

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Operations of The)
East Ohio Gas Company d/b/a Dominion) Case No. 20-600-GA-UNC
Energy Ohio During the Declared State)
of Emergency and Related Matters.)

**APPLICATION FOR REHEARING OF THE PUCO'S ORDER ON THE
EMERGENCY TRANSITION PLAN OF DOMINION ENERGY OHIO
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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July 29, 2020

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Given that the coronavirus has recently been surging against Ohioans, the PUCO’s premise that the utilities should “transition” for resuming normal operations should be revisited, because conditions are far from normal. *Interim consumer protection plans* would be a better characterization of the plans that Ohioans now need. The coronavirus continues to take a toll on Ohioans’ health and financial well-being. Under the emergency statute, it is within the PUCO’s authority to protect the health and safety of Ohioans.

As the PUCO considers OCC’s request to reverse its July 15th Order¹ that allows Dominion to return (prematurely) to normal operations, it should keep some recent developments in the forefront of its review for the public’s protection. The same day the PUCO issued its Order, Governor Mike DeWine addressed the people of Ohio regarding the ever present and growing threat of coronavirus.² The Governor advised that “We have now reached THE most critical point in our battle against the coronavirus.” (Original emphasis) He warned that “If all of us do not take immediate action to slow this virus down, the tragedy that we see playing out on our television screens every day in Florida, Texas, Arizona, and California may well be our reality in just a matter of weeks.”

Subsequently, on July 22, 2020, the Governor directed Ohioans in all 88 counties to wear masks while in public to slow the spread of the virus.³

The PUCO's rehearing of its Order allowing Dominion to return to normal operations should be considered against the backdrop of these changed circumstances since the time of the PUCO ruling. Accordingly, on rehearing under R.C. 4903.10, the PUCO Commissioners should overturn their decision to allow (beginning August 3, 2020) gas service disconnections for non-payment, late fees, reconnection and delinquent charges, the resumption of in-home weatherization services and the imposition of strict Percentage of Income Payment Plan ("PIPP") requirements.

The PUCO's order was unreasonable and unlawful in the following respects:

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by permitting Dominion to resume customer disconnections for nonpayment beginning August 3, 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and extend the moratorium against disconnections for nonpayment for a reasonable time after the declared emergency has ended.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by permitting Dominion to resume assessing late fees, reconnection fees, and delinquent charges on consumers beginning mid-October 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and waive these charges until a reasonable time after the declared emergency has ended.

¹Supplemental Finding and Order (July 15, 2020) ("Transition Plan Order").

²"As Prepared Address to the Citizens of Ohio," Ohio Governor Mike DeWine (July 15, 2020) (see Attachment); https://content.govdelivery.com/attachments/OHOOD/2020/07/15/file_attachments/1496675/Address%20to%20the%20People%20of%20Ohio%20As%20Prepared%2007.15.20.pdf.

³ <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/news-releases-news-you-can-use/gov-dewine-issues-statewide-mask-order-travel-warning>.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by permitting Dominion to resume imposing strict PIPP eligibility requirements on customers beginning August 3, 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and suspend PIPP eligibility requirements until a reasonable time after its declared emergency has ended.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by permitting Dominion to resume its in-home weatherization programs beginning in August 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and require utilities to suspend in-home weatherization programs until the threat to consumers of the coronavirus has passed.

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
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I. INTRODUCTION

Dominion’s service territory includes some of the most at-risk populations in Ohio. For example, *even before the pandemic*, Youngstown, Ohio had a poverty rate of 36.8%⁴ and a food insecurity rate of 22% (making it one of the most food insecure areas in the United States).⁵ In Cleveland, Ohio poverty is high at over 35% (pre-pandemic)⁶ and in Cuyahoga County food insecurity is high at about 18.4% (pre-pandemic).⁷ Recent pandemic-related data show food insecurity *statewide* at 23%,⁸ so circumstances no doubt are worsening for consumers in areas Dominion serves.

Further, according to a study, 503,500 renters in Ohio were unable to pay their rent in June.⁹ And given social disparities, black Americans tend to be included in at-risk

⁴ <https://www.welfareinfo.org/poverty-rate/ohio/youngstown>.

⁵ <https://businessjournaldaily.com/valley-ranked-2nd-most-food-insecure-area-in-nation/>.

