**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 |

**JOINT MOTION TO INTERVENE**

**BY**

**ADVOCATES FOR BASIC LEGAL EQUALITY, INC.,**

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

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL,**

**OHIO POVERTY LAW CENTER AND**

**PRO SENIORS, INC.**

The Consumer Parties[[1]](#footnote-2) move to intervene where the PUCO[[2]](#footnote-3) will be implementing the 2023-2024 “Winter Reconnect Order.” This order is intended to protect consumers by requiring the utilities to reconnect the services of those consumers who have had their service disconnected for nonpayment, or to prevent disconnection. Expanded dates for relief are needed for Ohioans suffering through rising electricity prices and an historical inability to pay for heat during winter months.

The Winter Reconnect Order's significance may be more pronounced for certain consumers this year compared to previous years. In contrast to the rates of the previous winter, Standard Service Offer (SSO) rates for electricity have seen a substantial increase, except for AES Ohio's rates, which have remained high from last year. Consequently, the potential for disconnection is significant for all consumers who depend on electricity for heat.

Furthermore, disconnections will likely continue to be a significant concern for all electric and gas consumers, as they have been in recent years. From 2018 to 2023, the number of disconnections for Ohio consumers is as follows[[3]](#footnote-4):

* 2018-2019 - 283,373 disconnections
* 2019-2020 - 352,917 disconnections
* 2020-2021 - 270,659 disconnections
* 2021-2022 - 390,388 disconnections
* 2022-2023 - 355,948 disconnections

Hundreds of thousands of electric and gas consumers are disconnected every year and need to be represented in these proceedings. Therefore, the Consumer Parties’ intervention in these matters is consistently crucial and may provide the perspective the Commission ultimately adopts, as was the case in last year's proceedings.[[4]](#footnote-5)

The Consumer Parties are filing on behalf of approximately 4.3 million Ohio residential electric and 3.5 million natural gas utility consumers who are eligible for protection from utility disconnection under the Winter Reconnect Order.[[5]](#footnote-6) The reasons the PUCO should grant the Consumer Parties’ Motion are further set forth in the attached Memorandum in Support.[[6]](#footnote-7)

Respectfully submitted,

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| Maureen R. Willis (0020847)  Ohio Consumers’ Counsel  */s/ Robert Eubanks*  Robert Eubanks (0073386)  Counsel of Record  Connor D. Semple (0101102)  Assistant Consumers’ Counsel  **Office of the Ohio Consumers' Counsel**  65 East State Street, Suite 700  Columbus, Ohio 43215  Telephone: [Eubanks] (614) 466-1292  Telephone: [Semple] (614) 466-9565  [robert.eubanks@occ.ohio.gov](mailto:robert.eubanks@occ.ohio.gov)  [connor.semple@occ.ohio.gov](mailto:connor.semple@occ.ohio.gov)  September 8, 2020 (willing to accept service by e-mail)  (will accept service by e-mail)  */s/ Stephanie Moes*  Stephanie Moes (0077136)  **Legal Aid Society of Southwest Ohio, LLC**  215 East Ninth Street, Suite 500  Cincinnati, Ohio 45202  (513) 362-2807 (direct dial)  (513) 259-7309 (cell)  [smoes@lascinti.org](mailto:smoes@lascinti.org)  (willing to accept service via e-mail) | */s/ Susan Jagers*  Susan Jagers (0061678)  **Ohio Poverty Law Center**  1108 City Park Ave. Suite 200  Columbus, Ohio 43206  (614) 824-2501  [sjagers@ohiopovertylaw.org](mailto:sjagers@ohiopovertylaw.org)  (willing to accept service by e-mail) |
| */s/ Michael Walters*  Michael Walters (0068921)  Legal Helpline Managing Attorney  **Pro Seniors, Inc.**  7162 Reading Road, Suite 1150  Cincinnati, Ohio 45237  Telephone: (513) 458-5532  mwalters@proseniors.org  (willing to accept service by e-mail) |
| */s/ David Manor*  David Manor (0100068)  **Advocates for Basic Legal Equality, Inc.**  525 Jefferson Avenue, Suite 300  Toledo, OH 45402  Telephone: (419) 255-0814  [dmanor@ablelaw.org](mailto:dmanor@ablelaw.org)  (willing to accept service by e-mail) |

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## MEMORANDUM IN SUPPORT

In this proceeding, the Public Utilities Commission of Ohio (“PUCO”) will implement its disconnection restrictions for the 2023-2024 winter heating season that is intended to protect consumers. Expanded dates for relief are needed for Ohioans suffering through rising electricity prices and other life circumstances.

Consumer Parties that seek to intervene are as follows: The Office of the Ohio Consumers’ Counsel (“OCC”), Ohio Poverty Law Center (“OPLC”), Pro Seniors and Legal Aid Society of Southwest Ohio, LLC (“LASSO”).[[7]](#footnote-8)

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 consumers may be “adversely affected” by this case, especially if the consumers were unrepresented in a proceeding where the PUCO is establishing protections for consumers facing disconnection of vital electric and natural gas service. 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; and

(4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of Consumer Parties’ interest is representing Ohio’s residential utility consumers in this case where the PUCO will decide upon the service disconnection protections afforded Ohioans for the upcoming winter heating season. 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, Consumer Parties’ advocacy for residential consumers will include advancing the position that hundreds of thousands of consumers will likely have trouble paying for heat this winter, as is the case historically and due to rising electricity prices. Consumers need help reconnecting to vital utility services now. The Consumer Parties’ position is therefore directly related to the merits of this case that is before the PUCO.

