

**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

**REPLY IN SUPPORT OF MOTION
BY
THE SUBURBAN NATURAL GAS COMPANY**

The Office of the Ohio Consumers’ Counsel (OCC) incorrectly accused Suburban Natural Gas Company (Suburban) of violating an Order on Remand of the Public Utilities Commission (Commission).¹ OCC also improperly demanded that the Commission impose sanctions on Suburban.² A simple reading of the February 23, 2022 Order on Remand shows that OCC either completely misunderstood or intentionally misrepresented the Commission’s actual directives.³

As Suburban pointed out in its Memorandum Contra, Motion to Strike, and Motion for Sanctions, the Commission directed Suburban to follow a two-step refund process.⁴ First, Suburban was directed to file revised tariffs to reduce the existing customer rates based on the

¹ See Objections to Suburban’s Tariffs by the Office of the Ohio Consumers’ Counsel (Mar. 10, 2022) (OCC Objections).

² *Id.* at 2 (“Accordingly, the PUCO should take swift and appropriate actions under law to give consumers the protection of its decision and the decision of the Supreme Court. R.C. 4905.54 enables the PUCO to impose financial penalties for Suburban’s violation of a PUCO order. Noncompliance with a PUCO Order is not an option for a natural gas utility.”).

³ See Order on Remand (Feb. 23, 2022).

⁴ Memorandum Contra, Motion to Strike, and Motion for Sanctions at 2-3 (Mar. 25, 2022) (Suburban Motion).

specific revised rates articulated and adopted by the Commission in the Order on Remand. Second, the Commission directed Suburban to submit a proposal to Staff within twenty days of the Order on Remand, work with Commission Staff to develop a reasonable refund method and notice, and then file another set of revised tariffs implementing the agreed upon refund proposal. Suburban followed the Commission’s directives. Suburban initially filed revised tariffs pursuant to the Order on Remand,⁵ then worked with Staff and filed revised tariffs reflecting the refund amounts.⁶ Nonetheless, prior to the completion of the process ordered by the Commission, OCC wrongly accused Suburban of violating the Order on Remand because the first tariff filing that Suburban filed did “not include a separate refund to consumers.”⁷

In OCC’s Memorandum Contra, OCC now attempts to argue that “OCC’s Objections were reasonable” because “OCC simply objected that there was no reference to the refund to consumers.”⁸ According to OCC, “[a] simple sentence or footnote within the tariff” stating “that a refund by Suburban of overcharged amounts is forthcoming” would have satisfied OCC’s Objections. However, this argument is a blatant misrepresentation of what OCC actually demanded in its Objections (and it is beyond what the Commission instructed Suburban to do in its Order on Remand).

⁵ See Revised Tariff Pages, PUCO No. 4 (Cancelling PUCO No. 3), Fourth Sheet No. 1, page 2 of 4, Ninth Revised Sheet No.1, page 3 of 4, Fourth Revised Sheet No. 6 page 1 of 2, Fourth Revised Sheet No. 7, Page 1 of 2, Fourth Revised Sheet No. 8, page 4 of 8 of Suburban Natural Gas Company (Mar. 4, 2022).

⁶ See Revised Tariff Pages, PUCO No. 4, Compliance Tariffs with Refunds filed by Suburban Natural Gas Company (Apr. 14, 2022), *see also* Staff Review and Recommendation at 2-3 (Apr. 15, 2022) (“Suburban was ordered to work with Staff to establish a mutually acceptable refund method in a timely fashion.”).

⁷ OCC Objections at 2.

⁸ See Memorandum Contra Suburban Natural Gas Company's Motions to Strike OCC's Objections and for Sanctions by Office of the Ohio Consumers' Counsel at 6 (Apr. 11, 2022) (OCC Memorandum Contra).

In its Objections, OCC demanded that the tariffs filed by Suburban include a refund credit to customers, in clear violation of the Order on Remand. OCC's Objections did not suggest that a simple sentence or footnote "to reference the future refund" was sufficient.⁹ Instead, OCC took issue with the Commission-ordered customer charge, and demanded Suburban immediately file revised tariffs that "include a separate refund to consumers" or be subject to sanctions.¹⁰ Additionally, while OCC apparently now agrees with and understands the refund process outlined by the Commission following Suburban's explanation,¹¹ OCC made no reference to the Commission-ordered multi-step refund process in its initial Objections. OCC also does not make any reference in its latest filing to its own request for sanctions.¹²

It is clear that OCC changed its position in its Memorandum Contra because it realized that the central premise of its Objections was incorrect. Whether OCC intentionally misrepresented the Commission's Order on Remand, or did so in error, remains in question. OCC nonetheless argues that it should not be subject to sanctions because its Objections were not "willful as opposed to merely negligent."¹³

OCC also argues, without citation to any supporting law or Commission regulation, that its request for sanctions against Suburban was not a "motion" even though, as OCC states, it "argued

⁹ OCC Memorandum Contra at 6, 9.

¹⁰ OCC Objections at 2 ("However, those filed tariffs do not include a separate refund to consumers. They should....Suburban's tariffs reflect the \$33.59 per month residential customer service charge "regardless of usage."⁵ However, the tariffs do not reflect the credit back to consumers for amounts previously charged by Suburban for costs associated with more than 2.0 miles of pipeline. Suburban's omission of the credit to consumers in the tariff contradicts the PUCO's Order on Remand.").

¹¹ OCC Memorandum Contra at 7 ("as Suburban stated in its motions, the PUCO's order on remand set forth a process for Suburban to update its tariff filings"), *citing* Suburban Motion at 2-3.

¹² *See generally*, OCC Memorandum Contra.

¹³ OCC Memorandum Contra at 4.

that the PUCO should take appropriate action.”¹⁴ OCC ignores that a motion is essentially “an application to the court [or the Commission] for an order.”¹⁵

Nonetheless, given Suburban’s updated tariff filing, OCC’s Objections are now moot.¹⁶ Although OCC originally argued that Suburban somehow violated the Order on Remand by not including refunds in its first tariff filing ordered by the Commission, OCC now admits that the Commission outlined a multi-step refund process, which Suburban has followed.

As such, Suburban respectfully withdraws its Motion for Sanctions against OCC (and/or its attorneys). Suburban will continue to comply with the Commission’s Order on Remand and requests that the Commission order OCC to do the same and to cease filing frivolous pleadings that require Suburban to spend its resources to respond, which will only harm customers. Suburban also respectfully requests that the Commission strike OCC’s Objections and request for sanctions against Suburban pursuant to Ohio Adm.Code 4901-1-12 and 4901-1-27, and Civ.R. 11, as OCC’s Objections were clearly made in error.

Respectfully submitted,

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¹⁴ OCC Memorandum Contra at 7-8.

¹⁵ Civ.R. 11(B)(1).

¹⁶ OCC Memorandum Contra at 7 (“OCC’s Objections may become moot as Suburban files updated tariffs clarifying the refund to consumers.”).

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on April 18, 2022 upon the parties of record.

/s/ Kimberly W. Bojko
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Summary: Reply in Support of Motion electronically filed by Mrs. Kimberly W. Bojko
on behalf of Suburban Natural Gas Company