⁶ <https://www.welfareinfo.org/poverty-rate/ohio/cleveland>.

⁷ <https://map.feedingamerica.org/county/2017/overall/ohio/county/cuyahoga>.

⁸ <http://ohiofoodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf>. See also <https://www.msn.com/en-us/money/markets/coronavirus-food-insecurity-has-doubled-locally-across-ohio/ar-BB161LqN>.

⁹ See <https://www.census.gov/data/tables/2020/demo/hhp/hhp8.html>, Housing Table 1(b), Ohio tab; Also <https://cohhio.org/9561-2/>.

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 now.

In a previous order approving Dominion's coronavirus emergency plan¹⁰ the PUCO took action to protect consumers during this time of the coronavirus emergency. Those actions included suspending disconnections to help customers maintain their essential utility services during these difficult times and suspending non-essential utility services that could create an unnecessary risk of transmission of the virus. But the PUCO's July 15th Order dismantles those protections at a time when coronavirus cases are increasing.

Since Dominion filed its Transition Plan on June 18, 2020 to return to normal operations, circumstances for Ohioans in the pandemic have drastically changed for the worse. As of July 29, 2020, there have been 81,896 confirmed cases of coronavirus in Ohio and 3,118 confirmed deaths.¹¹ On July 22, 2020 the Governor issued a statewide mask mandate to protect Ohioans from the virus. The Governor warned Ohioans on July 15, 2020 that "clearly the virus is spreading with a vengeance across many parts of Ohio and lurks, waiting to attack victims in all of our 88 counties¹² He said that "Ohio is sliding – sliding down a very dangerous path, with our once flattened-curve starting to sharpen and spike.... Weeks can be the difference between who lives and who dies in

¹⁰ Finding and Order (June 3, 2020) ("Emergency Plan Order").

¹¹ <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/dashboards/overview>.

¹² "As Prepared Address to the Citizens of Ohio," Ohio Governor Mike DeWine (July 15, 2020) (*see* Attachment); https://content.govdelivery.com/attachments/OHOOD/2020/07/15/file_attachments/1496675/Address%20to%20the%20People%20of%20Ohio%20As%20Prepared%2007.15.20.pdf.

Ohio.”¹³ He said: “But masks are not enough.... Good decisions will protect the economy and save lives. Reckless ones will hurt and kill.”¹⁴

Most recently, on July 23rd, news organizations revealed a private communication between the White House and a dozen U.S. cities about particular coronavirus threats to the public in those localities.¹⁵ Sadly, one of those cities (Cleveland) is in Ohio and Cleveland is in the Dominion service area. The financial strain that many Ohio customers are suffering as a result of the pandemic will continue for some time, maybe years. In short, the pandemic is far from over, and Dominion’s plan to resume its pre-pandemic operations is premature and would harm customers who are in dire need of assistance.

The PUCO should reverse its order that ends consumer protections put in place during the coronavirus for Dominion customers. Instead the PUCO should extend those consumer protections based on changed (worsened) circumstances for Ohioans. The statutory standard for abrogating or modifying some portions of the Transition Plan 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 Transition Plan Order consistent with OCC’s Recommendations.

¹³ *Id.* at 4.

¹⁴ *Id.* at 6.

¹⁵ “Birx warns of concerning rise in coronavirus cases in 12 cities as Trump paints a rosy picture,” CNN (July 23, 2020); <https://www.cnn.com/2020/07/23/politics/coronavirus-birx-cities-hotspots/index.html>.

II. MATTERS FOR RECONSIDERATION

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by permitting Dominion to resume customer disconnections for nonpayment beginning August 3, 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and extend the moratorium against disconnections for nonpayment for a reasonable time after the declared emergency has ended.

OCC recommended in its comments that the PUCO should continue to suspend customer disconnections for a reasonable time after the coronavirus emergency.¹⁶ But the PUCO rejected OCC's recommendation and instead approved Dominion's premature proposal to start disconnecting customers for nonpayment beginning August 3, 2020.

The PUCO's order in this respect is unreasonable and should be modified consistent with OCC's recommendation. The fact is that the coronavirus crisis is currently *escalating*. So, Dominion is proposing to lessen public protection of utility consumers at the same time that the injury to the public is increasing. Injury to the public is what the emergency statute (R.C. 4909.16) enables the PUCO to "prevent." Dominion has presented no evidence to justify its harmful proposal to resume service disconnections while there is no end in sight for the pandemic. Therefore, the PUCO should change its order.

