



Janine L. Migden-Ostrander  
Consumers' Counsel

**MINUTES OF THE  
TWO HUNDRED SEVENTY-FOURTH MEETING  
OF THE CONSUMERS' COUNSEL GOVERNING BOARD  
February 11, 2009**

Members Present: Dorothy Leslie  
Joe Logan  
John Moliterno  
Jerome Solove  
Roger Wise

Members Absent: Gene Krebs  
David McCall  
Michael Murphy

Guests: Aaron Epstein, Attorney General's Office  
Michael Schuler, Attorney General's Office

**CALL TO ORDER**

Chairman Solove called the meeting to order at 9:10 a.m. and thanked everyone for coming

**APPROVAL OF MINUTES**

The minutes from the November 19, 2008 were approved.

**CONSUMERS' COUNSEL REPORT**

Ms. Migden-Ostrander announced that Beth Gianforcaro has been asked to serve on the Board of the Central Ohio Chapter of the Society of Professional Journalists.

New employees were introduced. They included:

Robin Tetrick, Operations  
Patrick Jones, Legal

Beth Hixon is the Employee of the Month for December. The Board thanked her for her good service on behalf of Ohio consumers.

Ms. Migden-Ostrander briefly discussed case activity. Further discussion on cases will take place in Executive Session.

Governor Strickland reappointed Alan Schriber as Chairman of the Public Utilities Commission of Ohio. Mr. Logan participated in the selection for Chairman Solove.

**NEW CASES**

Beth Hixon reported on the new cases OCC is involved in since the last board meeting.

**Aqua Ohio System Improvement Charge, PUCO Case No. 08-1239-WW-SIC**

Aqua Ohio seeks approval of surcharges to recover costs associated with certain distribution plant improvements. The requested increase is equal to 3% of a monthly bill.

**CenturyTel, Inc. and Embarq, Application for Change in Ownership, PUCO Case No. 08-1287-TP-ACO**

Application for CenturyTel to acquire Embarq was filed November 26, 2008. Under Ohio law, a merger application is automatically approved if the PUCO does not act within 30 day of filing. OCC intervened and asked the PUCO to suspend automatic approval and to hold a hearing on the merger.

**AT&T Alternative Regulation, PUCO Case No. 08-1281-TP-BLS**

AT&T filed its 7<sup>th</sup> basic local exchange service alternative regulation case. This application would affect exchanges in Fultonham, New Riegel, South Solon and West Lafayette.

**Duke Energy Ohio, PUCO Case No. 08-1250-GA-UNC**

Duke filed a pre-filing notice of application to be filed by 2/28/09 for annual adjustment to the Accelerated Main Replacement Program (AMRP) Rider that will be based on actual 2009 costs.

**Duke Energy Ohio, PUCO Case No. 08-1227-EL-ATA**

A Status Report was filed on November 17, 2008 of Duke's demand side management programs and application to reconcile and update DSM riders on customer bills.

**Ohio Electric Distribution Utilities (EDUs), PUCO Case No. 08-1299-EL-UNC**

Consumers for Reliable Electricity in Ohio (CREO) a coalition spearheaded by OCC, requested a PUCO investigation and hearing on the reliability of distribution service of Ohio's electric utilities.

**Aqua Ohio Purchased Water Adjustment, PUCO Case No. 08-1337-WW-PWA**

Aqua Ohio claims this surcharge is to collect from former Lake Erie East customers a change in the cost of water purchased from Ohio American Water.

**Columbus Southern Power/Ohio Power Fuel Expense Deferral, PUCO Case No. 09-37-EL-AAM**

The Companies request authority to defer as regulatory assets a portion of their fuel expenses incurred beginning January 1, 2009.

**CASE OUTCOMES**

Mr. Weston reported on the case outcomes for this period.

**FirstEnergy Companies, Market Rate Offer, PUCO Case No. 08-936-EL-SSO**

The Commission did not approve FirstEnergy's bid process because there was no evidence offered that the proposal would result in an open, fair, and transparent competitive solicitation.

**FirstEnergy Electric Security Plan, PUCO Case No. 08-935-EL-SSO**

The Commission issued a Finding and Order that the ESP application of FirstEnergy be modified and approved. The modifications included: a reduction of the ESP proposed generation rate and rejection of certain riders and deferrals.

**FirstEnergy Companies Tariff Revisions and Request for Waiver of Affiliate Sales Restrictions, FERC Case No. ER09-134-000, et. al**

FERC approved FirstEnergy's tariffs and waivers as requested. Retail customers who have retail choice are not considered "captive" even if the retail choice program is inadequate or unsuccessful. The company is granted the waiver, making contract approval for wholesale power between FirstEnergy Solutions and the FirstEnergy utilities unnecessary.

**FirstEnergy Companies Emergency Fuel Rider, PUCO Case No. 09-21, et al.**

The PUCO approved FirstEnergy's emergency proposal on a temporary basis until March 31, 2009. The accounting authority to record deferrals for purchase power costs was granted only for CEI. The determination of the reasonableness of the deferred amounts would be considered in a future proceeding.

