

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of )	
Ohio Power Company for Approval of )	
its Temporary Plan for Addressing the )	Case No. 20-602-EL-UNC
COVID-19 State of Emergency. )	

In the Matter of the Application of )	
Ohio Power Company for Waiver of )	Case No. 20-603-EL-WVR
Tariffs and Rules Related to the )	
COVID-19 State of Emergency. )	

In the Matter of the Application of )	
Ohio Power Company for Approval of )	Case No. 20-604-EL-AAM
Certain Accounting Authority. )	

In the Matter of the Application of )	Case No. 20-734-EL-AEC
Ohio Power Company for Approval of )	
A Reasonable Arrangement. )	

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**APPLICATION FOR REHEARING REGARDING PUCO ORDER ON AEP'S  
TEMPORARY PLAN ADDRESSING CONSUMER PROTECTION DURING THE  
CORONAVIRUS EMERGENCY**

**BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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Consumers are facing perilous times – a health crisis<sup>1</sup> and an ensuing personal-finance crisis<sup>2</sup> due to the coronavirus. The PUCO's May 6, 2020 Finding and Order ("Order") on AEP's proposed plan for dealing with this emergency resulted in many consumer protections that OCC

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<sup>1</sup> 1,657 deaths, 4,998 hospitalizations and 28,454 cases of COVID-19:  
<https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards/current-trends/>

<sup>2</sup> As of May 9, 2020, Ohio reported 1.3 million initial unemployment claims for 2020:  
<https://jfs.ohio.gov/>

advocated for, such as suspending disconnections and temporarily suspending door-to-door energy marketing. But to protect consumers<sup>3</sup> even further, the Order should have included more.

The PUCO's Order is unreasonable and unlawful in the following respects:

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to suspend disconnections of submetered customers in AEP's service territory and by failing to require for submetered customers other consumer protections made available to AEP customers in the Order.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to require reconnections of customers that AEP disconnected during the time period beginning thirty days before the PUCO's emergency Order went into effect.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to continue the consumer protection of the suspension of AEP disconnections for a reasonable period of time after its declared emergency has ended.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat of the Coronavirus to Ohioans and the consequences of its financial crisis impact on them.

The reasons in support of this application for rehearing are set forth in the accompanying Memorandum in Support. The PUCO should grant rehearing and abrogate or modify its Order as proposed by OCC.

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<sup>3</sup> A "consumer" is "any person who is an ultimate user of electric . . . utility service." *See* O.A.C. 4901:1-18-1(F).

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**MEMORANDUM IN SUPPORT OF APPLICATION FOR REHEARING REGARDING  
AEP’S TEMPORARY PLAN ADDRESSING THE CORONAVIRUS EMERGENCY  
BY  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

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**I. INTRODUCTION**

In this time of health and financial crisis, the PUCO has the ability in this proceeding to protect Ohioans. It largely did so in its Order by, for example, suspending disconnections and suspending door-to-door energy marketing. But it should have gone further to protect consumers.

It should have ordered that during the declared state of emergency (and for a reasonable time thereafter), AEP can provide master meter service only to those customers who will

themselves comply with the Order. It should right that wrong as soon as possible, to protect submetered consumers who are served by master meters. It should have protected consumers who were disconnected within the thirty days preceding the PUCO's emergency Order. It is unreasonable not to protect customers who were disconnected within a month of the PUCO's issuance of an emergency Order. Additionally, on the backside of the emergency, the PUCO should have protected consumers for a reasonable period of time after the emergency has ended, Abruptly ending protections for consumers runs the risk of harming Ohioans. And the PUCO should have communicated in its order its commitment to protecting consumers through its emergency jurisdiction indefinitely. There are looming health and financial concerns with the coronavirus, and abruptly stopping the consumer protections that the PUCO has adopted as a result of the emergency would hurt consumers.

## **II. STANDARD OF REVIEW**

Applications for rehearing are governed by R.C. 4903.10. The statute allows that, within 30 days after issuance of a PUCO order, "any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding." OCC intervened in this case and on April 8, 2020 and filed comments on April 27, 2020.

In considering an application for rehearing, R.C. 4903.10 provides that "the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear." The statute also provides: "[i]f, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify

the same; otherwise such order shall be affirmed.” As shown below, the statutory standard to modify or abrogate the May 6, 2020 Finding and Order is met in this case.