Third, Consumer Parties’ intervention will not unduly prolong or delay the proceedings. The Consumer Parties, with their longstanding expertise and experience in PUCO proceedings and consumer protection advocacy will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, the Consumer Parties’ intervention will significantly contribute to full development and equitable resolution of the factual issues. The Consumer Parties will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

The Consumer Parties also satisfy the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that Consumer Parties satisfy in the Ohio Revised Code). To intervene, a party should have a “real and substantial interest” according to O.A.C. 4901-1-11(A)(2). As advocates for residential utility consumers, the Consumer Parties have 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.

In addition, the Consumer Parties meet the criteria of O.A.C. 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that the Consumer Parties already have addressed and that the Consumer Parties satisfy.

O.A.C. 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 the Consumer Parties do not concede the lawfulness of this criterion, the Consumer Parties satisfy this criterion in that OCC has been uniquely designated as the state representative of the interests of Ohio’s residential utility consumers. And the other Consumer Parties, though not specifically designated, also represent the interest of Ohio’s residential utility consumers. Together, Consumer Parties’ 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.[[8]](#footnote-9) The other Consumer Parties have likewise been granted intervention with OCC in PUCO proceedings.

The Consumer Parties meet the criteria set forth in R.C. 4903.221, O.A.C. 4901-1-11, and the precedent established by the Supreme Court of Ohio for

intervention. On behalf of Ohio residential consumers, the PUCO should grant the Consumer Parties’ Motion to Intervene.

Respectfully submitted,

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| Maureen R. Willis (0020847)  Ohio Consumers’ Counsel  */s/ Robert Eubanks*  Robert Eubanks (0073386)  Counsel of Record  Connor D. Semple (0101102)  Assistant Consumers’ Counsel  **Office of the Ohio Consumers' Counsel**  65 East State Street, Suite 700  Columbus, Ohio 43215  Telephone: [Eubanks] (614) 466-1292  Telephone: [Semple] (614) 466-9565  [robert.eubanks@occ.ohio.gov](mailto:robert.eubanks@occ.ohio.gov)  [connor.semple@occ.ohio.gov](mailto:connor.semple@occ.ohio.gov)  September 8, 2020 (willing to accept service by e-mail)  (will accept service by e-mail)  */s/ Stephanie Moes*  Stephanie Moes (0077136)  **Legal Aid Society of Southwest Ohio, LLC**  215 East Ninth Street, Suite 500  Cincinnati, Ohio 45202  (513) 362-2807 (direct dial)  (513) 259-7309 (cell)  [smoes@lascinti.org](mailto:smoes@lascinti.org)  (willing to accept service via e-mail) | */s/ Susan Jagers*  Susan Jagers (0061678)  **Ohio Poverty Law Center**  1108 City Park Ave. Suite 200  Columbus, Ohio 43206  (614) 824-2501  [sjagers@ohiopovertylaw.org](mailto:sjagers@ohiopovertylaw.org)  (willing to accept service by e-mail) |
| */s/ Michael Walters*  Michael Walters (0068921)  Legal Helpline Managing Attorney  **Pro Seniors, Inc.**  7162 Reading Road, Suite 1150  Cincinnati, Ohio 45237  Telephone: (513) 458-5532  mwalters@proseniors.org  (willing to accept service by e-mail) |
| */s/ David Manor*  David Manor (0100068)  **Advocates for Basic Legal Equality, Inc.**  525 Jefferson Avenue, Suite 300  Toledo, OH 45402  Telephone: (419) 255-0814  [dmanor@ablelaw.org](mailto:dmanor@ablelaw.org)  (willing to accept service by e-mail) |

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Joint Motion to Intervene was served on the persons stated below via electronic transmission, this 18th day of October 2023.

*/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:

**SERVICE LIST**

|  |  |
| --- | --- |
| [john.jones@ohioAGO.gov](mailto:john.jones@ohioAGO.gov)  Attorney Examiner:  [james.lynn@puco.ohio.gov](mailto:james.lynn@puco.ohio.gov) |  |

1. Office of The Ohio Consumers’ Counsel, Ohio Poverty Law Center, Pro Seniors, Inc. and Legal Aid Society of Southwest Ohio, LLC, and Advocate for Basic Legal Equality, Inc. [↑](#footnote-ref-2)
2. The Public Utilities Commission of Ohio. [↑](#footnote-ref-3)
3. *See* Annual Reports of Service Disconnection in Case Nos. 19-974-GE-UNC, 20-937-GE-UNC, 21-548-GE-UNC, 22-513-GE-UNC, and 23-532-GE-UNC. [↑](#footnote-ref-4)
4. *See* *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, Finding and Order (July 12, 2023). [↑](#footnote-ref-5)
5. *See* R.C. Chapter 4911, R.C. 4903.221, and O.A.C. 4901-1-11. [↑](#footnote-ref-6)
6. Despite intervening jointly, each party is free to advocate for issues individually. [↑](#footnote-ref-7)
7. OCC is the statutory representative of Ohio’s approximately 4.5 million residential utility customers; ABLE is a non-profit regional law firm that provides high-quality legal assistance to help low-income individuals and groups in Ohio achieve self-reliance, and equal justice and economic opportunity; LASSO serves low-income families and individuals in southwest Ohio to resolve serious legal problems, to promote economic and family stability, and to reduce poverty through effective legal assistance; OPLC works to reduce poverty and increase justice by protecting the legal rights of Ohioans living in poverty; Pro Seniors, Inc. provides education, advice, advocacy, representation and justice for seniors in Ohio through our three programs, all provided at no cost to clients. [↑](#footnote-ref-8)
8. *See Ohio Consumers’ Counsel v. Pub. Util. Comm*., 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20. [↑](#footnote-ref-9)