

IN THE PIKE COUNTY COURT OF COMMON PLEAS  
PIKE COUNTY, OHIO

50,774

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Stephanie Bartley and  
Ruth Tackett,

Plaintiffs,

-v-

Buckeye Rural Electric Cooperative, Inc.,  
et al.,

Case No. 173 CIV 93

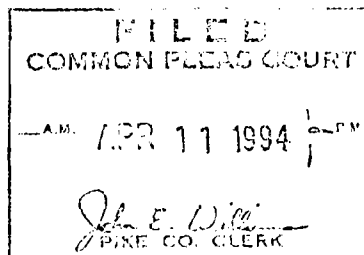
JUDGE BEVENS

JOURNAL ENTRY

On June 8, 1993, the Plaintiffs, who are residential consumers of electrical utility service provided exclusively by the Defendants, filed a complaint alleging that Defendants had wrongfully terminated their utility service. On behalf of a putative class, Plaintiffs sought declaratory and injunctive relief to enjoin the Defendants from future use of certain disconnection practices that allegedly violated the medical certification requirements of Ohio Revised Code § 4933.122, as well as other laws.

This Court granted Plaintiffs, individually, a temporary restraining order requiring Defendants to resume electrical utility service to the Plaintiffs' home pending a preliminary injunction hearing. At that hearing, the Court approved an agreement that provided for continuation of service to Plaintiffs' home during the pendency of this case under the terms of a payment plan negotiated between the parties.

Defendants also filed a motion opposing class certification, a motion to strike certain portions of the complaint, and a motion to dismiss certain claims. This Court granted the motion to strike in part, denied the motion to dismiss, and continued by agreement the issue of class certification pending discovery and settlement discussions.



The parties have now advised this Court that they have agreed to resolve the class action claims on the terms set forth in this Journal Entry. The Court finds that this agreement fairly and adequately protects the interests of all member consumers of Buckeye Rural Electric Cooperative, Inc., is in the best interests of those consumers, and should be and hereby is adopted by this Court as its order resolving the class action for declaratory and injunctive relief.

1. Within ten days of the date of this Order, Buckeye Rural Electric Cooperative, Inc., ("BREC") shall adopt and shall thereafter maintain and comply with the terms of the medical certification and medical certification extended payment plan policies attached hereto as Exhibits 1 & 2. Defendants shall take all steps necessary to promulgate these policies to employees whose duties concern these matters; to train them in the proper application and interpretation of these policies; and to supervise them as necessary to assure these policies are properly and consistently implemented according to their terms.
2. In implementing those policies, BREC shall use the medical extension notice and medical condition certification forms attached as Exhibits 3 & 4. Exhibits 3 & 4 shall be the only forms which BREC will use concerning the matters set forth in those forms.
3. Within ninety days of the date of this Order, or at such times that the current supply of printed notices is exhausted, whichever occurs last, BREC shall modify the notice language that currently appears on the reverse of its standard notice of delinquency and disconnection warning, so that said language is thereafter identical with the delinquent notice and disconnection warning language set forth in Exhibit 5 shall be used exclusively by BREC in all circumstances where BREC advises customers or consumers of electrical utility services of matters to which that language relates.
4. BREC shall give notice of Medical Certification by publishing the notice attached hereto as Exhibit 6 twice each year in the BREC section of Country Living magazine which publication may substitute for BREC's twice yearly publication obligation under the law. The parties agree to negotiate in good faith if modification of this provision is later required because of changes in the law.

CLERK OF COURT  
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- 5. The parties agree that the Plaintiff's Motion for class certification shall be withdrawn and it is so ordered by the Court. The parties agree and this Court finds that the agreements incorporated in this order have been negotiated between BREC and the Plaintiffs, by and through their counsel, Southeastern Ohio Legal Services; that same were negotiated in good faith and that same was done for the mutual benefit of the parties hereto and for all member consumer/customers of BREC.
- 6. Upon the Court's approval of the order, the parties are instructed to begin discussions on the individual claims raised by the Plaintiffs.