**FirstEnergy Companies Distribution Rate Case, PUCO Case No. 07-551-EL-AIR**

The PUCO granted the company an increase in revenues of nearly \$137 million and accepted its staff's recommendation of an 8.48% rate of return.

The PUCO adopted its staff's recommendation regarding to the calculation of the distribution deferrals and found that the amount of the 2007 distribution deferrals included in the rate base should be the balance as of the date certain.

The Board recessed at 10:30 a.m. and reconvened at 11:00 a.m.

**Duke Energy Electric Security Plan, PUCO Case No. 08-920-EL-SSO**

Funding for weatherization contracts increased to \$1 million per year; non-PIPP low-income customers assistance funded at \$700,000 per year; and \$100,000 per year for an energy education program.

**Duke Energy Ohio Adjustment to the Annually Adjusted Component of its Market Based Standard Service Offer, PUCO Case No. 08-1025-EL-UNC**

The Commission noted that no intervenor commented on the substantive issues in the filing due to the submitted stipulation in the security plan case. The PUCO approved the application, subject to reconsideration if the stipulation in the security plan case was not approved, or modified substantially.

**Renewal Application for Certificate by Duke Energy Retail Sales to Provide Competitive Retail Electric Service, PUCO Case No. 04-1323-EL-CRS**

The PUCO suspended the application in order to consider OCC's arguments that the Company violated PUCO rules and the request for recertification was granted.

The Commission dismissed the corporate separation argument by noting that OCC has not used the complaint process in the Revised Code in which the complainant bears the burden of proof.

**Duke Energy Ohio Application to Modify Accounting Procedures for Storm-Related Service Restoration Costs, PUCO Case No. 08-709-EL-AAM**

Duke filed for authority to collect costs related to the wind storm following Hurricane Ike. According to the Company, storm restoration costs have significantly exceeded its average annual costs.

The PUCO approved Duke's request with the following modifications: directed the company to identify the O&M expenses to be deferred; declared that the reasonableness of the deferred amounts and recovery would be examined and addressed in a future distribution rate case; and directed Duke to utilize the interest rate that reflects the actual cost of debt based on the outcome of the pending distribution rate case.

**Dayton Power & Light Application to Modify Accounting Procedures for Storm Related Service Restoration Costs, PUCO Case No. 08-1332-EL-AAM**

The PUCO approved the application with the following modification: directed the company to identify the O&M expenses to be deferred and declared that the reasonableness of the deferred amounts and recovery would be addressed in a future Commission proceeding.

**AEP Application to Modify Accounting Procedures for Storm-Related Service Restoration Costs, PUCO Case No. 08-1301-EL-AAM**

The Company filed an application to defer a portion of the operation and maintenance expenses due to efforts to restore service after Hurricane Ike.

The Commission approved the application with certain modifications. Among them the Commission directed each company to identify the operation and maintenance expenses to be deferred and declared that the reasonableness of the deferred amounts and recovery would be addressed in a future Commission proceeding.

**AEP and Ormet Aluminum Mill Products, PUCO Case Nos. 08-1338-EL-AAM and 08-1339-EL-UNC**

The Companies filed a joint application for approval of a temporary amendment to their existing special arrangement.

The Companies' extension of the arrangement was granted; the deferral request was denied and our request intervention was not acknowledged.

**AEP-Ohio Companies Transmission Cost Recovery Rider Adjustment, PUCO Case No. 08-1202-EL-UNC**

The Company filed an application to adjust their transmission cost recovery rider.

OCC agreed with the staff's recommendation to disallow the equity portion of the carrying charges and any over recovery would be reconciled in the next rider update.

The PUCO adopted the Staff's recommendations and approved the modified rider.

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

The Commission Staff recommended approval of the rider with one modification, which was to offer discounts to general service customers who would experience significant bill impacts resulting from the rate design changes. These discounts would phase out over a 3 year period. The Commission adopted the Staff's recommendations and approved the modified rider.

**Ohio Department of Development Adjustment to the Universal Service Fund Riders, PUCO Case No. 08-658-EL-UNC**

As a result of SB3, the Ohio Department of Development filed a notice of intent to file an application for adjustment of each regulated electric distribution utility's fund rider. The Stipulation was approved by the Commission and included the allowance of all revenue requirements and rate block design as requested by the Ohio Department of Development.

**Vectren Energy Delivery of Ohio Gas Distribution Rate Case, PUCO Case No. 07-1080-GA-AIR**

Vectren filed an application to increase gas distribution rates by \$27.3 million and approved an alternative rate plan to implement a distribution replacement rider. The purpose of this rider is to replace cast iron mains and service lines.

The Commission approved the Stipulation in its entirety and approved the straight fixed variable rate design.

**Columbia Gas of Ohio Rate Case, PUCO Case No. 08-72-GA-AIR**

Columbia filed an application to increase gas distribution rates by \$87,805,000. OCC and other parties stipulated several issues, among them Columbia would collect additional base revenues of approximately \$47.1 million. The Commission approved the stipulation and the straight-fixed variable rate design.

