**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 2020-2021 Winter Heating Season. | )  )  )  )  ) | Case No. 20-1252-GE-UNC |

**APPLICATION FOR REHEARING OF THE**

**2020-2021 WINTER RECONNECT ORDER**

**BY**

**OHIO POVERTY LAW CENTER**

**SOUTHEASTERN OHIO LEGAL SERVICES**

**THE LEGAL AID SOCIETY OF COLUMBUS**

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

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| Peggy P. Lee #0067912  **Southeastern Ohio Legal Services**  964 E State St  Athens, OH  45701  [plee@seols.org](mailto:plee@seols.org) |
| Melissa Linville  **The Legal Aid Society of Columbus**  1108 City Park Ave.  Columbus, OH 43206  [Mlinville@columbuslegalaid.org](mailto:Mlinville@columbuslegalaid.org) |

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The annual “Winter Reconnect Order” is intended to protect Ohioans from disconnection of utility services needed for heating during Ohio’s cold winters. In other words, it can protect Ohio families from suffering and even loss of life for want of heating. The Order allows customers of Ohio utilities to have their disconnected service(s) reconnected or to prevent disconnection with a minimal fixed payment of $175, along with a possible reconnection charge of $36 or less.

On August 12, 2020, the PUCO issued a Finding and Order setting the effective date of the Winter Reconnect Order as October 5, 2020.[[1]](#footnote-2) It is appreciated for consumers that this effective date is earlier than in past years. However, the October 5th effective date should be advanced to the extent practicable to protect consumers facing disconnections of their utility service as a result of the recent resumption of

disconnections approved by the PUCO.[[2]](#footnote-3) There may be a wave of consumer disconnections in Ohio resulting from the resumption of disconnections that were suspended for a time due to the pandemic. There are many people in need, and consumer protections should be put in place as soon as possible to address the need.

At-risk populations in Ohio include, but are not limited to, consumers living in high poverty levels,[[3]](#footnote-4) living with food insecurity,[[4]](#footnote-5) and facing the impacts of social disparities where, for example, minorities suffer from poverty at higher levels than their percentage representation in the overall population.[[5]](#footnote-6)

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 customers to pay the amounts accrued on their accounts. The PUCO should also require the utilities to compile and report data on the number of customers 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.

Therefore, the PUCO’s order was unreasonable and unlawful in the following respects:

ASSIGNMENT OF ERROR 1: The PUCO erred by not ordering an effective date for the Winter Reconnect Order that is in time to assist consumers impacted by the PUCO’s approval for utilities to resume disconnections. The PUCO should advance the effective date, to the extent practicable, (from October 5, 2020) to prevent further disconnections and to accelerate reconnections.

ASSIGNMENT OF ERROR 2: The PUCO erred by not ordering, for consumer protection, that the utilties’ reporting of data related to disconnections and reconnections be: (a) expanded to include additional key data about new payment plans and other consumer information relevant to consumer needs during the pandemic; (b) advanced in time, for annual disconnection data filed per R.C. 4933.123, to continuously provide important consumer information on a monthly basis when it is needed (which is now) instead of waiting until the 2021 due date; and (c) publicly filed for transparency and for enabling others to assess whether assistance to consumers is adequate or needs to be improved.

Consumer groups that seek consumer protection through this application for rehearing are as follows: Ohio Poverty Law Center works to reduce poverty and increase justice by protecting the legal rights of Ohioans living in poverty; Southeastern Ohio Legal Services is an LSC-funded legal services program whose mission is to act as general counsel to a client community residing throughout thirty rural counties in southeast Ohio and, as such, provide the highest quality of legal services to its clients toward the objective of enabling poor people to assert their rights and interests; the Legal Aid Society of Columbus is Central Ohio’s oldest and largest general civil legal services organization. Since 1954, legal aid lawyers have been pursuing justice and changing lives; and the Office of the Ohio Consumers’ Counsel is the statutory representative of Ohio’s approximately 4.5 million residential utility customers.

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 OCC.

Respectfully submitted,

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| Bruce Weston (0016973)  Ohio Consumers’ Counsel  */s/ Ambrosia E. Wilson*  Ambrosia E. Wilson (0096598)  Counsel of Record  Amy Botschner O’Brien (0074423)  Assistant Consumers’ Counsel  **Office of the Ohio Consumers' Counsel**  65 East State Street, 7th Floor  Columbus, Ohio 43215-4213  Telephone: [Wilson]: (614) 466-1292  Telephone: [O’Brien]: (614) 466-9575  [ambrosia.wilson@occ.ohio.gov](mailto:ambrosia.wilson@occ.ohio.gov)  [amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)  September 8, 2020 (willing to 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)  (will accept service via e-mail) |
| */s/ Peggy P. Lee*  Peggy P. Lee #0067912  **Southeastern Ohio Legal Services**  964 E State St  Athens, OH  45701  [plee@seols.org](mailto:plee@seols.org) |
| */s/ Melissa Linville*  Melissa Linville  **The Legal Aid Society of Columbus**  1108 City Park Ave.  Columbus, OH 43206  [Mlinville@columbuslegalaid.org](mailto:Mlinville@columbuslegalaid.org) |

