Office of the Ohio Consumers' Counsel
Your Residential Utility Advocate
Janine L. Migden-Ostrander
Consumers' Counsel

MINUTES OF THE TWO HUNDRED SIXTYITH MEETING OF THE CONSUMERS' COUNSEL GOVERNING BOARD
March 15, 2006

Members Present: Randy Beane
Herman Kohlman
Gene Krebs
Dorothy Leslie
John Moliterno, Vice Chairman
Jerome Solove, Chairman
John Steinberger

Members Absent: Michael Murphy
Mark Totman

Guests: Kent Shimeall, Attorney General's Office

Call to Order
Chairman Solove called the meeting to order at 9:10 a.m. and welcomed our newest Board Member, Mr. Krebs, to the meeting.

Consumers' Counsel Report
Ms. Migden-Ostrander stated that Mr. Krebs was confirmed by the Senate and welcomed him to the Board as well. She noted that Mr. Krebs has been participating at the Public Utilities Commission of Ohio in the Distributed Generation case which will be presented later today.

Ms. Migden-Ostrander introduced OCC's newest employee Anthony Dill, Public Information Specialist to the Board. Ms. Migden-Ostrander also acknowledged Mr. Weston for his hard work while she was on vacation.

Ms. Migden-Ostrander reported that since the last Board meeting she attended the NARUC Winter Committee Meeting where she spoke on Energy Efficiency and Decoupling from an advocate standpoint.

On March 8, 2006 OCC hosted a meeting with the Low-Income Dialogue Group and on March 16 she will participate in a community forum in Cleveland hosted by the Coalition for Fair Utility Rates.

Other office activities include: the rulemaking on basic local exchange service rule and energy efficiency for both gas and electric. A discussion ensued regarding energy efficiency and conservation.

Chairman Solove asked for feedback on whether the strategic direction of the Consumers' Counsel should be inclusive of the policy issue of resource scarcity or conservation.

Mr. Moliterno arrived at 9:20 a.m.

Approval of Minutes
The minutes of the January 18, 2006 Governing Board Meeting were approved with Mr. Krebs abstaining.

Energy Policy Act, Distributed Generation and Related Issues
PUCO Case No. 05-1500
This docket was initiated as a result of the Energy Policy Act and correspondence from Governor Taft to Chairman Schriber. Distributed Generation offers more reliability and energy independence. A discussion ensued regarding the costs and who pays for distributed generation. OCC's goal in this proceeding is to open the door and remove some of the barriers for alternative energy such as wind, ethanol, gas plants, and biomass, etc.

Advanced Metering & Demand Response
Mr. Gonzalez gave a presentation on advanced metering and demand response. Key issues in this case are net metering, interconnection, standby rates, smart metering and demand response. Demand response is a program in which customers participate in peak reduction and critical period pricing programs. Customers who participate in a demand response program can cut their usage which ultimately leads to a decrease in market prices, if done on a large scale.

Advanced metering can be beneficial to industrial and commercial customers. It requires telecommunications equipment to transmit the data and computer equipment to process the data.

Residential customers can benefit from air-conditioning cycling through the use of advanced meters. Air-conditioning cycling is an innovative program that allows consumers to design their energy usage to their benefit so that they can save money by cycling their usage.

This technology will cost consumers approximately $100.00 which includes meter and installation. There may, however, be incentives available from demand-side management programs from the utility companies which would defray costs. It could also be that the utility would own the equipment (meter) whereby the customer charge would be levelized over the life of the meter.

Chairman Solove asked how pricing was updated on smart meters. Pricing is updated through a four tier schedule provided by the utility. As prices change the meter is adjusted accordingly.

Mr. Moliterno asked which states now offer this technology. Most states have experimented first with industrial customers. Utility companies in California and some of the New England states have a very strong metering program.

Interconnection

Mr. Hayes gave a presentation on interconnection. All generators that run in parallel with the distribution utility must be "interconnected" to do so. That is physically connected in a matter that the generator can run in a reliable and safe manner. Traditionally, utility grids received generation from utility owned and controlled sources such as power plants. With the advent of the Public Utility's Regulatory Policy Act of 1978 (PURPA) and the increase in alternative generation technologies, electric customers, have installed generation on their side of the meter. An example would be a hospital that has a stand-by generator in case the power goes down. Should a power outage occur the generator will start up and bring electricity through the building. When this occurs there is a switch that automatically disconnects the hospital from the utility. When the power is restored the generator will get in sync with the grid and shut itself off.

