



Janine L. Migden-Ostrander
Consumers' Counsel

**MINUTES OF THE
TWO HUNDRED SEVENTY-THIRD MEETING
OF THE CONSUMERS' COUNSEL GOVERNING BOARD
November 19, 2008**

Members Present: Gene Krebs
Dorothy Leslie
Joe Logan
John Moliterno
Jerry Solove

Members Absent: David McCall
Michael Murphy
Roger Wise

Guests: Aaron Epstein, Attorney General's Office

CALL TO ORDER

Chairman Solove called the meeting to order at 9:12 a.m. and thanked everyone for coming.

CONSUMERS' COUNSEL REPORT

Ms. Migden-Ostrander welcomed the Board and reported that four of the gas rate cases have been settled. These cases will be discussed further in Executive Session.

New employees were introduced. They included:

Donna Jarrell, Consumer Services Specialist
Stacia Harper, Senior Energy Policy Advisor
Amr Ibrahim, Senior Regulatory Analyst
Oyango Snell, Director of Legislative and Governmental Affairs

Employees of the month for October and November were Mary Seltzer, Operations and Larry Sauer, Legal Department respectively. The Board thanked them for their good service on behalf of customers.

Ms. Migden-Ostrander had the opportunity to take a tour of Duke's Envision Center. The Board has been invited to take this tour and will plan to do so for the March 2009 meeting.

Ms. Migden-Ostrander attended the National Coal Council's meeting in Washington, DC and the National Association of Utility Consumer Advocates (NASUCA) Conference in New Orleans, LA. At both of these meetings the emphasis was on resource planning.

CASE OUTCOMES

FirstEnergy Interconnection Tariff Modification, PUCO Case No. 07-1288-EL-ATA

FirstEnergy requested approval of modification to their interconnection tariffs. Interconnection occurs when a customer's generation facility is physically connected to the utility company's distribution system.

OCC recommended amendments to the proposed tariffs to ensure the tariffs are lawful and reasonable. The amendments included among other things, identifying the technical requirements for interconnection.

The PUCO approved FirstEnergy's revised interconnection tariffs.

American Electric Power Interconnection Tariff Modification, PUCO Case No. 07-1303-EL-ATA

AEP requested approval of modification to their interconnection tariffs. Interconnection occurs when a customer's generation facility is physically connected to, and operates in parallel with, the company's distribution system.

OCC's position is that the tariffs should be limited to assessing costs that are lawful and reasonable.

The PUCO approved AEP's modified interconnection tariffs. After reviewing the comments of OCC and the Industrial Energy Users the Commission declared the rates to be just and reasonable.

PUCO Review of Telephone Rules on Accounting, Contracts and Line Extensions, PUCO Case No. 08-539-TP-ORD

After conducting a regular statutory review, PUCO Staff proposed to rescind certain rules in Chapter 4901:1-3 and revise other rules in this Chapter.

OCC's position among other things is that the PUCO's proposed accounting requirements setting forth a uniform system of accounts for all incumbent local exchange carriers further the public policy interest.

The Commission modified the proposed contract rule to address AT&T's concerns that it was overly broad, thus the expansion supported by OCC was not approved.



PUCO Review of the Competitive Retail Natural Gas Service Provider Rules, PUCO Case No. 08-724-GA-ORD

The Commission issued various proposed rules for comment. These rules govern competitive natural gas retail service providers and their contracts with customers.

OCC requested among other things that the PUCO adopt an additional requirement for providers to describe to consumers any material changes made to the contract for service.

The PUCO approved the modified revisions to the rules and did not accept OCC's recommendations.

CenturyTel of Ohio Application for Prepaid Telephone Service, PUCO Case No. 08-889-TP-UNC

CenturyTel filed an application seeking the PUCO's review and approval of prepaid local telephone service.

OCC's position is that the PUCO was not authorized to exempt local telephone companies from the statutory requirements of providing directory assistance and operator service.

The PUCO approved CenturyTel's application.

AT&T Ohio Application for Alternative Regulation of Basic Local Exchange Service, PUCO Case No. 08-594-TP-BLS

The Company filed for basic service alternative regulation.

The OCC believes that basic service alternative regulation is not in the public interest if thousands of subscribers in the five AT&T Ohio exchanges do not have comparably price alternatives.

The PUCO approved AT&T Ohio's application for the five exchanges, dismissing OCC's arguments. AT&T can increase monthly basic service rates up to \$1.25 annually.

AT&T Ohio Application for Alternative Regulation for Basic Local Exchange Service, PUCO Case No. 08-912-TP-BLS

AT&T Ohio filed its sixth application for basic service alternative regulation for exchanges in Bedford, Brecksville, Columbiana, Leroy, North Jackson, and Roseville.

