

In the Matter of the Commission’s )  
 Consideration of Solutions Concerning the )  
 Disconnection of Gas and Electric Service ) Case No. 20-1252-GE-UNC  
 in Winter Emergencies for the 2020-2021 )  
 Winter Heating Season. )

The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene where the PUCO<sup>1</sup> is implementing the "Winter Reconnect Order," which is intended to protect customers by requiring the utilities to reconnect the services of those consumers who have had their service disconnected for nonpayment, or to prevent disconnection. The PUCO proposes that the Winter Reconnect Order will be effective from October 5, 2020 to April 15, 2021 for each gas, natural gas, and electric light company under the PUCO's jurisdiction.

The OCC appreciates the protections for consumers under the Winter Reconnect Order being made effective earlier than in prior years; however, the effective date of October 5<sup>th</sup>, is not soon enough considering that relief is needed for Ohioans suffering

<sup>1</sup> The Public Utilities Commission of Ohio.

through the coronavirus pandemic. Utilities have already begun to disconnect customers under PUCO-approved transition plans.<sup>2</sup> The health, safety, and well-being of Ohio families are being threatened by loss of utility services now, and the Winter Reconnect Order, if effective, could offer protection to consumers facing disconnection. To protect consumers, the PUCO should move up the effective date of the Winter Reconnect Order to September 1, at the latest.

OCC is filing on behalf of all the approximate 4.3 million Ohio residential electric and 3.5 million natural gas utility customers who are eligible for protection from utility disconnection under the Winter Reconnect Order.<sup>3</sup> The reasons the Public Utilities Commission of Ohio (“PUCO”) should grant OCC’s Motion are further set forth in the attached Memorandum in Support.

Respectfully submitted,

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Ohio Consumers’ Counsel

/s/ Ambrosia E. Wilson

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<sup>2</sup> See Finding and Order in Columbia Gas of Ohio (June 17, 2020) at 6. Case Nos. 20-602-EL-UNC, Supplemental Finding and Order at 5 (AEP Ohio) (August 12, 2020); 20-650-EL-AAM, et. al., Supplemental Finding and Order at 5 (DP&L) (August 12, 2020); 20-599-GE-UNC, Supplemental Finding and Order at 5 (Duke) (July 29, 2020); Case No. 20-1344-EL-UNC, Application at 3 (First Energy) (August 20, 2020) (First Energy proposes resumption of disconnections on September 15, 2020).

<sup>3</sup> See R.C. Chapter 4911, R.C. 4903.221, and Ohio Adm. Code 4901-1-11.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**MEMORANDUM IN SUPPORT**

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In this proceeding, the Public Utilities Commission of Ohio (“PUCO”) proposes to implement its disconnection restrictions that protect customers on October 5, even though customers need help now. The Office of the Ohio Consumers’ Counsel (“OCC”) has authority under law to represent the interests of Ohio’s residential utility gas and electric utility customers, pursuant to R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the customers were unrepresented in a proceeding where the effective date of an essential consumer protection-the Winter Reconnect Order-is being implemented on October 5, instead of as soon as possible. The Winter Reconnect Order is especially crucial this year considering the financial and health impacts that the coronavirus pandemic has had and is continuing to have on millions of Ohioans. Under Utilities’ emergency transition plans, they have been given authority to begin disconnecting customers for non-payment before the Winter Reconnect Order is effective. The PUCO should consider synching the consumer protections available under the Winter Reconnect Order with the disconnection

threats consumers are now facing. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the Public Utilities Commission of Ohio (“PUCO”) to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor’s interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings;
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC’s interest is representing Ohio’s residential utility customers in this case where the PUCO has set the Winter Reconnect Order effective date as October 5, 2020. The effective date is especially important this year because it dictates when consumers, who may be facing additional difficulties due to the coronavirus pandemic, will be able to utilize the Winter Reconnect Order protections. This interest is different from that of any other party and especially different from that of the utility whose advocacy includes the financial interest of stockholders.

Second, OCC’s advocacy for residential customers will include advancing the position that some consumers have already been disconnected since the PUCO approved the utilities’ transition plans. These approved plans authorized the utilities to resume disconnections beginning as early as July 29, 2020. Accordingly, the effective date of the Winter Reconnect Order should begin no later than September 1, 2020, and sooner if possible. If the reconnect order takes effect October 5, consumers will face additional

months without having added protections that may otherwise assist them.<sup>4</sup> Moving the effective date of the reconnect order helps protect the health and safety of Ohio families who have already endured untold suffering and pain through the pandemic.

OCC's position is therefore directly related to the merits of this case that is before the PUCO.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, consumer protection advocacy and will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest. This includes advocating for the need for additional data to be reported by the utilities beginning no later than September 1<sup>st</sup> of residential customers who are disconnected or are facing disconnection and who need the special protections in the Winter Reconnection Order.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case to determine when consumers can utilize the essential consumer protections provided by the Winter Reconnect Order.

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<sup>4</sup> Reconnect Order at 4.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider “The extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio (“Court”) confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.<sup>5</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC’s Motion to Intervene.

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<sup>5</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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(willing to accept service by e-mail)

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 2nd day of September 2020.

/s/ Ambrosia E. Wilson  
Ambrosia E. Wilson  
Counsel of Record  
Assistant Consumers' Counsel

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

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**9/2/2020 1:40:41 PM**

**in**

**Case No(s). 20-1252-GE-UNC**

Summary: Motion Motion to Intervene by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Wilson, Ambrosia E.