Net Metering

Mr. Hayes gave a presentation on net metering. Net metering means service to an electric consumer under which electric energy generated by a consumer from an eligible on-site generating facility and delivered to the local distribution facility, is used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period. All net metered installations must be interconnected; however, not all interconnected generation must be net metered.

The purpose of net metering is to encourage investment in renewable technology and distributed generation. An example of simple net metering is a residential customer who installs solar panels and generates more electricity than is actually used. This customer is able to get a credit on his bill for the electricity sold back to the utility.

Standby Rates

Ms. Roberts reported that under the Energy Policy Act of 2005, states are required to look at distributed generation, smart metering, net metering, and interconnection because they contribute to an overall more reliable electric system.

Standby rates from a utility's perspective cover the costs for them to supply all of the consumers energy needs anytime it is needed. Standby rates were first required by PURPA. OCC is concerned that the high standby rates established by the utilities makes the development of distributed generation uneconomical and that the rates charged by each utility should be evaluated as part of this proceeding.

Mr. Steinberger arrived at 10:35 a.m.

The meeting recessed at 10:45 a.m.
The meeting reconvened at 11:00 a.m.

New Cases
Federal Cases
Promoting Transmission Investment through Pricing Reform
Mr. Adams gave a presentation on the new cases. The purpose of this case is to increase the reliability of the interstate electric transmission system by encouraging new investment in transmission infrastructure. This can be achieved by establishing incentive based rate treatments (for new interstate electric transmission infrastructure) for each entity that joins a Regional Transmission Organization, an Independent Systems Operator or other approved transmission provider.

Transmission Investment Incentive Rate of Return
The position of NASUCA and OCC is that the total costs of the proposed incentives may be prohibitive; the proposed incentives do not promote economic efficiency and may not produce just and reasonable rates; the proposed incentives may not satisfy prior FERC edicts on incentive rates, and there is no evidence that independent transmission entities are a superior business model.

FirstEnergy Solutions Corporation
FirstEnergy Solutions Corporation, an affiliate of FirstEnergy Corp. requested that it be permitted to make sales to satisfy provider of last resort obligations under Ohio and Pennsylvania law, respectively, to its affiliate companies which include the FirstEnergy Ohio Operating Companies.

OCC filed a motion to intervene on February 8, 2006. We stated in our motion that the FirstEnergy Solutions contract with FirstEnergy Ohio Operating Companies affects the rate stabilization plan, and therefore directly affects the interests of Ohio's residential consumers.

American Electric Service Power Corp.
On January 31, 2006 AEP filed a petition for declaratory order seeking incentive rate treatment for its proposed 500 mile 765 kV transmission line project. AEP's subsidiary, AEP Transmission Company LLC is the entity charged with construction of the project.

The project will cost $3 billion and will span from West Virginia through Pennsylvania and Maryland and end at New Jersey.

Our major objection is that AEP is seeking extraordinary rate treatment for a transmission project that has not proceeded through any review process and before the FERC has completed its Notice of Proposed Rulemaking regarding incentive ratemaking.

AEP is asking for a return on equity that is unlikely to result in rates that are just and reasonable. The company is asking for a return on equity in the high end of the range of reasonableness, or in the alternative a 200 basis point adder; to be allowed full recovery of Construction Work in Progress on an expedited basis; and to be allowed to recover all of the costs associated with planning and implementing the project on an on-going basis.

High-Cost Universal Service Support
This case relates to a change in the mechanism for collecting contributions to the federal universal service fund. The issue in this case is that contributions are currently based on carriers' interstate revenues. Some have proposed that contributions be based on customers' connections to the network or on the number of telephone calls. This is due to a claim that interstate revenues are declining as a result of the bundling of services and the use of the internet.

NASUCA's position in this case is that interstate revenues are in fact not significantly declining. NASUCA opposes using customer connections or number of calls as the basis for determining contribution mechanism because they place the burden of universal service support on access to the network rather than usage of the network as does the revenue-based mechanism. Using a connections or numbers-based mechanism would harm consumers that do not make many, or any, long distance calls.

