

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
CONSIDERATION OF SOLUTIONS
CONCERNING THE DISCONNECTION OF
GAS AND ELECTRIC SERVICE IN WINTER
EMERGENCIES FOR THE 2020-2021
WINTER HEATING SEASON.

CASE NO. 20-1252-GE-UNC

ENTRY ON REHEARING

Entered in the Journal on October 7, 2020

I. SUMMARY

{¶ 1} The Commission grants the motion to intervene filed by the Office of the Ohio Consumers' Counsel and denies the application for rehearing filed jointly by Ohio Poverty Law Center, Southeastern Ohio Legal Services, Legal Aid Society of Columbus, and the Office of the Ohio Consumers' Counsel.

II. DISCUSSION

A. *Procedural Background*

{¶ 2} The gas, natural gas, and electric light companies (utility companies) defined in R.C. 4905.03 are public utilities in accordance with R.C. 4905.02, and, as such, are subject to the jurisdiction of the Commission, pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} R.C. 4909.16 provides, in part, that, in the event of an emergency, when the Commission finds it necessary to prevent injury to the business or interests of the public or of any public utility, it may temporarily alter, amend, or suspend any existing rates or schedules.

{¶ 4} On August 12, 2020, the Commission issued a Finding and Order (Winter Reconnect Order or WRO) in this case, establishing special procedures regarding reconnection and disconnection of natural gas and electric service, to be effective October 5, 2020, through April 15, 2021. In the WRO, the Commission determined that it was necessary and prudent to invoke the emergency provisions of R.C. 4909.16 in order to prevent injury

to affected residential customers and to support the public interest. Accordingly, among other things, the WRO set forth special procedures for customers to reconnect service, avoid disconnection of service, and request the connection of new service during the 2020-2021 winter heating season. Under the special procedures, the Commission established initial requirements that customers seeking to have service restored or maintained must follow, including the applicability and calculation of any fees.

{¶ 5} Also in its August 12, 2020 WRO, the Commission noted the importance of Executive Order 2020-01D (Executive Order), which the governor signed on March 9, 2020, declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies must implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. The Executive Order became effective immediately and will remain in effect until the COVID-19 emergency no longer exists.

{¶ 6} On September 2, 2020, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to intervene and memorandum in support.

{¶ 7} R.C. 4903.10 provides that, in any uncontested proceeding, any affected person may file an application for rehearing within 30 days after the entry of any final Commission order. In addition, R.C. 4903.10 requires that an application for rehearing must set forth the specific ground or grounds upon which the applicant considers the order to be unreasonable or unlawful.

{¶ 8} On September 8, 2020, Ohio Poverty Law Center, Southeastern Ohio Legal Services, Legal Aid Society of Columbus, and OCC (collectively, the Consumer Groups) filed an application for rehearing specifying two assignments of error.

{¶ 9} On September 18, 2020, the Ohio Gas Association (OGA) filed a memorandum contra the application for rehearing.

B. *Consideration of the Motion to Intervene*

{¶ 10} OCC notes that R.C. 4903.221(B) requires the Commission to consider four criteria when ruling on a motion to intervene: (a) the nature and extent of the prospective intervenor's interest; (b) the legal position advanced by the prospective intervenor and its probable relation to the merits of the case; (c) whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; and (d) whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues. Applying these criteria to its request, OCC initially explains that its interest is in representing Ohio's residential utility customers at a time that such customers may face additional difficulties because of the COVID-19 pandemic. Second, OCC asserts that its advocacy will include advancing the position that some consumers have already been disconnected since the time that the Commission approved the utilities' transition plans. Third, OCC contends that its expertise and experience in Commission proceedings will allow for efficient processing of the case. Finally, OCC emphasizes that its intervention will contribute to full development of the issues, as it will obtain and develop information that the Commission should consider in the public interest.

{¶ 11} No party filed a memorandum contra OCC's motion.

{¶ 12} The Commission finds that OCC's motion to intervene is reasonable and should be granted.

C. *Consideration of the Application for Rehearing*

1. WHETHER THE COMMISSION ERRED BY NOT ORDERING AN EFFECTIVE DATE EARLIER THAN OCTOBER 5, 2020, FOR THE WINTER RECONNECT ORDER

{¶ 13} The Consumer Groups contend that, because the Commission has allowed resumption of disconnections that were temporarily suspended due to the COVID-19 pandemic, the effective date of the WRO should be advanced to protect consumers that now face disconnection. The Consumer Groups emphasize that there are many persons in need, including those in high levels of poverty and those living with food insecurity; thus, closing

the gap between disconnections and the WRO effective date is essential. The Consumer Groups further assert the need for continued utility service for school-age children who need a warm place to complete assignments and participate in virtual learning via electricity-dependent technologies. The Consumer Groups conclude that, to the extent practicable, the Commission should implement the WRO before October 5, 2020.

{¶ 14} In its memorandum contra, OGA contends that, if the relief desired by the Consumer Groups is urgent, the Consumer Groups should not have taken 27 days to file the application for rehearing. OGA notes that such a delay encompasses roughly half the period of time between the issuance of the WRO and its effective date and the remainder of that period will be consumed before the deadline to rule on rehearing. Furthermore, OGA asserts that there is no practical way that the WRO can take effect before October 5, 2020, because Ohio's utilities have implemented plans to thoughtfully transition back to normal billing practices and, thus, have already provided customers with significant flexibility to address arrearages that have accumulated. OGA emphasizes that its member companies, which are making every effort to assist customers, cannot be expected to immediately comply with an amended WRO that would advance the effective date. As stated by OGA, its members must already work through many implementation items, such as information technology solutions, to implement the already accelerated October 5, 2020 effective date.

