**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Suburban Natural Gas Company for Approval of an Alternative Form of Regulation. | )  )  )  ) | Case No. 22-1132-GA-ALT |

**OBJECTIONS TO THE PUCO STAFF’S REPORT OF INVESTIGATION**

**BY**

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# I. INTRODUCTION

Moderating rates is now critical for consumers, who are emerging from a pandemic facing financial challenges that include soaring energy prices and high inflation. Yet, Suburban Natural Gas Company (“Suburban” or the “Company”) seeks to charge consumers a Rider CEP rate of $4.20 per month[[1]](#footnote-3) for CEP capital investments from March 1, 2019 through June 30, 2022.[[2]](#footnote-4) Suburban proposes that the Rider CEP rates remain in effect until new rates take effect from Suburban’s next base rate case, which it is scheduled to file by October 31, 2025.[[3]](#footnote-5)

The Staff of the Public Utilities Commission of Ohio (“PUCO”) filed its report of investigation (the “Staff Report”) in this case on July 19, 2023. The PUCO Staff’s recommendations would give consumers important safeguards but does not go far enough to protect them.

# II. SUMMARY OF STAFF REPORT RECOMMENDATIONS SUPPORTED OR NOT OPPOSED BY OCC

OCC supports certain findings and recommendations in the Staff Report. Further, OCC does not oppose certain consumer protection positions and adjustments proposed in the Staff Report. OCC reserves the right to amend and/or supplement these Objections if the PUCO Staff changes, modifies, or withdraws its position, at any time prior to the closing of the record, on any issue contained in the Staff Report. Additionally, if the PUCO Staff has indicated that its position on a particular issue is not known at the date of the Staff Report, OCC reserves the right to later supplement these Objections once the PUCO Staff’s position is made known. OCC also reserves the right to file additional expert testimony, produce fact witnesses, and introduce additional evidence.

OCC further submits that the lack of an Objection in this pleading to any aspect of the Staff Report does not preclude OCC from cross-examination or introduction of evidence or argument regarding issues on which the PUCO Staff changes, modifies, newly raises, or withdraws its position on any issue between the issuance of the Staff Report and the close of the record. Moreover, OCC reserves the right to contest other aspects of Duke’s Application not specifically addressed by the Staff Report.

A summary of Staff findings and recommendations that OCC supports is included below. OCC may choose to file testimony explaining its support or non-opposition.

The Staff correctly recommends that the CEP audit period should be adjusted so that 12 months of plant in-service additions data is filed on August 31st and the CEP rate taking effect on March 1st as opposed to November 1st as recommended by Suburban. Staff correctly avers that Suburban’s proposed 60-day review process for annual CEP applications is insufficient.[[4]](#footnote-6) The Staff’s proposed process is consistent with the review schedules for other utility CEP applications and should be adopted.

* The PUCO Staff correctly recommends that the CEP revenue requirement formula for the period July 1, 2022 and forward should be modified to include an incremental revenue offset. The PUCO Staff correctly notes that the CEP programs include an incremental revenue offset, and the Staff correctly recommends that Suburban’s incremental revenue offset should mirror other CEP rider formulas.[[5]](#footnote-7)
* The PUCO Staff correctly recommends that the costs for annual CEP audits should be borne by Suburban, consistent with the practice for other utilities with CEPs.[[6]](#footnote-8)
* The PUCO Staff correctly recommends that Suburban’s annual CEP applications include a schedule in its annual filing that includes plant-in-service by investment category as outlined in its Application, including the following categories: (1) Replacement/public improvement/betterment; (2) Acquisitions; (3) Growth; (4) Support Services; and (5) Information technology. And the Staff correctly recommends that Suburban identify any changes to these categories in future CEP Rider applications.[[7]](#footnote-9)

