

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Suburban Natural Gas Company to)	
Suspend or Modify Certain Procedures)	Case No. 20-664-GA-UNC
and Process During the Declared State of)	
Emergency and Related Matters.)	

**APPLICATION FOR REHEARING OF THE PUCO'S ORDER ON THE
TEMPORARY CONSUMER EMERGENCY PLAN OF
SUBURBAN NATURAL GAS COMPANY
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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TABLE OF CONTENTS

	PAGE
I. INTRODUCTION	1
II. STANDARD OF REVIEW	1
III. MATTERS FOR RECONSIDERATION.....	2
ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to continue the consumer protection of suspending utility disconnections, especially for at-risk populations, for a reasonable period of time after its declared emergency has ended, pursuant to R.C. 4909.16.	
	2
ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat (that is now escalating again) of the coronavirus to the health and finances of Ohioans and especially for at-risk Ohioans, pursuant to R.C. 4909.16.....	
	4
ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to adopt all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC, pursuant to R.C. 4909.16 and R.C. 4903.09.	
	5
IV. CONCLUSION.....	6

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The coronavirus emergency and the ensuing economic emergency have led to much suffering this year for many Ohioans. That especially includes at-risk populations given that, before the pandemic, poverty in the state already was 14% and food insecurity in the state already was 14.5%. Updated data during the pandemic show food insecurity nearly doubling, to an extremely concerning 23%.¹ According to a study, 503,500 renters in Ohio were unable to pay their rent in June.² And given social disparities, black Americans tend to be included in at-risk groups (such as low-income) at a disproportionately greater level than their percentage representation in the general population. In other words, people need protection and people need money during the crisis, among other things.

² See <https://www.census.gov/data/tables/2020/demo/hhp/hhp8.html>, Housing Table 1(b), Ohio tab. See also <https://cohho.org/9561-2/>.

The PUCO acted, in its June 3, 2020 Finding and Order (“Order”), to protect Suburban’s consumers. Those actions included suspending disconnections and encouraging Suburban to establish additional extended payment plans to assist customers in paying their bills. Separately, door to door energy marketing was suspended (but recently resumed). Many utility consumers need more from their government (PUCO) because, among other things, the coronavirus crisis is (again) hurting them more.³

OCC appreciates that Suburban’s emergency plan, as approved by the PUCO, provided for reconnections for customers disconnected thirty days prior to March 12, 2020. However, the PUCO should also extend protections to utility consumers for a reasonable time after the declared emergency ends. Further, the PUCO should have adopted the recommendations of the National Consumer Law Center (“NCLC”) to establish a comprehensive, uniform set of consumer protections throughout the pandemic.

The PUCO’s order was unreasonable and unlawful in the following errors. It should be abrogated or modified to give consumers the protection under R.C. 4909.16 that is “necessary to prevent injury to the business or interests of the public...in case of any emergency...”

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to continue the consumer protection of suspending utility disconnections, especially for at-risk populations, for a reasonable period of time after its declared emergency has ended, pursuant to R.C. 4909.16.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat (that is now escalating again) of the coronavirus to the health and finances of Ohioans and especially for at-risk Ohioans, pursuant to R.C. 4909.16.

³ <https://www.fox19.com/2020/06/25/watch-live-gov-dewine-give-update-states-coronavirus-response/>.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to adopt all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC, pursuant to R.C. 4909.16 and R.C. 4903.09.

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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**MEMORANDUM IN SUPPORT OF THE APPLICATION FOR REHEARING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The coronavirus emergency and the ensuing economic emergency have led to much suffering this year for many Ohioans, including among at-risk populations already in need of protection. In the absence of a vaccine, a cure and/or broad immunity, there is no end in sight for the coronavirus pandemic.⁴ Indeed, the health crisis is again escalating, with a financial crisis looming for consumers, many of whom have lost their jobs. The PUCO should act to further protect utility customers during these perilous times.

Applications for rehearing are governed by R.C. 4903.10, which provides that within 30 days after issuance of a PUCO order, “any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect

1

to any matters determined in the proceeding.” OCC entered an appearance through its Motion to Intervene in this case, and the PUCO granted OCC’s Motion.

R.C. 4903.10(B) also requires that an application for rehearing be “in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful.” Further, Ohio Adm. Code 4901-1-35(A) states: “An application for rehearing must be accompanied by a memorandum in support . . . which shall be filed no later than the application for rehearing.” In considering an application for rehearing, R.C. 4903.10(B) provides that “the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear.” The statute also provides: “[i]f, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed.”

The statutory standard for abrogating or modifying some portions of the Finding and Order is met here. The PUCO should grant and hold rehearing on the matters specified in this Application for Rehearing and abrogate or modify the Finding and Order consistent with OCC’s Recommendations herein.

III. MATTERS FOR RECONSIDERATION

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to continue the consumer protection of suspending utility disconnections, especially for at-risk populations, for a reasonable period of time after its declared emergency has ended, pursuant to R.C. 4909.16.

OCC recommended that the PUCO should continue to suspend disconnections for a reasonable time after the coronavirus emergency.⁵ The PUCO rejected OCC's proposal. It instead directed Suburban to file a transition plan regarding "the resumption of activities and operations previously prohibited by the *Emergency Case* in furtherance of a safe return to pre-COVID-19 operations."⁶

Suburban has filed a transition plan in accordance with the PUCO's directive, which stated that it would resume sending disconnection notices on August 18, 2020 and resume service disconnections beginning the first week of September, 2020.⁷ OCC appreciates that Suburban's proposal provides consumers protections from disconnections into September (longer than other utility proposals). But the coronavirus state of emergency has not ended, and Suburban's proposal is premature. In fact, the coronavirus crisis is *escalating*.⁸

To consumers (including at-risk consumers) who could be disconnected and then face the health crisis and financial crisis without Suburban's service – such as for heating water now and later for winter heating – the continuation of the moratorium against disconnections is 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...."