SO ORDERED.

*/s/ Gordon E. Bevans*

JUDGE GORDON E. BEVENS

APPROVED:

*Linda Kowieski*

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Attorney for Plaintiffs

*D. Dean Evans*

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(614) 446-1737  
Attorney for Defendant

*Stephanie Bartley*  
Stephanie Bartley by and through her  
mother and next friend, Ruth Tackett,  
Plaintiff

*By Ruth Tackett*

*Ruth Tackett*  
Ruth Tackett, Plaintiff

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*[Signature]*  
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Exh #1

BREC MEDICAL CERTIFICATION POLICY

1. Procedure

Upon any suggestion from a customer that disconnection of service may endanger the operation of necessary medical equipment or the health of a household resident, or upon specific request for a medical certification form, any employee must give or send in the mail a medical certification form and instruct the customer that the form must be signed personally by a licensed physician and returned immediately. Advise that phone certification may be made by a physician or his/her office staff, if written or fax certification, signed by the physician, is received within three business days.

In all cases where service has not actually been disconnected, all customers to whom a medical certification form is given or sent will be allowed at least three business days after that to obtain certification (written, fax or phone). This means the office will extend the proposed disconnect date, if necessary, to permit three days. If a customer suggests to field personnel that disconnection may endanger the operation of necessary medical equipment or the health of a household resident, he/she will instruct the customer to contact the office for a medical certification form and delay disconnection for three business days.

If service has been disconnected, upon suggestion from the customer that termination of service has endangered the operation of necessary medical equipment or the health of a household resident, give or send a medical certification form and instruct the customer that the form must be signed by a physician and returned within 14 days of the date of termination. Advise that service will be restored when the signed form has been received by the office and the customer has agreed to a reasonable extended payment plan.

Send a medical extension notice to all consumers whose accounts have been extended by medical certification.

Phone certifications can only be accepted by a manager or the billing supervisor.

2. Effect of certification

Certification by a licensed physician shall be accepted as proof of medical necessity for continued service and shall prevent disconnection of service for thirty days. Certification may be renewed for an additional consecutive period of thirty days if the customer provides additional certification form signed by a physician and enters an extended payment plan by the end of the initial 30 day certification. Upon request of an additional certification period, give or send the certification form and refer the consumer to the appropriate supervisor to discuss reasonable payment plans.

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Exh. #2

MEDICAL CERTIFICATION EXTENDED PAYMENT PLAN

For all customers whose accounts are in arrears, the company offers at least the following extended payment plans:

1. Six equal monthly payments on the arrearages in addition to full payment of current bills; or the lesser of
2. Payment of one-third of the balance due each month (arrears plus the current bill) for a period not to exceed seven months. The final and seventh payment will consist of the entire balance due, providing the sixth month payment equals at least one-half of the total balance still due.

The Cooperative will also negotiate in good faith individual payment plans that may at times more specifically accommodate a member's ability to pay up a past-due balance, while making full payment of current bills.

In cases where service has already been disconnected, additional fees and deposits must be paid as an initial payment before a payment plan commences.

As long as the customer is making payments in accordance with an agreed payment plan, additional penalty charges will not accumulate on any past due balances, and will not be applied to current amounts due which are paid on or before the penalty date.

Cashiers will do the initial extended payment plan determination with the members requesting such consideration, with approval of the plan by the billing supervisor or a manager. If any questions or problems arise in the cashier's contact with the member, then the member is automatically referred to the billing supervisor or a manager.

All extended payment plans require the approval of the billing supervisor or a manager.