* The PUCO Staff correctly recommends that Suburban’s annual CEP applications should include detailed budget data for the next year and actual spending for the current year for the five categories identified above. Such data will facilitate the Staff’s annual review.
* The PUCO Staff correctly agrees with Suburban that recommends that the CEP rider will sunset when an order is issued in Suburban’s next base distribution rate case and new rates become effective in that proceeding.[[8]](#footnote-10) In the Settlement Agreement approved in its last rate case, Suburban committed to file an application for an increase in base rates by October 31, 2025.[[9]](#footnote-11) However, the Staff should have taken its recommendation one step further and recommended that Rider CEP should be reset to $0.00 if Suburban does not file a base rate case by that date.
* The PUCO Staff correctly recommends that there should be a rate cap in annual CEP rate increases for Small General Service (“SGS”) consumers. Based on its review of Suburban’s projected revenue requirements provided in response to Staff data requests, the PUCO Staff correctly recommends that annual CEP Rider increases for SGS consumers should be capped at $0.20 per year and that any capital spending above the cap would not be eligible for deferrals.[[10]](#footnote-12)
* In its plant-in-service investigation, the PUCO Staff identified a $10,000.00 capitalized financial incentive included in the amount being sought for collection from consumers. The PUCO Staff correctly recommends that this financial incentive be disallowed and that all capitalized incentive compensation be excluded from Rider CEP.[[11]](#footnote-13)
* The PUCO Staff avers that Suburban capital Project numbers 788 and 859 are pipeline projects that were capitalized in 2021 and 2022 totaling $1,238,219.[[12]](#footnote-14) The Staff describes these projects as approximately 1.96 miles of 4” and 6” mains pipeline on which no customers were being served as of the June 30, 2022 date certain. As a result, the Staff correctly recommends that the costs for these projects should be removed from the rate base in this case.[[13]](#footnote-15) And the Staff correctly recommends removal of the pro rata share of capitalized labor associated with these two projects, which totals $212,154.60.[[14]](#footnote-16)
* As opposed to Suburban’s proposal to charge all consumer classes the same flat rate, the PUCO Staff correctly recommends that Suburban allocate the CEP rider revenue requirement to each rate class in accordance with the base rates revenue allocation approved in Suburban’s most recent base rate case, Case No. 18-1205-GA-AIR. The Staff recommends that this be accomplished by a rate design that charges all customer classes a surcharge percentage of base rates or allocating revenues by customer class, then allocating each class’s revenue requirement to a fixed charge and volumetric charge by replicating the rate design in Suburban’s most recent base rate case.[[15]](#footnote-17)

# III. OBJECTIONS TO THE STAFF REPORT

The PUCO Staff, in its Staff Report, should have made additional recommendations or revised some of its recommendations to protect Suburban’s consumers from unlawful, unjust, and unreasonable rates. OCC requests that, consistent with R.C. 4909.19, R.C. 4909.15 and other authority, the PUCO should adopt the following Objections to the Staff Report.

Objection No. 1: The Staff Report erred by concluding that the entire 4.9-mile DEL-MAR pipeline extension is fully used and useful

In Case No. 18-1205-GA-AIR, the PUCO decided that the entire 4.9-mile DEL-MAR pipeline extension was used and useful and the costs could be collected through base rates.[[16]](#footnote-18) OCC appealed to the Supreme Court of Ohio, which reversed the PUCO’s ruling.[[17]](#footnote-19)

In the earlier case, OCC pointed out that, in Case No. 18-54-GA-BLN before the Ohio Power Siting Board, Suburban stated that the purpose of the pipeline extension was to provide enough gas volume for the planned growth in that area, which Suburban estimated to be 4,000 *new* homes.[[18]](#footnote-20) But as of

As of 2023, Suburban has only added about 2,100 new customers.[[19]](#footnote-21) This is roughly in line with Suburban’s original projection from the 2018 case. With only half of the consumers added that the pipeline was built to service, the pipeline is not fully used and useful.

Yet, the Staff Report recommends (once again, as it did earlier) that the entire 4.9-mile DEL-MAR pipeline extension is used and useful”[[20]](#footnote-22) These findings seemingly contradict the record from the prior case indicating that the pipeline extension would not be fully used and useful until the 4,000 new homes were added to be served by the pipeline.

Objection No. 2: The Staff Report erred by recommending a revenue requirement which includes the full amount of the DEL-MAR pipeline extension in plant-in-service.

