BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

OBJECTIONS TO THE PUCO STAFF'S REPORT OF INVESTIGATION BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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OBJECTIONS TO
THE PUCO STAFF'S REPORT OF INVESTIGATION
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

I. INTRODUCTION

Suburban Natural Gas Company ("Suburban") proposes to charge its customers an additional $3.4 million per year for natural gas distribution service.[1] Residential customers would be particularly burdened by this proposed rate increase, as their monthly customer charge—the fixed charge that they pay before using a single molecule of natural gas—would increase from $29.42 to $41.86, a 42% increase.[2]

The Office of the Ohio Consumers' Counsel ("OCC") is the statutory representative of Suburban's 16,000 residential customers, who pay these charges.[3]

The Public Utilities Commission of Ohio's ("PUCO") Staff filed its Staff Report in this case on February 6, 2019. Many of the Staff Report's recommendations, were the

[1] *See* Case No. 18-1205-GA-AIR, A Report by the Staff of the Public Utilities Commission of Ohio, Schedule A-1 (Feb. 6, 2018) (the "Staff Report").

[2] Staff Report at 28.

[3] *See* R.C. Chapter 4911.

PUCO to adopt them, would benefit customers by lowering rates. In particular, OCC supports the following findings, conclusions, and recommendations in the Staff Report, among others:

- The PUCO Staff properly reduced Suburban's proposed gross revenue conversion factor from 1.331086 to 1.265823.[4]
- The PUCO Staff properly recommended General Plant Adjustments totaling $45,836.[5]
- The PUCO Staff properly adjusted rate case expense to reflect a five-year amortization period.[6]
- The PUCO Staff properly based Adjusted Payroll Expenses on hourly rates and employee levels as of November 2018.[7]
- The PUCO Staff properly adjusted pension and benefit expenses.[8]
- The PUCO Staff properly adopted Suburban's proposed capital structure and cost of long-term debt.[9]
- The PUCO Staff properly recommended that customers be entitled to a free meter test every three years.[10]
- The PUCO Staff properly recommended that certain miscellaneous charges be charged to customers who cause the expenses, rather than from all customers.[11]
- The PUCO Staff properly recommended that all tax savings resulting from the Tax Cuts and Jobs Act of 2017 ("TCJA") from January 1, 2018 until new rates are approved in this rate case be passed back to customers.[12]

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[4] Staff Report, Schedule A-1.

[5] Staff Report at 9-10.

[6] Staff Report at 13.

[7] Staff Report at 14.

[8] Staff Report at 14.

[9] Staff Report at 16.

[10] Staff Report at 22.

[11] Staff Report at 22-24.

[12] Staff Report at 25. *But see* OCC Objections 7-10 for additional consumer protections related to the TCJA.

- The PUCO Staff properly recommended that all excess accumulated deferred income taxes ("EDIT") resulting from the TCJA be refunded to customers.[13]

At the same time, the Staff Report should have made additional recommendations for the benefit of Suburban's customers. OCC asks the PUCO to adopt the following objections to the Staff Report when deciding how much Suburban's customers should pay for gas distribution service.[14]

II. OBJECTIONS[15]

A. Rate of Return

Objection 1: The Staff Report recommended an unreasonably high rate of return (which would increase charges to consumers) because it used the 20-year average of returns on equity granted for natural gas distribution companies in the United States for companies with a rate base under $100 million as a proxy for the current cost of common equity for Suburban.

The use of a 20-year average of returns on equity ("ROEs") for natural gas distribution utilities with under $100 million rate base is unreasonable and harmful to consumers for at least two reasons.

First, the use of a 20-year average is inconsistent with the well-established regulatory principle of setting a rate of return based on the *current* market conditions and business and financial risks presently facing the regulated utility. Approved ROEs from 20 years ago are not indicative of current market conditions and business and financial

[13] Staff Report at 25. *But see* OCC Objections 7-10 for additional consumer protections related to the TCJA.

[14] OCC reserves the right to amend and supplement its objections if the PUCO Staff reverses, modifies, or withdraws its position on any issue contained in the Staff Report.

