

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**APPLICATION FOR REHEARING TO FURTHER PROTECT CONSUMERS
THROUGH THE 2023-2024 SPECIAL RECONNECTION ORDER
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.**

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The 2023-2024 Special Reconnect Order (“PUCO Reconnect Order”)¹ is a valuable tool, but it does not go far enough to protect consumers from winter weather or help with disconnection and reconnection in the summer. Further, it doesn’t facilitate disconnection/reconnection programs running more efficiently. The PUCO has the authority to protect at-risk consumers from weather-related injury and death due to utility disconnections. The PUCO Reconnect Order helps to protect consumers, but the PUCO can (and should) do more to help at-risk consumers stay connected to their essential utility services.

The Consumer Parties request that the PUCO use its powers to suspend rates, tariffs, and charges to adequately protect consumers from weather-related emergencies.

¹ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023).

The PUCO Reconnect Order is unreasonable and/or unlawful in the following respects:

ASSIGNMENT OF ERROR 1: The PUCO Reconnect Order is unreasonable because the PUCO erred by failing to adequately protect consumers by: 1) not allowing them to use the PUCO Reconnection Order, at separate times, once per heating season for both electric and natural gas, as was allowed in the previous year's PUCO Reconnection Order; and 2) not issuing a PUCO Reconnection Order for the summer months.

ASSIGNMENT OF ERROR 2: The PUCO Reconnect Order is unreasonable because the PUCO erred by failing to protect consumers by not providing a 30-day disconnection hold to consumers who are unable to schedule an appointment with an Energy Assistance Provider for the Winter and Summer Crisis Program, HEAP applications, and PIPP.

ASSIGNMENT OF ERROR 3: The PUCO Reconnect Order is unreasonable because the PUCO erred by failing to protect consumers by mandating that electric and natural gas utilities suspend disconnections during dangerous weather alerts issued by the National Weather Service.

ASSIGNMENT OF ERROR 4: The PUCO Reconnect Order is unreasonable because the PUCO erred by not suspending Percentage of Income Payment Plan (“PIPP”) income reverifications during the Winter Crisis Program timeframe (November 1, 2023, through March 31, 2024).

ASSIGNMENT OF ERROR 5: The PUCO Reconnect Order is unreasonable because the PUCO failed to protect consumers by not requiring electric and natural gas utilities to provide Energy Assistance Providers with advance notice of scheduled disconnections. This notice should be provided at least five business days before the disconnection date, if the utility has scheduled 50 or more disconnections in a specific county on a given day.

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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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On October 4, 2023, the PUCO issued its Special Reconnect Order (“PUCO Reconnect Order”). The Consumers Parties appreciate the PUCO Reconnect Order for protecting consumers in the winter season. However, the PUCO can and should do more to protect at-risk consumers and keep them connected to their essential utility service. The PUCO should fully use its authority to expand consumer protections under the PUCO Reconnect Order by:

1. Expanding protections for consumers in the winter to adequately protect consumers from winter emergencies:
 - a. Allow the PUCO Reconnect Order to be used, at separate times, once for electricity and gas during the winter months.²
 - b. Restate in the PUCO Reconnect Order the PUCO’s Order, entered on July 12, 2023, requiring a 30-day disconnection hold for consumers who are unable to schedule an appointment with an Energy Assistance Provider (EAP) for the reconnection/disconnection programs.³
 - c. Suspend disconnections during dangerous winter weather alerts issued by the National Weather Service.

² This request mirrors the PUCO’s 2022/2023 PUCO Reconnection Order. *See* Case No. 22-668-GE-UNC, Finding and Order (October 5, 2022) at ¶ 26.

³ *See* Case No. 22-668-GE-UNC, Finding and Order (July 12, 2023) at ¶ 28. The PUCO’s Order entered in July of 2023 was necessarily meant to apply to the upcoming winter season; however, the 2023-2024 PUCO Reconnection Order does not reiterate the ruling to put utilities on continuing notice of their obligation.

- d. Halt PIPP income reverification during the Winter Crisis Program timeframe to free up appointment space for those seeking help from EAPs.
2. Extending the PUCO Reconnect Order and the protections advocated for under 1a, 1b, and 1c above to consumers in the summer months; and
3. Requiring electric and natural gas utilities to tell EAPs how many people they plan to disconnect in a specific county on a given day, if the number of disconnections is 50 or more.

The 2023-2024 PUCO Reconnection Order is a valuable tool, but it unreasonably stops short from fully protecting at-risk consumers. The PUCO should affirmatively address these matters on rehearing. The Consumer Parties request that the PUCO use its powers to suspend rates, tariffs, and charges to appropriately protect consumers under the PUCO Reconnection Order.

II. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR 1: The PUCO Reconnect Order is unreasonable because the PUCO erred by failing to adequately protect consumers by: 1) not allowing them to use the PUCO Reconnection Order, at separate times, once per heating season for both electric and natural gas, as was allowed in the previous year's PUCO Reconnection Order; and 2) not issuing a PUCO Reconnection Order for the summer months.

A. Winter PUCO Reconnection Order

The PUCO has omitted a consumer protection that would allow a residential consumer to use the PUCO Reconnection Order, at separate times, once per heating season for both electricity and natural gas.⁴ This omission may be an oversight, as the PUCO allowed this protection for consumers in the 2022-2023 PUCO Reconnection

⁴ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023) at ¶ 10. The PUCO Order states that “A customer can only use the special procedures provided in this Order once from October 16, 2023, through April 15, 2024.”

Order.⁵ However, in any event, rehearing should be granted to modify the PUCO Reconnection Order.

It appears that the PUCO relied on Staff's recommendation that the PUCO Reconnection Order "should be used not more than one time per customer during the effective dates of Monday, October 16, 2023, through Monday, April 15, 2024."⁶ However, Staff provided no reason for why the PUCO should abandon its position from the 2022-2023 PUCO Reconnection Order.⁷ The PUCO should therefore reject the Staff's unjustified recommendation. The PUCO has already considered and agreed with the Consumer Parties' reasoning for allowing the PUCO Reconnection Order to be used once for electric and gas.⁸ The Consumer Parties explained that "consumers who heat with electric and natural gas can face disconnection at different times during the winter; therefore, consumers should have the ability use the [PUCO Reconnection Order] for each utility, even if the disconnect notice does not occur at the same time."⁹ This reason is still valid and uncontested by the Staff Report. Accordingly, the PUCO should agree with the Consumer Parties again and order that consumers can use the 2023-2024 PUCO Reconnection Order once for both electric and gas. This will help consumers stay connected with both electric and natural gas services to keep their homes warm throughout the winter. The PUCO order which failed to contain this consumer protection was unreasonable and harmed consumers.

⁵ Case No. 22-668-GE-UNC, Finding and Order (October 5, 2022) at ¶ 26.

⁶ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023), Appendix A at p. 10.

⁷ *Id.*

⁸ Case No. 22-668-GE-UNC, Finding and Order (October 5, 2022) at ¶¶ 23 and 26.

⁹ *Id.* at ¶ 23.

B. Summer PUCO Reconnection Order

The PUCO's reasoning that has led to it 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.¹⁰ 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? At the very least the elderly are particularly vulnerable to suffering summer and winter weather without utilities, correct? Consumers Parties ask these questions because there is no explanation provided in the PUCO Reconnection Order or in the Staff Report to explain this paradox.

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

¹⁰ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023) at ¶ 5.

reported average benefit of \$305 through summer crisis assistance.¹¹ 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.”¹²

If the Ohio and the federal government can act to protect consumers from utilities disconnections in the summer, then the PUCO can and should act as well through its reconnection orders. It is important for consumers to have 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

¹¹ Ohio LIHEAP FY2022 State Profile (Funding Chart), <https://liheappm.acf.hhs.gov/sites/default/files/private/congress/profiles/2022/FY2022OhioProfile-508Compliant.pdf>.

¹² U.S. Department of Health and Human Services, Office of Community Services (October 13, 2023), Low Income Home Energy Assistance Program (LIHEAP), <https://www.acf.hhs.gov/ocs/programs/liheap>.

heat without electricity.¹³ The only exception may be a cold shower, but even that option is no good if your water utility is disconnected.

Accordingly, the PUCO should grant rehearing to modify the PUCO Reconnection Order, by allowing consumers to use the winter PUCO Reconnection Order at separate times, once for electric and gas. This is consistent with the PUCO's prior practice. The PUCO should also adopt a summer 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.

ASSIGNMENT OF ERROR 2: The PUCO Reconnect Order is unreasonable because the PUCO erred by failing to protect consumers by not providing a 30-day disconnection hold to consumers who are unable to schedule an appointment with an Energy Assistance Provider for the Winter and Summer Crisis Program, HEAP applications, and PIPP.

The PUCO ordered in July 2023 that utilities cannot disconnect consumers for 30 days after they apply with a community action agency for assistance under the Winter or Summer Crisis Program, non-emergency HEAP, or PIPP Plus.¹⁴ That was a good decision that was issued in response to a request by OCC and low-income consumer advocates.

