

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE MOTION OF
COLUMBIA GAS OF OHIO, INC. TO
SUSPEND CERTAIN PROCEDURES AND
PROCESS DURING THE COVID-19 STATE
OF EMERGENCY AND RELATED MATTERS.

CASE NO. 20-637-GA-UNC

ENTRY ON REHEARING

Entered in the Journal on July 15, 2020

I. SUMMARY

{¶ 1} The Commission denies the application for rehearing filed by Ohio Consumers' Counsel of the Commission's May 20, 2020 Finding and Order, granting, in part, the motion of Columbia Gas of Ohio, Inc. for waiver of certain provisions of the Ohio Administrative Code and corresponding provisions of its tariff during the COVID-19 state of emergency.

II. DISCUSSION

A. *Procedural History*

{¶ 2} Columbia Gas of Ohio, Inc. (Columbia or Company) is a natural gas company and a public utility, as defined in R.C. 4905.03 and 4905.02, respectively. Therefore, Columbia is subject to the jurisdiction of this Commission.

{¶ 3} R.C. 4909.16 provides, in part, that, in the event of an emergency, when the Commission finds it necessary to prevent injury to the business or interests of the public or of any public utility, it may temporarily alter, amend, or suspend any existing rates or schedules.

{¶ 4} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19.

Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at coronavirus.ohio.gov/.

{¶ 5} Pursuant to R.C. 3701.13, the Ohio Department of Health has supervision of “all matters relating to the preservation of the life and health of the people” and the “ultimate authority in matters of quarantine and isolation.” On March 12, 2020, the Director of the Ohio Department of Health issued an Order indicating that “all persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible.” On March 22, 2020, and as amended on April 2, 2020, the Director of the Ohio Department of Health issued an Order directing that from March 23, 2020, until May 1, 2020, with certain outlined exceptions, “all individuals currently living within the State of Ohio are ordered to stay at home or at their place of residence except as allowed in [the] Order. * * * All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Functions, or to participate in Essential Businesses and Operations,” as defined in the Order.

{¶ 6} On March 12, 2020, the Commission initiated Case No. 20-591-AU-UNC and directed all utility companies in this state to review their disconnection procedures in light of the state of emergency. *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 (*Emergency Case*), Entry (Mar. 12, 2020) at ¶ 7. On March 13, 2020, the Commission extended its winter reconnection order through May 1, 2020, and directed all utility companies in this state to review their reconnection procedures. *Emergency Case*, Entry (Mar. 13, 2020) at ¶ 6. In the March 12, 2020, and March 13, 2020 Entries, the Commission also directed all utility companies to promptly seek any necessary approval, for the duration of the emergency, to suspend otherwise applicable disconnection or reconnection requirements that may impose a service continuity or service restoration

hardship on residential and non-residential customers or create unnecessary COVID-19 risks associated with social contact. The Commission determined that such filings shall be deemed approved on an emergency basis for a period of at least 30 days effective as of the filing date or until such date as the Commission may otherwise specify, which shall not be less than 30 days.

{¶ 7} On March 18, 2020, in the above-captioned case, Columbia filed a motion to suspend certain provisions of the Ohio Administrative Code and the corresponding provisions of its tariff, to avoid otherwise applicable disconnection or reconnection requirements that may impose a service continuity hardship on customers and to avoid unnecessary social contact between Columbia personnel, Columbia customers, contractors, and the general public.

{¶ 8} On March 20, 2020, in the *Emergency Case*, the Commission directed all utility companies to suspend in-person, actual meter readings in circumstances where a meter is located inside a customer's home or similar location, as well as all other non-essential functions that may create unnecessary COVID-19 risks associated with social contact. *Emergency Case*, Entry (Mar. 20, 2020) at ¶¶ 10-11.

{¶ 9} On April 8, 2020, in the *Emergency Case*, the Commission, among other things, extended the 30-day automatic approval period for filings to suspend otherwise applicable disconnection requirements for an additional 30 days, unless otherwise ordered by the Commission. *Emergency Case*, Finding and Order (Apr. 8, 2020) at ¶ 9.

{¶ 10} Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAE) were granted intervention in this matter.

{¶ 11} On April 29, 2020, Staff filed its review and recommendations of Columbia's motion to suspend provisions of the Ohio Administrative Code and corresponding provisions of its tariff.

{¶ 12} By Entry issued May 1, 2020, to assist the Commission with its review of Columbia's motion, a procedural schedule was established such that motions to intervene and comments were due by no later than May 8, 2020.

{¶ 13} Comments were timely filed by Columbia, OCC, and OP&E.

