

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Suburban Natural Gas Company for an)	Case No. 18-1205-GA-AIR
Increase in Gas Distribution Rates.)	
In the Matter of the Application of)	
Suburban Natural Gas Company for)	Case No. 18-1206-GA-ATA
Tariff Approval.)	
In the Matter of the Application of)	
Suburban Natural Gas Company for)	Case No. 18-1207-GA-AAM
Approval of Certain Accounting)	
Authority.)	

**REPLY TO SUBURBAN’S MEMORANDUM CONTRA OCC’S OBJECTIONS
TO SUBURBAN’S NON-COMPLIANT TARIFFS
BY
OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

I. INTRODUCTION

Suburban Natural Gas Company (“Suburban”), through its counsel, has launched an unwarranted attack¹ on the OCC because it filed Objections² to Suburban’s March 4, 2022 tariffs. Suburban’s harangue against OCC is misplaced and appears to be little more than an attempt by Suburban to bully OCC from advocating for consumers. But we will advocate for consumers. There has been good reason to do so in these cases. One might never imagine from Suburban’s hubris that it just lost an appeal in the Supreme Court of Ohio for overcharging consumers for a pipeline. The real aggrieved interest is OCC and the consumers we represented in the appeal. The PUCO should not indulge Suburban’s

¹ Suburban’s Memorandum Contra and Motion to Strike the Objections of Office of the Ohio Consumers’ Counsel and Motion for Sanctions (March 25, 2022) (“Memorandum Contra”).

² OCC’s Objections to Suburban’s Non-Compliant Tariffs (March 10, 2022) (“Objections”).

acting as the victim. The PUCO should reject Suburban's baseless arguments. The PUCO should continue to give consumers the protection of the Supreme Court's reversal.

Suburban also claims that OCC's Objections are a "procedurally improper" motion. They are not. But because Suburban wrongly construes OCC's Objections as a "motion," Suburban has styled its March 25, 2022 attack on OCC as a "memorandum contra." OCC now **replies**.

Suburban's memorandum contra contains motions to strike OCC's Objections and for sanctions against OCC. OCC will respond separately to those motions in the time allowed by O.A.C. 4901-1-12(B)(1).

II. REPLY

OCC's Objections concern Suburban's tariffs filed with the PUCO on March 4, 2022. This tariff filing follows the Supreme Court of Ohio's decision to reverse and remand a previous PUCO order finding that 4.9 miles of Suburban pipeline extension was "used and useful" as of the date certain in Suburban's application to increase rates to consumers.³ In a February 23, 2022 Order on Remand, the PUCO directed Suburban to file revised tariffs and "to issue a refund to customers for any amounts collected as of September 21, 2021, that included costs associated with more than 2.0 miles of the 4.9-mile DEL-MAR pipeline extension."⁴

OCC's Objections expressly state that Suburban's tariffs reflect the \$33.59 per month residential customer service charge as required by the Order on Remand.⁵

³ *In re Suburban Natural Gas Co.*, Slip Opinion No. 2021-Ohio-3224.

⁴ Order on Remand, ¶ 61 (February 23, 2022).

⁵ Objections, at 2.

However, OCC objected to the tariffs to the extent that they do not reflect the credit back to consumers for amounts previously charged by Suburban for costs associated with more than 2.0 miles of pipeline.⁶

In response, Suburban lashed out at OCC, accusing OCC's counsel of negligence and intentional misrepresentation of the Order on Remand.⁷ It accuses OCC's counsel of "bad faith."⁸ Suburban calls OCC's Objections a "false" and "sham" pleading.⁹ Suburban accuses OCC of filing a pleading that is "frivolous, unsubstantiated, wasteful, potentially harmful to customers, and directly contrary" to the Order on Remand.¹⁰ OCC's two-page Objections are *none* of those things. To the contrary, OCC acted reasonably and *consistent with its prior practice in this case*. OCC's Objections appropriately advocate for consumers who Suburban claims should pay for the *entire* 4.9 miles of pipeline extension even though the PUCO has found that only 2.0 miles were used and useful on the date certain in Suburban's application for an increase in rates.