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 -A.M. APR 11 1994 1:00 P.M.  
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Exh. #3

(BREC Letterhead)

MEDICAL EXTENSION NOTICE

Date: \_\_\_\_\_

Acct.#: \_\_\_\_\_

Member: \_\_\_\_\_

Delinquent Amount: \_\_\_\_\_

We have received a "Medical Condition Certification" to prevent immediate disconnection for non-payment of your electric bill. We are extending your disconnect date to \_\_\_\_\_ at this time. You will be disconnected after this date unless you pay in full or enter into an extended payment plan.

I am sure you realize that Buckeye Rural Electric Cooperative must require you to make every effort to keep as current as possible. This also helps you by keeping the bill from becoming unmanageable. If your electricity is disconnected for non-payment after your certification expires, you will be required to pay all past due amounts, current amounts (including the final meter reading), and penalties, plus an increased security deposit, if applicable, new membership and a reconnect fee before it is reconnected.

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Therefore, we need to know if you have explored all areas of assistance that could help you pay the bill, if you qualify. These include Bank/Credit Card loans, Personal loans, the Emergency Home Energy Assistance Program through the Community Action Organization, the Home Energy Assistance Program through the State of Ohio, Emergency Assistance through the County Human Services Department, financial assistance through your local Veterans' Services office if you are a veteran, and other charitable organizations. Please gather all of this information regarding assistance for which you may qualify, and call our office immediately at either 446-1532 or 1-800-231-2732, to make arrangements through the billing department to pay the amount due or arrange an extended payment plan.

As a reminder, Buckeye Rural Electric Cooperative (nor any other electric company) cannot ever guarantee continuous, uninterrupted electric service because of unforeseen line interruptions, acts of nature and maintenance requirements. Therefore, if you have a machine that must continuously operate, we recommend you secure a back-up power source or arrange emergency services for your own safety.

We will expect to hear from you very soon.

Sincerely,

Exh. # 4

(BREC Letterhead)

**MEDICAL CONDITION CERTIFICATION FORM**

In accordance with the requirements of Ohio Law relating to electric service, we request that a licensed physician please complete and certify the following information. If initial certification was by phone, this form must be signed by the physician and returned or faxed immediately. Return to:

BUCKEYE RURAL ELECTRIC COOPERATIVE, INC.  
143 THIRD AVENUE, PO BOX 279  
GALLIPOLIS OH 45631-0279  
FAX (614) 446-8426

I hereby certify that \_\_\_\_\_, a resident  
(full name of patient)

at \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ is:  
(street) (city) (state)

(Check appropriate box)

- Dependent upon a necessary medical or life-support system, apparatus or machine in his/her place of residence;
- Suffering or recovering from a serious illness, sickness or injury;
- Other (explain) \_\_\_\_\_

The nature of the illness or injury which requires medical or life-support equipment or confinement to the home is: \_\_\_\_\_

This condition is expected to last for the following period: \_\_\_\_\_

(expected duration of patient's condition) APR 11 1994

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APR 11 1994  
J.P. [Signature]

Termination of electrical service during this period would be especially dangerous to the above patient's health or make the operation of necessary medical or life-support equipment impossible or impractical.

\_\_\_\_\_  
(Licensed Physician Signature)

DATE: \_\_\_\_\_

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)

Exh. #5

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(On Back of Notice)

**DELINQUENT NOTICE AND DISCONNECT WARNING**

Notice is hereby given that unless you make satisfactory payment on your account by the disconnect date shown on the front of this statement, your electric service will be subject to disconnection without further notice. If you dispute this statement because you believe an undue error has made by the Cooperative in calculating the amount of the delinquent bill, you should contact the Cooperative immediately. However, this does not relieve your obligation to pay the full amount due, nor does it extend the disconnect date.

**MEDICAL CERTIFICATION REQUEST** - You are advised that in the event disconnection of your electric service would make the operation of necessary medical or necessary life-support equipment impossible or impractical, or aggravate an existing serious illness, written verification of the condition, signed by a physician, is required by BREC to temporarily delay disconnection for up to 30 days, so you can make extended payment arrangements to satisfy the balance due. A certification form is available upon request from BREC. Call immediately if someone in your household may qualify.