To do so, the PUCO need only be of the opinion that the order should be changed for it to modify the order on rehearing. *Columbus Southern Ohio Elec. Co. v. P.U.C.*, 10 Ohio St.3d 12 (1984). So long as the PUCO justifies its changes, it can change or modify earlier orders. *Ohio Consumers' Counsel v. PUC*, 114 Ohio St.3d 340, 2007-Ohio-4276. R.C. 4903.10 itself establishes that the scope of rehearing, once granted, may include

¹⁶ See OCC's Comments at 4-5.

additional evidence, but not evidence that could have been offered in the original hearing. Additional evidence that should be considered here is that the virus is spiking, setting Ohio down a very dangerous path, as recently noted by Governor DeWine.¹⁷ *And, regardless, the PUCO has its special authority to use under R.C. 4909.16, the emergency statute, for preventing injury to the public.*

There is also precedent for the PUCO to reverse itself on rehearing because of changed circumstances or additional evidence that calls into question the wisdom of the PUCO's initial decision. *See, e.g., Columbus & Southern Ohio Elec. Co., v. PUC*, 10 Ohio St.3d 12 (1984) (Ohio Supreme Court affirmed PUCO's reconsidering construction work in progress (CWIP) allowance on rehearing, based on subsequent events); *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service offer*, Case No. 14-1297-EL-SSO, First Entry on Rehearing (May 11, 2016) (granting rehearing to consider a modified proposal necessitated by FERC Order); *In the Matter of the Application for Establishment of a Reasonable Arrangement between Ohio Edison Company and V&M Star*, Case No. 09-80-EL-AEC, Entry on Rehearing, at ¶ 7 (Apr. 29, 2009) (PUCO modifying its Entry to account for changed circumstances).

To consumers (including at-risk consumers) who could be disconnected and face the health crisis and financial crisis without Dominion'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

¹⁷ "As Prepared Address to the Citizens of Ohio," Ohio Governor Mike DeWine, at 4 (July 15, 2020).

the PUCO to act when “necessary to prevent injury to the business or interests of the public...in case of any emergency....”

The PUCO should use its emergency authority to protect consumers now by modifying the Transition Plan Order in response to worsening of the coronavirus pandemic in Ohio. The PUCO should modify its order allowing Dominion to resume service disconnections for nonpayment on August 3, 2020 and order Dominion to continue the moratorium against disconnections for nonpayment, for a reasonable time *after* the formal declared emergency ends.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by permitting Dominion to resume assessing late fees, reconnection fees, and delinquent charges on consumers beginning mid-October 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and waive these charges until a reasonable time after the declared emergency has ended.

Dominion’s consumers need help in these difficult times. However, the PUCO approved Dominion’s plan to resume collecting late fees, reconnection fees, and arrearages from consumers beginning in mid-October to coincide with the Winter reconnect order.¹⁸ The PUCO should modify its order, in accordance with its emergency powers under R.C. 4909.16, to waive late fees, reconnection fees and delinquent amounts until a reasonable time after the emergency has ended to provide consumers with additional protection now that the pandemic is getting worse in Ohio. Forcing some of the neediest customers in this state to pay late fees or other reconnection fees in order to maintain their essential utility service during the pandemic is unreasonable.

¹⁸ Transition Plan Order, at ¶40.

The PUCO justified approving Dominion’s proposal to resume charging these extra fees citing Dominion’s “commitment of offering extended payment plans of up to 24 months, which go beyond the directives of Ohio Adm. Code 4901:1-18-05, regardless of payment history or broken plans, and promotion of assistance programs like PIPP.”¹⁹ However, as the Transition Plan Order acknowledges, Dominion will offer 24-month payment plans to customers only in “exceptional circumstances.”²⁰ Dominion provides no information in its Transition Plan regarding what those “exceptional circumstances” may be or which customers will qualify for payment plans that go beyond what the PUCO’s rules already require.

Further, Dominion’s commitment to promote availability of the PIPP program is largely meaningless given the fact that the Transition Plan Order also allows Dominion to resume imposing the PUCO’s strict PIPP payment requirements on consumers beginning August 3, 2020.²¹ If PIPP participants do not remain current on their income-based payments, they could be dropped from the PIPP program. Those dropped consumers would then be required to pursue payment plans with Dominion (on less favorable terms) that will include the extra late fees, reconnection fees and delinquent charges Dominion will require for consumers to maintain access to their essential utility service.