The OCC questioned the accuracy of AT&T Ohio residential access line counts included in the application and requested that the PUCO hold a hearing to review these counts.

The PUCO approved AT&T Ohio's application for the six exchanges, dismissing OCC's arguments. AT&T can increase monthly basic service rates up to \$1.25.

Dominion East Ohio Rate Case, PUCO Case No. 07-829-GA-AIR et. al

Dominion filed an application to increase distribution rates by \$75 million. OCC opposed the increase and negotiated a stipulation which reserved for litigation the straight fixed variable rate.

OCC opposed the increased flat rate charge and proposed the traditional rate design. This type of charge was not requested by DEO but was recommended by the PUCO Staff.

The stipulation was approved by the PUCO. The rate increase was reduced from \$75 million to \$37.5 million.

PUCO Minimum Telephone Service Standards – Service Termination Rules, PUCO Case No. 00-1265-TP-ORD

The PUCO adopted new Minimum Telephone Service Standards (MTSS) in July, 2007 which prohibited disconnecting a customer's bundled service for nonpayment as long as the customer made a payment that covers the carrier's tariffed rate for stand-alone basic service.

OCC and other consumer groups recommend Rule 10(B) remain as adopted in 2007 or with modifications proposed by consumer groups. Among other things the PUCO's proposal does not differentiate between regulated and unregulated services.

The partial payment rule is eliminated. The PUCO agreed with the incumbent carriers' position that customers have options under the revised rule, including canceling all of their services except for basic service, establishing payment arrangements, or switching to another provider.

PUCO Adoption of Rules (2nd Set) for Electricity Regulation, 08-653-EL-ORD

On April 4, 2007 the PUCO proposed modifications of rules governing electric utilities and proceedings contained in various Ohio Administrative Code Chapters. The PUCO issued modifications to the rules on November 5, 2008.

OCC's position along with the coalition is that the threshold for declaring outages should be lowered and, among other things, electric utilities should be required to coordinate and conduct emergency exercises with community emergency agencies.

A few of the coalition's recommendations were adopted, including: requiring utilities to conduct annual surveys; and providing governmental aggregators with information in a usable and accessible form.

The Board recessed at 11:15 a.m. and reconvened at 11:35 a.m.

NEW CASES

Mr. Adams summarized the new cases filed over the last two months. Cases have been filed by the following companies: Eastern Natural Gas and Pike Natural Gas, Dayton Power & Light, United Telephone, Cincinnati Bell Telephone, Aqua Ohio, FirstEnergy, American Electric Power and Duke. In addition, Management Performance audit cases have been opened for Duke, Vectren and Columbia.

Eastern Natural Gas and Pike Natural Gas Companies, PUCO Case Nos. 08-0940-GA-ALT and 08-0941-GA-ALT

The companies filed applications for alternative regulation. Eastern provides natural gas service to approximately 6,700 customers in Ashtabula and Trumbull counties while Pike provides natural gas service to approximately 7,200 customers in Southern Ohio.

Dayton Power & Light Company Standard Service Offer, PUCO Case No. 08-1094-EL-SSO

The Company filed an application for approval of its proposed ESP, along with applications in cases associated with the ESP. Based on the company's filing, customers will experience immediate benefits of energy efficiency programs through the implementation of the Company's proposed Customer Conservation and Energy Management Plan (CCEM), Alternative Energy Plan and Smart Grid.

The Company's application is divided into three books: Standard Service Plan, Customer Conservation and Energy Management Plan, and Alternative Energy Plan.

United Telephone Company of Ohio dba Embarq, Request for Waiver of Rules or Order, PUCO Case No. 08-1118-TP-WVR

The PUCO's Minimum Telephone Service Standards (MTSS) require local exchange carriers to provide credits for customers if service outages are not repaired in the time required by the MTSS.

Because Governor Strickland declared a state of emergency for Ohio due to the September 14 windstorm, Embarq is seeking a grace period for calculating credits for which customers may be eligible for under the MTSS for outages that occurred between September 15 and 19, 2008.

Cincinnati Bell Telephone Company LLC, PUCO Case No. 08-1124-TP-WVR

The Company filed an application seeking a grace period for calculating credits that customers in all 12 exchanges were entitled to under the rules for the outages that occurred between September 14 and 19, 2008.