{¶ 14} On May 11, 2020, Columbia filed a motion for extension of the suspension requested in its motion filed on March 18, 2020.

{¶ 15} By Entry issued May 14, 2020, Columbia's motion for an extension of its rule and tariff suspension was granted for an additional 30 days or until the Commission specifically orders otherwise.

{¶ 16} By Finding and Order issued May 20, 2020, the Commission granted, in part, with certain modifications, Columbia's motion for waiver of various provisions of the Ohio Administrative Code, and the corresponding provisions of its tariff, to avoid otherwise applicable disconnection or reconnection requirements that may impose a service continuity hardship on customers and to avoid unnecessary social contact between Columbia personnel, Columbia customers, contractors, and the general public.

{¶ 17} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for a rehearing with respect to any matters determined therein by filing an application within 30 days after the entry of the order upon the Commission's journal.

{¶ 18} On June 19, 2020, OCC filed an application for rehearing of the May 20, 2020 Finding and Order, asserting five assignments of error.

{¶ 19} Memoranda contra OCC's application for rehearing were filed by Columbia and OP&E on June 26, 2020, and June 29, 2020, respectively.

{¶ 20} In general, Columbia argues that the Commission should deny OCC's application for rehearing, in its entirety, as OCC fails to raise any new arguments for the Commission's consideration. Further, Columbia notes that, since the Commission issued the May 20, 2020 Finding and Order, Columbia filed its transition plan to resume pre-COVID-19 activities and operations, which the Commission approved by Supplemental Finding and Order issued on June 17, 2020. Accordingly, Columbia reasons that OCC's application for rehearing should be denied as moot.

{¶ 21} The Commission has reviewed and considered all of the arguments raised in OCC's application for rehearing. Any argument raised on rehearing that is not specifically discussed herein has been thoroughly and adequately considered by the Commission and should be denied.

B. Consideration of the Application for Rehearing

{¶ 22} In its first assignment of error, OCC argues that the May 20, 2020 Order unreasonably failed to direct Columbia to repurpose \$14 million collected annually to fund low-income weatherization programs to provide bill payment assistance to customers. OCC notes that, while the Commission acknowledged a likely increased need for bill payment assistance for Columbia's customers, the Commission rejected OCC's proposal to repurpose non-essential weatherization funds to provide immediate payment assistance. OCC notes that the Commission deferred the issue to another proceeding, Case No. 19-1940-GA-RDR, with an unknown timeline for resolution. OCC asserts that the program funds collected by Columbia provide weatherization for approximately 2,000 homes, whereas the monies could provide bill payment assistance for up to 80,000 Columbia residential customers.

{¶ 23} OPAE and Columbia note that, in the May 20, 2020 Order, the Commission recognized that OCC had raised this proposal in Case No. 19-1940-GA-RDR, the Company's demand-side management (DSM) rider update case. Columbia avers that this fact alone is sufficient grounds to deny OCC's request for rehearing. Further, Columbia contends that OCC makes no effort in its application for rehearing to explain why consideration of its

proposal in the DSM rider update case is insufficient. Similarly, OPAE declares that OCC's alleged first assignment of error fails to state any legal principle that the Finding and Order violates. The Company also notes that, in the DSM rider update case, Columbia and OPAE presented arguments in support of the continuation of the low-income weatherization funds and program. Accordingly, Columbia and OPAE ask that the Commission again reject OCC's misguided proposal and deny the request for rehearing.

{¶ 24} In the May 20, 2020 Finding and Order, the Commission explained that the issue had previously been raised in Case No. 19-1940-GA-RDR, Columbia's DSM proceeding, and that, unlike this case, the parties to the DSM proceeding had been afforded the opportunity to respond to OCC's proposal. OCC has raised no new argument for the Commission's consideration on this issue and, therefore, we find that the request for rehearing should be denied.

{¶ 25} In its second assignment of error, OCC submits that the Commission unreasonably failed to require the reconnection of service for customers that Columbia disconnected during the time period beginning 30 days before the governor declared a state of emergency on March 9, 2020. OCC notes that customers whose service was disconnected by Columbia immediately prior to the declaration of the emergency are no less worthy of protection than customers that experienced a disconnection of service after the declaration of the emergency. OCC requests that the Commission abrogate the May 20, 2020 Finding and Order and direct Columbia to reconnect the service of customers who were disconnected for non-payment in the 30-day period prior to the declaration of the emergency.