The PUCO states that it “encourages” Dominion to work with customers on payment plans,²² but encouragement is not enough, especially in this time when the coronavirus is surging in Ohio. The PUCO should, under R.C. 4909.16, *order* Dominion

¹⁹ *Id.*

²⁰ *Id.*, at ¶36.

²¹ Transition Plan Order, at ¶30.

²² Transition Plan Order, at ¶¶30, 40.

to take necessary action now to protect consumers including deferring the payment of late fees, reconnection fees, and arrearages until after the emergency ends. Payment of these charges should not be a pre-condition to service reconnection or to maintaining existing service in these difficult extraordinary times.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by permitting Dominion to resume imposing strict PIPP eligibility requirements on customers beginning August 3, 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and suspend PIPP eligibility requirements until a reasonable time after its declared emergency has ended.

Ohioans are facing uncertain times. No one can predict with accuracy how the health and financial challenges posed by the coronavirus will turn out or will end. As has been reported, utility consumers could face a second wave of pain – looming utility shut-offs.²³ In addition, as customers spend more time at home because of the pandemic, they are using more utility service and their bills are increasing.²⁴ This creates additional pressures on consumers already facing financial hardships.

In times like these, the PUCO should use its emergency powers under R.C. 4909.16 to modify the Transition Plan Order to continue the suspension of the PUCO's strict PIPP eligibility rules until after the emergency has ended, particularly when it comes to requiring consumers to be current on their income based payments. But the PUCO's Transition Plan Order allows Dominion to resume imposing PIPP payment requirements on consumers beginning August 3, 2020.²⁵ Consumers who have difficulty

²³ See Energy Wire, "A second wave of pain: Looming utility shutoffs" (May 21, 2020), <https://www.eenews.net/energywire/2020/05/21/stories/1063189771>.

²⁴ See 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>.

²⁵ Transition Plan Order, at ¶30.

meeting PIPP payment guidelines should not be disconnected or terminated from the PIPP program during the coronavirus emergency.

Purportedly to lessen the impact on PIPP participants, the PUCO's order requires PIPP payments due or billed between March 12, 2020 and August 2, 2020, which have not been paid by August 3, 2020, to be added to the PIPP participant's arrearage.²⁶ But that grace period provides little assistance for PIPP participants who are not current on their income-based payments at an anniversary date (or within a billing cycle after the anniversary date) after August 3, 2020, because they could still be dropped from the PIPP program if payments are considered missed.²⁷ And in order to re-enroll in PIPP, the dropped PIPP participant would have to pay all missed PIPP payments and monthly charges.²⁸ If dropped PIPP participants are unable to pay missed PIPP payments and monthly charges, they will be ineligible for the PIPP program and will be required to pursue a payment plan with Dominion, which would include the additional fees and charges to consumers the PUCO is allowing Dominion to resume.²⁹ This rigid treatment of PIPP consumers during these unprecedented difficult times is unjust and unreasonable and should be addressed by the PUCO on rehearing.

The coronavirus state of emergency is still in effect, and cases are increasing. There is neither a cure nor a vaccine. Consumers will continue to struggle with unemployment and lost wages and may have difficulty meeting the payment obligation that allows them to keep from being disconnected or terminated from the PIPP program.

²⁶ *Id.*

²⁷ See Ohio Admin. Code 4901:1-18-12(D)(2).

²⁸ Ohio Admin. Code 4901:1-18-12(D)(3).

²⁹ Transition Plan Order, at ¶40.

Therefore, the PUCO should modify its order allowing Dominion to require consumers to make payments strictly in accordance with PIPP guidelines or be dropped from the plan.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by permitting Dominion to resume its in-home weatherization programs beginning in August 2020. The PUCO should use its emergency powers under R.C. 4909.16 to change its order based on the worsening of the coronavirus pandemic in Ohio and require utilities to suspend in-home weatherization programs until the threat to consumers of the coronavirus has passed.