**WE URGE YOU TO AVOID DISCONNECTION AND ADDITIONAL COLLECTION FEES** - You can do so by making full payment in the BREC office or at a pay station prior to the disconnect date. If circumstances warrant, we will consider an extended payment arrangement that would settle your account while continuing your electricity.

We also urge you to request emergency assistance in this matter from the various federal and state funded energy assistance programs available to qualified utility users. Contact your local Community Action Agency, Welfare Office or Veterans Services Office (if you are a veteran) for information.

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Exh. # 6

# BE THE ACTION IS

strives for ac-  
tively urges readers  
on charges before  
events.  
EAST 90 DAYS prior to  
to Country Living, Box  
143226-0036.

## DECEMBER

- 1 — Christmas Tree Lane, 18... Milan Christmas trees, wreaths, miniatures and dollhouses decorated by organizations displayed. Info: 419-499-2123.
- Through Dec 3 — Christmas Tree Festival, Allen Co. Museum, 620 W. Market St., Lima. Decorated trees and wreaths displayed, caroling, craft boutiques, silent auction. Sun. 1-5, Mon-Thurs. and Sat 10-5. Fri 10-5. Info: 419-222-9426.
- Through Dec 21 — Rudd's Christmas Farm, 1205 Cassel Run Rd., Blue Creek. Scenes from the Life of Christ are displayed on 40 acres and illuminated with 500,000 lights 5:30-10:30 p.m. daily. Info: C. Rudd 513-544-3500.
- Through Dec 30 — Wyckoff Christmas Lighting Display, 5-10 p.m., 1 mi. s. of New London on St. Rte. 60. Info: 419-929-8213.
- Through Dec 30 — Christmas in the American Tradition, Ohio Village, 1-71 at 17th Ave., Columbus. Four weeks of 19th century activities focusing on the origins of Christmas traditions in various regions of the United States, coupled with caroling, concerts, and holiday shopping opportunities in the Ohio Village's 19th century craft shops. The event begins with a grand holiday opening ceremony and three-day Shopkeepers' Festival. Info: 614-297-2606 or 1-800-686-1545.
- Through Dec 31 — Gingerbread Houses, Ohio Historical Ctr., 1-71 at 17th Ave., Columbus. The Hist. Soc. is sponsoring a gingerbread house-making contest. Competition is open to all Ohio residents and includes categories for young people, adults and professionals. Entries will be displayed during the holiday season. Info: 614-297-2653.
- Through Dec 31 — American Winter Scenes, Ohio Historical Ctr., 1-71 at 17th Ave., Columbus. Lithographs from the society's Currier & Ives col-

