

**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

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**OBJECTION TO SUBURBAN’S NON-COMPLIANT TARIFFS  
BY  
OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

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The Supreme Court of Ohio overturned the PUCO’s ruling that made Suburban’s consumers pay for plant that was not shown to be used and useful.<sup>1</sup> Because of the Court’s ruling the PUCO ordered Suburban to “file tariffs reflecting that the customer service charge and usage charge are subject to refund as of September 21, 2021.”<sup>2</sup> The PUCO’s order shows proper deference to the high Court’s ruling. Suburban, on the other hand, hasn’t come to grips with the present reality of the Supreme Court’s ruling. It should.

In light of the Court’s decision, Suburban’s rates either need to be reduced now or collected subject to refund to protect consumers. Consumers have been harmed by Suburban’s charges on their natural gas bills.

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<sup>1</sup> *In re Application of Suburban Natural Gas Co.*, Slip Opinion No. 2021-Ohio-3224

<sup>2</sup> Entry ¶ 1 (Oct. 6, 2021).

Residential consumers are currently paying a \$34.41 per month flat charge, which includes charges for 3.9 miles of a 4.9-mile pipeline extension.<sup>3</sup> On remand, however, the PUCO could (and should) determine that only 2.0 miles of pipe was useful to consumers under R.C. 4909.15 on the date certain. Thus, the current \$34.41 is more than what is allowed by law. Consumers should get back any amounts they pay above what is lawful while this case is pending on remand.

In response to the PUCO's recent order, Suburban filed a revised tariff which Suburban claims "satisfies the spirit and intent of the Commission's October 6, 2021 Entry."<sup>4</sup> But the PUCO's directives to regulated entities like Suburban are to be implemented, not finagled. Suburban's use of the phrase "spirit and intent" is telling. It suggests that Suburban might not be following the plain language of the PUCO's Entry. And indeed, that is precisely the case.

The PUCO ordered Suburban to "file tariffs reflecting that the customer service charge and usage charge are subject to refund as of September 21, 2021."<sup>5</sup> Rather than comply with this plain language, Suburban instead filed tariffs with the following language: "A portion of this Charge is being collected subject to refund as of September 21, 2021, pending the outcome of the issue on remand with the PUCO."<sup>6</sup> This does not comply with the PUCO's Entry for at least two reasons.

First, the PUCO's Entry did not say that a "portion" of the rate was to be collected subject to refund. Suburban itself recognized this in its recent Motion to Stay, describing the PUCO's Entry as follows: the PUCO "directed Suburban to make its *entire* customer service

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<sup>3</sup> See Opinion & Order ¶ 93 (Sept. 26, 2019) (consumers paying 80% of value of 4.9-mile pipeline). 80% of 4.9 miles is 3.92 miles.

<sup>4</sup> Suburban Tariff Update (Oct. 13, 2021).

<sup>5</sup> Entry ¶ 1.

<sup>6</sup> Suburban Tariff Update (Oct. 13, 2021).

charge and usage charge ... subject to refund.”<sup>7</sup> So by Suburban’s own admission, its tariffs are in direct violation of a PUCO order. The PUCO, should it so desire, could impose financial penalties under R.C. 4905.54 for Suburban’s violation of a PUCO order.

Second, Suburban’s language is vague. Tariffs are not the place for vagueness. “A portion” surely seems to mean something other than what the PUCO ordered. Is Suburban collecting 1 cent per customer subject to refund? 25 cents? \$1.50? Even if the PUCO were to rule that only a portion of Suburban’s rates were to be collected subject to refund, the tariff should specify precisely which portion is subject to refund. A vague reference to “a portion” seemingly gives Suburban the unilateral right to determine what amount it collects subject to refund. That turns the regulatory construct upside down, where Suburban (the utility) is telling the PUCO (the regulator) what will be done.

Accordingly, the PUCO should reject Suburban’s proposed tariffs. For consumer protection the PUCO should implement tariffs, one way or another, that contain the terms in the PUCO’s October 6, 2021 ruling.

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<sup>7</sup> Motion to Stay the Public Utilities Commission of Ohio’s October 6, 2021 Entry by Suburban Natural Gas Company at 5 (Oct. 8, 2021) (emphasis added).

Respectfully submitted,

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*/s/ Christopher Healey*

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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 15th day of October 2021.

/s/ Christopher Healey  
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Summary: Objection Objection to Suburban's Non-Compliant Tariffs by Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Healey, Christopher Mr.