However, the 2023-2024 PUCO Reconnection Order does not address this 30-day suspension of disconnections,¹⁵ which could lead to utilities non-compliance, to the

¹³ 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.

¹⁴ Case No. 22-668-GE-UNC, Finding and Order (July 12, 2023) at ¶ 28.

¹⁵ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023) at ¶ 24. The PUCO Reconnection Order only makes mention of a 30-day hold for consumers seeking help under the Winter Crisis Program.

detriment of consumers. The 30-day disconnection prohibition of the PUCO's July 2023 order should be incorporated into the 2023-2024 Reconnection Order to ensure that all consumers who have sought help from disconnection/reconnection programs are protected from disconnection while their application is being processed.

The Consumer Parties argued that consumers who have sought help from disconnection/reconnection programs should not be disconnected while waiting for their application to be processed.¹⁶ The PUCO agreed and ordered the 30-day suspension of consumer disconnections.¹⁷

Currently, the 2023-2024 PUCO Reconnection Order only protects consumers who have sought help through the Winter Crisis Program, but not consumers who have sought help through Summer Crisis Program, non-emergency HEAP or PIPP Plus.¹⁸ The PUCO should grant rehearing to address this. The PUCO Reconnection Order should be modified to include all customers who have sought help through disconnection/reconnection programs, not just those seeking help through the Winter Crisis Program. This will help ensure that the PUCO Entry on July 12, 2023 is complied with on a going forward basis. The PUCO's failure to specifically order the disconnection prohibition adopted in its July 2023 Order was unreasonable and harms consumers.

Rehearing should be granted.

¹⁶ Case No. 22-668-GE-UNC, Finding and Order (July 12, 2023) at ¶¶ 20 and 28.

¹⁷ *Id.* at ¶ 20. The PUCO stated, in part: "It does not make sense in this environment for customers to be disconnected after they already have sought assistance for these programs and are waiting for their applications to be processed."

¹⁸ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023) at ¶ 24.

ASSIGNMENT OF ERROR 3: The PUCO Reconnect Order is unreasonable because the PUCO erred by failing to protect consumers by mandating that electric and natural gas utilities suspend disconnections during dangerous weather alerts issued by the National Weather Service.

To protect consumers during major weather events, the PUCO should grant rehearing and modify the 2023-2024 Reconnection Order to require that electric and natural gas utilities suspend service disconnections for non-payment until 24 hours after the end of a winter or summer weather alert issued by the National Weather Service. This modification is a minimal adjustment for utilities and potentially an enormous benefit for consumers.

A. Winter Weather Alerts

The PUCO has repeatedly found that disconnections during normal winter weather are emergencies that require standard reconnection orders to avoid them.¹⁹ Winter weather alerts²⁰ are obviously worse than normal winter weather, so disconnections during winter weather alerts must logically qualify as even greater emergencies for consumers that require even more stringent orders to avoid them. Halting disconnections is the only answer for consumers during winter weather alerts.

Therefore, the PUCO should modify the PUCO Reconnection Order to halt disconnections during winter weather alerts to protect consumers (as well as utility employees). Residential consumers should not have to go out in dangerous weather conditions to make a payment or seek bill payment assistance, and utility employees should not be ordered out into dangerous winter weather to perform disconnections.

¹⁹ Case No. 23-856-GE-UNC, Finding and Order (October 4, 2023) at ¶ 5.

²⁰ The Consumer Parties specifically are concerned with Winter Storm Warning, Blizzard Warning, Ice Storm Warning, Wind Chill Advisory, and Wind Chill Warning issued by the National Weather Service.

B. Summer Weather Alerts

Everything mentioned above as reasons to halt disconnections during winter weather alerts equally applies to summer weather alerts.²¹ Consumers, particularly the elderly, should not have to venture out during extreme heat advisories to arrange for bill payment assistance. The PUCO should modify the 2023-2024 PUCO Reconnection Order to also halt gas and electric service disconnections during summer weather alerts. The PUCO's failure to provide this protection for consumers was unreasonable.

ASSIGNMENT OF ERROR 4: The PUCO Reconnect Order is unreasonable because the PUCO erred by not suspending Percentage of Income Payment Plan ("PIPP") income reverifications during the Winter Crisis Program timeframe (November 1, 2023, through March 31, 2024).

During the Winter Crisis Program timeframe, the goal should be to maximize efficiency for Energy Service Providers ("EAPs") and ensure that as many qualified consumers as possible can sign-up for the Winter Crisis Program (and other disconnection/reconnection programs) quickly and without delay. This is necessary to protect consumers from utility service disconnections or delayed reconnections. However, requiring individuals who are already on PIPP to seek the help of EAPs for income reverification²² during this time makes EAPs less efficient, as they are already under increased strain to meet demand.

