The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Regulatory Intent

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

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 Plus customers and the amounts paid by PIPP Plus 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 Development (Ohio Revised Code (ORC) Section 4928.53), thereby changing the manner in which EDUs are compensated for the cost of the PIPP program.

With the initial 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, Development, 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). The PUCO and Development continued to align their rules during the 2015 rule making process with those rules taking effect in November 2015.

Under the current proposal, one rule will be amended (122:5-3-02) while the remainder of the Chapter will be filed as no-change rules. For 122:5-3-02, the proposed amendment will benefit customers re-enrolling in the program. Currently, customers pay their missed PIPP Plus payments for the months they’ve been off the program and current usage charges, up to their arrearage amount. The proposed amendment will only require such customers to pay their missed PIPP Plus payments while enrolled in PIPP Plus to re-enroll in the program. Any additional outstanding balance will be figured into the USF rider. The purpose of this change is to ensure low-income individuals are able to maintain electric service, while the costs an individual owes to the PIPP Plus program are properly accounted for as well.

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

Ohio Revised Code 4928.53
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?

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)?

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 Development (Ohio Revised Code (ORC) Section 4928.53). In December of 2018, the number of Ohioans enrolled in electric PIPP Plus was 267,059. According to the PUCO’s 2018 Utility Rate Survey, the average yearly electric bill for a residential customer in Ohio’s 16 Major Cities totaled $1,185.57. Energy costs create a 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. The PIPP Plus program provides an opportunity for income-eligible Ohioans to maintain electric service at an affordable price. The EDUs benefit 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.

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

Success will be determined by the following 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 HEAP 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.

Stakeholders previously provided Development feedback on the rules at a February 5, 2019 joint workshop with the PUCO, and an April 12, 2019 listening session at Development. For members of the public who were unable to attend, the workshop was webcast and is available to view on the PUCO webpage at https://www.puco.ohio.gov/media-room/puco-webcast/?recordID=723. Further, the rules were discussed with the Energy Assistance Process Improvement Group meeting on May 13, 2019 at Development. The rules were also up for comment during the most recent Public Benefits Advisory Board held on May 21, 2019. Feedback was considered as Development staff reviewed proposed rule revisions with the PUCO staff.

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

The stakeholders described participants in the PIPP Plus program having issues rejoining the program once they leave the program, due to large account balances that the individuals are required to pay before rejoining the PIPP Plus program. Due to the concerns raised, Development drafted the current proposal.

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?

The PUCO metrics report and Development’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.

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?

No alternative regulations were considered; however, depending on the filed comments and any replies thereto, Development will further consider revising the proposed regulations.

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 Ohio Development Services Agency. Since that time the PUCO has administered the gas PIPP Plus program rules (Chapter 4901:1-18) and Development has administered the electric PIPP Plus rules. Development worked with the PUCO to ensure that the two sets of rules aligned as much as possible 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.

Development’s plan for implementation of the proposed changes to OAC Chapter 122:5-3-02 is for Development’s Office of Community Assistance to implement the rules in a consistent and predictable application of the regulation for both utility customers and electric utility companies. Development will work to ensure the EDUs and Energy Assistance Providers are aware of the change and follow the process accordingly to reinstate eligible PIPP plus customers.
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;**

The provisions of OAC 122:5-3 apply to regulated utility companies, and the rates that are paid into the USF are paid for by Ohio’s regulated electric utility ratepayers. In 2018, 51 agencies administered PIPP Plus for 267,059 (as of December 2018) electric customers.

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

As this rule chapter prescribes the relationship between residential customers and the utility companies serving them, the primary identified business community is the electric utility companies. The proposed revision to OAC 122:5-3-02 may impact the identified business community to the extent that there is a time cost involved in compliance with the rules if the utility companies need to program their billing systems to incorporate the proposed rule revisions. Further, there are recovery procedures, if the utility company determines the proposed rule revision impacts the utility company’s recovery of expenses. Also, the identified business community may be impacted, if the utility companies need additional storage to retain additional customer record information based on the proposed rule revision in OAC 122:5-3-02. In addition, while unlikely, there may be nominal costs associated with updates to revise bill inserts or messages to residential utility bills.

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._

The impact in terms of time will, in most instances, be minimal, as utility companies already adhere to OAC Chapter 122:5-3-02 and the proposed revisions are unlikely to add any additional significant burden on business.

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

The long-term impacts of this change will have a positive effect on the regulated business community and its customers. The alignment of the rules between Development and PUCO will make the rules easier for participants and businesses to understand and follow.
Annually, Development 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 that the USF rider is properly collecting funds to administer the program. By aligning and using the most effective rules, the intent is to streamline the process as much as possible for the utilities, the ratepayers of regulated gas and electric companies, the Energy Assistance Providers and the individuals who utilize the PIPP Plus program.

**Regulatory Flexibility**

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

   No. Development will work with affected 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 19-52-AU-ORD or by emailing Development at Rule.Comment@development.ohio.gov.

17. **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

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

   Development will meet with and provide educational materials on the rule changes to agencies that provide services to the affected population. See answer to #13 for additional information.