

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
FIFTH DIVISION

ROBERT WEYRENS, ET AL

PLAINTIFFS

V.

60CV-23-1571

SUMMIT UTILITIES, INC., ET AL

DEFENDANTS

TEMPORARY RESTRAINING ORDER

Before the Court is Plaintiff’s Motion for Entry of Temporary Restraining Order and for Setting of Preliminary Injunction Hearing. Rule 65 of the Arkansas Rules of Civil Procedure governs issuance of Temporary Restraining Orders (“TROs”). The Court may issue a TRO without written or oral notice to the adverse party or its attorney if (a) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (b) the movant’s attorney certifies in writing any efforts made to give notice and the reasons why it should not be required. *Ark. R. Civ. P. 65*. The order expires at the time after entry—not to exceed fourteen (14) days—that the court sets, unless before that time the court, for good cause, extend it for a like period. *Id.*

In determining whether to issue a TRO, the Court must consider two things: (1) whether irreparable harm will result in the absence of a TRO, and (2) whether the moving party has demonstrated a likelihood of success on the merits. See, *A.R.C.P. 65; Three Sisters Petroleum v. Langley*, 348 Ark. 167,72 S.W.3d 95 (2002). "The prospect of irreparable harm or lack of an otherwise adequate remedy is the foundation of the power to issue injunctive relief." *Id.* citing *Wilson v. Pulaski Ass'n of Classroom Teachers*, 330 Ark. 298,954 S.W.2d 221 (1997).

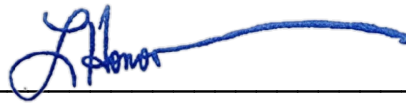
Plaintiffs filed their verified First Amended Class Action Complaint on March 8, 2023 and served Defendants with the original Complaint on March 6, 2023. Shut-off of customer's services are scheduled to occur this date making notice nearly impossible.

After careful consideration of the Motion and verified Complaint, the Court finds that Plaintiffs have demonstrated a likelihood of success on the merits and a likelihood of immediate and irreparable harm that is not adequately compensable by money damages. That alleged harm includes: the inability of Plaintiffs to fully care for physical needs such as hot meals and ability to bathe using hot water; the risk of health and safety issues for Arkansas customers without natural gas to heat residences, particularly with Arkansas' known history of extreme weather in and out of

season; the potential for loss of housing due to the inability to afford natural gas bill, both for individuals purchasing a home, as well as those who are on public housing assistance where paying utilities is a condition to continued assistance; the inability to meet the basic needs of life—food, water, shelter, due to lack of funds to afford an unusually high bill, in addition to other living expenses. For these reasons, the Court finds good cause to hereby GRANT the Motion for TRO and order the following:

1. Plaintiffs and members of the purported Class may refuse and not make payments on their Summit monthly gas bills.
2. The Court in its discretion is not requiring a security to be posted by the Plaintiffs.
3. Summit may not disconnect any Arkansas customer account until the Parties are before the Court and introduce evidence and argument on whether the TRO should continue.
4. Parties are ordered to appear on **Wednesday March 15, 2023**, at **10:00 a.m.** for Preliminary Injunction Hearing.
5. Movant's counsel shall serve a copy of this Order upon the Registered Agent consistent with Rule 4 of the Arkansas Rules of Civil Procedure.

IT IS SO ORDERED, this 13th day of March, 2023 at the hour and minute file-marked by the Pulaski County Clerk.

A handwritten signature in blue ink, appearing to be "J. H. Hester", written over a horizontal line.

CIRCUIT JUDGE