[15] *See* R.C. 4909.19; Ohio Adm. Code 4901-1-28(B).

risks. The use of the 20-year average ROE as a proxy for current ROE has not been adopted in Ohio or other jurisdictions.

Second, the $100 million rate base threshold is arbitrary, unreasonable, and unnecessary. There is no empirical or theoretical evidence for the so-called "size premium" for small regulated utilities. There has been no demonstration that small gas utilities are riskier than gas utilities in general and consequently justify a size premium. Also, there is no evidence that regulators commonly consider and agree to any size premium for small utilities in setting the returns on common equity. Specifically, the PUCO has not adopted the so-called size premium in setting the rate of return in past cases.

Instead, the Staff Report should have used the average approved ROE for all natural gas distribution utilities (not just those with less than $100 million rate base) for 2018. This more accurately represents current market conditions and eliminates the arbitrary $100 million rate base threshold.

Objection 2: The Staff Report recommended an unreasonably high 10.16% return on equity and an unreasonably high midpoint rate of return of 7.22%, which would result in unjust and unreasonable rates for consumers.

As a result of the Staff Report's inappropriate use of a 20-year average of the ROEs of natural gas utilities with rate base under $100 million, the Staff Report recommended a midpoint return on equity of 10.16%.[16] This midpoint ROE results in a midpoint rate of return of 7.22%.[17] A 10.16% return on equity and resulting 7.22% rate of

[16] Staff Report at 16.

[17] Staff Report at 16.

return are unreasonably high and would result in unjust and unreasonable rates for Suburban consumers.

Objection 3: The Staff Report unreasonably recommended a rate of return range of 6.72% to 7.72% to the detriment of Suburban's customers.

The Staff Report's proposed range of rate of return is unreasonable for at least three reasons.

First, this range of 6.72% to 7.72% is derived from an unreasonably high midpoint rate of return of 7.22%, as discussed above.

Second, this proposed range reflects a range of reasonableness of 100 basis points, even though the Staff Report states that a 50 basis point range is appropriate.[18] A 50 basis point range means that the difference between the low end of the range and high end of the range is 50 basis points. Thus, using the Staff Report's own recommendation for a 50 basis point range and a 7.22% midpoint ROE, the range would be 6.97% to 7.47%.[19] A 50-basis point range is consistent with prior Staff reports.[20] There is no explanation for doubling the range of reasonableness for the rate of return in this case.

Third, if the highest rate of return within the range, 7.72%, were adopted, it would result in an ROE of 11.21%.[21] Such a high ROE is clearly unreasonable and thus should be outside the Staff Report's range. This unreasonably high rate of return would result in unjust and unreasonable rates for Suburban's customers.

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[18] Staff Report at 17 ("Staff believes that a 50 basis point range of reasonableness is appropriate.").

[19] For the reasons described herein and in OCC's testimony, OCC is not advocating for a 6.97% to 7.47% range. This is included merely to reflect that even under the Staff Report's own analysis, its proposed 6.72% to 7.72% ROE range is erroneous.

[20] Case No. 18-298-GA-AIR, Staff Report at 20 (rate of return range of 6.97% to 7.49%); Case No. 12-1685-GA-AIR, Staff Report at 15 (rate of return range of 7.19% to 7.73%); Case No. 15-1830-EL-AIR, Staff Report at 18 (rate of return range of 7.33% to 7.82%).

[21] 52.25% * 4.53% + 47.75% * 11.21% = 7.72%

B. Rates and Tariffs

Objection 4: The Staff Report unreasonably recommended that Small General Service customers (which includes residential customers) pay a higher percentage of distribution costs, even though no cost of service study was performed to support this increased allocation of costs to residential customers.

Small General Service ("SGS") customers currently pay 79.11% of Suburban's distribution costs (excluding gas costs).[22] The Staff Report, however, recommends that residential and small commercial customers in the SGS class pay over 93% of the recommended rate increases.[23] As a result, if the Staff Report's recommendations were adopted, SGS customers' share of Suburban's distribution costs would increase to 82.03% of costs (excluding gas costs).[24] There is no basis for the Staff Report's recommendation that residential and small business customers in the SGS class be charged a higher percentage of Suburban's costs.