As noted in OCC’s Objection No. 1, the Staff Report erred by treating the entire 4.9-mile pipeline extension as used and useful. By the same token, the Staff Report is unjust and unreasonable because it recommends a revenue requirement where the full cost for the DEL-MAR pipeline extension is included in the plant-in-service component of the revenue requirement. The Staff Report should have provided a detailed factual analysis to establish how much of the pipeline extension truly is used and useful at this time – this is the amount PUCO Staff should have recommended for inclusion in the plant-in-service component of the revenue requirement.

Objection No. 3: The Staff Report erred because it failed to recommend that Rider CEP include an O&M offset which would have reduced rates to its consumers.

OCC objects to the Staff Report because it fails to recommend that Rider CEP include an O&M savings offset that would return to consumers avoided O&M costs currently included in their rates. Suburban’s Rider CEP will allow the Company to replace and upgrade existing infrastructure and facilities. As Suburban builds new facilities that are less expensive to maintain than older infrastructure, monitoring, maintenance and repair costs built into the rates that consumers pay are avoided.

Costs avoided by new facilities should be returned to consumers through an O&M offset. Otherwise, consumers will pay for new and upgraded infrastructure *and* maintenance of old infrastructure that has already been replaced or upgraded. The PUCO has already acknowledged that capital expenditures reduce O&M cost by approving an O&M savings offset in Duke Energy Ohio, Inc.'s Accelerated Main Repair Project (AMRP) Rider.[[21]](#footnote-23) The CEP Rider should have an O&M offset, as the AMRP Rider does, because the programs serve similar functions: replacing aging infrastructure, which “reduce[s] operations and maintenance expense.”[[22]](#footnote-24)

# IV. CONCLUSION

To protect consumers from paying unjust, unreasonable and unlawful rates, OCC requests that the PUCO adopt OCC’s recommendations set forth in these Objections and in any supporting testimony.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

It is hereby certified that a true copy of the foregoing Objections was served by electronic transmission upon the parties below this 18th day of August 2023.

*/s/ Connor D. Semple*  Connor D. Semple

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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1. Application Attachment L, Schedule CEP-1. [↑](#footnote-ref-3)
2. Application Attachment L, Schedule CEP-2. [↑](#footnote-ref-4)
3. Staff Report at 3. [↑](#footnote-ref-5)
4. Staff Report at 4. [↑](#footnote-ref-6)
5. *Id.* at 5*.* [↑](#footnote-ref-7)
6. *Id.* [↑](#footnote-ref-8)
7. *Id.* [↑](#footnote-ref-9)
8. *Id.* [↑](#footnote-ref-10)
9. *See In the Matter of the Application of Suburban Natural Gas Company for an Increase in Gas Distribution Rates*, Case Nos. 18-1205-GA-AIR, et al., Opinion and Order at ¶ 141 (September 26, 2019). [↑](#footnote-ref-11)
10. Staff Report at 5. [↑](#footnote-ref-12)
11. Staff Report at 6. [↑](#footnote-ref-13)
12. Staff Report at 7. [↑](#footnote-ref-14)
13. *Id.* [↑](#footnote-ref-15)
14. *Id.* [↑](#footnote-ref-16)
15. Staff Report at 8. [↑](#footnote-ref-17)
16. Case No. 18-205-GA-AIR, Opinion and Order (September 26, 2019). [↑](#footnote-ref-18)
17. *In re Application of Suburban Natural Gas Co*., 166 Ohio St.3d 176, 2021-Ohio-3224. [↑](#footnote-ref-19)
18. Case No. 18-54-GA-BLN, Staff Report of Investigation at 1-2. [↑](#footnote-ref-20)
19. *See* Suburban Response to PUCO Staff Data Request 7, Attachment A. [↑](#footnote-ref-21)
20. Staff Report at 7. [↑](#footnote-ref-22)
21. Case No. 17-2318-GA-RDR, Opinion & Order (April 25, 2018) at 5. [↑](#footnote-ref-23)
22. Case No. 12-3028-GA-RDR, Opinion & Order (April 24, 2013) at 8. [↑](#footnote-ref-24)