



Janine L. Migden-Ostrander  
Consumers' Counsel

**MINUTES OF THE  
TWO HUNDRED SIXTY-FIFTH MEETING  
OF THE CONSUMERS' COUNSEL GOVERNING BOARD  
July 18, 2007**

**Members Present:** Gene Krebs  
Dorothy Leslie  
John Moliterno  
Michael Murphy  
Jerry Solove  
John Steinberger  
Roger Wise

**Members Absent:** Randy Bean  
Mark Totman

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

**Call to Order**

Chairman Solove called the meeting to order at 9:10 a.m.

**Approval of Minutes**

The minutes of the May 16, 2007 meeting were approved.

**Consumers' Counsel Report**

Ms. Migden-Ostrander reported that beginning October 1, 2007, OCC will once again be able to handle consumer complaints.

OCC's new employees were introduced:

- Patricia Chang – Consumer Services Division
- David Cleaver – Analytical
- Mike Idzkowski – Legal
- Greg Poulous – Legal
- Prema Harishankar – Operations

OCC was asked by the Department of Administrative Services to assist in handling calls pertaining to identity theft. The Consumers Services Division, along with OCC employees with call center experience, staffed the phones.

Ms. Migden-Ostrander attended the NARUC conference and reported that renewable energy was at the forefront of the agenda. OCC participated in the American Solar Conference which was held in Cleveland.

**CASE OUTCOMES – Bruce Weston**

**Review of Telephone Retail Service Rules, Case No. 06-1345**

In November 2006 the PUCO issued recommended changes to the retail service rules which govern the retail aspects of providing competitive telephone service in Ohio. OCC's position is that the Staff's changes are acceptable because they streamline the rules telephone companies must follow without eliminating consumer protections. Portions of the revised rules reflect efforts advocated by OCC for residential consumers. A discussion ensued regarding consumer protections.

The meeting recessed at 10:30 a.m.

The meeting reconvened at 10:40 a.m.

**American Electric Power, Power Acquisition Rider, Case No. 07-333**

In November 2005 Monongahela Power was acquired by Columbus Southern Power. Columbus Southern Power was allowed to charge Monongahela Power customers a power acquisition rider after the PUCO found it did not have the generation capacity to serve the additional customers.

OCC's position is that the rider mechanism should be based on kilowatt hour costs. The Commission however, approved a new mechanism which resulted in residential customers subsidizing industrial customers. A discussion ensued.

**Duke Energy Demand Side Management Programs, Case Nos. 06-91, 06-92, and 06-93**

Duke Energy Ohio requested approval to implement electric and natural gas demand side management programs which were negotiated with Consumers' Counsel and other parties in a collaborative process.

OCC's position is that both electric and natural gas demand side management programs provide system benefits for all residential consumers. As a result of this case, ten residential demand side management programs will be available to consumers. Duke will spend a total of \$75 million over five years for all programs.

**FirstEnergy Line Extension, Case No. 07-548 and 07-549**

FirstEnergy and other electric utilities are allowed to charge an \$8.00 monthly surcharge to customers affected by new line extensions through December 2007. The agreement made in FirstEnergy's rate plan does not allow for any changes to be made and should expire on December 31, 2007.

As a result of this case, the recovery period for line extension surcharges was extended through December 2008 and the extension will only be allowed to apply to customers of new line extension projects after the company's change becomes effective.

**Vectren Energy Delivery of Ohio, Decoupling and Energy Efficiency, Case No. 05-1444**

OCC requested reconsideration of the modified agreement from the PUCO arguing that the PUCO should reverse its decision and provide energy efficiency programs for all Vectren customers.

The PUCO approved the agreement filed by Vectren, OPAE and PUCO Staff with \$2 million for low-income weatherization programs over two years. OCC opposed this given the insufficient level of DSM funds and the amount of decoupled revenues being given to Vectren.

**Columbia Gas, Natural Gas Riser Replacement Plan, Case No. 07-478**

OCC is concerned with the safety of customers with affected risers. Under federal law Columbia is responsible for the inspection of risers. The PUCO approved Columbia replacing risers that are leaking or prone to leakage, among other things.

**Vectren Energy Delivery of Ohio, Bill Format Changes, Case No. 07-477**

Vectren filed to revise its bill format to allegedly improve readability and understandability. OCC's position is the original changes condensed bill information making it difficult to read. We advocated for large print and Braille among other things. The PUCO approved Vectren's changes and denied OCC's requests.

**AT&T Alternative Regulation, Case No. 07-259**

AT&T filed an application to operate alternate regulation rules for its basic local telephone service in 11 exchanges. OCC's position is that the company failed to pass competitive tests that are required before being granted the ability to raise its rates; the PUCO's rules do not comply with Ohio law; that AT&T failed to show that basic local service is competitive, that reasonably available alternatives exists, and, that no barriers to competition exist.

AT&T was granted the ability to raise rates for basic local service in 8 out of 11 exchanges. The Commission denied AT&T's alternative regulation for 3 exchanges because AT&T did not meet the competitive tests.

**American Electric Power Reliability, Case No. 06-222**

The company requested a rate increase to remedy service quality issues. OCC's position is that the Commission should reject the Company's plan because it would raise distribution rates in violation of a freeze on such increases through 2008.

**MISO Ancillary Services Market, Case No. ER07-550**

MISO filed revisions to its tariffs and proposed creating a new ancillary services market which would supply contingency reserves.