- lection will be featured. Info: 614-297-2653.
- Through Dec 31 — The Doors of Christmas, Ohio Village, 1-71 at 17th Ave., Columbus. The doors of the shops and residences of Ohio Village will be trimmed in Victorian style, using designs and materials of the 19th century. Info: 297-2653.
- Through Dec 31 — 1994 Heritage Tour of Candlelite Manor, Bo-Ka Woods Candles and Gifts, 360 Tarklin Rd., s.e., Lancaster. Dec. 5, 11, 12, 18, and 19 tours of Candlelite Manor, a 1994 Heritage Tour Home at Bo-Ka Woods. Refreshments served from 11 a.m. 7 p.m. Celebrate Christmas at Bo-Ka woods featuring 15,000 lights on 5 acres along with handcrafted candles and gifts in the candleshop. Info: D. Hendrickson 614-681-1212.
- Through Jan 2 — Festival of Lights, Cincinnati Zoo, 3400 Vine St., Cincinnati. A million twinkling lights, an ice rink, nightly ice shows, Enchanted Village, Magic Castle, Talking Tigers and Santa's Toy Shop. Sun-Thurs. 5-9, Fri-Sat. 5-10. Info: G. Gramke 513-281-4701.
- Through Jan 2 — Ohio's Holiday Festival of Lights, Clay's Park Resort, off St. Rte. 93, 3 mi. s. of Canal Fulton. Drive-through display of more than 200,000 glittering lights and 18 three-dimensional Christmas displays. Holiday gift shop, dessert cafe. Mon-Thurs. 6-9:30, Fri-Sun. 6-10:30. Info: I. Cross 216-854-6691.
- Through Jan 7 — Wildlight Wonderland, Columbus Zoo, 9990 Riverside Dr., Powell. More than 500,000 holiday lights, ice skating, visits with Santa, Mrs. Claus, Kitchen and Tiny Town train rides. Mon-Thurs. 6-9:30, Fri-Sat. 5-10. Closed Nov. 25 and Dec. 24-25. Info: 614-645-3440.
- Through Jan 2 — Holiday Lights Celebration, Akron Zoo, 500 Edgewood Ave., Akron. More than 150,000 lights, Santa's House, ice carvers, special entertainment (wknds.), Nursery Rhyme Vil., and a Tunnel of Lights. 5:30-9:30 p.m. Closed Dec. 24, 25 and 31. Info: M. Frank 216-434-8645.
- 1-31 — House Museum Tours and The Nature Center, Dawes Arboretum, St. Rte. 13, 5 mi. s. of Newark, 3 mi. n. of 170, Exit 132. Tours of Museum Sat., Sun. 3:15-4:15. Adm. A-\$2 and \$1 Lower level of the Visitors Ctr. Displays, "touch table" for youngsters and a full view of the Bird-Watching Garden. Wkds. 8-5, Sat. 9-5, Sun. 1-5. Info: 614-323-7355 or 1-800-44-DAWES.
- 1-22 — Contemporary Works of Faith, French Art Colony, 530 First Ave., Gallipolis. Jewelry, fibers and two dimensional works of art by the Liturgical Art Guild. Tues-Fri. 9-3, Sat-Sun 1-5. Info: M. Sheets 614-446-3834.
- 1-Jan. 3 — Christian Indian Christmas, 6-10 p.m., Gnadenhuetten Hist. Plk. and Museum, S. Cherry St., Gnadenhuetten. A drive-through display of more than 70 figurines depicting a 1700s Christian Indians/Moravian settlers Christmas. Info: B. McKeown 614-254-4143.
- 2-5 — 17th Annual Winterfair, O.S. Fgds., Multipurpose Bldg., 1-71 and 17th Ave., Columbus. Craft fair features works by more than 375 artists, fashion shows, live music, demos and special exhibit with a celebrity selection exhibition. Thurs-Sat 12-9:30 p.m., Sun. 1-2. Info: 614-486-7119.
- 3 — A Taste of Hanukkah, 6-8, Ohio Vil., 1-71 at 17th Ave., Columbus. During this informative holiday program in the vil. farmhouse, Paula Weinstein will discuss the traditions of Hanukkah. Stop by for a sample of latkes (potato pancakes) and learn more about the Jewish Feast of Lights. Info: 614-297-2653.
- 4 — Christmas in the Colonies, 11-7, Medina Co. Fgds., Com. Ctr., Medina. A costumed, craft and entertainment event in a recreated 18th century atmosphere. Info: 216-835-1765.
- 4 — Ohio Valley Symphony Holiday Concert, 8 p.m., Ariel Theatre, 426 Second Ave., Gallipolis. Program: Torelli's Concerto Grosso and Boyce's overture Ode for the New Year. Also, seasonal music. Info: K. Sheets 800-765-6482.
- 4 — A Victorian Christmas Workshop, 11:30-3, Museum of Ceramics, East Liverpool. During this workshop, participants will make 19th century-style holiday craft items suitable for giving or for Christmas display at home or in the office. Bring scissors and a glue gun. \$10/members, \$12/nonmembers. Info: 614-297-2653.
- 4 — Lewis Family, Jim & Jesse, Bluegrass Mountaineers. 7 p.m.-12, O.J. Work Aud. 151