Suburban sought a waiver of the requirement to file a cost of service study, which the PUCO granted. Likewise, the Staff Report does not include a cost of service study. Without a cost of service study, any rate increase should be allocated using Suburban's current revenue allocation. The proposed revenue responsibility among service classes should remain the same as it was in Suburban's Schedule E-4, Current Revenue responsibility. Therefore, to maintain that proportionality, the SGS class should be allocated 79.11% of any approved increase or decrease to Suburban's rates.

[22] Staff Report at 26-27.

[23] Staff Report at 27.

[24] Staff Report at 27.

Objection 5: The Staff Report unreasonably included the proposed rate increase in customers' fixed customer charge. Any rate increase should be done on a volumetric basis.

Suburban's customers have experienced considerable rate shock in recent years. In 2017, the customer charge for residential and small business customers (the amount customers pay every month before using any natural gas at all) was around $9.[25] Then, in November 2017, the charge more than doubled to over $19.[26] Then, in November 2018—*after* Suburban filed its application in this case—it increased by another 50% to over $29 per month.[27] In the span of 12 months, the customer charge *more than tripled*.

In this case, Suburban proposed another significant increase in the customer charge from $29 to nearly $42.[28] The Staff Report did not support Suburban's proposal. Instead, the Staff recommended an increase in the SGS customer charge from $29.42 to $33.88.[29]

To the extent the PUCO approves any rate increase in this case (which it should not, as explained elsewhere in these objections and in OCC's testimony), any such increase should be included in a volumetric (*i.e.*, per Ccf) distribution charge, rather than further increasing the already high fixed customer charge.[30]

While higher fixed charges through a straight fixed variable ("SFV") rate design may produce less volatile bills over the course of a year for gas consumers than those

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[25] Case No. 17-594-GA-ALT, Finding & Order (Nov. 1, 2017).

[26] *Id.*

[27] *Id.*

[28] Staff Report at 28.

[29] Staff Report at 28.

[30] For the reasons explained herein and in OCC's testimony, OCC objects to the amount of the Staff Report's proposed rate increase and in fact recommends a rate decrease. If the PUCO orders a rate decrease, then the PUCO should implement that decrease through a reduction to Suburban's fixed charge. *See* Testimony of Robert B. Fortney, filed concurrently herewith.

based on consumption, it is generally preferable that individual customers make their own decisions. If a gas customer wants year-round stable bills, the customer can opt to enroll in budget billing. The SFV rate design is not easier for consumers to understand than a rate per Ccf that charges a set amount for each Ccf used. Customers purchase most items in their daily lives on a per unit basis, and customers understand that concept. Customers do not understand why a customer who uses 100 Ccf of gas pays the same distribution bill as one who uses no gas whatsoever.

Further, residential customers who use less energy will experience the greatest percentage jumps in their gas bill under the SFV rate design. The larger the customer charge, the lower the percentage increase in bills for high use customers. Under the Staff Report's recommendation, a residential customer using 0 Ccf would see a total bill increase of 15.11%, but a customer using 100 Ccf would see a total bill increase of just 0.71%. The SFV rate design unfairly discriminates against low use customers.

Objection 6: The Staff Report unreasonably recommends that customers only be allowed to make payments in the field to avoid disconnection by cash, check, or money order.

The Staff Report recommends that Suburban personnel be allowed to accept payment in the field to prevent disconnection, but it proposes that customers only be allowed to pay by cash, check, or money order.[31] No explanation is given for why customers should not be allowed to pay by other means, including credit card or debit card.

Residential customers should be given as many options as possible to avoid disconnection. Payment by credit card or debit card should be allowed. Customers should

[31] Staff Report at 19.

also be allowed to use a credit card or debit card to make a payment over the phone to avoid disconnection.

Objection 7: The Staff Report should have recommended that Suburban be required to file an application not for increase in rates to provide the benefits of the Tax Cuts and Jobs Act of 2017 to customers, consistent with the PUCO's Order in Tax Investigation Case, Case No. 18-47-AU-COI.

