

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|   |   |                         |
|---|---|-------------------------|
| In the Matter of the Application to Modify, | ) | Case No. 22-0523-GA-ALT |
| in Accordance with R.C. 4929.08, the        | ) |                         |
| Energy Efficiency Program (EEP) Pilot       | ) |                         |
| Approved As Part of Suburban Natural Gas    | ) |                         |
| Company's Alternative Rate Plan in Case     | ) |                         |
| No. 17-0594-GA-ALT.                         | ) |                         |
|   | ) |                         |

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**JOINT MOTION TO MODIFY ORDER APPROVING  
SUBURBAN NATURAL GAS COMPANY'S ENERGY EFFICIENCY PILOT  
PROGRAM AS PART OF ITS APPROVED ALTERNATIVE RATE PLAN  
BY  
SUBURBAN NATURAL GAS COMPANY  
AND  
OHIO PARTNERS FOR AFFORDABLE ENERGY**

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Pursuant to R.C. 4929.08(A), Suburban Natural Gas Company (Suburban) and Ohio Partners for Affordable Energy (OPAE) hereby respectfully move for an order modifying the Public Utilities Commission of Ohio's (Commission) Finding and Order issued on November 1, 2017 in Case No. 17-0594-GA-ALT (Alternative Regulation Order), which approved Suburban's application for an alternative rate plan, including an Energy Efficiency Program (EEP) Pilot program and related rate mechanism,<sup>1</sup> the Finding and Order issued on November 7, 2018 in Case No. 18-0376-GA-RDR (EEP Pilot Order), which approved Suburban's proposal to implement the EEP Pilot and Rider EEP,<sup>2</sup> and the Finding and Order issued on May 19, 2021 in Case No. 21-0124-GA-ALT (Modification Order), which granted Suburban and OPAE's joint

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<sup>1</sup> *In the Matter of the Application of Suburban Natural Gas Company for Approval of an Alternative Form of Regulation to Initiate a Revenue Decoupling Mechanism*, Case No. 17-0594-GA-ALT (Alternative Regulation Case), Finding and Order at ¶¶ 20, 23(c), 31, 32, 33, 38 42, 43, 46, 47 (Nov. 1, 2017).

<sup>2</sup> *In the Matter of the Application of Suburban Natural Gas Company for Approval of an Energy Efficiency Program (EEP) Pilot and Rider EEP Rate*, Case No. 18-0376-GA-RDR (EEP Pilot Case), Application (Mar. 16, 2020).

motion to extend the EEP Pilot.<sup>3</sup> Specifically, Suburban and OPAE respectfully request that the Commission issue an order modifying its modified alternate rate plan to further extend the EEP Pilot program for an additional twelve months, through May 19, 2023, as such an extension is in the public interest.

R.C. 4929.08(A) allows the Commission, upon a motion by an adversely affected party, to modify an order establishing an alternative rate regulation under R.C. 4929.05 when “[the] [Commission] determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest.”<sup>4</sup> By granting an additional twelve-month extension to the EEP Pilot, the Commission will ensure that customers receive the full benefit of the EEP Pilot as originally approved without any additional expense to customers, which is in the public interest.

For the reasons discussed in this Joint Motion and attached Memorandum in Support, the Commission should modify the Alternative Regulation Order, the EEP Pilot Order, and the Modification Order as requested by Suburban and OPAE for good cause shown.

Respectfully submitted,

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<sup>3</sup> *In the Matter of the Application of Suburban Natural Gas Company to Modify its Alternative Rate Plan*, Case No. 21-124-GA-ALT (Modification Case), Application (May 19, 2021).

<sup>4</sup> R.C. 4928.08(A)(1).

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|   | ) |                         |

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**MEMORANDUM IN SUPPORT OF  
JOINT MOTION TO MODIFY ORDER APPROVING SUBURBAN NATURAL GAS  
COMPANY'S ENERGY EFFICIENCY PILOT PROGRAM AS PART OF ITS  
APPROVED ALTERNATIVE RATE PLAN**

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**I. INTRODUCTION**

Suburban is a natural gas company as defined by R.C. 4905.03 and a public utility as defined by R.C. 4905.02, and as such, is subject to the jurisdiction of this Commission. OPAE is an Ohio non-profit corporation with a stated purpose of advocating for affordable energy policies for low and moderate-income Ohioans. OPAE also administers the EEP Pilot on behalf of Suburban.

On April 25, 2017, Suburban filed an application for an alternative rate plan pursuant to R.C. 4929.05, 4929.051, and 4909.18.<sup>5</sup> As part of its alternative rate plan, Suburban requested to establish the EEP Pilot “as well as a fixed, monthly charge to fund the EEP Pilot.”<sup>6</sup> Suburban proposed that the EEP Pilot would provide furnace inspections, repairs, and replacements to Suburban’s low-income customers, and shell weatherize the residences of Suburban’s high-usage

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<sup>5</sup> Alternative Regulation Case, Application at ¶ 2 (Apr. 25, 2017).