Many consumers wait until the Winter Crisis Program timeframe to seek help with electric and gas reconnections or preventing disconnections. For low-income

²¹ The Consumer Parties are specifically concerned with any Excessive Heat Watch, Excessive Heat Warning, and Heat Advisory issued by the National Weather Service.

²² PIPP allows customers to pay their bills based on a percentage of their income, offering financial relief and preventing service disconnections. This percentage of income payment program naturally requires income reverifications periodically to stay in the program. This process can be burdensome and time-consuming.

consumers, the Winter Crisis Program can offer significant one-time benefits towards their utility services. This means that there will be increased demand for EAPs during the Winter Crisis Program timeframe. Given the challenging economic conditions in Ohio, including a persistent poverty rate of 13.4%,²³ reductions in the SNAP program,²⁴ and an increase in the regulated default rate for electricity,²⁵ even more consumers may need to seek help through the Winter Crisis Program.

Further, in these challenging economic conditions, it is more important than ever to ensure that low-income Ohioans have access to affordable energy. To avoid delaying or preventing access to energy assistance during the Winter Crisis timeframe from November 1, 2023, through March 31, 2024, PIPP income reverifications should not overlap with the Winter Crisis Program or other reconnection/disconnection programs that EAPs assist consumers with.

The PUCO should suspend PIPP income reverification from November 1, 2023, through March 31, 2024. This would be a beneficial step to support at-risk Ohioans during the challenging winter months, ensuring that those in need receive timely assistance. The PUCO's failure to implement this protection for consumers was unreasonable.

²³ Ohio Association of Community Action Agencies, *The State of Poverty in Ohio, Vulnerable to Disruption, 2023 Report* at p. 5, http://oacaa.org/wp-content/uploads/2023/07/State-of-Poverty-2023-web_FINAL-UPDATE.pdf.

²⁴ Buckley, Bri, "What am I going to do? Many concerned as additional SNAP payments end in Ohio," WKYC (February 28, 2023), <https://www.wkyc.com/article/life/food/many-concerned-additional-snap-payments-end-ohio/95-331978cc-5c28-461c-9847-aac835627363>.

²⁵ *PUCO encourages consumers to explore energy choice options* (May 4, 2023), <https://puco.ohio.gov/news/ptc-june-changes>.

ASSIGNMENT OF ERROR 5: The PUCO Reconnect Order is unreasonable because the PUCO failed to protect consumers by not requiring electric and natural gas utilities to provide Energy Assistance Providers with advance notice of scheduled disconnections. This notice should be provided at least five business days before the disconnection date, if the utility has scheduled 50 or more disconnections in a specific county on a given day.

To assist EAPs with planning purposes, the PUCO should direct electric and natural gas utilities to inform EAPs five business days in advance when 50 or more service disconnections are scheduled in a specific county. It is in the public interest for an EAP to have the opportunity to plan if a large number of consumers are disconnected in one day.

Electric and natural gas utilities can disconnect as many consumers as they want on a single day, provided they give the consumers proper disconnection notification(s). If an electric or natural gas utility disconnects a large number of consumers in one county on a single day, an EAP can be overwhelmed with consumers seeking bill payment assistance to reconnect their energy service. By providing advanced notice of the number of disconnections scheduled in a county, an EAP would be prepared for an increase in the number of clients seeking utility assistance to reconnect their service.

Accordingly, the PUCO should require electric and natural gas utilities to notify Energy Assistance Providers (EAPs) of how many people they plan to disconnect in a specific county on a given day, if the number of disconnections is 50 or more. This notice should be given at least 5 business days in advance. This would help EAPs to plan and be prepared to help the people who are disconnected. The PUCO's Order that failed to require such notifications was unreasonable.

III. CONCLUSION

The PUCO takes important actions in the PUCO Reconnection Order to protect consumers, but more can be done to ensure that at-risk consumers maintain access to their essential utility services during extreme weather. The Consumer Parties' proposed modifications to the PUCO Reconnection Order are consistent with Ohio law and policy. The Consumer Parties' proposals will also improve the efficiency of disconnection/reconnection programs for consumers. The Consumer Parties' proposed modifications are the right thing to do for consumers. The PUCO should grant rehearing to modify the PUCO Reconnection Order consistent with the Consumer Parties' above recommendations.

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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 3rd day of November 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:

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Case No(s). 23-0856-GE-UNC

Summary: App for Rehearing Application for Rehearing to Further Protect Consumers through the 2023-2024 Special Reconnection Order 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. electronically filed by Ms. Alana M. Noward on behalf of Eubanks, Robert.