### III. ASSIGNMENTS OF ERROR

**ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to suspend disconnections of submetered customers in AEP’s service territory and by failing to require for submetered customers other consumer protections made available to AEP customers in the Order.**

The PUCO has affirmed the right of apartment complexes, shopping centers, office buildings, recreational vehicle parks, campgrounds, and the like who use master meter utility services to redistribute the utility services.<sup>4</sup> But in doing so, the PUCO has emphasized that “[t]his is not to say that the [PUCO] cannot set reasonable terms and conditions on jurisdictional utilities providing master meter service so as to ensure that users of that service (e.g., landlords) are providing it to the ultimate end user (submetered customer) in a manner which is safe and consistent with the public interest.”<sup>5</sup> The PUCO “has expressed just such authority in setting terms and conditions on the resale of service to ensure that service is provided to the end user in a manner consistent with the public interest.”<sup>6</sup> The PUCO “has long recognized and maintained its authority to set terms and conditions on the resale of utility service to ensure the service is provided in a manner consistent with the public interest.”<sup>7</sup>

In its Order, the PUCO should have exercised its emergency power under R.C. 4909.16 and ordered that AEP (during this time of emergency and for a reasonable time thereafter) is

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<sup>4</sup> See *In re Shroyer*, Case No. 90-182-WS-CSS, *et al.*, Opinion and Order (Feb. 27, 1992) at 4, 9.

<sup>5</sup> See *id.*

<sup>6</sup> See *id.*

<sup>7</sup> *In the Matter of the Commission’s Investigation of Submetering in the State of Ohio*, Case No. 15-1594-AU-COI, Finding and Order (December 7, 2016) at para. 21.

required to provide master metering service to submeterers that will themselves comply with the Order. This would protect submetered consumers being served by master meters during this pandemic from being disconnected and require reconnection of services in a manner that is safe and consistent with the public interest. This is because submeterers who use AEP's master meter service and redistribute the utility service to consumers will themselves have to comply with the Order's consumer protections.

It is unreasonable during this time of emergency to give consumer protections to AEP's residential customers, but not to residential customers being provided service from submeterers. The Order should be modified to allow AEP to provide master metering service during the declared state of emergency (and for a reasonable time thereafter) to only those submeterers that will themselves comply with the Order.

**ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to require reconnections of customers that AEP disconnected during the time period beginning thirty days before the PUCO's emergency Order went into effect.**

In its comments, OCC recommended that the PUCO order AEP to protect consumers by reconnecting those that were disconnected thirty days before the PUCO's emergency Order.<sup>8</sup> The PUCO found OCC's suggested "look-back" period "unnecessary."<sup>9</sup> That finding is unreasonable and the PUCO erred in making it.

All consumers have been affected by the coronavirus emergency. Those who by sheer happenstance were disconnected by AEP a short period of time before the emergency are no less worthy of protection than those consumers who were disconnected after the emergency. They face health challenges. They face financial challenges. They need basic utility service. They

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<sup>8</sup> See OCC's Comments at 6.

<sup>9</sup> See Order at 10.



should be protected by the PUCO. The PUCO should abrogate its order and direct AEP to reconnect consumers who were disconnected due to non-payment in the thirty days before the emergency was declared.

**ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to continue the consumer protection of the suspension of AEP disconnections for a reasonable period of time after its declared emergency has ended.**

OCC recommended in its comments that the PUCO should continue the suspension of disconnections for a reasonable period of time after the coronavirus emergency.<sup>10</sup> OCC appreciates the PUCO's recognition of the importance of this issue and supports the requirement for AEP to file a plan to address it, with the opportunity for interested parties to comment.<sup>11</sup>

But due to the coronavirus, consumers need protection now. While they are struggling with lost wages, jobs, and the health matters associated with the coronavirus, the least of their worries should be about receiving basic utility service. The PUCO should have simply ordered AEP to suspend disconnection for a reasonable period of time after the emergency. Its decision not to was unreasonable because it does not sufficiently protect consumers.

**ASSIGNMENT OF ERROR NO. 4: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat of the Coronavirus to Ohioans and the consequences of its financial crisis impact on them.**

Ohioans are facing uncertain times. No one can predict with accuracy how the health and financial challenges posed by the coronavirus will turn out or will end. As has been reported, utility consumers could face a second wave of pain – looming utility shut-offs.<sup>12</sup> The PUCO should not abandon or discontinue the consumer protections that it has implemented too early

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<sup>10</sup> See OCC's Comments at 5.

<sup>11</sup> See Order at 7-8.

<sup>12</sup> See Energy Wire, "A second wave of pain: Looming utility shutoffs" (May 21, 2020), <https://www.eenews.net/energywire/2020/05/21/stories/1063189771>.

Instead, the PUCO should further protect consumers by continuing its emergency jurisdiction indefinitely, or at least until an end to the coronavirus emergency is officially declared.

#### IV. CONCLUSION

For the health and economic security of *all* of AEP's customers, the PUCO should grant rehearing on OCC's assignments of error and modify or abrogate its May 6, 2020 Finding and Order as described above. Granting rehearing is necessary to immediately protect *all* of AEP's consumers.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Application for Rehearing has been served via electronic transmission upon the following parties of record this 5<sup>th</sup> day of June 2020.

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: App for Rehearing APPLICATION FOR REHEARING REGARDING PUCO ORDER ON AEP'S TEMPORARY PLAN ADDRESSING CONSUMER PROTECTION DURING THE CORONAVIRUS EMERGENCY BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL  
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