



Janine L. Migden-Ostrander
Consumers' Counsel

**MINUTES OF THE
TWO HUNDRED SEVENTY-SECOND MEETING
OF THE CONSUMERS' COUNSEL GOVERNING BOARD
September 22, 2008**

Members Present: Gene Krebs
Dorothy Leslie
Joe Logan
David McCall
John Moliterno
Michael Murphy
Jerry Solove
Roger Wise

Members Absent:

Guests: Aaron Epstein, Attorney General's Office

CALL TO ORDER

Chairman Solove called the meeting to order at 9:15 a.m. and thanked everyone for coming.

APPROVAL OF MINUTES

The Minutes from the May 28, 2008 and July 16, 2008 Governing Board Meeting were approved.

CONSUMERS' COUNSEL REPORT

Ms. Migden-Ostrander reported that the office continues to be hard at work on PUCO rulemaking cases concerning implementation of SB221, PUCO disconnect rules and electric service standards. As part of the coalition, Ohio Consumer and Environmental Advocates, we have filed over 500 pages of comments on three different sets of proposed rules. OCC has taken on the role of drafting these comments.

Electric utilities have filed their ESP and much to OCC's chagrin have already begun negotiations. OCC has opposed Duke and AEP's efforts to move forward with premature negotiations when OCC has not had an opportunity to fully and adequately prepare. Ms. Migden-Ostrander pointed out that Duke has not fully responded on a timely basis to OCC's discovery requests.

In the Dominion rate case, oral arguments are scheduled to take place next week on the straight-fixed variable rate design issue.

The Duke Energy Ohio, Vectren, and Dominion East Ohio natural gas rate cases were settled reducing the revenue increases, however, the rate design issues are being litigated. The Commission has put a limit on the size of the briefs and reply briefs in the Dominion case.

We have scheduled public forums to educate residential consumers about testifying at public hearings in the electric security plan proceedings.

Ms. Migden-Ostrander reported that interviews are taking place for the Director of Government Affairs position. We have received good resumes and hope to have the position filled shortly.

OCC has two new employees set to start in mid-October. Stacia Harper, Senior Energy Policy Analyst and Amr Ibrahim, Senior Regulatory Analyst will be introduced at the meeting on November 19, 2008.

Duke has invited the Governing Board to come and tour their smart house. Ms. Migden-Ostrander suggested that the Board may want to wait until spring. The Board expressed interest in doing so.

Due to his busy schedule Kent Shimeall will no longer attend our meetings. Ms. Migden-Ostrander expressed her appreciation for the excellent service he has provided over the past several years. Aaron Epstein is the new Assistant Attorney General assigned to our Governing Board. We are happy to have him and look forward to working with him.

CASE OUTCOMES

American Electric Power Special Contracts with Solsil, Inc. and Globe Metallurgical, Inc., PUCO Case Nos. 88-883 and 88-884

Columbus Southern Power requested approval of a contract with Solsil. Solsil manufactures silicon at a facility in Beverly Ohio. These contracts would provide Solsil with a 60% discount off the market price for electricity. Ohio Power requested approval of a contract with Globe. Globe manufactures silicon metal, specialty alloys, and ferroalloys at its plant in Beverly. Globe would continue to receive a 10% discount off the standard service offer rate for 10 years. These discounts would be recovered through riders charged to all customers.

OCC believes that these applications should be rejected because the proposed tariffs are discriminatory and unlawful subsidies would result. Specifically, as opposed to the subsidy being split 50-50 between the utility and the customers as has traditionally been the case, customers would pick up the entire subsidy.

The PUCO modified and approved the applications.



Mohawk Utilities Water Rate Increases, PUCO Case No. 07-981

Mohawk filed an abbreviated application to increase water rates. At the local public hearing 42 customers gave testimony. An agreement was entered into by OCC, Mohawk, PUCO and Lake Mohawk Water Rate Committee. The PUCO approved this agreement in August 2008. Among the issues, OCC believed that an increase in the customer charge of 300% (\$5-\$20) is excessive and should not be allowed.

Universal Service Fund Electric Rider Adjustments, PUCO Case No. 08-658

The Ohio Department of Development issued a notice of intent to file an application to adjust the universal service fund riders of all electric distribution utilities. The fund is administered by the Ohio Department of Development and provides funding for the electric percentage of income payment plan that assists low income customers.

The PUCO approved the joint stipulation as submitted by the parties. OCC did not sign the stipulation but did not oppose it either.

Vectren Exit the Merchant Function, PUCO Case No. 07-1285

In April, 2008, the PUCO approved an agreement among Vectren, OCC and other stakeholders. In the agreement, auctions would occur to help determine natural gas prices. A full exit of the merchant function would not be part of this case. Vectren would still be responsible for obtaining natural gas for its non-choice customers through the auction.