<sup>6</sup> *Id.* at ¶ 25.

Percentage of Income Payment Plan (PIPP) customers.<sup>7</sup> On November 1, 2017, the Commission found that Suburban’s application for an alternative rate plan complied with the requirements of R.C. 4929.05, 4929.051, and 4909.18; approved the plan, including the EEP Pilot and Rider EEP; and directed Suburban to “work with Staff and other interested stakeholders to establish an EEP [P]ilot and proposed Rider EEP rate application.”<sup>8</sup>

Pursuant to the Commission’s order, on March 16, 2018, as amended on May 4, 2018 and September 28, 2018, Suburban filed its application to implement an EEP Pilot and a Rider EEP rate.<sup>9</sup> OPAE intervened in the EEP Pilot Case,<sup>10</sup> and filed comments<sup>11</sup> in support of the EEP Pilot, which would provide furnace inspections, repairs and replacements to Suburban’s low-income customers, and shell weatherization to Suburban’s high-usage PIPP customers.<sup>12</sup> On November 7, 2018, the Commission approved Suburban’s application to implement a two-year EEP Pilot and established a Rider EEP rate of \$0.3431 per month applicable to Suburban’s Small General Service Rate Schedule accounts to collect \$70,000 annually for the program.<sup>13</sup> The Commission noted that R.C. 4929.05(A) and R.C. 4929.051(A) governed the approval of an application for this rate mechanism.<sup>14</sup> Suburban subsequently filed tariffs implementing Rider EEP, effective November 8, 2018.<sup>15</sup> Three months later, “commencing with the beginning of the third month of collection

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<sup>7</sup> *Id.* at Exhibit C, page 6.

<sup>8</sup> Alternative Regulation Case, Finding and Order at ¶ 47 (Nov. 1, 2017); *see also* Finding and Order at ¶¶ 20, 23(c), 31, 32, 33, 38 42, 43, and 46.

<sup>9</sup> EEP Pilot Case, Application (Mar. 16, 2018).

<sup>10</sup> *See* EEP Pilot Case, Ohio Partners for Affordable Energy’s Motion to Intervene and Memorandum in Support (Apr. 18, 2020).

<sup>11</sup> *See* EEP Pilot Case, Ohio Partners for Affordable Energy’s Comments (Oct. 5, 2018).

<sup>12</sup> EEP Pilot Case, Finding and Order, ¶¶ 12-13 (Nov. 7, 2018).

<sup>13</sup> *Id.* at ¶ 18.

<sup>14</sup> *Id.* at ¶¶ 3-4.

<sup>15</sup> *See* EEP Pilot Case, Revised Tariff Pages (Nov. 8, 2018).

of the revenue associated with Rider EEP,” Suburban commenced its two-year EEP Pilot program pursuant to the Commission’s Order.<sup>16</sup> Therefore, after the collection of Rider EEP for two months and commencing with the beginning of the third month of collection,<sup>17</sup> Suburban’s EEP Pilot program was approved to operate for a two-year period beginning on or around Suburban’s February 2019 billing cycle through its February 2021 billing cycle.<sup>18</sup>

Additionally, the Commission approved an annual reconciliation adjustment filing, which included a report on the projects undertaken and the nature of savings for each measure, in the third month after the first twelve months, and in the third month after each successive twelve months, which would be the first.<sup>19</sup> Thus, on February 3, 2020, Suburban filed its annual reconciliation adjustment to its Rider EEP rate and the required report in Case No. 20-0353-GA-RDR. In that report, Suburban explained that EEP Pilot costs did not rise to the level expected. Total expenditures during the first year of the EEP Pilot were \$13,445, and total collections were \$71,258, resulting in an over-collection of \$57,813.<sup>20</sup> Accordingly, Suburban lowered the EEP Pilot rate to recognize the existence of unused funds for the EEP Pilot to use in the subsequent year of the EEP Pilot program. In an April 22, 2020 Finding and Order, in Case No. 20-0353-GA-RDR, the Commission approved Suburban’s application for an adjustment to its Rider EEP rate,

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<sup>16</sup> EEP Pilot Case, Finding and Order at ¶ 14 (The Commission accepted Suburban’s proposal that “EEP home audits and subsequent weatherization projects commence when the revenue generated from Rider EEP equals \$30,000 (i.e., commencing with the beginning of the third month of collection of the revenue associated with Rider EEP)”).

<sup>17</sup> Although Suburban did not achieve the projected revenue of \$30,000 until the sixth month of collection of the Rider EEP (i.e., May 2019), Suburban interprets the Commission’s Order in the Rider Case to authorize the EEP Pilot program from February 2019 through February 2021.

