

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Suburban	)	
Natural Gas Company to Suspend or Modify	)	
Certain Procedures and Processes During the	)	Case No. 20-664-GA-UNC
COVID-19 State of Emergency and Related	)	
Matters.	)	

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**COMMENTS REGARDING THE CONSUMER TRANSITION PLAN  
OF SUBURBAN NATURAL GAS COMPANY  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**I. INTRODUCTION**

The PUCO's review of Suburban's plans during the coronavirus emergency should ensure affordable access and other protections for Suburban's consumers regarding their essential gas utility services. And protections are needed to address the challenges faced by at-risk populations, including but not limited to the challenges of poverty, food insecurity and social disparities. These protections should be maintained throughout the health emergency and the ensuing economic emergency – and for a reasonable time afterwards.<sup>1</sup> Specifically, the PUCO should require Suburban to suspend service disconnections and waive late fees and reconnection deposits until a reasonable time after the emergency has ended. The PUCO should also order Suburban to not remove customers from Percentage of Income Payment Plan ("PIPP") programs for failure to stay current on their payments or to verify eligibility.

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<sup>1</sup> See OCC's Comments for Additional Consumer Protections Regarding the Temporary Plan of Suburban Natural Gas Company to Address the Coronavirus Emergency (May 21, 2020) ("OCC Emergency Plan Comments").

The coronavirus pandemic has taken a hard toll on Ohioans' health and financial well-being. There have been more than 50,300 cases of coronavirus in Ohio, over 2,800 deaths,<sup>2</sup> and over 1.36 million Ohioans have lost jobs and filed for unemployment during the last 13 weeks.<sup>3</sup> Alarming, last week state government announced that coronavirus cases are again increasing among Ohioans. Sadly, the health and financial emergencies are far from over for Ohioans.

In accordance with the PUCO's directives in Case No. 20-591-AU-UNC, Suburban filed its application ("Emergency Plan") on March 30, 2020 seeking suspension of certain PUCO rules during the state of emergency for consumer protection. The PUCO approved Suburban's Emergency Plan in part on June 3, 2020.<sup>4</sup> The PUCO's Emergency Plan Order further directed Suburban to develop a transition plan for addressing consumer protection during a return to pre-emergency activities:

Accordingly, the Commission directs Suburban to work with Staff to develop a single, comprehensive plan for the resumption of activities and operations previously prohibited by the *Emergency Case* in furtherance of a safe return to pre-COVID-19 operations. Suburban's plan should include specifics as to the activities considered for resumption and include timelines and provisions for safety adaptations for both residential and non-residential customers impacted by the activities proposed for resumption. The plan should also address extended payment plans for both residential and non-residential customers impacted by the emergency.<sup>5</sup>

The PUCO instructed interested parties to file comments within ten days of Suburban's filing of its Transition Plan. This filing is OCC's response for consumer protection from Suburban's Transition Plan that it filed on June 19, 2020.

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<sup>2</sup> <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home>.

<sup>3</sup> <https://www.crainscleveland.com/government/ohio-unemployment-claims-down-nearly-300000-april-peak>.

<sup>4</sup> Finding and Order (June 3, 2020) ("Suburban Emergency Plan Order").

<sup>5</sup> Suburban Emergency Plan Order, ¶45.

Certain aspects of Suburban's Transition Plan, such as the use of personal protection equipment to protect the health and well-being of its customers during field activities,<sup>6</sup> are reasonable and provide some protection to Suburban's customers during the current state of emergency. However, other aspects of Suburban's plan, such as the resumption of disconnections for non-payment beginning the first week of September 2020,<sup>7</sup> while more protective of consumers than other utility proposals, may still be premature and would harm customers who continue to suffer financially as a result of the pandemic. The PUCO should issue an order on Suburban's Transition Plan consistent with OCC's recommendations set forth below.

## **II. RECOMMENDATIONS**

### **A. For consumer protection, Suburban's disconnections of gas service should be suspended and relaxed until a reasonable period after the coronavirus emergency has ended.**

The Ohio Department of Health has eased social distancing restrictions, but the coronavirus state of emergency is far from over. Businesses are slowly beginning to reopen; some may never reopen because of the pandemic. It will take time (years?) for many consumers to recover financially.

OCC appreciates that Suburban proposes to begin terminating customers' service for nonpayment beginning the first week of September,<sup>8</sup> as this is more protective of customers than other utilities have proposed. However, even the first week of September seems premature given the number of new coronavirus cases is increasing in Ohio with experts calling this a continuation of phase 1 of the emergency, as opposed to the second phase of the virus.<sup>9</sup>

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<sup>6</sup> Transition Plan, at 1-2.

<sup>7</sup> Transition Plan, at 1.

<sup>8</sup> Transition Plan, at 1.

<sup>9</sup> <https://www.cleveland.com/datacentral/2020/06/ohios-disturbing-new-trend-of-increasing-coronavirus-cases.html>.

