



Janine L. Migden-Ostrander
Consumers' Counsel

**MINUTES OF THE
TWO HUNDRED SIXTY-NINTH MEETING
OF THE CONSUMERS' COUNSEL GOVERNING BOARD
March 19, 2008**

Members Present: Randy Beane
Gene Krebs
David McCall
Joe Logan
John Moliterno
Jerry Solove
Roger Wise

Members Absent: Dorothy Leslie
Michael Murphy

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 January 16, 2008 meeting were approved.

CONSUMERS' COUNSEL REPORT

New employees were introduced:

- o Ceedra Horn – Consumer Services Division
- o Don Turklay – Operations

Ms. Migden-Ostrander read to the Board a Resolution in honor of Linda Johnson for their approval. The Resolution passed unanimously.

Ms. Migden-Ostrander briefly discussed a few of the office activities. These cases will be discussed in detail later in the meeting.

Ms. Migden presented testimony before the House regarding House Bill 487. HB 487 deals with energy efficiency. The Board received a copy of the testimony.

OCC reached a settlement in the Duke gas rate case on the revenue requirements and infrastructure maintenance. This settlement will provide significant savings to consumers.

Public Hearings have been held for residents in the FirstEnergy and Duke service territories. OCC provides assistance to consumers at these hearing on how to testify. We also assist with the complaint process. The Communications Department did an excellent job notifying consumers of the public hearing.

CASE OUTCOMES – Bruce Weston

Duke Management Performance Audit, Case No. 07-218

Duke's audit period is established by the Commission and the Commission is required to review the purchasing practices of utilities.

Consumers' Counsel's position is that Duke may have been too aggressive in its hedging program and that they should evaluate their use of an asset management agreement. A discussion ensued regarding the audit findings.

An agreement was reached among the parties and approved by the Commission. According to the agreement, Duke is prohibited from extending its physical hedging beyond 36 months without approval by the Commission; Duke agreed to consider using propane facilities where it makes economic sense beyond emergency situations and in times of peak demand; and Duke agreed to consider retaining its capacity to sell in the market instead of using an asset manager.

AEP Additional Generation Rate Increases, Case Nos. 07-1132, 07-1191, 07-1278, and 07-1156

The Company received Commission approval to implement generation cost recovery riders to collect additional increases in environmental costs permitted under its rate stabilization plan. The plan allows the utility to apply for generation rate increases up to an average of 4% per year from 2006 through 2008.

An agreement was reached among the parties that addressed costs through the remainder of the rate stabilization period, which excluded \$10 million of costs to consumers.

Duke Energy Bill Format, Case No. 07-1205

Duke Energy filed an application for approval of a new bill format. This new format would move generation-related charges to the generation section of customers' bills from the distribution section.

Consumers' Counsel's position is that consumers should not be charged for Duke's billing system changes. Such revisions should have been made during the approval of Duke's rate stabilization plan.

Through supplemental filings, sample bills were produced and the utility assured the Commission that customers would not be charged for the billing system changes.



Duke Fuel and Purchased Power and System Reliability Tracker, Case Nos. 07-723 and 07-975

The Commission initiated an audit of two of Duke's riders permitted under its rate plan. The fuel and Economy Purchased Power Costs relate to buying fuel from power plants, emission allowances and certain power purchases while the System Reliability Tracker Costs relate to maintaining reserve margin.

The settlement included instances of utility resistance to the Auditor's advice. Consumers' Counsel's position is that all recommendation made by the Auditor should be adopted.

The Commission modified and approved the settlement to include that the Zimmer power plant will be addressed in the next audit "with no limitation placed on the auditor's review and Duke will need to take action to ensure the coal samples are secure. A discussion ensued regarding Duke's capacity.

AT&T and Cincinnati Bell Alternative Regulation for Basic Local Services, Case No. 2007-0570 and 2007-0559

Consumers' Counsel appealed to the Supreme Court of Ohio the Commission's decisions in Cincinnati Bell's alternative regulation case and AT&T's alternative regulation case. The two largest exchanges in Cincinnati Bell's territory and many exchanges in AT&T's territory are now subject to the pricing freedom that the PUCO authorized. Cincinnati Bell used this freedom to increase basic telephone rates by \$1.25 in 2007 and again in 2008.

Consumers' Counsel's position is that the Commission unlawfully granted the alternative regulation by not requiring the Companies to demonstrate that competition exists.

The Ohio Supreme Court upheld the Commission's decisions.

A discussion ensued regarding alternative regulation and unregulated services.

Natural Gas Riser Case, Case No. 05-463

The Commission initiated an investigation into the types of natural gas risers being installed. The Consumers' Counsel's position is that the Commission should prohibit the installation of field-assembled risers as they are more prone to leakage.

The Commission ordered that natural gas utilities ensure correct riser installation; all failures will be tracked and reported to the Commission; and, utilities must conduct an inventory of risers. The Commission did not resolve the issues related to the ownership and repair responsibility, which issues are being resolved in other cases.

American Electric Power IGCC Power Plant Cost Recovery, Supreme Court Case No. 2006-1594

Consumers' Counsel and other parties including industrial customers appealed the Commission's decision in this case. Our position is that the Commission unlawfully granted AEP the ability to

collect from customers' preconstruction costs for the power plant long before the plant is used in providing electric service to customers.