- forming Christmas carols. Please bring canned goods and outerwear. They will be distributed to the needy. Info: G. Adkins 216-614-255.
- 4 — A Saint Nicholas Party, 2-3:30 p.m., Ohio Vil., 1-71 and 17th Ave., Columbus. During this St. Nicholas' Day program, children will make Christmas tree ornaments including one to take home and listen to a reading of Clement Moore's classic "The Night Before Christmas." After hot chocolate and gingerbread cookies are served St. Nick will visit. Ages 8-10 yrs. Info: 614-297-2653.
- 4 — Christmas Craft Bazaar, 9:30-4, Stoutsville School Bldg., St. Rte. 674 s. off of U.S. Rte. 22, (Fairfield Co.), Stoutsville. Spons. by Clearcreek Emerg. Med. Serv. Featuring 80 display areas, entertainment, door prizes and lunch. Rental space avail. 5x5-\$7 and 5x10-\$14. Info: 614-969-2870.
- 4.5 — Kingwood Christmas Show, Meeting Hall, Kingwood Ctr., 900 Park Ave., w. Mansfield. Sat 10-5, Sun. 12-5. Info: 419-522-0211.
- 4.5 — Antique and Flea Market 1st, Urbana. Spons. by Champaign Co. Agri. Soc. Info: H. Goddard 513-653-6013.
- 4.5 — Christmas Arts and Crafts Show, Sandusky Co. Fgds., Fremont. Sat 10-5, Sun. 10-4. Info: D. Shilling 419-332-1200.
- 4.5 — Christmas Walk, Mt. Pleasant (Jefferson Co.). The Hist. Soc.'s tour of six historic bldgs and several private homes. Exhibits, crafts and food. Sat 1-8, Sun. 1-6. Info: S. Sawluk 614-769-2893 or 769-2020.
- 4.5 — Christmas Walk in Pioneer Village, 3-8, Gov. Bebb Preserve, off St. Rte. 126, about 3 mi. w. of Okeana. A 19th-century Christmas celebration with Santa Claus, open-hearth cooking, holiday food sampling, music and a craft sale. Info: Metroparks of Butler Co. 513-867-5544.
- 4.5 — Old-Fashioned Christmas Street Festival, Horse drawn antique carriage parade, 7 p.m., Sat. betwn. Lebanon. Parades featuring horse-drawn carriages, holiday feasts at the Golden Lamb Inn, carolers, and shopping for antiques and gifts. Info: 513-992-1100.
- 4.5 — Tri-State Gun Show, Allen Co. Fgds., St. Rte. 309 e., Lima. Hunting, antique, decorative and general collectible guns and related items for sale. Sat. 9-5, Sun. 10-4. Info: D. Inglis 419-229-8407.
- 4.5 — Winter Arts and Crafts Show, Brukner Nature Ctr., 5995 Horseshoe Bend Rd., Troy. 40 exhibitors. Fine jewelry, watercolor, stained glass, woodworking and more. Info: Sat. 10-5, Sun. 12:30-5. Info: 513-398-6487.

NOV 17 11 1994  
COURT CLERK

### — OFFICIAL NOTICE — MEDICAL CERTIFICATION

Medical certification forms are available upon request from electric Cooperative offices for those persons who must certify that discontinuation of electric service would make the operation of necessary medical equipment impossible or impractical or that such discontinuation of electric service would otherwise be dangerous to the health and welfare of persons residing in the household.

In all cases where discontinuation of service would be especially dangerous to life and welfare of the occupants within a household, the consumer should contact the Cooperative and request a "Medical Certification" form. This form must then be completed and certified by a licensed physician or local board of health

**Don't You Love To Be Tan!**



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Home and Commercial  
**WOLFF TANNING BEDS**  
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