Suburban states that the Order on Remand establishes a process whereby Suburban will work with the PUCO Staff to determine the credit back to consumers for amounts previously charged by Suburban (as of the date of the Supreme Court of Ohio decision) for costs associated with more than 2.0 miles of pipeline.¹¹ According to Suburban, this step is to occur after Suburban's filing of its March 4 tariffs reflecting the

⁶ *Id.*

⁷ Suburban Memorandum in Support, at 4.

⁸ Suburban Motion, at 1.

⁹ Suburban Motion, at 1.

¹⁰ Suburban Memorandum in Support, at 5.

¹¹ Suburban Memorandum in Support, at 2-3.

\$33.59 per month residential customer service charge.¹² Because of this, Suburban wrongly claims that OCC's Objections are a "sham" and OCC should be sanctioned for objecting that the March 4 tariffs do not reference the credit back to consumers.

While the Order on Remand may contemplate a two-step process as Suburban claims, it was perfectly reasonable for OCC to object to there being no reference in the March 4 tariffs to the credit to consumers. Indeed, Suburban continues to take the untenable position that it is entitled to charge consumers for the entire 4.9 miles of pipeline in accordance with the PUCO's previous order that was reversed and remanded by the Court.¹³ Therefore, it is important for Suburban's March 4 tariffs to be clear, and at a minimum reference the credit to consumers as of September 21, 2021 – the date the Supreme Court of Ohio reversed and remanded the PUCO's prior decision that misapplied the used and useful standard.

This is no different from OCC's prior practice in this case. OCC previously objected to tariffs filed by Suburban in this case to the extent that they were vague.¹⁴ And the PUCO subsequently directed Suburban to modify and clarify the tariff consistent with OCC's recommendation.¹⁵ Specifically, the PUCO stated in an entry: "The Commission finds that Suburban's compliance tariff filing should be approved with modifications, ***as we agree with OCC that the tariffs should be clarified*** to provide that the customer service charge and the usage charge are subject to refund to the extent that they include costs associated with more than 2.0 miles of the 4.9- mile DEL-MAR pipeline

¹² *Id.*

¹³ See Suburban's Application for Rehearing of the PUCO's Order on Remand (March 25, 2022).

¹⁴ See Objections to Suburban's Non-Compliant Tariffs by Office of the Ohio Consumers' Counsel (October 15, 2021).

¹⁵ Entry (October 20, 2021), at ¶ 23.

extension.”¹⁶ Accordingly, OCC’s Objections seeking clarification to Suburban’s March 4 tariffs were entirely reasonable and consistent with the OCC’s past practice in this same case of filing objections to Suburban’s tariffs.

III. CONCLUSION

Suburban claims that OCC’s Objections are a “procedurally improper” motion¹⁷ that contains no separate memorandum in support. Suburban is wrong. OCC’s Objections are similar to the type of objections counsel would make on the record during a hearing and no different than the objections OCC previously filed in this case on October 15, 2021 (which prompted the PUCO to direct Suburban to modify its tariffs for clarity).¹⁸ Suburban may respond to such objections. But there is no cause whatsoever for Suburban’s unprofessional and unwarranted attack against OCC set forth in the March 25, 2022 memorandum contra and motions to strike (to which OCC will separately respond in the time allowed under by O.A.C. 4901-1-12(B)(1)).

¹⁶ Entry (October 20, 2021), at ¶ 23 (emphasis added).

¹⁷ Suburban Memorandum in Support, at 1.

¹⁸ Entry (October 20, 2021), at ¶ 23.

Respectfully submitted,

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CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the Reply to Suburban's Memorandum Contra was served by electronic transmission upon the parties below this 1st day of April 2022.

/s/ Angela D. O'Brien
Counsel of Record

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Reply Reply to Suburban's Memorandum Contra OCC's Objections to Suburban's Non-Compliant Tariffs by Office of the Ohio Consumers' Counsel electronically filed by Ms. Alana M. Noward on behalf of O'Brien, Angela D.