**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of The Commission’s Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2023-2024 Winter Heating Season. | )  )  )  )  ) | Case No. 23-856-GE-UNC |

**APPLICATION FOR REHEARING**

**OF THE PUCO’S SECOND ENTRY ON REHEARING**

**BY LEGAL AID SOCIETY OF SOUTHWEST OHIO,**

**OHIO POVERTY LAW CENTER, AND**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

The 2023-2024 Special Reconnect Order (“PUCO Reconnect Order”)[[1]](#footnote-1) is a valuable tool, but it does not help consumers with disconnection and reconnection of essential utility service in the summer. As consumers face more record-setting heat waves during the summer, they need protection from the PUCO. The Ohio Consumers’ Counsel, Legal Aid Society of Southwest Ohio, and Ohio Poverty Law Center (“Consumer Parties”) addressed this problem as an error in our Application for Rehearing. However, while ruling on Consumer Parties’ other assignments of error, the PUCO’s Second Entry on Rehearing[[2]](#footnote-2) was silent on the Consumer Parties’ call for a summer special reconnection order. The PUCO should use its powers to protect consumers from weather-related emergencies through a summer special reconnection order.

Consumer Parties seek rehearing of the PUCO’s April 17, 2024 Second Entry on Rehearing. The Second Entry on Rehearing is unreasonable and/or unlawful in the following respects:

**ASSIGNMENT OF ERROR 1:** The PUCO’s Second Entry on Rehearing is unreasonable because the PUCO erred by not addressing Consumer Parties’ argument for a summer special reconnection order, in violation of 4903.09. The PUCO also erred by failing to issue a summer special reconnection order, thus abusing its discretion under R.C. 4905.04, 4905.05, 4905.06, and R.C. 4909.16.

The reasons in support of this Application for Rehearing are set forth in the accompanying memorandum in support. The PUCO should grant rehearing and modify the Second Entry on Rehearing.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

# INTRODUCTION

The PUCO’s Second Entry on Rehearing does not rule on the Consumer Parties’ critical call for consumer protection through a Summer Disconnections Special Reconnection Order. The PUCO should take action to protect Ohioans during the summer. Their recent order only addresses winter disconnections, leaving consumers, including at-risk consumers, vulnerable during the scorching summer months. Consumers need a summer reconnection order just as much as a winter one, and here’s why:

* **Unbalanced Protection:** The PUCO acknowledges the dangers of cold weather with a winter reconnection order. But what about extreme heat, which can be equally deadly? This inconsistency leaves us exposed during a critical time.
* **Following the Lead:** Both the federal government and Ohio itself recognize the importance of summer cooling through programs like the Summer Crisis Program. The PUCO should join the fight and establish a summer reconnection order for added security.
* **No Escape from the Heat:** Unlike winter, where consumers can bundle up, there’s no escaping the summer heat without electricity. Fans, air conditioners, and even refrigerators to keep medications cool are all essential. Disconnection during this time puts our health at serious risk.
* **Informing the Future:** A temporary summer reconnection order would provide valuable data on its effectiveness. This information can then be used to create a permanent rule through the official process.

Consumers cannot wait for future rulemaking to address this urgent issue. The PUCO has the authority to issue emergency orders, and a summer reconnection order is exactly the kind of emergency action consumers need. The PUCO should grant rehearing and modify the Second Entry on Rehearing to adopt a summer special reconnection order for consumer protection.

# ARGUMENT

## ASSIGNMENT OF ERROR 1: The PUCO’s Second Entry on Rehearing is unreasonable because the PUCO erred by not addressing Consumer Parties’ argument for a summer special reconnection order, in violation of 4903.09. The PUCO also erred by failing to issue a summer special reconnection order, thus abusing its discretion under R.C. 4905.04, 4905.05, 4905.06, and R.C. 4909.16.

### The Arguments Consumer Parties raised for the PUCO’s Special Reconnection Order to include a special reconnection order for the summer months still apply.