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**BEFORE**

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**MEMORANDUM IN SUPPORT OF THE APPLICATION FOR REHEARING**

**BY**

**OHIO POVERTY LAW CENTER**

**SOUTHEASTERN OHIO LEGAL SERVICES**

**THE LEGAL AID SOCIETY OF COLUMBUS**

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

# Matters for reHEARING

## ASSIGNMENT OF ERROR 1: The PUCO erred by not ordering an effective date for the Winter Reconnect Order that is in time to assist consumers impacted by the PUCO’s approval for utilities to resume disconnections. The PUCO should advance the effective date, to the extent practicable, (from October 5, 2020) to prevent further disconnections and to accelerate reconnections.

Since the PUCO is granting utility requests to resume consumer disconnections during the pandemic, it should make available consumer protections that could prevent such disconnections. This objective would be served by further advancing the effective date of the Winter Reconnect Order. We appreciate that the PUCO has advanced the usual starting date to October 5, 2020, but more is needed for at-risk Ohioans.[[6]](#footnote-7)

The coronavirus emergency and the ensuing economic emergency continues to cause suffering this year for many Ohioans, including among at-risk populations. For example, the unemployment rate is more than double what it was pre-pandemic

(February 2020 vs. July 2020).[[7]](#footnote-8) Additionally, nearly 570,000 utility customer accounts are behind on payments by more than 60 days.[[8]](#footnote-9) And this is not just a local issue. The Federal Government (by the Centers for Disease Control) recently issued a broad moratorium against housing evictions.[[9]](#footnote-10) The moratorium seeks to prevent further spread of the coronavirus by preventing landlords from evicting tenants (so they can continue to shelter in place and socially distance), with few exceptions, until December 31, 2020.[[10]](#footnote-11)

To consumers (including at-risk consumers) who could be (or already are) disconnected and face the health crisis and financial crisis without utility service, closing the gap between disconnections and the effective date of the Winter Reconnect Order is essential. Keeping the power on for children who will be required to be at home this school year is also essential. Protecting Ohio utility consumers from disconnection is a fit 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, especially those with school-age children who may be attending school at home. These children need a safe and warm place to complete their assignments. They may also need electricity to complete their assignment or to participate in virtual learning through the use of electricity-dependent technologies.

For these reasons, the PUCO should implement the Winter Reconnect Order, to the extent practicable (sooner than the current October 5, 2020 effective date), to assist consumers facing service disconnections now. October is simply not soon enough to helping struggling Ohioans, including school children.

## **ASSIGNMENT OF ERROR 2:** The PUCO erred by not ordering, for consumer protection, that the utilties’ reporting of data related to disconnections and reconnections be: (a) expanded to include additional key data about new payment plans and other consumer information relevant to consumer needs during the pandemic; (b) advanced in time, for annual disconnection data filed per R.C. 4933.123, to continuously provide important consumer information on a monthly basis when it is needed (which is now) instead of waiting until the 2021 due date; and (c) publicly filed for transparency and for enabling others to assess whether assistance to consumers is adequate or needs to be improved.

The PUCO also approved the Winter Reconnect Order Report requirements (Appendix A attached to the Order). And the PUCO directed utilities to provide responsive data to Staff monthly to aid the PUCO in evaluating both the heating-season and non-heating season disconnections of service.[[11]](#footnote-12) The PUCO specifically seeks to track:[[12]](#footnote-13)

1. the number of customers who have gas and/or electric service reconnected each month;
2. the types of payment plans entered into;
3. and the length of time that customers were without gas and/or electric utility services.

The gathering and reporting of the information contained on the list above is helpful for typical winter heating seasons. But the 2020/2021 winter heating season promises to be anything but typical due to the coronavirus pandemic – and reporting requirements should reflect these circumstances.

Beyond the usual PUCO-mandated payment plans (such as the 1/3rd, 1/6th, and 1/9th plans), the gas and electric utilities have sought PUCO approval for additional extended payment plans (including customized plans) that are to be made available for consumers as customer disconnections resume. There should be more help from data reporting to determine the effectiveness of these extended payment plans for consumers. The utilities should be required to report, on a monthly basis, the number of customers who are taking advantage of these extended payment agreements. This reporting should be separate and apart from the reporting for the PUCO required extended payment agreements that they are required to provide. And the information should be filed for transparency to the public and for making available key data about the efficacy of the utilities’ programs for helping consumers stay connected to utility services. That approach will help stakeholders involved in consumer assistance and others to assess the effectiveness of the available consumer protections and to consider improvements. The Winter Reconnect Order Report should be amended accordingly.