Given what was then a relaxation of social distancing requirements, the PUCO approved Dominion's plan to resume its non-essential, in-home energy efficiency audits and weatherization programs in August 2020.³⁰ The PUCO nonetheless acknowledged that even with enhanced safety precautions through Dominion's use of personal protective equipment, consumers may not want to grant Dominion access to conduct these services.³¹ Therefore, the PUCO ordered Dominion to offer consumers the opportunity to receive these services at a later date (*e.g.* in three to six months).³²

While OCC appreciates the PUCO ordering Dominion to offer consumers an option to defer non-essential, in-home energy audits and weatherization services, the PUCO should act to suspend these services until after the coronavirus emergency has passed. Coronavirus cases are increasing throughout Ohio, *likely because of the state's relaxation of social distancing requirements*.

Dr. Anthony Fauci, Director of the National Institute of Allergy and Infectious Diseases, recently remarked "What was thought to be unimaginable turns out to be the reality we're facing right now; outbreaks happen, and you have to deal with them in a

³⁰ Transition Plan Order, at ¶22.

³¹ *Id.*

³² *Id.*

very aggressive, proactive way.”³³ The Centers for Disease Control have attributed the spread of the virus to person-to-person contact, with spread being more likely when people are in close contact with one another (within about 6 feet).³⁴ That is why Ohio’s Governor took action and issued a mandatory mask mandate for all Ohioans on July 22, 2020.³⁵

Rather than allowing Dominion to send people into consumers’ homes to conduct non-essential services – unnecessarily risking the spread of the virus – the PUCO should exercise its authority under R.C. 4909.16 to continue suspending them. Doing so would be consistent with the PUCO’s March 20, 2020 Entry in Case No. 20-591-AU-UNC directing utilities “to suspend, *for the duration of the emergency*, any non-essential functions that would require or cause in-person contact that may create unnecessary COVID-19 spread risks, unless otherwise directed by the Commission.”³⁶

As the PUCO acknowledged, resuming in-home energy efficiency audits and weatherization programs necessarily requires social contact with customers in their homes. And that social contact could create an unnecessary risk of spreading the coronavirus. Thus, there is no legitimate reason (and none is cited in Dominion’s Transition Plan) for Dominion to resume these non-essential activities before the actual emergency is over. The PUCO should modify the Transition Plan Order consistent with OCC’s recommendation.

³³ Remarks before the Senate Health, Education, Labor and Pensions Committee (June 30, 2020): <https://www.cnn.com/politics/live-news/covid-19-school-work-reopening-testimony-06-30-20/index.html>.

³⁴ <https://www.cdc.gov/coronavirus/2019-ncov/faq.html#Spread>.

³⁵ <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/resources/news-releases-news-you-can-use/gov-dewine-issues-statewide-mask-order-travel-warning>.

³⁶ Case No. 20-591-AU-UNC, March 20, 2020 Entry, at ¶10 (emphasis added).

III. CONCLUSION

As Governor DeWine noted in his recent address (and as evidenced by the new statewide mask mandate), things are changing for the worse. The changed circumstances present a clear and present danger to Ohioans from the coronavirus, and the threat it brings to people's health and lives. The PUCO should grant this application for rehearing for the health and economic security of *all* of Dominion's customers, the PUCO should grant rehearing on OCC's assignments of error and modify or abrogate the Transition Plan Order as described above. Granting rehearing is necessary to immediately protect *all* of Dominion's consumers.

Respectfully submitted,

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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 29th day of July 2020.

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**AS PREPARED ADDRESS TO THE CITIZENS OF OHIO
OHIO GOVERNOR MIKE DEWINE
OHIO STATEHOUSE CEREMONIAL OFFICE
COLUMBUS, OH
JULY 15, 2020**

Good evening.

I speak to you tonight from the Governor's office in the Ohio State Capitol.

We have now reached THE most critical point in our battle against the corona virus.

If all of us do not take immediate action to slow this virus down, the tragedy that we see playing out on our television screens every day in Florida, Texas, Arizona, and California may well be our reality in just a matter of weeks.

The good news is that this nightmare does not have to be our future.

Some have wondered what new health orders might be issued tonight. That's a discussion for another time.

As your Governor, I will take whatever action is necessary to protect the people of this state. But, the truth is, what your local health department or the Ohio Department of Health, or what I order is not nearly as important as what we all do in these crucial days ahead.

Our future truly lies in our own hands.