{¶ 15} The Commission finds that the concerns of the Consumer Groups were already factored into our decision that the WRO effective date must be earlier than in prior years. *See, e.g., In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2019-2020 Winter Heating Season*, Case No. 19-1472-GE-UNC, Finding and Order (Sept. 11, 2019) (ordering WRO period begin no later than October 14, 2019); *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2018-2019 Winter Heating Season*, Case No. 18-1204-GE-UNC, Finding and Order (Sept. 5, 2018) (ordering WRO period begin no later than October 15, 2018). In so doing, the Commission also considered preparatory measures that the utility companies must take to implement the WRO earlier

than in the past. Additionally, although the Commission has acted promptly in addressing the Consumer Groups' application for rehearing, which was not filed until September 8, 2020, their request that the WRO period start earlier than October 5, 2020, is now moot, as that date has passed. Given these factors, we conclude that it is not feasible to require an earlier effective date than October 5, 2020. Therefore, the Commission finds that the Consumer Groups' first assignment of error should be denied.

2. WHETHER THE COMMISSION ERRED BY NOT ORDERING THAT THE UTILITIES' REPORTING OF DATA REGARDING DISCONNECTIONS/RECONNECTIONS INCLUDE ADDITIONAL DATA REPORTING REQUIREMENTS BECAUSE OF THE PANDEMIC

{¶ 16} The Consumer Groups note that the WRO requires reporting of information concerning the number of customers who have gas and/or electric service reconnected each month, the types of payment plans entered into, and the length of time that customers were without gas and/or electric service. In the Consumer Groups' opinion, such information is helpful for a typical winter heating season, but the pandemic has caused the 2020-2021 heating season to be atypical. The Consumer Groups observe that gas and electric utilities have sought Commission approval for additional extended payment plans to be made available as customer disconnections resume. Therefore, the Consumer Groups emphasize that, to determine effectiveness of extended payment plans and how many customers are participating in those plans, monthly data reporting should be required. In addition, the Consumer Groups contend that the information should be filed for transparency to the public, thus making available any data about the efficacy of the utilities' programs to help consumers stay connected to utility services.

{¶ 17} Similarly, the Consumer Groups state that gas and electric utilities are required to file disconnection reports with the Commission for the period June 1 of each year through May 31 of the following year. The Consumer Groups note that the most recent disconnect information was filed in Case No. 20-937-GE-UNC and contains information for March 2020 to May 2020, when disconnections were suspended because of the COVID-19 pandemic. The Consumer Groups further observe that reporting for June 2020 and beyond

will not be available until annual disconnection reports are filed in June 2021, yet such information is needed sooner to determine whether Commission-imposed extended payment plans are helping keep customers connected. The Consumer Groups assert that gas and electric utilities are already required to collect this information on a monthly basis to meet annual disconnection reporting requirements, so the Commission should amend the requirements of the WRO to include such monthly information.

{¶ 18} OGA asserts that the Consumer Groups fail to point out any usefulness of the proposed reporting requirements to the Commission, which is the actual regulatory body with jurisdiction over utilities. In OGA's opinion, the Consumer Groups do not provide any compelling reason to impose additional reporting requirements on public utilities, as the Commission has already taken timely and appropriate steps to aid and protect consumers during the COVID-19 pandemic. OGA adds that the Commission has required this level of data reporting of disconnections for many years in the WRO and such reporting has been effective.

{¶ 19} The Commission finds that the Consumer Groups' second assignment of error should be denied. When determining how the 2020-2021 WRO could best address needs created by the COVID-19 pandemic, the Commission considered, as reflected in Staff's report attached as Appendix B, many factors, including the necessity of any additional data reporting by the utility companies. The Commission finds that the level of reporting specified in the WRO will enable the Commission and Staff to monitor disconnections during the 2020-2021 winter heating season. The utility companies are required to provide extensive information regarding extended payment plans and other metrics, as set forth in Appendix A to the WRO, to Staff on a monthly basis through an established process. If the Commission or Staff subsequently determines that additional data is needed, it can be obtained from the utility companies at that point. Additionally, as we have noted in prior orders, the issues of service continuity and extended payment arrangements are being, and will continue to be, adequately addressed through Case No. 20-591-AU-UNC, which the Commission opened in response to the COVID-19 emergency, and through each utility

company's emergency plan case. *See, e.g., In re Columbia Gas of Ohio, Inc.*, Case No. 20-637-GA-UNC, Finding and Order (May 20, 2020) at ¶ 51; *In re The East Ohio Gas Co. d/b/a Dominion Energy Ohio*, Case No. 20-600-GA-UNC, Supplemental Finding and Order (July 15, 2020) at ¶ 43. The Consumer Groups also request that the utility companies be required to file, on a monthly basis, the disconnection data that is tracked monthly and provided in the annual disconnection report to the Commission and OCC under R.C. 4933.123. As the utility companies already track, by month, the data required by the statute, we direct Staff to obtain this information from the utility companies on a monthly basis and to provide the data to OCC.

III. ORDER

{¶ 20} It is, therefore,

{¶ 21} ORDERED, That OCC's motion to intervene be granted. It is, further,

{¶ 22} ORDERED, That the application for rehearing filed by the Consumer Groups be denied. It is, further,

{¶ 23} ORDERED, That a hard copy of this Entry on Rehearing be served upon each gas company, natural gas company, and electric distribution utility and each interested person and party of record. It is, further,

{¶ 24} ORDERED, That a copy of this Entry on Rehearing be sent to the electric-energy and gas-pipeline industry service lists.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

JML/hac

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Summary: Entry granting the motion to intervene filed by the Office of the Ohio Consumers' Counsel and denying the application for rehearing filed jointly by Ohio Poverty Law Center, Southeastern Ohio Legal Services, Legal Aid Society of Columbus, and the Office of the Ohio Consumers' Counsel. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio