooperative, all references to an electric distribution utility will be construed to refer to such municipal electric utility or electric cooperative. A detailed plan for participation of a municipal electric utility or an electric cooperative and administration of low-income customer assistance programs for the customers of the municipal electric utility or electric cooperative shall be developed by the director and such municipal electric utility or electric cooperative shall be memorialized in a written agreement.
- (D) Timely remittance of revenue; deposit to fund.
- (1) Collections remitted. Each electric distribution utility shall remit to the director all universal service rider revenue collected by such electric distribution utility and all revenue collected by such electric distribution utility in respect of any customer arrearages for which the electric distribution utility was at any time paid from the fund or otherwise through a PIPP rider mechanism. Such revenue shall be paid over to the director by the fifteenth day of the month immediately following the month in which the revenue is received by the electric distribution utility. In the event an electric distribution utility fails to remit timely any universal service rider revenue or revenue from the collection of customer arrearages, such electric distribution utility shall be obligated to pay interest on the late payment at the rate then provided for in section 126.30 of the Revised Code. Each payment from an electric distribution utility to the director shall be accompanied by a revenue report as further described in paragraph (F)(2) of this rule. Payments shall be made to the director by electronic funds transfer according to funds transfer instructions provided by the director from time to time.
- (2) Deposit to universal service fund. All revenue remitted by any electric distribution utility to the director in connection with the PIPP program shall be deposited promptly by the director into the fund.
- (E) Billing and payment disputes. The director shall have a reasonable time to review all invoices and revenue reports submitted by electric distribution utilities. Payment of invoices and acceptance of remittances shall not foreclose the director from disputing any error or deficiency found by the director upon review of invoices or revenue reports. In the event the director finds any invoice or revenue report to be deficient or in error, the director shall notify the affected electric distribution utility in writing, and the director shall be entitled to recover from the electric distribution utility any overcharges for service or underpayment of collections with interest accruing from the date such payments were made or should have been made at the rate provided for

in section 126.30 of the Revised Code. If the electric distribution utility disputes the director's finding of error or deficiency, representatives of the director and the electric distribution utility shall meet in person to review the respective calculations of the disputed amounts and work in good faith to resolve the dispute.

(F) Reporting

- (1) Invoices for service to PIPP customers. Invoices shall provide the director customer-level and aggregate information about the electric service provided to PIPP customers during the billing cycles covered by the invoice. Invoices shall be submitted in form and substance as required by the director from time to time. The director shall notify electric distribution utilities in writing of any changes to the required form or substance for invoices and allow a reasonable time for electric distribution utilities to transition to the modified invoice requirements.
- (2) Revenue reports. Revenue reports shall provide information to the director regarding collections and universal service fund revenue remitted to the director in connection with the PIPP program. Revenue reports shall be submitted in form and substance as required by the director from time to time. The director shall notify electric distribution utilities in writing of any changes to the required form or substance for revenue reports and allow a reasonable time for electric distribution utilities to transition to the modified revenue report requirements.
- (3) Monthly customer information reports. On or before the fifteenth day of each month (or if the fifteenth is not a business day, the next business day after the fifteenth), each electric distribution utility shall report to the director about all customers of such electric distribution utility participating in either or both the PIPP program or the home energy assistance program during the preceding calendar month. Monthly customer information reports shall be submitted in form and substance as required by the director. The director shall notify electric distribution utilities in writing of any changes to the required form or substance for customer information reports and allow a reasonable time for electric distribution utilities to transition to the modified customer information report requirements.
- (4) Special information requests. From time to time to assist the office of community services with the administration and/or evaluation of low-income customer assistance programs, the director may make special information requests of electric distribution utilities and shall provide a reasonable period of time for reply. The electric distribution utilities shall respond to the special information requests within the time permitted. If an electric distribution utility is unable to respond completely to a special information request, the electric distribution utility shall notify the office of community services promptly and cooperate with the office of community services to address any issues that would delay or impair compliance with the information request.

- (5) Electronic data interchange. All invoices, revenue reports, monthly customer information reports, and any special information requests that may be reasonably requested by the director from time to time shall be submitted to the director electronically. In addition, each electric distribution utility shall submit to the director a paper copy of each invoice and revenue report certified by a responsible officer of the utility as being true, correct and complete. Technical guidelines and protocols for electronic data interchange shall be established and maintained by the director and provided to each electric distribution utility. To the extent practicable, the director shall provide electric distribution utilities notice and an opportunity to review and comment on any proposed change to electronic data interchange technical guidelines and protocols, and the director shall allow a reasonable time for electric distribution utilities to implement system modifications necessary to conform to any technical changes adopted by the director.

122:5-3-06      **Aggregation.**

Pursuant to section 4928.54 of the Revised Code, the director may aggregate PIPP customers for the purpose of competitively auctioning the supply of competitive retail electric generation service to bidders certified under section 4928.08 of the Revised Code and further qualified under eligibility criteria the director prescribes by rule under division (B) of section 4928.53 of the Revised Code after consultation regarding any such rule with the commission and electric light companies as well as such other interested parties as the director may identify. The director shall review from time to time the feasibility of aggregating PIPP customers as contemplated by section 4928.54 of the Revised Code. If the director determines that a market has developed in which aggregating PIPP customers is feasible and substantial savings for the PIPP program can be realized by aggregating customers for the purpose of competitively auctioning the supply of competitive retail electric generation services, then the director shall undertake to consult with the commission and electric light companies and develop rules consistent with the requirements of section 4928.54 of the Revised Code.

122:5-3-07      **Procedures for administering funds under director's jurisdiction.**

(A) Compliance with federal requirements. Federal funds received by the director for the purpose of providing home energy assistance or energy efficiency and weatherization services shall be administered in accordance with any applicable federal laws and program guidelines in effect from time to time. In the event the director determines that any provision of this Rule conflicts with any federal law or program guideline as adopted or amended after the effective date of this rule, the director may do all things necessary to conform the administration of federally-funded assistance programs to applicable laws and guidelines, including, without limitation, suspension of any invalid or conflicting provision of this chapter of the Administrative Code.

(B) Home energy assistance program.

(1) Annual program determinations. Each year, the director shall develop a plan for administration of the home energy assistance program taking into account the amount of program funds to be received by the state from the federal government, any additional funds that may be made available for such programs by the state and the timing of the availability of all such funds for distribution to eligible recipients. The plan for administration, including the priorities for distribution of funds, shall be as provided in the annual LIHEAP plan for the applicable program year. The annual LIHEAP plan shall set forth the eligibility criteria for the program year and describe the manner in which home energy assistance funds will be made available for the crisis assistance component of the home energy assistance program.

(2) Customer eligibility. Eligibility for home energy assistance program benefits shall be as set forth in the annual LIHEAP plan. Such assistance is not limited to PIPP customers. The director may in the annual energy assistance guidelines issued to local agencies for administration of the program reserve emergency or crisis assistance for households that do not receive electric service from an electric distribution utility and/or for customers of electric distribution utilities who are not eligible to participate in the PIPP program. The director shall make information about the home energy assistance program, including customer eligibility requirements, available to the public at public hearings, through local agencies and various other communication channels, including publication on the department of development website.

(C) Home weatherization assistance program.

(1) Annual program determinations. Each year, the director shall develop a plan for administration of the home weatherization assistance program funds taking into account the amount of program funds to be received by the state from the federal government, any additional funds that may be made available for such programs by the state and the timing of the availability of all such funds for distribution to eligible recipients. The plan for administration, including the priorities for distribution of funds, shall be as provided in the annual HWAP plan for the applicable program year. The annual HWAP plan shall set forth the eligibility



## Final Filed with JCARR on 6-3-09

criteria for such program year and describe the manner in which home weatherization assistance funds will be made available to authorized energy efficiency and weatherization service providers. Energy efficiency and weatherization service providers shall adhere to applicable guidelines of the federal agencies providing funds in selecting households to receive energy efficiency and weatherization services.

- (2) Customer Eligibility. Eligibility for home weatherization assistance program grants shall be as set forth in the annual state plan for the home weatherization assistance program. Such assistance is not limited to PIPP customers. The director shall make information about the home weatherization assistance program, including customer eligibility requirements, available to the public at public hearings, through local agencies and various other communication channels, including publication on the department of development website.
  
- (D) Application. The director shall identify the customer-level information necessary and useful for purposes of determining customer eligibility and administering customer participation in the home energy assistance program and home weatherization assistance program. The director shall prepare a form of application, which may be a single combined application for all low-income customer assistance plans. The director shall make applications for the home energy assistance program and the home weatherization assistance program available to customers at various locations and through various publication channels throughout the state, including at local agencies, by request to the office of community services and by publication on the department of development website. The application form may be updated from time to time by the director. Applications for home energy assistance program funds and/or home weatherization assistance program services may be submitted by customers to local agencies designated by the director to accept such applications or by mail to the office of community services.

