

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Motion of Columbia)
Gas of Ohio, Inc. to Suspend Certain) Case No. 20-637-GA-UNC
Procedures and Process During the)
COVID-19 State of Emergency and)
Related Matters.)

**APPLICATION FOR REHEARING OF THE PUCO'S ORDER ON THE
TEMPORARY EMERGENCY PLAN OF COLUMBIA GAS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The coronavirus emergency and the ensuing economic emergency have led to much suffering this year for many Ohioans, including among at-risk populations already in need of protection given poverty in the state was 14% and food insecurity in the state was 14.5% before the pandemic. The PUCO took action, in its May 20, 2020 Finding and Order (“Order”), to protect consumers during this time of the coronavirus emergency. Those actions included suspending disconnections and encouraging Columbia to establish extended payment plans to assist customers in paying their bills. But more needs to be done for consumers.

For example, the PUCO should have required Columbia to repurpose \$14 million in funds for non-essential weatherization service to provide bill payment assistance to customers in need. And to further protect consumers, the PUCO should have extended the consumer protections in its Order to include timeframes both before and after the declared emergency.

The PUCO's order was unreasonable and unlawful in the following respects:

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to require Columbia to repurpose \$14 million in low income weatherization funds to provide bill payment assistance that customers need now.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to require reconnections of customers that Columbia disconnected during the time period beginning thirty days before the Governor's declaration of the state of emergency.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to continue the consumer protection of the suspension of utility disconnections for a reasonable period of time after its declared emergency has ended.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat of the coronavirus to Ohioans and the consequences of its financial impact on them.

ASSIGNMENT OF ERROR NO. 5: The PUCO erred by failing to enter an order adopting all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC.

The reasons in support of this application for rehearing are set forth in the accompanying Memorandum in Support. The PUCO should grant rehearing and abrogate or modify its Order as proposed by OCC.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT OF THE APPLICATION FOR REHEARING
OF THE PUCO’S ORDER ON THE TEMPORARY EMERGENCY PLAN
OF COLUMBIA GAS
BY
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

I. INTRODUCTION

The coronavirus emergency and the ensuing economic emergency have led to much suffering this year for many Ohioans, including among at-risk populations already in need of protection given poverty in the state was 14% and food insecurity in the state was 14.5% before the pandemic. There are looming health and financial concerns with the coronavirus. Various concerns should be addressed by granting OCC’s application for rehearing.

II. STANDARD OF REVIEW

Applications for rehearing are governed by R.C. 4903.10, which provides that within 30 days after issuance of a PUCO order, “any party who has entered an appearance in person or by counsel in the proceeding may apply for rehearing in respect to any matters determined in the proceeding.” OCC entered an appearance through its Motion to Intervene in this case, and the PUCO granted OCC’s Motion.

R.C. 4903.10(B) also requires that an application for rehearing be “in writing and shall set forth specifically the ground or grounds on which the applicant considers the order to be unreasonable or unlawful.” Further, Ohio Adm. Code 4901-1-35(A) states: “An application for rehearing must be accompanied by a memorandum in support . . . which shall be filed no later than the application for rehearing.” In considering an application for rehearing, R.C. 4903.10(B) provides that “the commission may grant and hold such rehearing on the matter specified in such application, if in its judgment sufficient reason therefor is made to appear.” The statute also provides: “[i]f, after such rehearing, the commission is of the opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed.”

The statutory standard for abrogating or modifying some portions of the Finding and Order is met here. The PUCO should grant and hold rehearing on the matters specified in this Application for Rehearing and abrogate or modify the Finding and Order consistent with OCC’s Recommendations herein.

III. MATTERS FOR RECONSIDERATION

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by failing to require Columbia to repurpose \$14 million in low income weatherization funds to provide bill payment assistance that customers need now.

The New York Times recently editorialized that the “economic shutdown caused by the coronavirus has left a growing number of American families *desperately short of money*.”¹ There is no question that customers need help right now. The PUCO

¹ <https://www.nytimes.com/2020/04/15/opinion/coronavirus-stimulus-check-payment.html>.

acknowledged in its Order that “there is likely to be an increased need for bill payment assistance for Columbia’s customers.”² The PUCO rejected OCC’s request that Columbia repurpose the \$14 million in funds that it uses for non-essential weatherization programs to provide immediate bill payment assistance to customers. The PUCO deferred the issue to another case (Case 19-1940-GA-RDR) with an unknown timeline for resolution. Many Ohioans need financial assistance now.

Repurposing Columbia’s low-income weatherization funds would serve the greatest good for the greatest number of at-risk Ohioans in the area Columbia serves. Columbia’s current annual use of \$14 million in subsidies for weatherizing merely 2,000 homes could be used to provide bill payment assistance for up to 80,000 of Columbia’s residential consumers.³

Repurposing these funds would also assist financially strained customers who would not otherwise qualify for primary assistance programs such as the federal Low-Income Home Energy Assistance Program (“LIHEAP”) and the Percentage of Income Payment Plan (“PIPP”). These programs are generally available only to customers with incomes below 175% of the federal poverty guidelines. But customers who do not qualify for these programs need bill payment assistance too due to financial hardships as a result of the pandemic. Further, even those customers who do qualify for primary assistance programs may need additional bill payment assistance. All of these customers could benefit from the \$14 million Columbia uses for its *non-essential* weatherization program.

² Finding and Order at ¶46.

³ *In the Matter of the Annual Application of Columbia Gas of Ohio, Inc. for an Adjustment to Rider IRP and Rider DSM Rates.*, Case 19-1940-GA-RDR, Testimony of James D. Williams (April 20, 2020) at 3.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by failing to require reconnections of customers that Columbia disconnected during the time period beginning thirty days before the Governor’s declaration of the state of emergency.

