



**MINUTES OF THE  
TWO HUNDRED SIXTY-SECOND MEETING  
OF THE CONSUMERS' COUNSEL GOVERNING BOARD  
September 20, 2006**

**Members Present:** Herman Kohlman  
Gene Krebs  
John Moliterno  
Michael Murphy  
Jerome Solove, Chairman  
John Steinberger

**Members Absent:** Randy Beane  
Dorothy Leslie  
Mark Totman

**Guests:** Kent Shimeall, Attorney General's Office

**Call to Order**

Chairman Solove called the meeting to order at 9:15 a.m.

**Approval of Minutes**

The minutes of the July 19, 2006 Governing Board Meeting were approved.

The Governing Board and the Staff paid tribute to Herman Kohlman for 15 years of dedicated service. Chairman Solove presented a resolution to the Board. Mr. Moliterno made the motion to pass the resolution, Mr. Murphy seconded the motion and Ms. Migden-Ostrander called the roll. The motion was passed unanimously.

**Report of the Consumers' Counsel**

Ms. Migden-Ostrander introduced OCC's new employees:

- \* Leslie Almond, Legal Intern
- \* Tessa Parsons, Legal Intern
- \* Geoff Bonina, Webmaster

Ms. Migden-Ostrander stated that the Integrated Portfolio Management Report was released to the public. She has conducted meetings with legislatures and stakeholders on the need to implement a sustainable energy policy.

The November Governing Board meeting originally scheduled for November 15, 2006 is being rescheduled for November 8, 2006 due to the NASUCA/NARUC Annual meeting.

### **Case Outcomes**

Mr. Weston reported on case outcomes for this period.

### **Vectren Energy Efficiency**

#### **05-1444-GA-UNC**

This case was decided last week. OCC worked cooperatively with Vectren to come to an agreement in this case. OCC advocated for among other things, \$4.6 million in energy efficiency programs to be implemented for residential and small commercial customer with the company bearing the costs associated with educating consumers about the programs.

The altered settlement resulted in lowered funding for energy efficiency programs, energy efficiency programs available to low income customers only, and Vectren is allowed to recover lost revenues from customers as a result of customers using less natural gas.

### **Telephone Service Company Alternative Regulation Plan**

#### **06-794-TP-ALT**

OCC's position in this case is new provisions to Ohio's telecommunications law that require a healthy, sustainable and competitive market and no barriers to entry make the 2001 elective alternative regulation order invalid. Telephone Service Company modified its plan to meet required lifeline benefits; and the PUCO approved the company's application and rejected our request for hearing.

### **Telephone Service Company Use of Hardship Fund**

#### **Champaign Telephone Company Use of Hardship Fund**

#### **97-414-TP-UNC**

OCC's position is that the Hardship Fund request failed to show that the Company would suffer a financial hardship from the elective alternative regulation Lifeline requirements and that the funds are necessary to help the Company transition to a competitive market, since competition is lacking in its service territory.

The PUCO approved the five-year disbursement of Hardship Fund money to the Company. The staff will consult with OCC concerning the Company's Lifeline marketing efforts; and the Company must refund any unused money to fulfill its Lifeline commitments under elective alternative regulation.

### **AT&T Ohio Long-Distance Switching Charges**

#### **06-108-TP-UNC**

OCC's position is that AT&T's charges should not be granted because they are excessive and would be an obstacle to customers who wanted to switch long-distance providers. The Company's proposed switching charges should be subject to an evidentiary hearing; and, AT&T

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does not cite to any FCC order to support that the 50% reduction would not apply to companies using cost study-based rates.

The Commission granted AT&T's request and our motion to intervene. However, our request for a hearing was denied. AT&T's local customers will now pay switching fees based on AT&T's cost study.

### **Vectren Energy Delivery of Ohio Balancing Issue**

#### **04-571-GA-AIR**

OCC is concerned that residential customers who purchase gas under the Gas Cost Recovery rate are bearing the costs of gas transportation balancing for large non-residential users of gas service. We did not waive our disagreements with the stipulation on balancing costs, but agreed not to oppose the stipulation becoming effective for the upcoming winter heating season, subject to the right to a later hearing if necessary.

