

In the Matter of The Commission's)
 Consideration of Solutions Concerning)
 the Disconnection of Gas and Electric) Case No. 21-750-GE-UNC
 Service in Winter Emergencies for the)
 2021-2022 Winter Heating Season.)

**BY
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The annual Winter “Reconnect Order”¹ is intended to protect Ohioans from disconnection of essential utility services needed for heating during Ohio’s cold winters. The Reconnect Order protects Ohio families from suffering in the cold and can even prevent loss of life from lack of heating.

¹ *In re the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2021-2022 Winter Heating Season*, Finding and Order (September 8, 2021) (“Reconnect Order”).

² *Id.*

The Consumer Parties³ recommend an outright ban on gas and electric disconnections given the continuing health and financial impacts that Ohioans are struggling with due to the coronavirus. But if disconnections are not banned outright, the Order should include the Consumer Parties' additional consumer protection recommendations.

The Consumer Parties request rehearing on the following issues to further protect consumers.

The PUCO's Reconnect Order was unreasonable in the following respects:

ASSIGNMENT OF ERROR 1: The PUCO erred by failing to protect consumers by extending the effective dates for the Winter Reconnect Order to start sooner than October 18, 2021 and to end no earlier than April 30, 2022.

ASSIGNMENT OF ERROR 2: The PUCO erred by failing to protect at-risk low-income consumers by limiting the number of consumers who are dropped from the Percentage of Income Payment Plan.

ASSIGNMENT OF ERROR 3: The PUCO erred by failing to protect at-risk Percentage of Income Payment Plan ("PIPP") consumers by not requiring that the recently approved PIPP payment decrease to five percent of monthly household income⁴ be implemented by the utilities prior to, or concurrent with, the effective date of the Reconnect Order.

ASSIGNMENT OF ERROR 4: The PUCO erred by failing to protect consumers when it did not require all gas and electric utilities to provide personal notice of disconnection at consumers' home, as required pursuant to O.A.C. 4901:1-18-06(A)(2).

ASSIGNMENT OF ERROR 5: The PUCO erred by failing to require utilities to file reports at the PUCO containing the number of disconnections for non-payment and the number of reconnections by zip code in each of the gas and electric utility service territories.

³ Advocates for Basic Legal Equality, Inc., Legal Aid Society of Columbus, Office of The Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., & Southeastern Legal Services.

⁴ Case No. 19-52-AU-ORD, Entry (September 23, 2021) (Entry implementing the new rules effective November 1, 2021).

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 the Consumer Parties.

Respectfully submitted,

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 Service in Winter Emergencies for the)
 2020-2021 Winter Heating Season.)

Ohioans will soon enter the winter heating season facing the same lingering financial and health-related concerns, working remotely at their homes, uncertain school schedules for children, financial losses, economic and job security, and a host of other issues due to the coronavirus that have plagued the state now for nearly two years. Faced with over 1.4 million coronavirus cases and nearly 22,000 deaths,⁵ protecting consumer access to Ohio utility services this winter heating season is crucial.

⁵ Ohio Department of Health Coronavirus Portal, last visited September 29, 2021.

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nonpayment and to get their services reconnected.⁷ The PUCO should not unreasonably and unnecessarily shorten the winter heating season. The Winter Reconnect Order also directs utilities to gather and report certain disconnection data (the “Winter Reconnect Order Report”) monthly to the PUCO Staff.

But the PUCO should expand that collection of data. In response to the coronavirus pandemic, the utilities are currently offering extended payment plans for consumers to pay the amounts accrued on their accounts. The PUCO should also require the utilities to compile and report data on the number of consumers taking advantage of the special payment plans on a monthly basis. And the Report should be publicly filed for transparency to the public and for use by others who serve people in need, including for use to assess what else may be needed to help at-risk Ohioans.

The PUCO should grant Consumer Parties’ application for rehearing to protect consumers during the 2021/2022 winter heating season.

I. MATTERS FOR REHEARING

ASSIGNMENT OF ERROR 1: The PUCO erred by failing to protect consumers by extending the effective dates for the Winter Reconnect Order to start sooner than October 18, 2021 and to end no earlier than April 30, 2022.

Shortening the effective dates of the Reconnect Order—compared with the previous two seasons—is unreasonable and not in the public interest. This is especially concerning considering that many Ohioans struggle with food insecurity. Ohio winters are unpredictable, and consumers may not be able to prepare properly for the coldest days, while also being hungry. And they should not have to choose between eating and

⁷ Case No. 21-750-GE-UNC, Appendix B.

keeping the heat on. Extending the duration of the winter heating season helps currently disconnected consumers get services reconnected sooner, while also providing protections for consumers who may face disconnection towards the end of winter.