The Ohio Supreme Court reversed the Commission's decision approving cost recovery and remanded the case back to the Commission.

The Board recessed at 10:40 a.m. and reconvened at 11:00 a.m.

NEW CASES – Beth Hixon

Columbia Gas of Ohio, Case No. 08-72 et. al.

Columbia Gas filed a pre-filing notice February 1 requesting a rate increase of \$82.4 million. There are four cases contained within this one application:

- Increase gas distribution rates (08-72): An annual increase of approximately \$79.3 million is proposed. The company estimates an average residential consumer's monthly bill will increase by \$5.64. The company proposed a change in rate design to gradually shift its base rate charge from a volumetric charge to a flat fee.
- Alternative regulation plan (08-73): The alternative regulation plan would allow for new rates in addition to the distribution rates in order to avoid the regulatory lag associated with the traditional ratemaking process for Demand Side Management and for an Infrastructure Replacement Program. The infrastructure replacement rider was designed to recover three types of costs: gas risers, cast iron and bare steel pipe; and installation of automatic meter reading devices.
- Change in accounting methods related to alternative regulation plan (08-74)
- Revise depreciation accrual rates (08-75).

Dominion East Ohio, Case No. 08-169

Dominion filed an application for pipeline infrastructure replacement on February 22, 2008. Included in the cost recovery charge are replacements over 25 years of certain bare steel and cast or wrought-iron lines; assumption of responsibility of curb to meter service lines; and ongoing infrastructure replacement and relocation and system improvements.

The infrastructure replacement rider was designed to recover three types of costs: gas risers, cast iron and bare steel pipe; and installation of automatic meter reading devices.

FirstEnergy, Case No. 08-124

FirstEnergy filed an application for a deferred fuel cost rider on February 8, 2008. The Company recommends a collection period of 5 to 25 years.

AT&T Ohio, Case No. 08-107

AT&T filed its basic service alternative regulation application in eight exchanges: Chagrin Falls, Christianburg, Hillcrest, Independence, Painesville, Pitchin, Uhrichsville and Willoughby.



Doylestown Telephone, Case No. 08-117

Doylestown filed an application for a waiver of the Commission's "edge-out" access rate reduction requirement. "Edge-out" is when an incumbent telephone company expands its territory outside of its traditional territory, typically into neighboring or adjacent exchanges. Doylestown has edged-out into two Embarq exchanges and is requesting the Commission's permission to not be forced to reduce its access charge rate in those two exchanges. Embarq opposed the waiver and requested Doylestown to increase its local rates in order to make up for any revenue loss.

COMMUNICATIONS REPORT – Beth Gianforcaro

Thirteen news releases have been issued since the last meeting on the following topics:

- Supreme Court decision on AEP's proposed IGCC plant
- Support of House Speaker Husted's renewable energy and energy efficiency measures
- Local public hearings on proposed FirstEnergy rate increase
- Local public hearings on proposed Duke rate increase
- Consumer Alert reminding consumers about the end of the energy shutoff moratorium
- Reaction to \$250,000 penalty against Verizon for missing service benchmarks
- Agreement in Duke Energy natural gas rate case
- Media advisory on public hearings for Vectren customers on natural gas changes
- Opposition to Duke Energy natural gas base rate increase
- Reaction to Supreme Court decision on AT&T and Cincinnati Bell basic rate flexibility
- Aqua Ohio consumers' public hearings on proposed rate hike
- Request for dismissal of Ohio American Water's rate increase request for Franklin and Portage counties
- Statement on selection of Cheryl Roberto, PUCO Commissioner

OCC's Annual Report is expected in April, 2008.

Outreach and Education has sent out the mailings on the following topics:

- Promoting the speakers' bureau
- Promoting the FirstEnergy local public hearings
- Promoting the Duke local public hearings

We have held 20 Weatherization Workshops since December 6, 2007. These workshops show consumers hands-on, inexpensive ways to weatherize their homes.

LEGISLATIVE REPORT – Dennis Stapleton

In November 2007, SB 221 was passed by the Senate and has gone unchanged since then. House Bill 487 was introduced by Rep. Jim McGregor on February 21, 2008. It is believed that the advanced energy section of SB 221 would become substituted by HB 487.

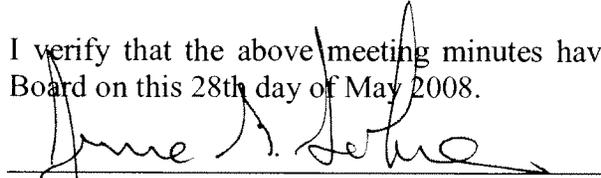
OPERATIONS REPORT – Chuck Repuzynsky

The Governor's office has issued spending controls related to the purchase of equipment. Prior approval is required for purchases over \$300.00. Controls have also been placed on travel.

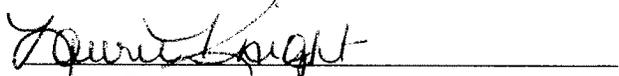


There being no other business, the meeting adjourned at 1:10 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 28th day of May 2008.



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



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