<sup>18</sup> The contract to implement the EEP Pilot program, however, did not become effective until June 15, 2019.

<sup>19</sup> EEP Pilot Case, Finding and Order at ¶ 15.

<sup>20</sup> *In the Matter of the Application of Suburban Natural Gas Company for Approval to Adjust its Energy Efficiency Program Rider Rate*, Case No. 20-0353-GA-RDR, et al., Application at ¶ 7 (Feb. 3, 2020).

and approved an adjusted Rider EEP rate of \$0.0574 per month applicable to Suburban's Small General Service Rate Schedule accounts for the subsequent year of the EEP Pilot.<sup>21</sup>

However, due to the unanticipated public health and economic crisis caused by the ongoing COVID-19 pandemic, Suburban and OPAE were unable to complete the predicted number of home weatherization projects and measures, and total expenditures amounted to only \$20,685 for the second twelve-month collection period.<sup>22</sup> As explained in the Adjustment Case filing, due to COVID-19, the EEP Pilot program was not able to operate to its potential and provide the weatherization and safety measures that it intended to its customers, particularly Suburban's low-income customers who may not otherwise be able to afford such services. Consequently, in 2021, following the second year of the rider collections to support the EEP Pilot, a balance of \$78,746 in unused funds remained.

In order to provide the intended benefits of the program as approved by the Commission and to utilize the remaining balance in the program, Suburban and OPAE jointly moved for a modification to Suburban's alternative rate plan to extend the EEP Pilot program for an additional year, subject to final reconciliation.<sup>23</sup> Suburban also proposed, through its separate reconciliation application filed on February 1, 2021 in the Adjustment Case, to forego any further collection under Rider EEP and set the rider to zero (after a three-month over collection credit is provided to customers) for the duration of the EEP Pilot program extension.<sup>24</sup>

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<sup>21</sup> *Id.*, Finding and Order at ¶ 9 (Apr. 22, 2020).

<sup>22</sup> *In the Matter of the Application of Suburban Natural Gas Company for Approval to Adjust its Energy Efficiency Program Rider Rate*, Case No. 21-0105-GA-RDR, Application at ¶ 7 (Feb. 1, 2021) (Adjustment Case).

<sup>23</sup> Modification Case, Application (Feb. 10, 2021).

<sup>24</sup> Adjustment Case, Application at ¶¶ 12-13. Specifically, Suburban proposes setting Rider EEP to a credit of \$0.05 for a three-month refund period, then subsequently setting Rider EEP to \$0.0000 for the remainder of the EEP Pilot. *Id.*

On May 19, 2021, the Commission approved Suburban and OPAE’s joint request to modify Suburban’s approved alternative rate plan granted under R.C. 4929.05 to continue the EEP Pilot program for an additional year.<sup>25</sup> The Commission noted that the Movants’ motion to extend the EEP Pilot was “consistent with Suburban’s approved alternative rate plan,” and that the previous findings upon which the November 2017 order was based were no longer valid due to the pandemic.<sup>26</sup> Accordingly, the Commission determined that the extension of the EEP Pilot by one year was reasonable, in the public interest, and met the requirements of R.C. 4929.08 and Ohio Adm. Code 4901:1-19-11(A) to modify Suburban’s alternative rate plan.<sup>27</sup> To “ensure there [was] sufficient time to provide EEP Pilot services to Suburban’s eligible customers to expend the unused funds collected,” the program was extended for twelve months from the date of the issuance of the order through May 19, 2022.<sup>28</sup>

Unfortunately and unexpectedly, since the date of the Commission’s order extending the EEP Pilot for one year, the COVID-19 pandemic has continued and the effects of the pandemic are ongoing. With the continuation of the pandemic, most of the EEP weatherization and safety measures continued to be halted throughout 2021 and into 2022. The implementation and commencement of certain EEP weatherization projects and measures have just recently re-started. As a result, Suburban and OPAE were unable to complete the predicted number of home weatherization projects and measures during the last 12 months as expected. Within the past 12 months, and even continuing today, it remains difficult to enter people’s homes and/or obtain the necessary contractors to complete the work, all of which have impeded the EEP Pilot program and

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<sup>25</sup> Modification Case, Finding and Order at ¶¶ 13, 15 (May 19, 2021).

<sup>26</sup> *Id.* at ¶ 13.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*



expenditures thereunder. As such, the EEP Pilot program remains unable to operate to its potential and provide the weatherization and safety measures that it intended to its customers, particularly Suburban's low-income customers who may not otherwise be able to afford such services. The total expenditures amounted to only \$20,645 since the second year of the program. Following the one-year extension of the EEP Pilot program through May 13, 2022, a balance of \$58,077 in unused funds remains. In order to provide the intended benefits of the program as approved by the Commission and to utilize the remaining balance in the program, Suburban and OPAE move for a modification of Suburban's alternative rate plan to continue the EEP Pilot for an additional year, extending the new end of the EEP Pilot through May 19, 2023. The movants also request that no additional funds be collected from customers under Rider EEP and that the rider remain at zero for the duration of the EEP Pilot program extension.