**Columbia Gas of Ohio Request for a Waiver in its Treatment of an Interstate Pipeline Refund, PUCO Case No. 08-1248-GA-WVR**

Columbia filed an application requesting a waiver of Ohio Administrative Code provision pertaining to the treatment of funds received from an interstate pipeline service. Profits were returned to customers from the pipeline service as a result of a FERC order.

OCC supported Columbia's proposal stating that it would provide immediate assistance for low-income customers who are in need of assistance but are above the 175% federal poverty guideline.

The Commission granted a waiver of Rule 4901:1-14-05 and the rule appendix and declared the waiver request and treatment of the pipeline refunds to be reasonable and in the public interest.

**PUCO Review Percentage of Income Payment Plan, Service and Disconnect Rules, PUCO Case No. 08-723-AU-ORD**

The Commission adopted a revised PIPP percentage of 6% as opposed to the 8% proposed. For termination rules the Commission ordered investigation and public hearings and rejected the four-month inaccessibility to a meter as a reason for disconnection, among other things.

The Commission accepted many of the credit proposals presented by OCC including among things an investigation on pre-paid meters should be conducted.

**Cincinnati Bell Printed Telephone Directory Waiver, PUCO Case No. 08-1197-TP-WVR**

Cincinnati Bell applied for a waiver of Ohio Administrative Code which required a local telephone company to provide a printed directory to customers annually. CBT claimed that all customers would be provided with white pages directory electronically.

The Commission recommended that in addition to printed directories being available at CBT's retail location, they should also be available at grocery stores, banks, and pharmacies.

**Cincinnati Bell Application for Alternative Regulation of Basic Local Exchange Service, PUCO Case No. 08-1007-TP-BLS**

The Company filed an application for basic local exchange service alternative regulation for the Bethany, Harrison, Little Miami and Williamsburg exchanges.

The Commission approved CBT's application for all four exchanges and stated that all of OCC's concerns were addressed in previous cases.

**Embarq Application for Alternative Regulation of Basic Local Exchange Service, PUCO Case No. 08-1041-TP-BLS**

Embarq filed an application for basic local exchange service alternative regulation for 44 exchanges.

The Commission approved Embarq's application for 25 of the 44 exchanges and determined that Embarq failed to show that two providers have their own facilities in 19 exchanges and rejected them as alternative providers.

**Embarq Application for Waiver From Rule Restricting the Purchase of Vertical Features by Lifeline Customers, PUCO Case No. 00-1532-TP-COI**

Embarq filed an application for a waiver from the current rule that restricts the purchase of vertical features by lifeline customers.

The Commission granted Embarq a trial waiver. During this period lifeline customers will be permitted to purchase optional services in addition to Call-Waiting, either individually or in a package from Embarq without certification of medical or safety need.

**ELECTION OF NEW OFFICERS**

Mrs. Leslie made a motion to retain Chairman Solove as Chair of OCC's Board for another year. Mr. Wise seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Mr. Wise made a motion to retain Vice Chairman Moliterno as Vice Chair of OCC's Board for another year. Mrs. Leslie seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Chairman Solove presented a Resolution honoring Randy Beane. The Board voted unanimously to approve the resolution.

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

Executive Session began at 12:15 p.m.

Executive Session ended at 12:30 p.m.

Mr. Logan left at 12:30 p.m.



Ms. Migden-Ostrander gave a brief report on the stimulus package as it relates to Ohio. Ohio's effort is being spearheaded by Governor Strickland. The energy office of the Department of Development is working with the Governor. OCC has shared ideas with the Governor's office, the Energy Office and others.

Board discussion ensued on office activities and priorities.

Mr. Moliterno left at 1:45 p.m.

**COMMUNICATIONS REPORT**

Ms. Gianforcaro reported on the activities of the Communication Department. Since the last meeting there have been 21 new releases and media advisories issued concerning the electric, gas, telephone and water cases that were mentioned earlier.

Outreach and Education activities include: Franklin County Children Services, Columbus; Kenmore Senior Center, Akron; Stark County Community Action Agency, Canton; Headstart, Lima; Health Fair, Central Ohio AAA; Tri-County Community Action Agency Fairs in New Lexington, Gallipolis, Athens, and Logan.

Special mailings were sent regarding the Speakers Bureau and National Consumer Protection Week.

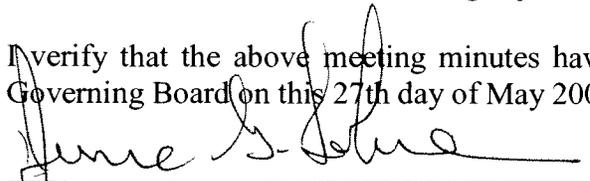
**OPERATIONS**

Mr. Repuzynsky reported that the Governor's budget as submitted to the House reflected no changes to our budget as submitted to the Office of Budget and Management. We still have a way to go with the process. There is a meeting scheduled with the Legislative Service Commission to discuss our budget.

Our new Records Management Coordinator has started and our Senior Outreach and Education Specialist is due to start earlier in March. We will be filing our vacant Graphic Design Position.

With no further business the meeting adjourned at 2:30 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 27th day of May 2009.



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



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