FERC rejected MISO's tariffs because MISO filed to provide a market power analysis to support its proposal.

#### **EXECUTIVE SESSION**

Mr. Moliterno made a motion to enter executive session to discuss pending and/or imminent litigation and to conduct the performance evaluation for Ms. Migden-Ostrander and Mr. Weston. Mr. Steinberger seconded the motion and Mrs. Knight called roll. The motion passed unanimously. Executive Session began at 11:50 a.m.

The Governing Board returned to open session at 3:20 p.m.

Mr. Moliterno made a motion to increase Ms. Migden-Ostrander's salary by 3.5% for the upcoming year beginning July 1, 2007. Mrs. Leslie seconded the motion. The motion passed unanimously.

Mr. Moliterno made a motion to increase Mr. Weston's salary by 3.5% for the upcoming year beginning July 1, 2007. Mr. Steinberger seconded the motion. The motion passed unanimously.

#### **PERS DISCUSSION – Kent Shimeall**

Mr. Steinberger made a motion to waive the Governing Board's attorney client privilege. Mr. Wise seconded the motion. The motion passed unanimously.

Mr. Shimeall reported on Public Employee Retirement System (PERS) and discussion ensued on the issue of whether or not Board Members qualify for retirement benefit.

Mr. Moliterno made a motion to have the Attorney General's office send a letter to OPERS on the Governing Board's behalf requesting a determination regarding whether Board Members are obligated to contribute to OPERS. Mr. Wise seconded the motion. The motion passed unanimously.

#### **NEW CASES – Beth Hixon**

##### **Embarq Basic Local Exchange Service (BLES) Alternative Regulation, Case No. 07-760**

Embarq filed an application for alternative regulation in four of their exchanges. If its application is granted, customers will face a potential increase of \$1.25 for BLES rates and \$.50 for Caller ID.

##### **Duke Energy Ohio Gas Distribution Rate Case and Alternative Rate Plan, Case No. 07-589**

Duke filed its Pre-Filing Notice for changes in gas distribution rates on June 18, 2007. In its application filed on or after July 18, the Company is requesting a \$34 million revenue increase.

##### **Duke Energy Ohio Electric Residential Three-Phase Tariff, Case No. 07-625**

Duke filed tariffs on May 23, 2007 as a result of the Commission's approval of a settlement in consumer complaints against Duke for not offering three-phase residential service. OCC had participated in the case.

**Ohio Department of Development Universal Service Fund, Case No. 07-661**

Ohio Department of Development filed a notice of intent to file its annual USF rider adjustment by October 31, 2007. Under SB 3 the Universal Service Fund rider became a charge on bills of all electric distribution customers to allow the Ohio Department of Development to fund and administer the electric PIPP and low-income customer energy efficiency programs.

**Implementation of Federal Energy Policy Act of 2005, Case No. 07-646 et. al.**

These cases were established to allow the PUCO Staff to proceed with workshops on: Smart Metering Deployment; Cogeneration and Power Production Purchases and Sale Requirements in Ohio; Electric Utility Fuel Source Diversity and Fossil Fuel Generation Efficiency; and, Development of an Advance Energy Portfolio Standards and Green Pricing Standard in Ohio.

These workshops are being provided to among other things work with electric distribution utilities and stakeholders to evaluate models to conduct cost/benefit studies for Advanced Meter Infrastructure and deployment options.

**FirstEnergy Generation Service, Case No. 07-796**

This is FirstEnergy's post-2008 generation supply plan. Under the company's current rate plan generation rates are capped through 2008. FirstEnergy's proposal would include among other things, that a portion of the supply come from renewable resources.

**FERC Market Monitoring of Wholesale Markets, Case Nos. EL07-56 and EL07-58**

OCC and other consumer advocates filed a complaint that PJM violated its market monitoring tariff. The PJM market monitor testified at FERC that he was being censored by PJM management and could not properly monitor the markets and protect the public from abuses of market power.

**COMMUNICATIONS REPORT – Linda Walls Rominski**

Eleven news releases have been issues. Topics include: return of complaint handling authority; stronger electric service and safety standards; proposed green option for FirstEnergy customers; and, Vectren decoupling case.

Outreach and education participated in the following:

- Women and Money Seminars
- Partnership with OSHIP
- Buckeye Boys State
- Environthon

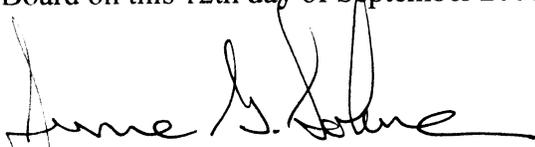
**OPERATIONS – Chuck Repuzynsky**

Mr. Repuzynsky reported that OCC ended last fiscal year under budget. The agency lapsed 3.6%. Five key positions have been filed and the new economist is scheduled to begin next week.

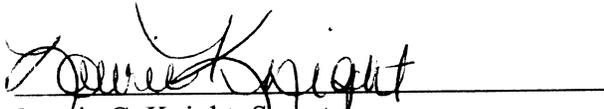


The meeting adjourned at 4:20 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 12th day of September 2007.

A handwritten signature in black ink, appearing to read "Jerome G. Solove", written over a horizontal line.

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

A handwritten signature in black ink, appearing to read "Laurie C. Knight", written over a horizontal line.

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