{¶ 26} OPAE reasons that OCC's assertion of an assignment of error is not an error at all but the Commission's decision to decline to adopt a recommendation of OCC. OPAE contends that OCC provides no argument that the May 20, 2020 Finding and Order was unreasonable or unlawful and rehashes OCC's arguments, which were previously presented and denied by the Commission.

{¶ 27} Columbia notes that, although the Commission rejected OCC's proposal to require Columbia to reconnect customers who were disconnected for non-payment up to 30 days before the emergency was declared as overly strict and unnecessary, the Commission encouraged Columbia to work with customers to agree on terms to reconnect service, regardless of when service was disconnected, and to temporarily forego the collection of deposits and fees, where it was reasonable to do so under the circumstances. May 20, 2020 Finding and Order at ¶¶ 32-33. Columbia declares that the circumstances have not changed such that it would warrant the Commission changing its position as to OCC's request. Columbia states that it voluntarily suspended service disconnections as of March 16, 2020, and consistent with the May 20, 2020 Finding and Order, Columbia is taking additional steps to advise customers of their options to defer certain charges and fees, and the Company is offering the payment plans under the rules as well as flexible custom payment plans. For these reasons, Columbia asserts that the Commission should again reject OCC's proposed 30-day look-back period.

{¶ 28} In the Finding and Order, the Commission declined to adopt OCC's recommendation that Columbia be required to reconnect the service of customers who were disconnected for non-payment in the 30-day period prior to the declaration of the emergency. In lieu of an overly prescriptive beginning date for disconnections that should trigger a reinstatement of service due to the emergency, we encouraged Columbia to work with its customers to agree on terms to reconnect service, regardless of when the service disconnection occurred, and to temporarily forego the collection of deposits and fees, where it is reasonable to do so under the circumstances. May 20, 2020 Finding and Order at ¶ 28, ¶¶ 30-33. OCC has raised no new argument on this issue and, therefore, the Commission finds that OCC's request for rehearing of this matter should be denied.

{¶ 29} In its third assignment of error, OCC notes that, in its comments, it requested that the Commission order Columbia to suspend the disconnection of service for a reasonable time after the declared state of emergency has ended. OCC submits that the Commission unreasonably rejected OCC's proposal and failed to sufficiently protect

consumers. OCC notes that the May 20, 2020 Finding and Order directed Columbia to file a plan to resume pre-COVID-19 operations and, pursuant to the transition plan filed May 29, 2020, Columbia has resumed the issuance of disconnection notices, and will resume service disconnections beginning July 29, 2020. OCC argues that Columbia's plan to restart disconnections is woefully premature. According to OCC, Columbia's customers continue to struggle financially amid health concerns associated with the coronavirus and their worries should not include whether they are receiving basic utility service.

{¶ 30} As to OCC's third assignment of error, Columbia offers that the Commission has approved the Company's transition plan to reinstate service disconnections with the first billing unit in August 2020, finding the plan reasonable, particularly in light of the advance notice provided to customers as well as the extended payment options offered. June 17, 2020 Supplemental Finding and Order at ¶ 27. Accordingly, Columbia avers that OCC offers no reason for the Commission to change course.

{¶ 31} In its fourth assignment of error, OCC contends that the Commission failed to order that the declared emergency will continue indefinitely, consistent with the threat of the virus to Ohioans and the consequences of its financial impact. OCC cautions that consumer protections should not end too early and should continue at least until the emergency declaration is terminated.

{¶ 32} As to OCC's fourth assignment of error, Columbia contends that the Commission has adeptly demonstrated its ability to exercise its proper authority to help customers during this emergency, while also balancing the impacts to Ohio's utilities, including promptly approving Columbia's transition plan. Moreover, according to Columbia, the Commission has not actually reversed course on any of its orders addressing the emergency in the *Emergency Case*. Columbia submits that, if anything, OCC prematurely offers a solution in search of a problem as it relates to the Commission's response to the emergency. Therefore, Columbia submits that the Commission should reject OCC's proposal in its fourth assignment of error.

{¶ 33} As to OCC's third and fourth assignments of error, OPAE states that, while OPAE agrees with OCC that the pandemic is an ongoing concern that will need to be monitored closely, which may require further action by the Commission, blanket, indefinite suspensions of disconnections are not the best option to protect customers and, in the long-term, can make it harder for customers to get back on track with their utility. Further, OPAE explains that the issues raised in OCC's third and fourth assignments of error are premature and should be decided as part of the Commission's consideration of Columbia's transition plan to resume pre-emergency operations and activities. OPAE notes that Columbia filed its transition plan on May 29, 2020, and OCC availed itself of the opportunity to file comments and the Commission can properly decide the issues raised in OCC's third and fourth assignments of error when it considers Columbia's transition plan.