The PUCO’s reasoning for issuing a winter reconnection order also applies to the summer – yet there is no summer reconnection order. Why? The PUCO issued a winter reconnection order because it found that consumers entering the winter without heat is an emergency because such can lead to injuries.[[3]](#footnote-3) The same can be said for consumers entering the summer without cooling. Yet, for the past 22 years the PUCO has issued winter reconnection orders and not even one summer reconnection order. Why? Is there a difference between preventable injury and death due to cold versus the same due to heat? Elderly consumers are particularly vulnerable to suffering summer and winter weather without utilities. Consumer Parties ask these questions again because there is no explanation provided in the PUCO’s Second Entry on Rehearing to explain this paradox. The PUCO’s failure to make a ruling on Consumer Parties’ request for a summer special reconnection order violates R.C. 4903.09.[[4]](#footnote-4) Furthermore, each year the PUCO fails to issue a summer special reconnection order, it abuses its discretion to suspend rates, charges and tariffs and otherwise supervise utilities to protect the public from emergencies. *See* R.C. 4905.04, 4905.05, 4905.06, and 4909.16.

The federal government treats consumers facing electric and gas utility disconnections as an emergency – indeed, a crisis. Accordingly, the assistance programs the federal government provides to consumers suffering without winter heating and summer cooling are called the Winter Crisis Program and the Summer Crisis Program. Ohio recognizes the importance of keeping electric service-connected due to health and safety concerns through the Summer Crisis Program – funded by the federal government. The Summer Crisis Program assists consumers with their cooling bill, keeping electricity connected, and air conditioner repair. In 2022, Ohio served 35,946 households with a reported average benefit of $305 through summer crisis assistance.[[5]](#footnote-5) The federal government has also provided its reasoning for funding both the Winter and Summer Crisis Programs. According to the U.S. Department of Health and Human Services, “LIHEAP can help you stay warm in the winter and cool in the summer through programs that reduce the risk of health and safety problems that arise from unsafe heating and cooling situations and practices.”[[6]](#footnote-6)

Given that Ohio and the federal government act to protect consumers from utility disconnections in the summer, the PUCO can and should use its powers[[7]](#footnote-7) to act as well through its reconnection orders. Consumers need protection through a summer reconnect order to keep consumers safe during the summer. Currently, consumers who qualify during the summer can use the Summer Crisis Program to keep their electric service connected, reconnect service, or establish service. However, unlike consumers who do not qualify for the Winter Crisis Program, residential consumers who do not qualify for the Summer Crisis Program do not have an opportunity through the PUCO Reconnection Order to keep their electricity connected.

The PUCO should note that consumers may be able to bear some cold when their gas is off with blankets, extra clothing, and electric heaters – but they can’t escape the heat without electricity.[[8]](#footnote-8) The only exception may be a cold shower, but even that option is no good if your water utility is disconnected. PUCO should expand its special reconnection order to include a summer special reconnection order that allows consumers to use it once for both electricity and water. The PUCO Reconnection Order that failed to provide these basic protections for the neediest of Ohioans was unreasonable and unlawful.[[9]](#footnote-9)

### The PUCO should act now to protect consumers through a summer special reconnection order – not postpone for later the matter for rulemaking.

Although the PUCO did not specifically address Consumer Parties’ request for a summer special reconnection order, the PUCO, in the past, has denied such an order relying on the rulemaking process to address the issue.[[10]](#footnote-10) However, addressing the issue through a rulemaking would delay much-needed protections for consumers.

1. **An Interim Summer Special Reconnection Order is Needed:** A summer special reconnection order is crucial until the rulemaking process for a permanent summer reconnection order is complete. This mirrors PUCO’s successful approach with the existing winter special reconnection order. And they both should be treated the same given that, *in the U.S., deaths from extreme heat and extreme cold are comparable*.[[11]](#footnote-11)
2. **History of Inaction:** A winter special reconnection order has been in effect for 22 years. Yet, in those 22 years, there has not been any rulemaking to govern a summer special reconnection order.
3. **Informing Rulemaking:** A summer special reconnection order would provide valuable data on program effectiveness, which can directly inform the rulemaking process. Similar to the annual review of the winter special reconnection order, insights can be gleaned from a summer special reconnection order.[[12]](#footnote-12)
4. **Consumer and Utility Benefits:** A summer special reconnection order allows struggling consumers to access resources to catch up on bills, ultimately aiding utilities by reducing bad debt. It’s baffling why some utilities oppose a summer special reconnection order, or any such order, when they benefit the utilities and consumers alike.

Delaying protection to consumers facing scorching heat during the summer months while the PUCO undertakes the time-consuming rulemaking process is unfair and unreasonable. The PUCO has power to issue emergency orders to address issues like summer disconnections outside of the rulemaking process,[[13]](#footnote-13) and it should be used to protect consumers.