In Case No. 18-47-AU-COI (the "Tax Investigation Case"), the PUCO ordered utilities, including Suburban, to file an application not for an increase in rates, pursuant to R.C. 4909.18, by January 1, 2019, "to allow the Commission the appropriate opportunity to consider the impacts of the Tax Cuts and Jobs Act of 2017 on each specific company."[32] Suburban did not file any such case. Instead, Suburban filed a letter on the docket in the Tax Investigation Case stating that it would "fully address the impact of the TCJA on its rates through Suburban's pending application for an increase in rates, filed in Case No. 18-1205-GA-AIR, et al."[33]

The Staff Report states that "Staff recommends that the Company refund all tax savings from January 1, 2018 until new rates are approved in this rate case."[34] Further, it states: "Staff recommends that the amortization of the respective normalized and non-normalized EDIT balances, the rate design of the credit mechanism, and other issues associated with the flow back of tax savings be addressed in the Company's application for the tax savings credit mechanism."[35]

[32] *In re the Commission's Investigation of the Financial Impact of the Tax Cuts & Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Finding & Order ¶ 1 (Oct. 24, 2018).

[33] Tax Investigation Case, Letter filed by Suburban (Nov. 27, 2018).

[34] Staff Report at 25.

[35] Staff Report at 25.

It is not clear what the Staff Report is referring to by "the Company's application for the tax savings credit mechanism," given that Suburban stated in its letter in the Tax Investigation Case that it does not intend to file any such application.

The Staff Report should have recommended that Suburban be required to comply with the PUCO's Order in the Tax Investigation Case and file an application not for increase in rates to provide the benefits of the TCJA to customers. That application should be filed immediately—it should have been filed more than two months ago.

There seems to be no dispute among OCC, the PUCO Staff, and Suburban that Suburban is required to pass the savings from the TCJA on to its customers. But the procedural waters are muddy; it is not clear *how* and through what proceeding that will happen. The Staff Report should clarify that Suburban is required to pass the tax savings to customers through a tax credit rider, which shall be created in the to-be-filed application not for increase in rates. Suburban's customers should not have to wait any longer to benefit from the tax savings that Suburban has been enjoying for over 14 months.

Objection 8: The Staff Report should have recommended that all tax savings from January 1, 2018 until new rates are approved in this case should be returned to customers over a period of one year.

The Staff Report states that "Staff recommends that the Company refund all tax savings from January 1, 2018 until new rates are approved in this rate case."[36] But the Staff Report does not recommend an amortization period. The Staff Report should have recommended that these tax savings be returned to customers over a period of one year.

[36] Staff Report at 25.

Objection 9: The Staff Report should have recommended that unprotected EDIT be returned to customers over a period of ten years.

The Staff Report states that "amortization of the respective normalized and non-normalized EDIT balances, the rate design of the credit mechanism, and other issues associated with the flow back of tax savings be addressed in the Company's application for the tax savings credit mechanism."[37] As discussed above, these issues should be addressed now. And in addressing these issues now, the Staff Report should have recommended that unprotected EDIT be returned to customers over a period of ten years.

Objection 10: The Staff Report should have recommended that EDIT be returned to customers using an allocation based on the percentage of base distribution revenues, and the credit should be reflected as a percentage of the customer's base distribution charges.

The Staff Report states that "amortization of the respective normalized and non-normalized EDIT balances, the rate design of the credit mechanism, and other issues associated with the flow back of tax savings be addressed in the Company's application for the tax savings credit mechanism."[38] As discussed above, these issues should be addressed now. And in addressing these issues now, the Staff Report should have recommended that EDIT be returned to customers using an allocation based on the percentage of base distribution revenues. Further, the credit should be reflected as a percentage of the customer's base distribution charges.

[37] Staff Report at 25.

[38] Staff Report at 25.

C. Rate Base

Objection 11: The Staff erroneously included a pipeline in plant-in-service, even though Suburban does not own the pipeline.