In each of the past two years, the effective dates for the Winter Reconnect Order lasted longer than the proposed duration of the Reconnect Order this winter. The effective dates for the Winter Reconnection Order last year were October 5, 2020 through April 15, 2021.⁸ And the year before, the effective dates for the Winter Reconnect Order were October 14, 2019 through May 1, 2020.⁹

The PUCO should protect consumers by extending the effective dates for the Winter Reconnect Order sooner than October 18, 2021 through no earlier than April 30, 2022. Closing the gap between disconnections and the effective date of the Reconnect Order is essential to consumers who are or could be disconnected and face the continuing health and financial crisis without utility service. Keeping the power on for children who may be required to be at home this school year is also essential.

Protecting Ohio utility consumers from disconnection is appropriate under the state's emergency statute, R.C. 4909.16. The emergency statute provides for the PUCO to act when "necessary to prevent injury to the business or interests of the public...in case of any emergency...." During this ongoing emergency, consumers need help now—and for as long as possible—especially those with school-age children who may be attending school at home. These children need a safe and warm place to complete their

⁸ *In the Matter of the Proper Procedures and Process for the Commission's Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Finding and Order at 3 (March 13, 2020).

⁹ *In the Matter of the Commission's Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for 2019-20*, Case No. 19-1472-GE-UNC, Finding and Order at 2-3 (September 11, 2019).

assignments. They may also need electricity to complete their assignments or to participate in virtual learning through the use of electricity-dependent technologies.

For these reasons, the PUCO should grant Consumer Parties' application for rehearing and should implement the Winter Reconnect Order, to the extent practicable (sooner than the current October 18, 2021 effective date), to assist consumers facing service disconnections now. Waiting until October 18 for the Winter Reconnection Order to start is simply not soon enough to help struggling Ohioans, including school children.

ASSIGNMENT OF ERROR 2: The PUCO erred by failing to protect at-risk low-income consumers by limiting the number of consumers who are dropped from the Percentage of Income Payment Plan.

At-risk consumers, who participate in the electric or natural gas Percentage of Income Payment Plan ("PIPP") programs, are specifically impacted by the Reconnect Order. Over 38,000 low-income natural gas and electric PIPP consumers have been dropped from PIPP between May and July 2021.¹⁰ Affordable natural gas and electric service is simply not a reality for most low-income Ohioans without PIPP. PIPP consumers are at-risk for eventually being disconnected for non-payment. In many instances, the reasons why consumers were dropped from PIPP was associated with failure to reverify income and/or failure to have the account current on their anniversary date.

Due to the coronavirus, the PUCO suspended the practice of PIPP consumers being dropped due to reverification and/or anniversary issues during much of the last winter heating season.¹¹ In many instances, this helped consumers avoid unnecessary

¹⁰ Electric and Natural Gas PIPP Reports (May – July 2021).

¹¹ Case 20-1252-GE-UNC, Finding and Order (August 12, 2020) at 2.

health risks associated with visits to social service agencies and retain their gas and electric service. Given the current high number of coronavirus—and the increased danger from the Delta variant—cases that continue to plague Ohioans, the PUCO should once again protect consumers from being dropped from PIPP due to failure to reverify eligibility or for not having accounts current on the anniversary date.

These are extraordinary times where the coronavirus has brought health and financial havoc to the lives of many Ohioans. To help avoid unnecessary disconnections, the PUCO should protect PIPP consumers from losing PIPP eligibility during the upcoming winter heating season due to reverification or anniversary date drop issues.

The PUCO should grant Consumer Parties' application for rehearing and should amend the Reconnect Order to limit the number of PIPP consumers dropped during this winter heating season.

ASSIGNMENT OF ERROR 3: The PUCO erred by failing to protect at-risk PIPP consumers by not requiring that the recently approved PIPP payment decrease to five percent of their monthly household income¹² be implemented by the utilities prior to, or concurrent with, the effective date of the Reconnect Order.

The PIPP rules—used by consumers to avoid disconnection or to get reconnected—were recently amended such that there is a reduction in the payment amount that low-income natural gas consumers must pay.¹³ The payment requirements decreased from six percent to five percent of the monthly household income.¹⁴

¹² Case No. 19-52-AU-ORD, Entry (September 23, 2021) (Entry implementing the new rules effective November 1, 2021).

