

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Suburban)
Natural Gas Company for an Increase in Gas) Case No. 18-1205-GA-AIR
Distribution Rates.)

In the Matter of the Application of Suburban) Case No. 18-1206-GA-ATA
Natural Gas Company for Tariff Approval)

In the Matter of the Application of Suburban)
Natural Gas Company for Approval of Certain) Case No. 18-1207-GA-AAM
Accounting Authority)

**MOTION TO INTERVENE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

In this case, Suburban Natural Gas Company (“Suburban” or the “Utility”) intends to increase the rates that its charges customers for natural gas distribution service. Under Suburban’s proposal, residential customers will pay a fixed monthly customer charge of \$43.46 (over \$500 per year) for natural gas distribution service¹ before they use a single molecule of natural gas.²

In its Notice of Intent, Suburban asserts that the customer charge is increasing from its current rate of \$29.42 to \$43.46.³ This would represent a drastic 48% increase. But Suburban misrepresents its current rates. Customers *do not* currently pay a \$29.42 fixed customer charge; the actual fixed charge is \$19.30.⁴

¹ Notice of Intent of Suburban Natural Gas Company to File an Application for Increase in Rates, for Tariff Approval, and for Approval of Certain Accounting Authority, Schedule E-5 (July 31, 2018) (the “Notice of Intent”).

² *Id.* (\$43.46 customer charge * 12 months = \$521.52).

³ *See* Notice of Intent, Schedule E-5.

⁴ *See* Suburban Tariff, Section V, Eightieth Revised Sheet No. 1, *available at* <https://www.puco.ohio.gov/emplibrary/files/docketing/tariffs/Natural%20Gas/Suburban%20Natural%20Gas%20Company/PUCO%203.pdf>.

There is a phased-in increase to Suburban's fixed customer charge effective November 2018 that will increase the charge to \$29.42.⁵ Thus, contrary to Suburban's Notice of Intent, the customer charge will increase by 125% as compared to current rates. And indeed, the situation is worse than that when understood in the full context of Suburban's recent cases before the PUCO. Until just nine months ago, the fixed customer charge was \$9.18.⁶ So in a very short period of time, Suburban is effectively proposing to more than *quadruple* the fixed customer charge.⁷ A fixed charge increase of this magnitude will result in considerable rate shock to customers, especially low-use residential customers.

The Ohio Consumers' Counsel ("OCC"), the statutory representative of Suburban's 16,259 residential customers,⁸ moves to intervene in this case. The Public Utilities Commission of Ohio ("PUCO") should grant OCC's motion to intervene for the reasons set forth in the attached memorandum in support.

⁵ Suburban's fixed customer charge will increase to Suburban's stated \$29.42 on November 10, 2018. *See In re Application of Suburban Natural Gas Co. for Approval of an Alternative Form of Regulation*, Case No. 17-594-GA-ALT, Finding & Order ¶¶ 24, 36 (Nov. 1, 2017). Thus, by the time this new rate case is resolved, it is likely that the \$29.42 fixed customer charge will be in place, but it is simply not accurate for Suburban to refer to the \$29.42 customer charge as its "current rate," as it does in the Notice of Intent.

⁶ *Id.* ¶ 24 (fixed customer charge of \$9.18 applicable through November 10, 2017).

⁷ $43.46 / 9.18 = 4.73$.

⁸ *See* R.C. Chapter 4911.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

In this proceeding, Suburban will file an application to increase the rates that its distribution customers pay. In Suburban's recent alternate regulation plan case, the PUCO Staff recommended that Suburban file a base rate case (like this one) by June 1, 2019.⁹ Suburban *opposed* this deadline and instead proposed a December 31, 2019 deadline, arguing that it was more appropriate to wait two years after the implementation of its straight fixed variable rate design.¹⁰ Yet now, just nine months after Suburban increased its fixed customer charge from \$9.18 to \$19.30, and before Suburban has even implemented the second increase in the customer charge from \$19.30 to \$29.42, Suburban has filed a rate case where it seeks yet another substantial increase in the customer charge to \$43.46.

⁹ *In re Application of Suburban Natural Gas Co. for Approval of an Alternative Form of Regulation*, Case No. 17-594-GA-ALT, Finding & Order ¶ 23 (Nov. 1, 2017).

¹⁰ *Id.* ¶ 26.

The serial nature of Suburban's proposed increases to the fixed customer charge that residential customers pay will adversely impact those customers, especially those whose usage is low and are therefore impacted the most. OCC has authority under law to represent the interests of Suburban's residential utility customers under R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio's residential customers may be adversely affected by this case, especially if the customers were unrepresented in a proceeding where Suburban seeks to dramatically increase the fixed monthly charge that customers pay. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding; and
- (4) Whether the prospective intervenor will significantly contribute to the full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential customers of Suburban in this case where Suburban is seeking to increase the amount that it charges residential customers for base distribution rates. OCC's interest is different than that of any other party and especially different than that of the Utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that how rates are paid for by consumers is important. For instance, the PUCO should consider the price signal sent to consumers when a substantial portion of their natural gas bill is not dependent on the amount of natural gas that they use. OCC's position is therefore directly related to the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility customers, OCC has a very real and substantial interest in this case involving the Utility's base distribution rates, which affect the rates residential customers pay for natural gas service.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B), which OCC already has addressed, and which OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider the “extent to which the person’s interest is represented by existing parties.” While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio’s residential utility customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio (“Court”) confirmed OCC’s right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC’s interventions and that OCC should have been granted intervention in both proceedings.¹¹

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC’s Motion to Intervene.

¹¹ See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 30th day of August 2018.

/s/ Christopher Healey _____
Christopher Healey
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Summary: Motion Motion to Intervene by The Office of the Ohio Consumers' Counsel electronically filed by Ms. Jamie Williams on behalf of Healey, Christopher Mr.