122:5-3-08

**Energy efficiency and weatherization services and consumer education.**

- (A) Allocation of energy efficiency and weatherization services. To the extent practicable, energy efficiency and weatherization services supported with resources from the fund shall be targeted to the certified territories of an electric distribution utility in the same proportion as the revenue remitted by such electric distribution utility to the director for the fund as corresponds to the total revenue remitted from all electric distribution utilities to the director for the fund. In the event any electric distribution utility makes any other funding contribution to the director to support energy efficiency or weatherization services, such additional funding shall be targeted to delivery of energy efficiency and weatherization services in such electric distribution utility's service territory.
- (B) Target high-cost, high-use structures. The director shall establish and maintain criteria designed to target energy efficiency and weatherization services to high-cost, high-use structures, provided that such criteria may allow flexibility to perform cost-effective energy efficiency and weatherization services for residences of PIPP customers and customers then eligible to participate in the PIPP program even though such residences may not be the highest cost or highest use structures. Such criteria may include, among others identified by the director from time to time: (1) the extent to which an adequate delivery infrastructure is available to serve the targeted structures within a particular region; (2) the extent to which additional training is necessary to deliver the energy efficiency and weatherization services; and (3) the net present value of savings to the fund from the implementation of particular energy efficiency and weatherization services. Any energy efficiency or weatherization measure projected to yield a savings-to-investment ratio of greater than one shall be considered a cost-effective measure.
- (C) Rental properties. Energy efficiency and weatherization services may be provided for a rental property then leased to a PIPP customer or to a customer then eligible to participate in PIPP. As a condition to providing energy efficiency and weatherization services for a rental property, the director may require the owner of such rental property to agree: (1) for the benefit of the PIPP customer not to increase rent charged to such individual as a result of any investment made in the property in connection with the energy efficiency and weatherization services to be provided; and (2) to make a funding contribution toward the cost of the energy efficiency and weatherization service where such services are likely to enhance the value of the rental property. Replacement of consumables (e.g., light bulbs and furnace filters) and tenant-owned appliances shall not require landlord approval or a funding contribution from the landlord. The director may authorize service providers to solicit and obtain landlord approval and funding contributions to be applied against the cost of the energy efficiency and weatherization measures provided. A funding contribution will not be required from an individual owner of a rental property who is himself or herself eligible to participate in the PIPP program. The amount of any funding contribution received by a service provider from an owner of rental property for energy efficiency and weatherization measures will be offset dollar-for-dollar from the amount to be paid by the department to the service provider for such measures.

## Final Filed with JCARR on 6-3-09

- (D) Service providers. The director shall establish and maintain standards for the selection and performance of service providers who offer energy efficiency and weatherization services to participants in low-income customer assistance programs. No service provider shall hold itself out as a department of development authorized provider unless the service provider has a current designation of such status from the director. The standards for authorized service providers shall require, without limitation, service providers to: (1) be able to provide services which are to be paid for from the fund comparably and in accordance with energy efficiency and weatherization program standards, as established and amended by the office of community services from time to time; (2) employ electronic data collection methods for reporting service data, cost data, and customer eligibility data, and report all such data to the director; (3) provide for proper verification of service delivery; and (4) cooperate fully in an evaluation of such service provider's services through an objective third-party review, which may include an on-site evaluation, collection and analysis of pre- and post-service energy usage, and an analysis of bill payment behavior. The director may modify the standards for authorized service providers from time to time, and the current standards for authorized service providers shall be made available upon request to the office of community services and posted on the website of the department of development.
- (E) Evaluation of program effectiveness. The director shall periodically review and analyze data collected from authorized service providers and otherwise in connection with low-income customer assistance programs to evaluate the results of energy efficiency and weatherization services. In particular, the director shall determine whether such data provide evidence of reduced energy consumption by households receiving such services and reduced costs of electric service provided to PIPP customers.
- (F) Consumer education. To the extent practicable within the resources available from the fund for consumer education, the director will establish and maintain a consumer education program covering energy efficiency, energy conservation, demand reduction, and such other subject matter as the director determines relevant and useful for customers eligible to participate in low-income customer assistance programs, including such materials as electric distribution utilities may provide for distribution to their respective customers about energy efficiency, energy conservation, and demand reduction programs the electric distribution utility offers.

**Final Filed with JCARR on 6-3-09**

122:5-3-09      **Delegation of functions.**

Except as provided in this rule, each and any of the powers and duties of the director under this chapter may be performed by the assistant director of the department of development or such other officers and employees of the department of development as may be designated in writing by the director or such assistant director. Any such designation under this chapter shall continue to be effective for purposes of this chapter unless and until it is terminated or superseded in writing, notwithstanding any succession in the office of director or assistant director. Except as provided in this rule, any reference in this chapter to the director includes the assistant director and such other designated officers and employees.

**Final Filed with JCARR on 6-3-09**

122:5-3-10      **Severability.**

If any clause, provision or application of any rule in this chapter is determined to be invalid or unenforceable under applicable law, such determination shall not affect the remainder of such rule or other application of the rule or other rules of this chapter, which shall be applied as if the invalid or unenforceable portion or application or references to the invalid or unenforceable portion did not exist.