OCC believes consumers could benefit from a wholesale auction process to determine Vectren's rate paid by customers who have not switched to alternative suppliers. There needs to be appropriate consumer protections and safeguards would before any exit could be recommended.

PUCO Adoption of Rules (1st Set) Pursuant to Senate Bill 221, PUCO Case No. 08-777

OCC along with 18 consumer and environment groups filed joint comments as the Consumer and Environmental Advocates (OCEA). Each utility is to offer essential retail electric service to consumers in the form of an Electric Security Plan (non-competitive pricing) or a Market Rate Offer (determined by competitive bidding).

The PUCO approved many of OCEA's proposals pertaining to standard service offer filing requirements.

COLUMBIA Gas Demand Side Management Program, PUCO Case No. 08-833

In an agreement approved by the PUCO, Columbia is putting in place a demand side management application cooperatively developed by the utility, OCC, PUCO Staff and other stakeholders.

Residential programs include:

Home Performance Program: Utility to work with a contractor to identify areas of the home where efficiency measures can be utilized. Incentives will be offered to customers who install recommended upgrades.

New Home Program: Offers incentives to homebuilders to construct homes that are 50% more efficient than required by code.

Warm Choice®: Columbia will continue to offer and expects to expand this weatherization program to low-income customers.

Low Cost Product Rebates: Offers rebates to approximately 8,000 customers per year who install Energy Star programmable thermostats (\$25.00 rebate) and low-flow showerheads (\$10.00 rebate). For a 3-year period total rebates are projected to be \$45 million.

OCC believes that the PUCO should approve the application. Demand side management programs would benefit consumers who are seeking relief from increases in natural gas costs. Also, the program should be implemented expeditiously so that consumers can receive benefits during the winter heating season beginning early in 2009.

The PUCO approved Columbia's application subject to the approval of a DSM cost recovery rider in the utility's pending rate case. Columbia will offer the DSM programs beginning January 2009.

DAYTON POWER & LIGHT, PUCO Case Nos. 07-1301 and 05-1500

The Company requested approval to modify its net metering and interconnection tariffs. Net metering is the difference between the electricity supplied by the Company and the electricity generated by a customer-generator that is fed back to the Company. The customer generates electricity using renewable or alternative sources such as wind, solar, biomass, and landfill gas.

OCC's position is that the Company failed to meet its burden of proof that any of these tariffs are just and reasonable and will meet the objectives of fostering renewable energy.

The PUCO approved DP&L's amended net metering and interconnection tariffs; the PUCO did not approve the standby tariffs. OCC's concerns were not acknowledged.

The Board recessed at 10:10 a.m. and reconvened at 10:30 a.m.

NEW CASES

Mr. Adams summarized the new cases filed over the last two months. Cases have been filed by the following companies: Duke, American Electric Power, FirstEnergy, CenturyTel of Ohio, Inc., AT&T Ohio, Verizon, Cincinnati Bell Telephone and United Telephone Company of Ohio.

Electric Security Plan

Under Ohio's new energy law, electric distribution utilities must provide a standard service offer for generation services to all customers as of January 1, 2009.

PUCO Case No. 06-653 deals with retention of records, electric service and safety standards, competitive retail electric service, interconnection, electric reliability, safety and customer service standards, certification of CRES providers and market monitoring.

PUCO Case No. 08-888 deals with alternative and renewable energy technology and resources, emissions control reporting requirements and amendment of forecast rules.

Duke Energy Retail Sales, LLC, PUCO Case No. 08-1323

The Company filed an Application seeking to renew its certification as a competitive electric retail service provider. On September 15, 2008, the OCC filed a Motion to Suspend the Application and a Motion to Deny the Application or, in the alternative, set the matter for hearing.

Columbus Southern and Ohio Power, PUCO Case Nos. 08-917 and 08-918

American Electric Power's two Ohio electric utilities filed their ESPs on July 31, 2008. The Company did not file an MRO but reserved the right to do so in the future depending on the outcome of the ESP filing. OCC has serious issues with the deferrals in this case. A discussion ensued.

AEP requested PUCO approval to modify its corporate separation plan to allow each utility to remain separated functionally.

Duke Energy Ohio, PUCO Case No 08-920

Duke Ohio filed its initial ESP application on July 31 and did not file an MRO. The Company's proposed SSO for generation consists of some components that are similar to numerous components and riders in Duke's current generation SSO that was set under its PUCO-approved rate stabilization plan. A discussion ensued.

FirstEnergy Companies, PUCO Case No. 08-935 and 08-936

FirstEnergy filed an application for an ESP and also filed a separate application for an MRO. The Company has proposed a 3-year phase-in price of 6.75 cents per kwh in 2009, 7.15 cents in 2010, and 7.55 cents in 2011. In an effort to minimize the impact on customers' bills, 10% of the actual generation prices will be deferred for future recovery.