⁵ See OCC's Comments at 5-6.

⁶ Finding and Order at ¶45.

⁷ See Suburban Transition Plan (June 19, 2020) at 1.

⁸ See e.g. The Columbus Dispatch, "DeWine ponders county-by-county approach as Ohio coronavirus cases rise" (June 28, 2020), <https://www.dispatch.com/news/20200628/dewine-ponders-county-by-county-approach-as-ohio-coronavirus-cases-rise>.

The PUCO should use its emergency authority to act to protect the public now. The PUCO should order Suburban to continue the moratorium against disconnection for nonpayment, for a reasonable time *after* the formal declared emergency ends.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat (that is now escalating again) of the coronavirus to the health and finances of Ohioans and especially for at-risk Ohioans, pursuant to R.C. 4909.16.

The dire plight of many Ohioans and the emergency statute that exists for addressing such a plight compel continuing the PUCO's declared emergency indefinitely. The coronavirus crisis is not ending, it is *escalating*. As has been reported, utility consumers could face another related wave of pain – looming utility shut-offs.⁹ Other pain includes but is not limited to a half million Ohioans being unable to pay June rent, according to reports (cited above). In addition, as customers spend more time at home because of the pandemic, they are using more utility service and their bills are increasing.¹⁰ These reflect some of the additional pressures on customers already facing financial hardships.

Suburban has proposed abandoning or discontinuing the consumer protections that the PUCO has implemented.¹¹ Instead, the PUCO should have further protected consumers by continuing its emergency jurisdiction indefinitely, or at least until an end to the coronavirus emergency is officially declared and for a reasonable time thereafter.

⁹ See Energy Wire, “A second wave of pain: Looming utility shutoffs” (May 21, 2020), <https://www.eenews.net/energywire/2020/05/21/stories/1063189771>.

¹⁰ See The Columbus Dispatch, “Consumers face higher utility bills during coronavirus outbreak” (June 14, 2020) <https://www.dispatch.com/business/20200614/consumers-face-higher-utility-bills-during-coronavirus-outbreak>.

¹¹ See Suburban Transition Plan (June 19, 2020).

The emergency statute that the Ohio General Assembly enacted in the 20th Century exists for the PUCO to use to protect Ohioans in the 21st Century, regarding such a once-in-a-lifetime health disaster as the coronavirus. The PUCO should take more action now because people need more help now.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to adopt all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC, pursuant to R.C. 4909.16 and R.C. 4903.09.

OCC recommended adopting protections listed by the National Consumer Law Center (“NCLC”), titled “Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services.”¹² The PUCO declined OCC’s recommendation to adopt all of the NCLC’s consumer protection guidelines, finding that consumer protection issues are already being “adequately addressed” through each utility’s emergency plan.¹³

In its Order, the PUCO did not provide the reasons for its decision to reject the OCC (NCLC) recommendations. That is insufficient to meet the standard in R.C. 4903.09 for explaining decisions. The PUCO’s order in this respect is unreasonable and should be modified.

The PUCO should establish a uniform set of requirements applicable to all utilities – which is to say applicable to protecting all Ohio utility consumers, consistent with those published by the NCLC.¹⁴ The uniform requirements should protect customers throughout the state of emergency and for a reasonable time afterwards.

Unfortunately, the PUCO has already approved Columbia Gas of Ohio’s plan to resume disconnecting customers for non-payment and to impose the strict eligibility

¹² See OCC’s Comments at 15.

¹³ Finding and Order at ¶42.

¹⁴ See NCLC guidelines attached to OCC’s Comments.

requirements for participation in the PIPP program beginning July 29, 2020.¹⁵ Dominion Energy Ohio has similarly proposed to resume disconnecting customers for nonpayment beginning August 3, 2020.¹⁶ Suburban proposes in its Plan that the utility will mail disconnection notices beginning August 18, with scheduled disconnections the 1st week of September.¹⁷ Gas utilities are resuming their usual pre-coronavirus operations *even though there is no clear end in sight for the state of emergency*. And each utility is proposing its own deadline for resuming activities such as disconnecting consumers for non-payment.

Therefore, the PUCO should protect consumers by abrogating or modifying its Order. The PUCO should adopt the NCLC's recommendations (as proposed by OCC) to give consumers the protection under R.C. 4909.16 that is "necessary to prevent injury to the business or interests of the public...in case of any emergency..."

IV. CONCLUSION

For the health and economic security of *all* of Suburban's customers, the PUCO should grant rehearing on OCC's assignments of error and modify or abrogate its Order as described above. Granting rehearing is necessary for the protection of Suburban's consumers and their families.

¹⁵ See *In the Matter of the Motion of Columbia Gas of Ohio, Inc. to Suspend Certain Procedures and Process During the COVID-19 State of Emergency and Related Matters*, Case No. 20-637-GA-UNC, Supplemental Finding and Order (June 17, 2020), at ¶26.

¹⁶ See *In the Matter of the Operations of the East Ohio Gas Company d/b/a Dominion Energy Ohio During the Declared State of Emergency and Related Matters*, Case No. 20-600-GA-UNC, COVID-19 Transition Plan of Dominion (June 18, 2020), at 2.

¹⁷ Suburban Transition Plan, at 1.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Application for Rehearing by the Office of the Ohio Consumers' Counsel was served on the persons stated below via electric transmission this 6th day of July 2020.

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Summary: App for Rehearing Application for Rehearing of the PUCO's Order on the Temporary Consumer Emergency Plan of Suburban Natural Gas Company by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of O'Brien, Angela D