Ohioans have faced many challenges throughout time -- wars, floods, tornados -- but really nothing quite like this, since Governor James Cox was our Governor during the Spanish Flu Pandemic of 1918. Governor Cox and I are both from the Miami Valley, but the reason I keep his figure here is to remind me of the resilience and the strength of all the Ohioans who went through that tragedy.

And I know that Governor Cox must have felt, as I do every day, the pain and anguish of each family who lost someone to that virus.

Early this year, we watched as the corona virus erupted in China, then in Europe, then in the United States -- and then in Ohio.

But, in Ohio -- you did what Ohioans always do!

You rallied together!

You did what needed to be done early in this fight.

And you took a collective leap of faith in a battle against an invisible enemy -- the likes of which hadn't been seen in Ohio and this country in more than 100 years.

You made extraordinary sacrifices.

You left school.

You left work.

You stayed home.

You missed loved ones.

You missed milestones.

You missed paychecks.

Because you are Ohioans -- strong, steadfast, selfless -- you also saved lives.

You flattened the curve!

And, with your individual -- and collective -- actions, you bought Ohio time -- precious, finite time for our health care providers to create a statewide hospital system and for doctors and nurses to learn more about this novel illness and how best to respond...

Time for Ohio to procure lifesaving medical equipment, such as ventilators, as well as Personal Protection Equipment (PPE)...

And with no vaccine in sight, time to learn how to better manage this disease so we could carefully and responsibly re-open the state to protect both our lives and our livelihoods.

We sought input from business leaders throughout the state and listened to the scientists and other health experts to develop guiding protocols to open in an incremental, measured way that could protect the safety of employees and customers, alike.

By controlling the spread of the virus early on, we were able to responsibly re-open, and the Ohio economy has started coming back. Ohio's unemployment rate is coming down. While in April, the revised rate was 17.6 percent, in May, the rate dropped to 13.7 percent.¹ And further, for 10 straight weeks, applications for continued unemployment benefits have declined.²

We must keep the virus in check so that we can rebuild consumer confidence and keep this positive economic momentum going.

¹ State Unemployment Rates: Bureau of Labor Statistics: <https://www.bls.gov/news.release/laus.nr0.htm>.

² Ohio Department of Job and Family Services, accessed July 14, 2020, <https://ifs.ohio.gov/ocomm/pdf/Ohio-Initial-Jobless-Claims.pdf>.

So where are we now?

Clearly -- clearly the virus is spreading with a vengeance across many parts of Ohio and lurks, waiting to attack victims in all of our 88 counties.

Tragically, in just four months, we have already lost 3,075 Ohioans to this dreaded disease -- nearly the same number of Ohioans who died in the Vietnam War (3,094).³

Our hospitals are seeing more and more COVID patients. There are 1,027 of our fellow citizens in our hospitals tonight suffering from COVID -- 316 are in intensive care -- 146 are on a ventilator.⁴ And, many of those who have recovered now suffer from long-term -- and in some cases, permanent -- health consequences, such as lung damage, kidney damage, and other significant medical issues.

Ohio is now nearing our April and May peak of just over 1,100 hospital patients, with the Cincinnati and Dayton regions currently seeing more COVID-positive patients in their hospitals than during any previous time during the pandemic and the Cleveland region nearing a similar point⁵

At the beginning of the pandemic, it took Ohio 20 days to reach our first 1,500 total cases. Last week, we saw over 1,500 cases in a single day.⁶ And to think -- just a month ago -- we were at only 400 new cases per day.⁷

Some say that our case numbers are increasing because we are simply doing more testing. Yes -- we are testing more. In fact, our testing has gone up by 87 percent. But, our number of positive cases has skyrocketed by almost 200 percent!⁸

Clearly, our number of new cases is NOT just the result of increased testing!

Let's look again at Ohio and Florida. On June 9th, Florida had 1,200 cases per day -- about the same number of cases that we had in Ohio yesterday.⁹ This past Sunday, just one month later, Florida's case number was at 15,300 new cases in one single day.¹⁰

³<https://www.archives.gov/research/military/vietnam-war/casualty-statistics>.

⁴ Ohio Department of Health, www.coronavirus.ohio.gov.

⁵ Ohio Department of Health, www.coronavirus.ohio.gov.

⁶ Ohio Department of Health, www.coronavirus.ohio.gov.

⁷ Ohio Department of Health, www.coronavirus.ohio.gov.

⁸ Ohio Department of Health, www.coronavirus.ohio.gov.