Chairman Solove request a comparison chart that shows what the utility companies are asking for and how they relate to one another. Ms. Migden-Ostrander stated that OCC has Fact Sheets available that give a brief explanation of the individual ESP filings. The information that Chairman Solove requested would be discussed in Executive Session.

Mr. Weston announced that Mr. Adams recently received his Doctorate Degree in Economics.



Duke Energy Ohio, PUCO Case No. 08-1025

Duke filed its application for the approval of an annually adjusted component charge for 2009. If this application is approved the Company could, under certain circumstances, increase rates paid by its residential customers.

Centurytel of Ohio Inc., PUCO Case No. 08-889

The Company filed an application seeking to offer a bundle of telephone service to customers on a prepaid basis. Services do not include access to directory assistance and operator services.

AT&T Ohio, PUCO Case No. 08-912

AT&T filed an application for basic service alternative regulation for the Bedford, Brecksville, Columbiana, Leroy, North Jackson and Roseville Exchanges. OCC filed its opposition September 8, 2008.

Verizon North Inc., PUCO Case No. 08-989

The Company filed an Application for alternative regulation for its Tier 1 core services in 24 exchanges. The core services include basic local exchange service and Caller ID.

Cincinnati Bell Telephone, PUCO Case No. 08-1007

Cincinnati Bell filed an application for alternative regulation for its Tier 1 Core services in four exchanges on August 25, 2008. These services include basic local exchange service and basic Caller ID.

United Telephone Company of Ohio dba Embarq

The Company filed its application for alternative regulation for its Tier 1 core services in 44 exchanges. These services include basic local exchange service and basic Caller ID.

COMMUNICATIONS REPORT

Ms. Gianforcaro reported on the activities of the Communications Department. Since the last Governing Board Meeting there have been 22 news releases issued concerning the electric, gas telephone and water cases that were mentioned earlier.

Editorials regarding the Dominion East Ohio rate case have appeared in the following newspapers: Akron Beacon Journal, Plain Dealer, Sun Newspapers and Warren Tribune Chronicle.

Outreach and Education activities include: Ohio State Fair, Women & Money, Cleveland Metro Parks Zoo Senior Day, Green Energy Ohio – Energy Fair, Ohio Area Agency on Aging Annual Conference and the Farm Science Review.

The Communications Department sent out special mailings to inform residents of the ESP Public Forums, DEO and VEDO Local Public Hearings.

Since July 16, 2008 there have been 18,098 visitors to our web site; 73% were accessing our website for the first time.

OPERATIONS REPORT

Mr. Repuzynsky reported that the budget cuts that Governor Strickland has asked for do not impact our office. As was reported earlier, two new employees will begin in October and we continue to fill remaining vacant positions.

Chairman Solove made a motion to enter Executive Session to discuss pending litigation. Mr. Logan seconded the motion and Ms. Migden-Ostrander called the roll.

Executive Session began at 12:30 p.m.

Executive Session ended at 1:30 p.m.

STRATEGIC PLAN

Ms. Migden-Ostrander spoke about our Strategic Plan. The plan has several categories: legislative, initiatives and opportunities, and strengthen relationships throughout the state.

Also discussed was OCC's role in energy independence. There is an opportunity to take it a step further, energy independence on a local level. The Board is in favor of OCC pursuing this issue in the coming year.

Initiatives on the federal level include:

- Greenhouse gas legislation
- Participation in FERC, PJM and MISO issues
- Demand response initiatives

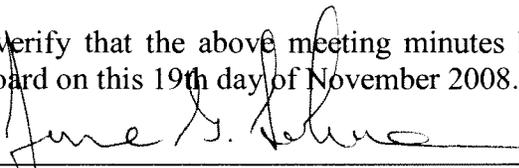
OCC participates in the following organizations:

- National Association of State Utility Consumer Advocates
 - Executive Committee
 - Gas, Electric, Water, Consumer Affairs
 - Telecom
- National Action Plan for Energy Efficiency, Leadership Group
 - Janine Migden-Ostrander
 - Wilson Gonzalez
 - Dan Sawmiller
- Midwest Energy Efficiency Alliance
 - Janine Migden-Ostrander
 - Wilson Gonzalez
 - Dan Sawmiller

- National Coal Council
 - Janine Migden-Ostrander
 - Wilson Gonzalez
 - Dan Sawmiller
- Ohio Broadband Council
 - Janine Migden-Ostrander
 - Karen Hardie
 - David Bergmann
- Governor Strickland's Antipoverty Task Force
 - Janine Migden-Ostrander
 - Ray Foeller
- OCC's Low Income Dialog Group
 - Ray Foeller
 - Anita Bolin
 - Jim Williams
 - Rick Reese
 - David Bergmann
 - Marty Berkowitz
- Wind Working Group
 - Linda Walls-Rominski
 - Wilson Gonzalez
- Demand Response Taskforce

With no further business the meeting adjourned at 2:45 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 19th day of November 2008.



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



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