The PUCO adopted the agreements but modified the June 30 agreement to not pre-establish OCC's right to a hearing. The Entry on Rehearing has not been issued.

### **American Electric Power**

#### **03-2570-EL-UNC**

OCC believes that public hearings should be held in diverse parts of AEP's service territory, including the communities with the worst performing circuits. Due to the company's failure to comply with the settlement, more fact-finding and hearings are needed.

The Company was ordered to set aside \$10 million toward future reliability measures. The PUCO will determine where and how the money will be spent. OCC filed an Application for Rehearing regarding whether the \$10 million is adequate for improvements and whether it can even be determined if \$10 million is spent.

### **Dominion Exit the Merchant Function**

#### **05-474-GA-ATA**

Subject to certain protections, OCC's position is that there should be an auction to learn if competition can produce better rates than the regulated GCR. An auction was held on August 29, 2006; the winning bid was \$1.44 over the monthly NYMEX price. The PUCO and OCC will continue to monitor the program throughout Phase 1. The average residential using 109 Mcf per year will save \$102 per year.

### **Cincinnati Gas & Electric**

#### **Management Performance Audit**

#### **05-216-GA-GCR**

OCC raised three issues for consideration all of which were addressed in the agreement:

- o OCC was concerned that the Company's use of natural gas was charged only to GCR (non-choice) customers but benefited all customers including choice customers resulting in GCR customers being over charged by \$271,000.

- OCC sought assurances from the company that its new transmission pipelines are being optimally utilized in terms of relieving congestion and improving the relative flow of gas between the Northern and southern interstate pipelines.
- OCC was concerned that Duke Energy was not charged the less expensive firm transmission rate but rather was charged the more expensive interruptible rate for gas flowing from storage on the company's affiliate KO pipeline and this cost was passed on to the GCR customers.

The agreement included language that instructs the next auditor to review Duke Energy's efforts to address this issue with remedies to be suggested if those efforts are deemed unreasonable or imprudent.

The meeting recessed at 10:45 a.m.

The meeting reconvened at 11:00 a.m.

### **Universal Service Fund Riders of Electric Distribution Utilities**

#### **06-751-EL-UNC**

The universal service fund rider would adversely affect residential electric consumers to the extent that costs are shifted from industrial users to residential consumers. The settlement agreement entered into by some of the parties fails to specify whether further audits of the electric companies' PIPP related accounting practices will be conducted.

The Commission approved the Universal Service Fund Rider agreement with the proposed recovery methods. Audits of electric companies PIPP-related accounting practices will continue as supported by OCC.

### **American Electric Power Storm Cost Rider**

#### **Case No. 06412-EL-UNC**

OCC's position in this case is that AEP failed to follow the process required to increase distribution rates; the company's application relies upon agreements that the company has violated through its pending self-complaint, in which it requests distribution rate increases during a rate freeze.

The PUCO granted AEP's request allowing AEP to recover \$23.6 million over one year. Interventions requested by OCC and the Industrial Energy Users were denied.

### **Executive Session**

Mr. Moliterno made a motion to enter executive session to discuss pending and/or imminent litigation. Mr. Murphy seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Executive Session began at 12:00 p.m.

Mr. Krebs left the meeting at 12:40 p.m.

Executive Session ended at 1:00 p.m.

### **Presentation by Columbus Green Building Forum**

Ms. Miller introduced Meera Parthasarathy who gave a presentation on "Green Buildings" and how they can benefit low income residents. Ms. Parthasarathy is a registered architect with experience working for both local and national firms. She is founder and president of the Columbus Green Building Forum, which advances the practices of sustainability in central Ohio.

### **Ohio Energy Strategy**

Ms. Migden-Ostrander gave a brief review of the IPM report which was released to the public. The report on the Ohio Energy Strategy was deferred to the November meeting.

### **New Cases**

Mr. Adams reported on new cases for this reporting period.

### **Duke Energy**

The Company has requested an extension of its current RSP to 2010. The Company claims that the certainty and instability in Ohio's market conditions threaten their ability to plan for stable reliable service absent continuation of its Market Based Standard Service Offer.