¹³ *In the Matter of the Commission's Review of O.A.C. 4901:1-17 and 4901:1-18*, Case No. 19-52-AU-ORD, Finding and Order (November 4, 2020) at 62.

¹⁴ *Id.*

Lowering the income-based payment amount helps make utility payments more affordable for low-income consumers and improve the likelihood that consumers can make their required payment. The PUCO recently adopted these rules and ordered them effective November 1, 2021. But to help electric PIPP consumers avoid potential disconnection of services during the upcoming winter heating season, the reduced payment amount should be available by the effective date of the Reconnect Order.

The PUCO should grant Consumer Parties' application for rehearing and should require the utilities to move up the effective date of the lower PIPP payment percentage to coincide with the effective date of the Reconnect Order.

ASSIGNMENT OF ERROR 4: The PUCO erred by failing to protect consumers when it did not require all gas and electric utilities to provide personal notice of disconnection at consumers' homes, as required pursuant to O.A.C. 4901:1-18-06(A)(2).

The purpose of O.A.C. 4901:1-18-06(A)(2) is to provide consumers with one last opportunity to make payment prior to service being disconnected for non-payment. This consumer protection has been available to Ohio residential consumers for decades and has helped countless Ohioans avoid disconnection. Personal notice at the consumers' home also provides protections in helping determine if there are health conditions or other infirmities present at the home that that could qualify for other consumer protections available under the PUCO rules to avoid disconnection.

Regrettably, the proliferation of advanced metering infrastructure ("AMI" or "smart meters") has resulted in some electric utilities requesting and obtaining PUCO approval for waivers of O.A.C. 4901:1-18-06(A)(2) such that disconnections can be performed remotely from the back offices of the utility. And even in the middle of a global pandemic, one utility (AEP Ohio) used its smart meters to remotely disconnect

over 124,000 Ohioans last year—twice the number of disconnects of all the other electric utilities combined.¹⁵

To help protect consumers from similarly high numbers of disconnections this winter heating season, the PUCO should require all gas and electric utilities to comply with the personal notice requirements in O.A.C. Code 4901:1-18-06(A)(2) prior to disconnecting gas or electric service for non-payment.

The PUCO should grant Consumer Parties’ application for rehearing and should require all utilities to provide personal notice to consumers before disconnection during the winter heating season.

ASSIGNMENT OF ERROR 5: The PUCO erred by failing to require utilities to file reports at the PUCO containing the number of disconnections for non-payment and the number of reconnections by zip code in each of the gas and electric utility service territories.

The Reconnect Order directs utilities to gather and report certain disconnection data monthly to the PUCO Staff.¹⁶ Specifically, the PUCO ordered that: “We need to track 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 utility services. To aid us in making winter heating season determinations regarding the public interest, each utility company under the Commission’s jurisdiction is directed to complete the Winter Reconnect Order Report, attached to this Finding and Order as Appendix A, and electronically submit it to Staff each month.”¹⁷

¹⁵ Case No. 21-548-GE-UNC, *Report of Service Disconnections for Nonpayment of Ohio Power Company* (June 11, 2021).

¹⁶ Finding and Order, Appendix A.

¹⁷ Order at 10.

This is a good start, but this information would be more useful if it were also broken down by the number of disconnections and the number of reconnections by zip code in each of the natural gas and electric service territories. This information is important for understanding the demographics of Ohioans who face disconnection. It is also important for planning for available resources to better respond to consumers who are most at risk for being disconnected. The PUCO should include requirements for the gas and electric utilities to report the number of disconnections and reconnections by zip code across their service territories. This will protect consumers by showing where the biggest problems are, so targeted solutions can be developed.

The PUCO should grant Consumer Parties' application for rehearing and amend the Reconnect Order Report requirements as recommend by the Consumer Parties.

II. CONCLUSION

The PUCO should grant rehearing to protect Ohioans in need during the 2021/2022 winter heating season by adopting the Consumer Parties' recommendations. Consumers are still suffering from the health and financial effect of the coronavirus pandemic and worrying about losing essential electric and gas utility service during Ohio's coldest months should not added to consumer suffering.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Application for Rehearing was served on the persons stated below via electronic transmission, this 8th day of October 2021.

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Summary: App for Rehearing Application for Rehearing to Further Protect Consumers During the 2021/2022 Winter Heating Season by Advocates for Basic Legal Equality, Inc., The Legal Aid Society of Columbus, Office of The Ohio Consumers' Counsel, Ohio Poverty Law Center, Pro Seniors, Inc., Southeastern Ohio Legal Services electronically filed by Mrs. Tracy J. Greene on behalf of Wilson, Ambrosia E.