Aqua Ohio, Inc., Stipulation Compliance, PUCO Case No. 08-1125-WW-UNC

On May 15, 2008, the Commission issued an Opinion and Order approving the rate case stipulation in Case No. 07-564-WW-AIR. The stipulation addressed the resolution of the Company's billing and billing backlog issues and the delayed responses OCC has received from the Company with regard to

customer inquiries and complaints. This case was opened by the PUCO to monitor Aqua Ohio's compliance with the Commission Order and the rate case stipulation.

FirstEnergy Transmission Cost Recovery Rider, PUCO Case No. 08-1172EL-ATA

The Company seeks authority to recover transmission and transmission-related costs through a transmission cost recovery rider. Pursuant to SB 221, the FE Operating Companies submitted an application requesting regulatory authority to establish a Market Rate Offer and an Electric Plan. If the Commission adopts the ESP, then the FE Operating Companies request recovery of transmission and transmission-related costs through bypassable Transmission and Ancillary Services ("TAS") Riders. Otherwise, if the Commission instead adopts the FE Operating Companies' MRO and the companies are not incurring any transmission and/or transmission related costs, then, at the date power begins flowing under the MRO, this Application should be deemed withdrawn, except for a request made herein to extend the Current Transmission Rider until any over- or under-collection is refunded or collected as contemplated in said rider. However, if the Commission adopts the MRO and the FE Companies are incurring any transmission and/or transmission related costs, then the Companies believe that this application should be approved and the proposed rider amounts should remain in place.

American Electric Power, PUCO Case No. 08-1202-EL-UNC

AEP filed with FERC an application to increase their Open Access Transmission Tariff. The effective date of the proposed increase was suspended until March 1, 2009. Annual updates of the Transmission Cost Recovery Rider (TCRR) incorporate any over or under recovered deferral balance as of September 30 of each year into the surcharge for the next calendar year.

Duke Energy Ohio, PUCO Case No. 08-0727-EL-UNC

Duke filed updated tariffs reflecting the proposed rates for Rider TCR for the period May 30, 2008 to January 1, 2009 and January 2, 2009 through January 1, 2010. The proposed riders represent decrease in rates of 11.33% and an increase of 9.73% respectively.

FERC, Case No. ER09-134

FirstEnergy requested FERC to authorize market-based rates for its affiliate FirstEnergy Solutions. With this authorization FirstEnergy and FirstEnergy Solutions would no longer require FERC approval of their affiliate contracts for power to supply Ohio retail customers in FirstEnergy's service territory.

FERC, Case No. ER09-75

Pioneer LLC, an affiliate of AEP, applied to FERC for incentive rate treatment and cost recovery of a proposed transmission line that would connect PJM and MISO. This project has not been approved for inclusion in PJM's transmission expansion program for reliability or economic purposes, even though this is a FERC requirement.

APPROVAL OF MINUTES

The Minutes from the September 22, 2008 meeting were approved.

Chairman Solove requested that the May 20, 2009 Governing Board Meeting be rescheduled. Mrs. Knight will notify the Board of the rescheduled date.

Mr. Moliterno made a motion to enter Executive Session to discuss pending litigation. Mrs. Leslie seconded the motion and Ms. Knight called the roll.

Executive Session began at 12:20 p.m.

Executive Session ended at 2:10 p.m.

Mr. Moliterno left at 2:00 p.m.

Mr. Weston introduced OCC's new interns.

COMMUNICATIONS REPORT

Ms. Gianforcaro reported on the activities of the Communication Department. Since the last meeting there have been 28 news releases and media advisories issued concerning the electric, gas, telephone and water cases that were mentioned earlier.

Outreach and Education activities include: Brain Injury Association of Ohio Annual Conference; Columbus State Community College Disability Fair; Wyandot County Council on Aging Senior Health Fair; OCC Sponsored Electric Security Plan Public Forums; and OCC Cap Meetings.

Special mailings were sent out to inform consumers about the local public hearings for AEP, FirstEnergy and Columbia Gas.

Mr. Krebs left at 2:40 p.m.

Mr. Bonina provided an update on the progress of the website upgrades and demonstrated how OCC's website can be used by consumers with disabilities.

OPERATIONS REPORT

Mr. Repuzynsky reported that the biennial budget is underway. OCC will meet with OBM in December to discuss our needs. Key positions have been filled and there are two positions remaining.

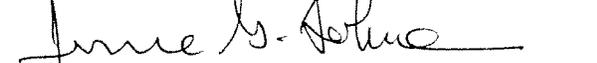


LEGISLATIVE REPORT

Mr. Snell reported on this year's election. 68% of the population voted in this election; 5.6 million votes were cast. About 3.3% of absentee/provisional votes remain outstanding.

With no further business the meeting adjourned at 3:16 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 11th day of February 2009.



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



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