Suburban plans to resume issuing disconnection notices to customers beginning on August 18, 2020.<sup>10</sup> There are limited (if any) bill payment assistance resources available to help customers pay their past-due gas bills. This will cause problems for those unfortunate Suburban customers who must now prioritize how limited available dollars will be used to feed their families, purchase medications, secure shelter, or pay their Suburban bills to maintain access to hot water. Suburban's proposal is unreasonable and should be rejected.

The PUCO has not established a set time for utilities' emergency measures to remain in place, other than to state that measures should be taken for the "duration of the emergency."<sup>11</sup> The PUCO did say in the Suburban Emergency Plan Order that the issue of extending the duration of the suspension of disconnections needed to be considered, and directed Suburban to file a proposal as part of its Transition Plan for how long measures should stay in place.<sup>12</sup>

Suburban (and other utilities) should be required to file their Transition Plans with relevant data about their consumers. The PUCO should be considering the Transition Plans with that data. The data should include, at a minimum, the number of customers who are currently delinquent on their payments, the amount of the delinquency, the number of customers who are eligible to receive disconnection notices, the number of customers who are currently on payment plans or that are not eligible for payment plans, the number of PIPP customers, the number of PIPP customers who are behind in payments, the number of customers who are not eligible for medical certifications, arrearages that are more than 60 days, the value of those arrearages, and the impact of the suspension on uncollectible debt and PIPP riders. Certainly, this information is tracked and available and should be included in the Transition Plan so that the PUCO can assess

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<sup>10</sup> Transition Plan, at 1.

<sup>11</sup> See Case No. 20-591-AU-UNC, March 12, 2020 Entry, at ¶7.

<sup>12</sup> Suburban Emergency Plan Order, at ¶29.

the projected financial and social impact that the Transition Plan will have on consumers.

Furthermore, this data enables the PUCO to assess any financial impact that Suburban may incur for continuing the current suspension until after the emergency.

Suburban has proposed inclusion of an additional payment plan until the Winter reconnect season begins where customers can pay \$175 of their delinquent account balance upfront and the balance would be spread over a 12- month payment plan.<sup>13</sup> But a \$175 upfront payment is overly burdensome for many residential customers who are experiencing significant loss of income during the pandemic. And there are limited (if any) bill payment assistance resources that are available now to help customers pay the \$175. Suburban should be required to work with its customers to offer more customized payment plans including 12-months (or more) payment plans without \$175 upfront payments.

The PUCO should suspend service disconnections for the duration of the emergency and for a reasonable time after the state of emergency officially ends. This will provide Suburban's customers an opportunity to recover from the physical and financial damage that the coronavirus emergency has caused and continues to cause.

**B. Consistent with the PUCO's directive in the Suburban Emergency Plan Order, Suburban's strict compliance with PIPP eligibility requirements should be suspended until a reasonable time after the formal state of emergency ends.**

Suburban states in its Transition Plan that it has "continued to remove PIPP customers from the PIPP program for failure to re-verify or to be current on the anniversary dates."<sup>14</sup> Requiring customers to comply with the strict PIPP eligibility requirements in the PUCO's

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<sup>13</sup> Transition Plan, at 1.

<sup>14</sup> Transition Plan, at 2.

rules<sup>15</sup> during the pandemic is unreasonable. The PUCO confirmed this in the Suburban Emergency Plan Order, stating:

The Commission finds that, during the emergency, or until otherwise specified by the Commission, PIPP participants and graduate PIPP participants, shall not be removed or dropped from the programs or prohibited from enrolling in the programs for not being current, for failure to comply with program requirements as of the customers anniversary date, or for failure to timely reverify eligibility.<sup>16</sup>

Consistent with the PUCO's directive, Suburban should immediately stop its current practice of dropping customers from the PIPP program for not being current on their payments or for failure to verify eligibility. The coronavirus state of emergency is still in effect, and the PUCO should continue to suspend PIPP program eligibility requirements until a reasonable time after the formal state of emergency ends. There is neither a cure nor an effective vaccine. Customers will continue to be struggling with unemployment and lost wages, and they may have difficulty meeting the payment obligations that allow them to keep from being disconnected.

**C. Suburban should suspend the collection from customers of late fees, reconnection fees, and deposits until a reasonable time after the state of emergency has ended.**

Suburban's Transition Plan states that it will resume charging reconnection fees and deposits beginning January 1, 2021.<sup>17</sup> While OCC supports continuing a waiver of these charges, the PUCO should require all gas utilities to waive these charges and other late fees on an indefinite basis. This is particularly important given the high potential for coronavirus cases to increase during the 2020-2021 Winter heating season.

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<sup>15</sup> See Ohio Adm. Code 4901:1-18-12(C) and (D), 4901:1-18-16(D), 4901:1-18-17(A) and (B).

<sup>16</sup> Suburban Emergency Plan Order, ¶32.

<sup>17</sup> Transition Plan, at 1.