## **II. ARGUMENT**

R.C. 4929.08(A) gives the Commission authority to modify alternative rate regulations granted under R.C. 4929.05, upon the Commission's own motion, or the motion of an interested party.<sup>29</sup> The Commission may modify an order granting that alternative rate regulation when the Commission "determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest."<sup>30</sup> Additionally, the modification either must be within eight years of the effective date of the order, or made with consent of the affected natural gas company.<sup>31</sup> Suburban and OPAE's Joint Motion for Modification satisfies these statutory requirements.

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<sup>29</sup> See also Ohio Adm.Code 4901:1-19-11.

<sup>30</sup> R.C. 4928.08(A)(1).

<sup>31</sup> R.C. 4928.08(A)(2). This provision is satisfied, as Suburban is a joint movant, and the Commission initially approved the EEP Pilot in 2017.

Without a modification, the existing Alternative Regulation Order, EEP Pilot Order, and Modification Order adversely affect Suburban and OPAE, ending the EEP Pilot program prior to fulfilling its objectives to provide energy efficiency, safety service, and weatherization projects to Suburban's low-income customers. Pursuant to the Alternative Regulation Order, EEP Pilot Order, and Modification Order, Suburban and OPAE have been attempting to operate the EEP Pilot to assist customers, but due to the ongoing pandemic, Suburban and OPAE have been unable to complete the number of weatherization projects projected and intended under the program as explained in Suburban's original application, as amended, and the Commission's Alternative Regulation Order and EEP Pilot Order approving such application, as well as the Modification Order. Additionally, the inability to complete weatherization projects adversely affects the low and moderate-income customers that OPAE represents, some of whom would be eligible for weatherization under the EEP Pilot. Due to the ongoing pandemic, customers have been unable to reap the benefits of the EEP Pilot. Terminating the program in May 2022 without an extension that enables Suburban and OPAE to complete planned weatherization projects would prejudice these customers by preventing them from ever benefiting from Rider EEP.

Similarly, the EEP Pilot Order was based on findings which are no longer valid. The reasons for approving the EEP Pilot, which was in the public interest, have not been able to come to fruition due to intervening circumstances and events beyond Suburban's control. In the first year of the EEP Pilot, the program was just beginning and administrative tasks, and contracts were necessary to implement the program; consequently, not as many projects were completed. And then during the second and third years of the program, as discussed above, the COVID-19 pandemic halted the EEP Pilot and severely limited what could be accomplished by the EEP Pilot program. As such, Suburban and OPAE were unable to complete all weatherization projects

planned or anticipated.<sup>32</sup> Both the original timeframe and extended timeframe for the EEP Pilot simply did not account for a work stoppage or labor and supply shortages associated with a global pandemic. Thus, in order to complete the planned or anticipated HVAC repairs or replacements, shell insulations, and other weatherization projects, Suburban and OP&E request an order modifying the EEP Pilot Order to extend the EEP Pilot for an additional one year.

Lastly, such modification is in the public interest. An order modifying the EEP Pilot Order by extending the EEP Pilot for another one year while not charging customers any additional costs under the rider will ensure that Suburban's customers will receive the full benefits of weatherization and other projects. This supports the public policy interest in "alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation."<sup>33</sup> Additionally, doing so will allow Suburban and OP&E to expend the unused funds Suburban has already collected under Rider EEP, and will not result in additional costs to Suburban's customers. Prior to the end of the pilot period, Suburban and OP&E will review program activities and make further recommendations to the Commission.

### **III. CONCLUSION**

Joint Movants, Suburban and OP&E, respectfully move the Commission to issue an order modifying Suburban's Alternative Regulation Order, the EEP Pilot Order, and the Modification Order by extending the EEP Pilot for an additional twelve months, through May 19, 2023, subject to final reconciliation for good cause shown. An extension is in the public interest and will ensure

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<sup>32</sup> Between June 1 and the end of 2020, OP&E member agencies have completed five additional projects. In all cases, the EEP Pilot funds were combined with Home Weatherization Assistance Program (HWAP) funds, thus extending the impact the modest funding from Suburban ratepayers.

<sup>33</sup> See R.C. 4929.02(A)(12).

that Suburban's customers receive the benefit of weatherization and safety service measures with the unused funds without additional cost to customers.

Respectfully submitted,

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Summary: Motion to Modify Order Approving Suburban Natural Gas Company's Energy Efficiency Pilot Program as Part of Its Approved Alternative Rate Plan electronically filed by Mrs. Kimberly W. Bojko on behalf of Suburban Natural Gas Company and Ohio Partners for Affordable Energy