⁹ State-level Data by Report Date, as compiled by the COVID Tracking Project, <https://covidtracking.com/data/download>.

¹⁰ "Two Days of Record Counts: Florida Adds 12,624 COVID Cases Monday, One Day after U.S.-shattering Record 15,300," by David Fleshler, *South Florida Sun Sentinel*, July 13, 2020.

Similarly, a month ago, Florida averaged 8.3 new cases per 100,000 residents per day, a little bit under what we have in Ohio currently. As of yesterday, Florida's new cases have increased six-fold per day (51.8 cases per 100,000 residents per day).¹¹

A month ago, Arizona was also at 1,200 new cases per day.¹² As of Sunday, Arizona was at 3,400 new cases per day. Further, Arizona averaged almost 18 new cases per 100,000 residents per day last month. That has since increased 2.5 times as of yesterday (45.1 cases per 100,000 residents per day).¹³

And, if we do not change course...Florida and Arizona will be our future.

I have always found history to be a teacher. And so early in the pandemic, I read a book by John Berry called The Great Influenza. It's about the catastrophic Spanish Flu of 1918. He wrote an article yesterday that puts our current reality into sobering perspective:¹⁴

“This is our second chance. We won't get a third. If we don't get the growth of this pandemic under control now, in a few months, when the weather turns cold and forces people to spend more time indoors, we could face a disaster that dwarfs the situation today.”

Ohio is sliding -- sliding down a very dangerous path, with our once flattened-curve starting to sharpen and spike.

This worrisome, disturbing reversal of our progress is a jarring reminder of just how quickly our fate can change.

A matter of weeks can change our trajectory.

Weeks can alter our future.

Weeks can change our lives.

Weeks can be the difference between who lives and who dies in Ohio.

We must act -- and we must act now!

This is not a drill.

This is not a hoax.

¹¹ State-level Data by Report Date, as compiled by the COVID Tracking Project, <https://covidtracking.com/data/download>.

¹² <https://coronavirus.jhu.edu/data/state-timeline/new-confirmed-cases/arizona>.

¹³ State-level Data by Report Date, as compiled by the COVID Tracking Project, <https://covidtracking.com/data/download>.

¹⁴ <https://www.nytimes.com/2020/07/14/opinion/coronavirus-shutdown.html>.

This is not a dress rehearsal.

It's the real thing.

The enemy is here -- and Ohioans have simply come too far in this fight to cede ground now.

My fellow Ohioans, you have changed history with this virus before -- and you can do it again -- but our window of opportunity may soon be closing.

As we have seen in Florida, California, Arizona, and Texas, once things start moving, they move very quickly -- and it is so very hard then to turn things back around.

My fellow Ohioans -- you -- all of us together -- have the power to change our future.

This is a defining time -- THE defining time -- for each one of us. And there has been no greater call in recent times for Ohioans than for us to call upon our "better angels," as President Abraham Lincoln said, and do what is right to protect each other.

Ohioans have always been a people, who have been willing to sacrifice today for a better tomorrow.

I am asking each of you tonight to take action now -- to sacrifice now -- so our kids can be in school this fall...

So, they can at least have a chance to play sports...

So, our businesses can remain open...

So that Ohioans can continue earning a living and a paycheck and support their families...

What am I asking you to do?

Let's start with masks. I am asking each one of you, wherever you live in Ohio -- whatever the alert color of your county -- to wear a mask when you go out in public.

Some may still question the wisdom of wearing masks, but as we used to say when I was a prosecuting attorney, "The jury is back. The verdict is in."

There is a broad consensus today in the medical, health, and business communities that masks are critical.

Yesterday, Dr. Robert Redfield, Director of the Centers for Disease Control and Prevention, said,

“If all of us would put on a face covering now for the next four weeks, six weeks, we could drive this epidemic to the ground.”¹⁵

Wearing masks is also our best way to protect Ohio jobs.

A recent Goldman Sachs report shows that wearing face masks can be viewed as an alternative to lockdowns. They found, that in most cases, within a couple of weeks of people consistently wearing facemasks, there was a slowdown in the spread of the virus. Further, the study suggests that to curb the spread of the virus as successfully as wearing face masks does, we would have to consider a lockdown that essentially would subtract five percent of the country’s Gross Domestic Product.¹⁶

But masks are not enough.