In its comments, OCC recommended that the PUCO order Columbia to protect consumers by reconnecting those that were disconnected thirty days before March 9, 2020, the date Governor DeWine declared the coronavirus state of emergency.⁴ The PUCO found OCC’s suggested “look-back” period “unnecessary.”⁵ That finding is unreasonable and the PUCO erred in making it.

All consumers have been affected by the coronavirus emergency. Those who had the misfortune to be disconnected by Columbia only a short time prior to the emergency are no less worthy of protection than those consumers who were disconnected after the emergency. They face health challenges. They face financial challenges. They need basic utility service. They should be protected by the PUCO. The PUCO should abrogate its Order and direct Columbia to reconnect consumers who were disconnected due to non-payment in the thirty days before the emergency was declared.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by failing to continue the consumer protection of the suspension of utility disconnections for a reasonable period of time after its declared emergency has ended.

OCC recommended in its comments that the PUCO should continue the suspension of disconnections for a reasonable time after the coronavirus emergency.⁶ The PUCO rejected OCC’s proposal, and instead directed Columbia to file a transition plan

⁴ See OCC’s Comments at 7.

⁵ See Finding and Order at ¶32.

⁶ See OCC’s Comments at 5-6.

regarding “the resumption of activities and operations previously prohibited by the *Emergency Case* in furtherance of a safe return to pre-COVID-19 operations.”⁷

Columbia has filed a transition plan in accordance with the PUCO’s directive, which stated that Columbia would resume sending service termination notices on May 29, 2020 and resume service disconnections beginning July 29, 2020.⁸ The coronavirus state of emergency has not ended, and Columbia’s proposal is woefully premature.

The PUCO should take action to protect consumers now. While customers are struggling with lost wages, jobs, and the health matters associated with the coronavirus, the least of their worries should be about whether they are receiving basic utility service. The PUCO should order Columbia to suspend disconnection for a reasonable time *after* the formal declared emergency, consistent with OCC’s proposal (or extend the formal declared emergency). Its decision not to was unreasonable because it does not sufficiently protect consumers.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by failing to order that its declared emergency will continue indefinitely consistent with the threat of the coronavirus to Ohioans and the consequences of its financial impact on them.

Ohioans are facing uncertain times. No one can predict with accuracy how the health and financial challenges posed by the coronavirus will turn out or will end. As has been reported, utility consumers could face a second wave of pain – looming utility shutoffs.⁹ In addition, as customers spend more time at home because of the pandemic, they

⁷ Finding and Order at ¶54.

⁸ See Columbia Transition Plan (May 29, 2020) at 3.

⁹ See Energy Wire, “A second wave of pain: Looming utility shutoffs” (May 21, 2020), <https://www.eenews.net/energywire/2020/05/21/stories/1063189771>.

are using more utility service and their bills are increasing.¹⁰ This creates additional pressures on customers already facing financial hardships.

The PUCO should not abandon or discontinue too early the consumer protections that it has implemented (as Columbia has proposed). Instead, the PUCO should further protect consumers by continuing its emergency jurisdiction indefinitely, or at least until an end to the coronavirus emergency is officially declared and for some time thereafter.

ASSIGNMENT OF ERROR NO. 5: The PUCO erred by failing to enter an order adopting all the consumer protection recommendations of the National Consumer Law Center as proposed by OCC.

OCC made recommendations in a list developed by the National Consumer Law Center (“NCLC”), titled “Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services.” The PUCO declined OCC’s recommendation to adopt all of the NCLC’s consumer protection guidelines, finding that consumer protection issues are already being “adequately addressed” through each utility’s emergency plan.¹¹ The PUCO’s order in this respect is unreasonable and should be modified.

The PUCO should establish a uniform set of guidelines applicable to all utilities, consistent with those published by the NCLC, to protect customers throughout the state of emergency and for a reasonable time afterwards. Indeed, Columbia has already proposed through its Transition Plan to resume disconnecting customers for non-payment and to resume imposing the strict eligibility requirements for participation in the PIPP

¹⁰ See Columbus Dispatch, “Consumers face higher utility bills during coronavirus outbreak” (June 14, 2020) <https://www.dispatch.com/business/20200614/consumers-face-higher-utility-bills-during-coronavirus-outbreak>.

¹¹ Finding and Order at ¶51.

program beginning July 29, 2020.¹² Columbia intends to resume these pre-COVID-19 activities *even though there is no clear end in sight for the state of emergency*.

Columbia's premature proposal to resume service disconnections and compliance with the PUCO's strict PIPP eligibility rules is unreasonable and highlights the need for a uniform set of consumer protection guidelines applicable to all Ohio gas utilities like those proposed by the NCLC. Columbia's customers – and all Ohio residential gas utility customers – deserve greater consumer protections with respect to essential utility services for the duration of the pandemic and for a reasonable time afterwards. Adopting the uniform set of guidelines proposed by the NCLC would provide customers with much needed certainty regarding their essential utility services during these very uncertain times. Therefore, the PUCO should modify its Order and adopt the NCLC's recommendations.

IV. CONCLUSION

For the health and economic security of *all* of Columbia's customers, the PUCO should grant rehearing on OCC's assignments of error and modify or abrogate its Order as described above. Granting rehearing is necessary to immediately protect *all* of Columbia's consumers.

¹² See Columbia's Transition Plan (May 29, 2020).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Application for Rehearing by the Office of the Ohio Consumers' Counsel was served on the persons stated below via electric transmission this 19th day of June 2020.

/s/ Angela D. O'Brien
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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: App for Rehearing Application for Rehearing of The PUCO's Order on The Temporary Emergency Plan of Columbia Gas by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of O'Brien, Angela D