Federal Communications Commission
Consumer Protection in the Broadband Era
The FCC issued a Notice of Proposed Rulemaking last September 23, 2005 seeking comments on the need for any non-economic regulatory requirements necessary to ensure that consumer protection needs are met by all providers of broadband internet access service, regardless of the underlying technology.

NASUCA's position in this case is that consumers continue to need protections and the public interest warrants implementing prohibitions against practices such as slamming, cramming, fraud and other abuses. Consumers' privacy must be protected when they use services provided over the broadband network. Finally, the FCC should reject arguments that market forces or competition will provide necessary consumer protections in the broadband era.

Federal Communications Commission
Customer Proprietary Network Information
The FCC is seeking comments on what additional steps, if any, the Commission should take to further protect the privacy of customer proprietary network information (CPNI) that is collected and held by telecommunications carriers. The FCC initiated this rulemaking to determine whether enhanced security and authentication standards for access to customer telephone records are warranted.

Public Utilities Commission of Ohio
Cincinnati Gas & Electric Energy Efficiency Case
In January 2006, CG&E filed a five-year energy efficiency program for residential and small commercial customers. The company proposed to fund $9 million in energy efficiency the first year, ramping up to $18 million in year five for both natural gas and electric customers. CG&E filed to recover program induced lost distribution revenues and is seeking a performance based incentive. OCC is in settlement discussion with CG&E.

AEP Enhanced Service Reliability Programs
The Company filed a self-complaint at the PUCO that proposes, among other things, that AEP will present to the Commission "enhanced service reliability programs," "along with associated cost recovery" thus proposing a rate increase of some sort in order to maintain its current service reliability. OCC's position is that the distribution rate increases would violate the distribution rate freezes in effect for the Columbus Southern and Ohio Power Company pursuant to AEP RSP case.

The PUCO will file an investigation on April 17, 2006 to review improvements in performance over the two years of the Stipulation; recommend the consequences of the failure to fulfill the terms of the stipulation; and determine areas of service quality needing improvement in order to achieve reliable distribution service.

The Board recessed for lunch at 12:30 p.m.

Mr. Moliterno made a motion to enter executive session to discuss pending and/or imminent litigation. Mrs. Leslie seconded the motion, and Ms. Migden-Ostrander called the roll. The motion was passed unanimously.

Executive Session convened at 1:00 p.m.

Executive Session ended at 1:55 p.m.

Mrs. Leslie left the meeting at 2:00 p.m.

The meeting reconvened at 2:15 p.m.

Telecommunications Report

Basic Local Telephone Service Alternative Regulation

Mr. Bergmann presented a summary of the Basic Local Telephone Service Alternative Regulation. The PUCO staff proposed rules for Basic Local Telephone Service, which is the dial tone and local usage. House Bill 218 modified Ohio law to allow alternative regulation basic local exchange service. The PUCO staff proposed rules for alternative regulation for basic local exchange service which allowed a provision for a 20 percent increase per year for eligible companies, lifeline customers' rate capped; no additional consumer benefits; and the companies could become eligible even if customers who simply wanted basic local service had few, or no, comparable choices.

OCC's position:

- Companies need to show competition for basic local service exists to be eligible for rate increases;
- Stronger limitation on potential rate increases, lifeline customers' rates should be capped;
- More advanced notice to customers
- Fairer process to evaluate companies' applications, including more time for input from interested parties and public hearings;
- Additional commitments needed, such as better broadband availability;
- Basic Local Telephone Service Alternative Regulation;
- OCC has continuing concern about lack of competitive choices.

Case results:

- PUCO reduced potential rate increases;
- $1.25 annual increase to monthly basic rate;
- 50 cent annual increase to monthly Caller ID rate;
- Lifeline customers' rates capped;
- More advanced notice to customers; 30 days instead of 15 days;
- Increased the time for parties to object to companies' applications 45 days instead of 20 days;
- Increased the time for automatic approval unless PUCO suspends the proceeding: 120 days instead of 90 days;
- No additional commitments.

Small Telephone Companies' Alternative Regulation

There are over 30 small telephone companies in the state that serve under the laws definition, fewer than 50,000 access lines a piece. At this point Chillicothe Telephone is the largest of the small telephone companies. The bill that passed included a provision that required the PUCO to adopt rules that would make the elective alternative regulation rules appropriate for the small telephone companies.