# CONCLUSION

The PUCO’s Second Entry on Rehearing leaves Ohioans vulnerable during scorching summers. Summer disconnections are just as dangerous as winter ones. The PUCO should act now with a summer special reconnection order. This temporary order protects consumers while informing a permanent rule. It benefits both consumers and utilities. Do not delay consumer safety. The PUCO should grant rehearing and adopt a summer special reconnection order.

Respectfully submitted,

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| Maureen Willis (0020847)  Ohio Consumers’ Counsel  */s/ Robert Eubanks\_\_*  Robert Eubanks (0073386)  Counsel of Record  **Office of the Ohio Consumers' Counsel**  65 East State Street, Suite 700  Columbus, Ohio 43215  Telephone: [Eubanks] (614) 466-1292  [robert.eubanks@occ.ohio.gov](mailto:robert.eubanks@occ.ohio.gov)  September 8, 2020 (willing to accept service by e-mail)  (will accept service by e-mail) | */s/ Susan Jagers\_\_*  Susan Jagers (0061678)  **Ohio Poverty Law Center**  1108 City Park Ave. Suite 200  Columbus, OH 43206  614-824-2501  [sjagers@ohiopovertylaw.org](mailto:sjagers@ohiopovertylaw.org)  (willing to accept service by e-mail)  */s/ Stephanie Moes\_\_*  Stephanie Moes (0077136)  Managing Attorney  **Legal Aid Society of Southwest Ohio**  215 East Ninth Street, Suite 500  Cincinnati, OH 45202  Telephone: 513-362-2807  Fax: 513-241-1187  [smoes@lascinti.org](mailto:smoes@lascinti.org)  (willing to accept service by e-mail) |

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Application for Rehearing was served via electronic transmission upon the parties this 17th day of May 2024.

*/s/ Robert Eubanks*

Robert Eubanks

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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1. Case No. 23-856-GE-UNC, Finding and Order (Oct. 4, 2023). [↑](#footnote-ref-1)
2. Case No. 23-856-GE-UNC, Second Entry on Rehearing (April 17, 2024). [↑](#footnote-ref-2)
3. Case No. 23-856-GE-UNC, Finding and Order (Oct. 4, 2023) at ¶ 5. [↑](#footnote-ref-3)
4. *See In re Suvon, L.L.C.*, 166 Ohio St.3d 519, 2021-Ohio-3630, 188 N.E.3d 140, 149 - PUCO should have addressed the merits of parties’ arguments for discovery rather than ignoring such because it had already decided the matter. [↑](#footnote-ref-4)
5. 1 Ohio LIHEAP FY2022 State Profile (Funding Chart), [https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2022/FY2022OhioProfile508Compliant.pdf.](https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2022/FY2022OhioProfile-508Compliant.pdf) [↑](#footnote-ref-5)
6. U.S. Department of Health and Human Services, Office of Community Services (Oct. 13, 2023), *Low-Income Home Energy Assistance Program (LIHEAP)*, <https://www.acf.hhs.gov/ocs/programs/liheap>. [↑](#footnote-ref-6)
7. *See* R.C. 4905.04, 4905.05, 4905.06, and 4909.16 – PUCO has discretionary power to suspend rates, tariffs, and charges and to supervise utilities to protect consumers from emergencies. [↑](#footnote-ref-7)
8. People need electricity to run air conditioners, fans, and refrigerators, which are especially important for people with critical health conditions. When a consumer’s electricity is disconnected and they cannot cool their home, they could develop heat exhaustion or heat stroke, which can be deadly. [↑](#footnote-ref-8)
9. *See* R.C. 4905.04, 4905.05, 4905.06, and 4909.16 – The PUCO abuses its discretion when it fails to issue a summer special reconnection order. [↑](#footnote-ref-9)
10. *E.g*., *In the Matter of the Commission’s Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for the 2022-2023 Winter Heating Season*, Case No. 22-668-GE-UNC, Entry (Sept. 8, 2022). [↑](#footnote-ref-10)
11. Masters, J., [*Which Kills More People: Extreme Heat or Extreme Cold*](https://www.wunderground.com/cat6/Which-Kills-More-People-Extreme-Heat-or-Extreme-Cold)*?* Blog Post, Weather Underground (Jan. 11, 2019). (Emphasis added.) [↑](#footnote-ref-11)
12. Case No. 23-856-GE-UNC, Finding and Order (Oct. 4, 2023), Appendix A. [↑](#footnote-ref-12)
13. *See* R.C. 4905.04, 4905.05, 4905.06, and 4909.16. [↑](#footnote-ref-13)