Let’s be honest, all of us have started to let our guard down. I know sometimes I have. We’re tired. We want to go back to the way things were – and that’s very understandable.

But when we do, we are playing Russian Roulette with our lives.

Good decisions will protect the economy and save lives. Reckless ones will hurt and kill.

These are tough questions, but ask yourselves: Will that family reunion be worth it if your grandmother later tests positive for COVID and dies?

Will that neighborhood cookout be worth it if your neighbor ends up alone, on a ventilator, in intensive care?

Will that play date be worth it, if the kids can’t go back to school in the fall?

We’re all tired of being cooped up. I know your kids want to be with their friends. And, Fran and I know our grandchildren certainly do.

But, what’s better? Knowing you did all you could to keep your family and neighbors safe and our economy open -- or taking risks that lead to illness, death, and another economic shutdown?

Don’t we all want to be around to meet our future children and grandchildren not yet born? To attend their Baptisms? To watch our kids and grandkids graduate from school? To attend their future weddings?

¹⁵ <https://www.usatoday.com/story/news/health/2020/07/15/covid-19-california-testing-moderna-vaccine-best-buy-requires-masks/5436928002/>.

¹⁶ Face Masks and GDP: Goldman Sachs, <https://www.goldmansachs.com/insights/pages/face-masks-and-gdp.html>.

This virus will end. It will end! And we all want to be around when it does, so we can enjoy life, enjoy our families, and enjoy our friends.

None of us can do this, alone. In words often attributed to Ronald Reagan, “We can’t help everyone, but everyone can help someone.”¹⁷

These are once-in-a-hundred-years sacrifices -- short-term inconveniences, for long-term freedoms.

In his January 1941 State of the Union Address to Congress, President Franklin Roosevelt began to make his case to end the isolation policies that emerged following World War I. He spoke of America’s need to sacrifice in times of crisis -- and the unity that comes with a nation’s collective actions. Here is what said:

“No one can tell the exact character of the emergency situations that we may be called upon to meet. The nation's hands must not be tied when the nation's life is in danger. [All of us] must prepare to make the sacrifices that the emergency -- almost as serious as war, itself -- demands. . . . Our strength is our unity of purpose...[and] to that high concept, there can be no end save victory.”¹⁸

Our state’s life is now in danger -- and our own strength lies in our unity of purpose.

Early in this pandemic, Ohioans came together. You showed extraordinary kindness, care, compassion your families, friends, neighbors, and strangers, alike.

You rose to the occasion.

You answered the call.

I am calling on all Ohioans to once again unite.

This virus is real.

It is killing our family members, our friends, our co-workers.

We must take the long-view in our response to it and remember that Ohioans have always been a strong, determined, resilient people, who, time and time again, have overcome adversity and beat the odds.

From the Native Americans, who created intricate and massive earthworks...

To the pioneers, who navigated their way along the Ohio River and constructed the National Road...

¹⁷https://en.wikiquote.org/wiki/Ronald_Reagan.

¹⁸<https://www.americanrhetoric.com/speeches/PDFFiles/FDR%20-%20Four%20Freedoms.pdf>.

To the abolitionists and African Americans, who worked together to create an underground railroad leading those in slavery to freedom...

To the immigrants, who built our cities...

To the African Americans and those from Appalachia, who migrated to Ohio to work, raise a family, and start a better life...

At the start of this pandemic, Ohioans set the example for the rest of our country. Though this has been a trying time for all Ohioans, you showed the world what was possible when people work together!

You showed the world our Ohio grit!

I remain an optimist and truly believe that we will rise out of the great tragedy of this virus and all it has laid bare. Positive things will come out of our struggle -- American and Ohio ingenuity, innovation, and creativity; deeper relationships with family and friends; and a stronger, renewed sense of community and our obligations to one other.

Out of this struggle, we will learn.

And, we will emerge stronger, better, and more resilient.

As the Bible tells us in Galatians, "Let us not grow weary of doing good, for in due season, we will reap -- if we do not give up."

Ohioans never give up.

And Ohioans will not grow weary of doing good and helping to protect each other.

We are Buckeyes.

We are strong.

And we will not relent, as we forge a path forward -- united -- in building Ohio's future.

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Summary: App for Rehearing Application for Rehearing of The PUCO's Order on the Emergency Transition Plan of Dominion Energy Ohio by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of O'Brien, Angela D