Effective January 1, 2009 Duke would combine several current charges allowed under its RSP into a new Price to Compare for customers who do not choose an alternative electric supplier:

- o The avoidable portion of a Rate Stabilization Charge which would equal 24% of Duke's generation charge in 2009 and 25% in 2010;
- o The Annual Adjusted Component for residential customers in 2006 is 6% of the generation charges and in 2007 and 2008, Duke may apply to the PUCO for additional increases;
- o Under the current RSP, Duke files quarterly changes to its Fuel and Purchased Power rates for actual fuel and purchased power costs.

OCC filed a motion to intervene and comments on August 15, 2006 claiming that Duke's proposed schedule would prejudice other parties, would not abide by Ohio statutes, and appears designed to avoid dealing with the OCC's pending appeal to the Ohio Supreme Court of Duke's Rate Stabilization Plan case.

### **Other Recent Activities in Electric Cases**

Duke filed an application on September 5, 2006 to set the 2007 level of its Annually Adjusted Component ("ACC") which allows recovery of increased costs of homeland security, taxes and environmental compliance.

Duke may apply to the PUCO for an annual increase in the ACC for 2007 and 2008.

On September 1, 2006 Dayton Power & Light filed for approval for a new Environmental Investment Rider ("EIR") charged to customers who have not chosen an alternative electric generation supplier. The EIR would allow DP&L to recover environmental plant investments and incremental O&M depreciation and tax costs during its current RSP. Pursuant to the PUCO's Order this charge would become effective January 1, 2007.

**Cincinnati Bell Basic Local Exchange Service (BLES) Alternative Regulation Case**

On August 7, 2006 the Company filed for basic local exchange service alternative regulation under rules that were adopted by the PUCO in March 2006. The Company claims that one of the competitive tests adopted by the PUCO is met in the Cincinnati exchange.

**AT&T Bell Basic Local Exchange Service (BLES) Alternative Regulation Case**

On August 11, 2006, AT&T filed an application for BLES alternative regulation under the PUCO's rules for 145 of its 192 exchanges. If the Company's application is approved their BLES rates could be increased by \$1.25 per month each year and its basic Caller ID rates could be increased by 50 cents per month each year.

**Minimum Telephone Service Standards (MTSS)**

The Commission issues for comment a proposal from its Staff to revise the MTSS. We advocate that the PUCO make significant changes to the proposed standards recommended by the Staff. Some of the proposed rules reduce consumer protections that we would like expanded or retained.

**Proposal to Rescind EAS Rules**

The PUCO issued an entry containing its Staff's proposal to rescind the Extended Area Service ("EAS") rules. The rules establish procedures for cases where consumers can petition the PUCO to expand the areas that they can call as a local, rather than a toll call. Our concern is that the Entry does not describe what would happen to the existing EAS routes and to the EAS pilot programs end that the Staff does not address situations where wireless service is not available and thus cannot substitute for EAS;

Chairman Solove read a resolution in honor of OCC's 30-Year Anniversary. Mr. Kohlman made a motion to pass this resolution; Mr. Murphy seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Mr. Moliterno left the meeting at 2:50 p.m.

**Communications Report**

**Media Relations**

The following news releases were issued:

- National Action Plan for Energy Efficiency
- Verizon rate increases
- Dominion auction process and the winning bid
- Stay Connected energy assistance programs
- More consumer protections needed for telephone service
- Vectren energy efficiency programs
- Statewide energy plan

**Outreach and Education**

- o 78 site visits were conducted which included city governments, villages, mayors and city managers;
- o Women & Money Shows were held in Toledo, Steubenville, Dayton and Portsmouth
- o Regional CAP meetings are scheduled for Findlay, Zanesville, Columbus, Hamilton and Norton

**Other Projects**

- o Ohio Energy Project
- o OCC 30-Year Anniversary

The meeting adjourned at 3:15 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 8th day of November 2006.



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Jerome G. Solove, Chair  
Ohio Consumers' Counsel Governing Board



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Laurie C. Knight, Secretary  
Ohio Consumers' Counsel Governing Board