Suburban currently leases (the "DEL-MAR Lease") a pipeline from DEL-MAR Pipeline Co. LLC ("DEL-MAR"). Under the terms of the DEL-MAR Lease agreement, Suburban pays DEL-MAR rent to use the pipeline. Suburban has an option to purchase the pipeline for $4,157,858 in December 2020 (*i.e.*, nearly two years after the February 28, 2019 date certain in this case).[39]

At this time, Suburban does not own the pipeline. And more importantly for regulatory purposes, Suburban does not own the DEL-MAR pipeline as of the date certain in this case (February 28, 2019). DEL-MAR owns the pipeline. Despite this fact, Suburban included $4,629,797 for distribution plant in account 376 (Mains), related to the DEL-MAR pipeline.[40] The Staff Report should have excluded this $4,629,797 amount from plant[41] because Suburban does not own the property associated with this amount.[42]

Objection 12: The Staff Report's failure to exclude the DEL-MAR pipeline from distribution plant would result in customers paying twice for the DEL-MAR pipeline, which is unjust and unreasonable.

Customers already pay for the DEL-MAR Lease through Suburban's Gas Cost Recovery ("GCR") mechanism.[43] If the DEL-MAR pipeline is included in plant[44] and

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[39] *See* Case No. 05-380-GA-AIS, Applicant's Report Pursuant to Finding & Order (Dec. 1, 2015), Lease Agreement at 13.

[40] Suburban Workpaper WPB-2.3; Staff Data Request 74 Attachment G.

[41] Staff Report at 9-10, Schedule B-2.1 (failing to exclude DEL-MAR pipeline from plant).

[42] R.C. 4909.05(C)(5) provides that the PUCO may, in its discretion, allow a utility to include property subject to a "lease purchase agreement" in rate base. The PUCO should not exercise that discretion here because the DEL-MAR Lease is not a capital lease. Customers already pay the rent for the DEL-MAR pipeline through Suburban's Gas Cost Recovery, so it is an operating lease being recovered as an operations and maintenance charge.

[43] *See* Case No. 18-216-GA-GCR, Opinion & Order ¶ 14 (Jan. 16, 2019).

[44] Staff Report at 9-10, Schedule B-2.1 (failing to exclude DEL-MAR pipeline from plant)

subsequently embedded in base rates, then customers will be double-paying for the DEL-MAR pipeline: once for a return of and on the pipeline (which Suburban does not own) in base rates, and once for the lease cost for that very same pipeline in the GCR. This is unlawful and would result in unjust and unreasonable rates under R.C. 4905.22. If the DEL-MAR pipeline is included in base rates, then all charges to customers for renting the DEL-MAR pipeline through the GCR must cease immediately.

Objection 13: The Staff Report unreasonably failed to exclude the DEL-MAR pipeline extension from plant-in-service.

In addition to the original DEL-MAR pipeline, Suburban has begun construction of a 4.9 mile pipeline extension (the "Pipeline Extension").[45] Suburban included $8,901,400 in plant-in service for the Pipeline Extension.[46]

According to Mr. Sonderman's testimony, the Pipeline Extension is necessary to serve the "robust" growth being experienced in Delaware County. 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.[47] But Suburban has not experienced recent growth anywhere near 4,000 new homes.

From August 2017 to August 2018, residential growth was an increase of just 332 customers.[48] At this rate, it would take 12 more years for Suburban to reach its projected 4,000 new residential customers served by the Pipeline Extension. And of course, there is no guarantee that Suburban will continue to experience even its current, moderate

[45] *See* Direct Testimony of Andrew J. Sonderman at 3.

[46] *See* Suburban Response to PUCO Staff Data Request 74, Attachment A.

[47] Case No. 18-54-GA-BLN, Staff Report of Investigation at 1-2.

[48] *See* Suburban Response to PUCO Staff Data Request 1.

growth. For example, the building of new housing developments in that area could slow down. Alternatively, new housing developments could be serviced by other natural gas distribution utilities, including Columbia Gas of Ohio.

The Pipeline Extension is not eligible for rate base inclusion in this case because it is not used and useful in the provision of utility service to current Suburban customers as required by R.C. 4909.05 and 4909.15. The Pipeline Extension may someday be used and useful for *future* Suburban customers, but it is not used and useful to *current* Suburban customers, which Suburban is seeking to charge for it.

