

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Proper Procedures	)	
and Process for the Commission’s	)	Case No. 20-664-GA-UNC
Operations and Proceedings During the	)	
Declared State of Emergency and	)	
Related Matters.	)	
	)	Case Nos. 18-1205-GA-AIR, et al.
And	)	
	)	
Request to Approve to Suspend and/or	)	
Modify Suburban Natural Gas	)	
Company’s Tariff for Natural Gas	)	
Service, Effective September 30, 2019.	)	

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

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On March 9, 2020, Governor DeWine declared a state of emergency to protect the health and safety of Ohioans from the dangerous effects of the coronavirus pandemic. These are extraordinary times, with severe health risks to Ohio families, closing businesses, lost jobs and wages, and more in Suburban Natural Gas Company’s (“Suburban”) service area and throughout our great State. At this time of Governor DeWine’s strong leadership rallying Ohioans to fight back against the virus, the PUCO’s initiative in declaring an emergency to shield Ohioans from utility disconnections, door-to-door energy sales and more, is vitally important.

As part of the PUCO’s continued efforts, on March 12, 2020, it opened a docket and ordered the utilities to “ensure that utility service to customers is maintained during

the state of emergency.”<sup>1</sup> The PUCO directed all utility companies to review their service disconnection and reconnection policies, practices, and tariffs and promptly seek approval to suspend requirements that may “impose a service continuity hardship on residential and non-residential customers” or “create unnecessary COVID-19 risks associated with social contact.”<sup>2</sup>

Suburban filed a request on March 30, 2020, seeking approval of its plan and associated relief, throughout the state of emergency.

The Office of the Ohio Consumers’ Counsel (“OCC”) moves to intervene to protect the interests of 16,700 residential customers who will be impacted by Suburban’s plan.<sup>3</sup> The PUCO should grant OCC’s motion to intervene for the reasons set forth in the attached memorandum in support.

Respectfully submitted,

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Ohio Consumers’ Counsel

/s/ Angela D. O’Brien

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<sup>1</sup> *In re the Proper Procedures and Process for the Commission’s Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry (March 12, 2020); *see also* Entry (March 13, 2020).

<sup>2</sup> March 12 Entry at ¶7(b); March 13 Entry at ¶6(b).

<sup>3</sup> *See* R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

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**MEMORANDUM IN SUPPORT**

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In the coming months and potentially years, many Ohioans will struggle to pay their utility bills. Those Ohioans with financial challenges will include customers who have historically paid their bills in full and on time but who may be unable to continue doing so following the economic fallout of the coronavirus pandemic. Ohio businesses and families will face financial burdens that were unforeseeable just a few months ago.

Suburban's plan seeks to limit its field activities to reduce social contact, suspend and modify disconnection and reconnection activities (including the waiver of re-connection and late-payment fees), and modify communications with customers.<sup>4</sup> While making these changes may be necessary to reduce the risks of spreading COVID-19, Suburban's proposals will require waivers of Suburban's responsibilities under the PUCO's rules, tariffs, and other policies,<sup>5</sup> and could create additional costs to consumers.

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<sup>4</sup> See, e.g., Suburban Application.

<sup>5</sup> *Id.*

The Office of the Ohio Consumers' Counsel ("OCC") has statutory authority 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 Public Utilities Commission ("PUCO") proceeding is entitled to seek intervention in that proceeding. The interests of Suburban's residential customers may be "adversely affected" by this case, especially if the customers are unrepresented in a proceeding that will examine Suburban's measures to address the coronavirus and Suburban's plans to charge residential customers for a share of the costs of its plan. 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 proceedings;
- (4) Whether the prospective intervenor will significantly contribute to 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 where the Utility has a proposal seeking waivers from tariff obligations and the PUCO's rules, including the waiver of re-connection and late-payment fees. A crucial part of the PUCO's review in this proceeding will be to determine how the costs of these emergency measures should be funded and who should pay for each element of the emergency plan. This interest is different from that of any

other party, and especially different from that of Suburban whose advocacy includes the financial interest of its shareholders. Additionally, the PUCO specifically requested input from “interested persons” to provide the PUCO with suggestions that it should consider to avoid the imposition of a service continuity hardship on customers or the creation of unnecessary risks associated with social contact.<sup>6</sup> As a representative of the residential customers of Suburban that are affected by the COVID-19 virus and state of emergency, the OCC is an “interested person.”

Second, OCC’s advocacy for residential customers will include advancing the position that customers should remain connected during this emergency and that they should not later be billed unjust and unreasonable charges as a result of Suburban’s emergency plan. 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 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

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<sup>6</sup> March 12 Entry at ¶10.

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 where the PUCO will determine how to best protect Suburban’s customers during this emergency and how much customers will later pay for Suburban’s emergency plan.

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) that OCC already has addressed and that 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.

Further, 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.<sup>7</sup>

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

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<sup>7</sup> See *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Angela D. O'Brien

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(willing to accept service by e-mail)

### **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 13th day of April 2020.

/s/ Angela D. O'Brien

Angela D. O'Brien

Assistant Consumers' Counsel

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: Motion Motion to Intervene by The Office of The Ohio Consumers' Counsel  
electronically filed by Mrs. Tracy J Greene on behalf of O'Brien, Angela D