{¶ 34} In regard to OCC's third and fourth assignments of error, the Commission notes that, as acknowledged in the Finding and Order, the state has taken steps to responsibly relax the requirements of the Department of Health's Amended Stay at Home Order. We further noted that the issue of how Columbia should responsibly return to otherwise applicable activities and operations requires further consideration by the Commission. The Commission recognizes, as OPAE acknowledges, that disconnections for non-payment cannot be suspended indefinitely and, for that reason, the Commission directed Columbia to work with Staff to develop a plan to resume suspended activities, including disconnections, and to offer extended payment plans, including flexible custom payment plans, for customers. We also specified that Columbia's plan to return to operations previously precluded by the Commission's directives in the *Emergency Case* would be a matter for comment by OCC and other interested stakeholders. May 20, 2020 Finding and Order at ¶ 54.

{¶ 35} The alleged errors raised in OCC's third and fourth assignments of error pertain to the duration of the suspension of disconnections and other emergency measures. Consistent with the May 20, 2020 Finding and Order, OCC's recommendations with respect to the proper timeframe for resuming disconnections and other activities which were

temporarily suspended due to the emergency were offered for the Commission's consideration in response to the filing of Columbia's transition plan. Columbia filed its transition plan on May 29, 2020, to which OCC filed comments on June 8, 2020, which the Commission again considered and rejected. June 17, 2020 Supplemental Finding and Order at ¶¶ 22, 26. OCC fails to offer any arguments on rehearing for the Commission's consideration which have not already been repeatedly considered and denied. Accordingly, OCC's third and fourth assignments of error should be denied.

{¶ 36} Finally, in its fifth assignment of error, OCC argues that the May 20, 2020 Order unreasonably failed to adopt all of the recommendations developed by the National Consumer Law Center (NCLC) as proposed by OCC to protect consumers. OCC submits that the Commission should establish a uniform set of guidelines applicable to all utilities, consistent with those published by NCLC, to protect customers and provide much needed certainty as to utility services during the state of emergency and for a reasonable time afterwards.

{¶ 37} Columbia notes that, in the Finding and Order, the Commission emphasized that the issues of service continuity, social distancing, consumer protections, and payment arrangements, including fees and charges, were being and would continue to be adequately addressed in the *Emergency Case*, as well as in each utility's individual emergency plans or motions for waivers. May 20, 2020 Finding and Order at ¶ 51. Further, Columbia notes that the Commission has already considered and approved Columbia's transition plan, which Columbia contends adequately protects consumers during the emergency. June 17, 2020 Supplemental Finding and Order at 14. Accordingly, Columbia requests that this aspect of OCC's application for rehearing be denied.

{¶ 38} OPAE notes that, while OCC argues that the Finding and Order unreasonably rejects the recommendations of the NCLC, OCC provides no non-policy justification for its claim. In OPAE's view, OCC simply disagrees with the Commission's decision and rehashes its arguments, which have already been considered and rejected, in an attempt to

achieve a different outcome. OPAE concludes that the rehashing of these arguments does not present a basis for modification of the Commission's decision in the Finding and Order and, therefore, OCC's fifth assignment of error should be denied.

{¶ 39} The Commission notes that, in the *Emergency Case* and Columbia's motion for suspension, and as discussed in the May 20, 2020 Finding and Order, consumer protection issues, including the disconnection of service for non-payment, the reconnection of service, the deferral of fees and deposits, extended payment plans, and payment assistance have been thoughtfully addressed. It is not necessary, as OCC asserts, that all utilities under the Commission's jurisdiction follow a uniform set of guidelines as presented by NCLC. While OCC may disagree with the Commission's decision, the application for rehearing fails to present any new arguments which persuade the Commission to reconsider its decision. Accordingly, OCC's request for rehearing should be denied.

III. ORDER

{¶ 40} It is, therefore,

{¶ 41} ORDERED, That the application for rehearing filed by OCC be denied. It is, further,

{¶ 42} ORDERED, That a copy of this Entry on Rehearing be served upon all interested persons and parties of record.

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/15/2020 3:04:38 PM

in

Case No(s). 20-0637-GA-UNC

Summary: Entry denying the application for rehearing filed by Ohio Consumers' Counsel of the Commission's May 20, 2020 Finding and Order, granting, in part, the motion of Columbia Gas of Ohio, Inc. for waiver of certain provisions of the Ohio Administrative Code and corresponding provisions of its tariff during the COVID-19 state of emergency electronically filed by Heather A Chilcote on behalf of Public Utilities Commission of Ohio