PUCO Staff proposed rules that:

- Permit small telephone companies to be eligible for Elective Alternative Regulation which would allow them to increase the prices for commonly used features like Call Waiting as well as bundled packages;
- Must commit to broadband and Lifeline improvements

OCC argued that there should be a stronger Lifeline outreach and marketing programs. The PUCO adopted the Staff's draft rules with one change. The Staff has to now consult with OCC on administering the lifeline programs.

Mutual Telephone Companies
There are eight Mutual Telephone Companies serving about 10,000 access lines total. These telephone companies are basically owned by their customers. Under those circumstances, OCC and the PUCO have always viewed that it is up to the customers to regulate their company.

Case Outcomes
Cincinnati Gas & Electric Fuel & Purchased Power Audit
Mr. Weston reported on case outcomes. This case affects 597,000 residential customers in CG&E service territory.

OCC became involved in this case due to the potential impact of the rider on residential customers. Residential consumers would begin paying the rider in January 2006. The PUCO adopted the agreement between the PUCO Staff and CG&E which resolved many of the OCC's audit-related concerns.

Dayton Power & Light Transmission Costs
This case affects 452,000 residential customers in DP&L's service territory.

In this case, $7 million in transmission costs were incurred during the market development period when rates were frozen under Ohio's electric choice law. Deferral and actual collection of costs incurred during the rate freeze period are unlawful and in violation of agreements entered into by DP&L, the OCC and numerous other parties. The PUCO permitted the collection of these transmission costs.

Dayton Power & Light Billing Cost Rider
OCC's position is that we had an agreement with the company which stated that they would not collect billing system costs from residential customers. This case resulted in the billing cost rider being approved by the PUCO. Applications for rehearing by the OCC and Ohio Partners for Affordable Energy were denied. The residential share is $25 million, including carrying costs to be collected over five years.

Minimum Natural Gas Service Standards
This case affects over 3.2 million residential customers. Until now there were no minimum standards for gas service in Ohio.

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This case involved many issues but some of the more interesting issues from a customer perspective would be that OCC proposed a four hour time limit for scheduled service calls; alternative bill formats for customers with vision impairments; one free meter reading every three years; and the utilities should issue credits to customers if the utility misses an appointment. The natural gas companies believe that the PUCO lacks authority to require minimum service standards in the natural gas industry.

Columbia and Dominion Riders for Percentage of Income Payment Plan
This case affects over 2.5 million residential customers.

OCC's position in these cases was that the PIPP rider increases should be reviewed in a hearing in that they represented an increase in rates. With the magnitude of the increases, there should have been a process where interested parties could review these rates and present any issues to the PUCO. Another matter of concern is that there is nothing in the law that allows for a 45-day automatic approval which is what the Commission used in approving the rate increase.

The case resulted in the PUCO denying OCC's request for reconsideration and its request to receive documents from Dominion to verify the PIPP rider increases. The PUCO also instructed Columbia to review its implementation of a higher increase than the PUCO intended.

Dominion Exit the Merchant Function
This case affects over 1.1 million residential customers in Dominion's service territory.

Communications Report
Outreach & Education
Ms. Miller reported on upcoming events that are scheduled for OCC's 30-year Anniversary. An historical journal is available on our website that list monthly stories pertaining to our activities along with a list of benefits that have been achieved for residential consumers. It was suggested that OCC include a presentation to the legislature, statewide elected officials, and general assembly as part of the 30th Anniversary. Chairman Solove asked that we look into this and report at the next Governing Board Meeting.

Media Relations
Basic Local Telephone Rules
We launched a successful grassroots education campaign, attended public hearings, and issued guest column and news releases that resulted in more than 50 placements in Ohio newspapers.

Ms. Migden-Ostrander praised the Communications Department for the job they do and the effort they have put forth.

Chairman Solove reported on the PUCO Commissioner appointment. There is a process that the PUCO goes through to solicit candidates for the Commissioner position. The nominating council reviews prospective candidates' resumes and submits those names to the Governor. The four original names that were submitted to the Governor were not accepted. The council will meet again to pick another set of four candidates. The Governor will then have eight candidates to consider.

The meeting adjourned at 3:13 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 17th day of May 2006.

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

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