The gas and electric utilities are also required to file annual disconnection reports with the PUCO for the period of June 1 of each year through June 31st of the following year.[[13]](#footnote-14) The most recent annual disconnection reports were filed in Case No. 20-937-GE-UNC and contain relevant and important information for March, April, and May 2020, when disconnections were suspended due to the coronavirus pandemic. Reporting for June 2020 and beyond will not be available until the annual disconnection reports are filed in June 2021. But this information is needed sooner. This ongoing data will demonstrate whether the PUCO-imposed extended payment plans are helping keep customers connected. And because the gas and electric utilities are already required to collect this information on a monthly basis to meet annual disconnection reporting requirements, the PUCO should amend the requirements of the Winter Reconnect Order Report to include this data monthly as well.

# CONCLUSION

The PUCO should grant rehearing to protect Ohioans in need during the health and financial crises, consistent with the forgoing recommendations.

Respectfully submitted,

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| Bruce Weston (0016973)  Ohio Consumers’ Counsel  */s/ Ambrosia E. Wilson*  Ambrosia E. Wilson (0096598)  Counsel of Record  Amy Botschner O’Brien (0074423)  Assistant Consumers’ Counsel  **Office of the Ohio Consumers' Counsel**  65 East State Street, 7th Floor  Columbus, Ohio 43215-4213  Telephone: [Wilson]: (614) 466-1292  Telephone: [O’Brien]: (614) 466-9575  [ambrosia.wilson@occ.ohio.gov](mailto:ambrosia.wilson@occ.ohio.gov)  [amy.botschner.obrien@occ.ohio.gov](mailto:amy.botschner.obrien@occ.ohio.gov)  September 8, 2020 (willing to 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)  (will accept service via e-mail) |
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| */s/ Melissa Linville*  Melissa Linville  **The Legal Aid Society of Columbus**  1108 City Park Ave.  Columbus, OH 43206  [Mlinville@columbuslegalaid.org](mailto:Mlinville@columbuslegalaid.org) |

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Application for Rehearing was served on the persons stated below viaelectric transmission this 8th day of September 2020.

*/s/ Ambrosia E. Wilson*

Ambrosia E. Wilson

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@ohioattorneygeneral.gov](mailto:John.jones@ohioattorneygeneral.gov)  Attorney Examiner:  [James.lynn@puco.ohio.gov](mailto:James.lynn@puco.ohio.gov) |  |

1. *In re In the Matter of the Commission’s Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for 2020,* Finding and Order (Aug. 12, 2020) (“Reconnect Order”). [↑](#footnote-ref-2)
2. The earliest date of disconnection from a PUCO approved utility transition plan is July 29, 2020. *See* Columbia’s Transition Plan, Case No. 20-637-GA-UNC, Supplemental Finding and Order (June 17, 2020) at 8. [↑](#footnote-ref-3)
3. Ohio has a poverty rate in excess of 14.19%. [↑](#footnote-ref-4)
4. The food insecurity rate in Ohio has increased to 23% as a result of the pandemic. <http://ohio> foodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf. [↑](#footnote-ref-5)
5. For example, black Americans are 11.8% of Ohio’s population, yet 32% of black Americans in Ohio live below the poverty line. https://www.welfareinfo.org/poverty-rate/ohio/. [↑](#footnote-ref-6)
6. *See* Note 2, *Supra.* [↑](#footnote-ref-7)
7. U.S. Bureau of Labor Statistics, Labor Force Data as of September 4, 2020, <https://www.bls.gov/eag/eag.oh.htm> (The unemployment rate was 4.1% in February, 5.8% in March, 17.6% in April, 13.9% in May, 11% in June, and 8.9% in July. Although the rate is decreasing for now, it is still more than twice what it was in February). [↑](#footnote-ref-8)
8. *See In re the Annual Report Required by R.C. 4933.123 Regarding Service Disconnection for Nonpayment*, Case No. 20-0937-GE-UNC (Data for customers with arrearages greater than 60 days is currently available through May 2020: Duke has 98,286 electric customers with arrearages and 43,732 gas customers. Columbia Gas has 134,204 gas customers with arrearages. DP&L has 48,602 electric customers with arrearages. AEP has 120,453 electric customers with arrearages. Vectren has 19,774 customers with arrearages. FirstEnergy has 41,352 customers with arrearages. Dominion has 107,024 customers with arrearages. Total for these companies is 569,695). [↑](#footnote-ref-9)
9. *See* Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19, 85 Fed. Reg. 55292 (September 4, 2020). [↑](#footnote-ref-10)
10. *Id.* [↑](#footnote-ref-11)
11. Finding and Order at 10. [↑](#footnote-ref-12)
12. *Id.* [↑](#footnote-ref-13)
13. R.C. 4933.123. [↑](#footnote-ref-14)