D. Operating Income

Objection 14: The Staff Report Depreciation Expense is overstated as a result of the improper inclusion of the DEL-MAR pipeline and Pipeline Extension in plant-in-service.

The Staff Report includes depreciation expense associated with purchase of the DEL-MAR pipeline and the Pipeline Extension.[49] As explained above, these should be excluded from plant-in-service. Thus, the associated depreciation expense ($307,527) should also be excluded.

Objection 15: The Staff Report Property Tax Expense is overstated as a result of the improper inclusion of the DEL-MAR pipeline and Pipeline Extension in plant-in-service.

The Staff Report includes property tax expense associated with purchase of the DEL-MAR pipeline and the Pipeline Extension.[50] As explained above, these should be excluded from plant-in-service. Thus, the associated property tax expense ($129,330) should also be excluded.

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[49] Staff Report at 15, Schedule B-3.2.

[50] Staff Report, Schedule C-3.8.

Objection 16: The Staff Report unreasonably failed to adequately reduce the expenses associated with the Miscellaneous General Expense.

Miscellaneous General Expense includes 15 sub-accounts for things like executive car expense, travel expense, business meals, hotel expense, director fees, uniforms, communication expenses, and other similar items. The Staff Report recommends various reductions for Miscellaneous General Expenses, but it should have recommended additional reductions.[51]

First, the PUCO Staff reviewed two months of invoices and made adjustments to only what was found in those two-month periods, rather than carrying their adjustments out for the entire test year.

Second, the executive car account includes a $900-per-month lease for a Lincoln Navigator and an $800-per-month lease for a Genesis G80. This is unreasonable because (i) Suburban's customers should not pay for its executives to drive luxury cars (the starting price for a Lincoln Navigator is over $70,000, and the starting price for a Genesis G80 is over $42,000), and (ii) the executive car expense should be the responsibility of the employee because the employee has use of the car for personal (*i.e.*, non-business) use.

Third, 90% of the business meals sub-account should be excluded for the test year because it includes things like a Christmas party, golf, beverages, country club dues, and normal everyday lunches for the chairman, his family, and the company president. There has been no demonstration by Suburban that these expenses are business-related. It is unreasonable to expect non-business lunches and golf events to be funded by customers.

[51] Staff Report, Schedule C-3.11.

The Staff Report excluded 90% of the business meals sub-account for the two months it reviewed but did not make any adjustment for the remaining ten months of the test year.[52] The PUCO should disallow 90% of the remaining ten months in the business meals sub-account.

Fourth, the director fee sub-account includes $8,000 per month for attending board meetings. This is excessive and unreasonable. It is typical for board members to hold quarterly meetings, not monthly. The Staff Report should have allowed at most $8,000 per quarter, not per month.

Objection 17: The Staff Report should have made further adjustments to Schedules C-3.13, C-3.14, and B-5 as a result of the adjustments to Miscellaneous General Expenses.

As a result of the necessary adjustments described above regarding the Miscellaneous General Expenses account, flow-through adjustments would be necessary for Federal Income Tax (Schedule C-3.13), Tax Synchronization (Schedule C-3.14), and Allowance for Working Capital (Schedule B-5). The Staff should have made the necessary flow-through adjustments.

E. Revenue Requirement

Objection 18: The Staff Report unreasonably recommended a revenue increase of $764,476 to $1,087,908.[53] Instead, the PUCO should approve an $826,810 revenue reduction.

Based on OCC's objections, Suburban's revenue requirement should decrease by $826,810. If the PUCO adopts this revenue requirement and OCC's other recommendations, the fixed customer charge for residential customers should be reduced to $22.84.

[52] Staff Report, Schedule C-3.11.

[53] Staff Report, Schedule A-1.

III. CONCLUSION

To protect consumers from paying unjust and unreasonable rates, OCC respectfully requests that the PUCO adopt OCC's recommendations as set forth in these objections and in OCC's 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 8th day of March 2019.

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