As part of its emergency plan, Suburban waived late fees and other payments to make sure customers maintained their essential gas utility service.<sup>18</sup> In the Suburban Emergency Plan Order, the PUCO directed Suburban to extend that policy “to customers facing disconnection or requesting reconnection during this emergency.”<sup>19</sup> The PUCO further directed Suburban to advise customers that delinquent charges, deposits and fees may be deferred to a later bill.<sup>20</sup> The PUCO found that this would allow customers to have “immediate bill relief” and provide Suburban the ability to enter payment plans with customers to recover delinquent charges and fees at a later date.<sup>21</sup> The later date should not be in the middle of the next winter heating season (January 2021) as proposed by Suburban given that customers will already be receiving higher natural gas bills.

The PUCO should require Suburban to continue waiving late fees and reconnection deposits throughout the duration of the emergency and for a reasonable time afterwards. Payment of deposits should not be a pre-condition to service reconnection or to maintaining existing service in these difficult times. In addition, the PUCO should through its order prohibit Suburban from reporting customers who defer late fees and delinquent charges to credit reporting agencies. This practice can result in customers being financially harmed long after the pandemic ends.

**D. Suburban’s premature and unreasonable proposals in the Transition Plan demonstrate the need for a uniform set of consumer protection guidelines like those proposed by the National Consumer Law Center (“NCLC”).**

In OCC’s Comments on Suburban’s Emergency Plan, OCC recommended that the PUCO adopt the consumer protection guidelines developed by the National Consumer Law Center

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<sup>18</sup> See Suburban Emergency Plan Order, ¶31.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

(“NCLC”), titled “Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services.”<sup>22</sup> The NCLC guidelines are attached as Exhibit A. But the PUCO declined OCC’s recommendation, stating that these consumer protection issues are already “adequately addressed” through Suburban’s Emergency Plan.<sup>23</sup>

Suburban’s premature and unreasonable proposals in its Transition Plan (as well as its ongoing practice of removing customers from the PIPP program) highlight the need for a uniform set of consumer protection guidelines applicable to all Ohio gas utilities. The guidelines of NCLC are appropriate.

### **III. CONCLUSION**

As underscored by recent data, the coronavirus continues to be a danger to the health and financial well-being of Ohio consumers, *and recently it’s an increasing danger*. It will continue to threaten Ohioans’ health and finances for a long time. The PUCO should not permit utilities to return prematurely to pre-coronavirus operations. For the health and economic security of Suburban’s customers, the PUCO should issue an order regarding Suburban’s proposed Transition Plan consistent with OCC’s recommendations.

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<sup>22</sup> See OCC Emergency Plan Comments, at 15.

<sup>23</sup> Suburban Emergency Plan Order, at ¶42.



Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of these Comments have been served via electronic transmission upon the following parties of record this 29<sup>th</sup> day of June 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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National  
Consumer Law  
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# Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services

March 2020

## KEEP RESIDENTIAL UTILITY SERVICE ON DURING THE CRISIS

Access to affordable electric, gas, water, sewer, and telecommunications (including internet) services is essential at all times, but especially during a worldwide pandemic and shelter-at-home orders. Throughout the COVID-19 emergency, states should take the following steps to ensure that consumers stay connected to essential utility networks and reduce the need for public interaction:

- Issue an emergency declaration through gubernatorial action banning all regulated and unregulated utility service shut offs, including electric, gas, water/sewer, and telecommunications services, due to inability to pay, during the crisis;
- Order all regulated and unregulated utilities to reconnect customers who were previously disconnected due to inability to pay;
- Ban all in-person marketing and sales of alternative energy supply and distributed energy products during the length of the emergency declaration;
- Encourage low-income households to apply for the federal Lifeline phone and broadband program for free or discounted voice and data service;
- Adjust state Low Income Home Energy Assistance Program (LIHEAP) application deadlines, enrollment access and eligibility certification processes; and

## ENSURING THAT UTILITY SERVICE IS AFFORDABLE FOR ALL

After emergency orders have been lifted, states should ensure that utility arrearages incurred during the crisis do not trigger disconnections. States should require all utility service providers, both regulated and unregulated, to adopt more flexible credit and collections practices than currently required by state regulations and unregulated utility policies. Such protections should:

- Eliminate any customer deposit requirements;
- Eliminate down payment requirements on deferred payment arrangements (DPAs);
- Allow flexible, reasonable DPAs that are based on the customer's ability to pay;
- Eliminate any requirement that disconnected customers pay the full arrearage in order to reconnect, thereby permitting reconnection upon issuance of an affordable DPA;
- Eliminate minimum balance requirements for prepaid utility service customers;
- Require utilities to write off debt for consumers who certify that they are eligible for LIHEAP, but are unable to receive LIHEAP due to insufficient LIHEAP funds; and
- Prohibit utilities from imposing late fees and engaging in negative credit reporting

**Questions? Contact National Consumer Law Center advocates Jen Bosco ([jbosco@nclc.org](mailto:jbosco@nclc.org)), Charlie Harak ([charak@nclc.org](mailto:charak@nclc.org)), John Howat ([jhowat@nclc.org](mailto:jhowat@nclc.org)), Karen Lusson ([klusson@nclc.org](mailto:klusson@nclc.org)) or Olivia Wein ([owein@nclc.org](mailto:owein@nclc.org)).**

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