



Janine L. Migden-Ostrander
Consumers' Counsel

**MINUTES OF THE
TWO HUNDRED SEVENTY-FIFTH MEETING
OF THE CONSUMERS' COUNSEL GOVERNING BOARD
May 27, 2009**

Members Present: Gene Krebs
Dorothy Leslie
Joe Logan
David McCall
John Moliterno
Karen Osterfeld
Jerome Solove
Roger Wise

Members Absent:

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., thanked everyone for coming, and welcomed a new member to our board, Karen "Dee" Osterfeld. Chairman Solove also announced that Michael Murphy resigned his seat on the Governing Board and expressed appreciation for his service.

APPROVAL OF THE MINUTES

The minutes from the February 11, 2009 meeting were approved.

CONSUMERS' COUNSEL REPORT

Ms. Migden-Ostrander expressed her gratitude for Mr. Murphy's service on the Board and also welcomed Karen Osterfeld who is replacing Randy Beane.

New employees were introduced:

- o Paul Kostyu – Communications

Employees of the month were introduced. They included:

- o Steve Hines – February
- o Sarah Schaible – March
- o Jeff Small – April

Ms. Migden-Ostrander reported that the budget process continues. The implementation of SB 221 remains at the forefront. FirstEnergy held an auction last week that brought about decreases in rates for the three operating companies. The implementation of SB 221 has resulted in collaborative work in both the electric and gas industries.

CASE OUTCOMES

Mr. Weston reported on case outcomes for this period.

American Electric Power Electric Security Plan, PUCO Case No. 08-917-EL-ESP and 08-918-EL-ESP

OCC has filed for rehearing and has stated that the Company's proposed annual rate increases are not justified and should be reduced by more than \$1 billion.

The Commission modified and approved AEP's electric security plan. The Commission ordered AEP's rate increases to be retroactive to January 1, 2009. This will cost Columbus Southern Power customers \$30 million and Ohio Power customers \$33 million.

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

The Company's original electric security plan would have resulted in consumers over paying by \$4.3 billion. The Company should do more to improve reliability without extra charges. The supplemental settlement, which OCC negotiated, provided additional benefits needed to make the approval of both settlements in the consumers' best interest.

An auction was used to determine the price of generation charged to customers from June 1, 2009 through May 31, 2011. The auction was held May 13-14 and resulted in a wholesale price of \$61.50 per megawatt hour, reducing the generation rates of all the utility's customers. Given OCC's advocacy to choose a regulated or market rate to get the best outcome for consumers, this was a good outcome.

PUCO Modification of Rules for Alternative and Renewable Energy Technologies, PUCO Case No. 08-888-EL-ORD

OCC and the OCEA organizations filed reply comments which countered arguments it found would undermine the energy efficiency and renewable benchmarks and enable utilities to reduce their filing and reporting requirements.

OCC and the OCEA organizations also recommended among other things that the wording in the rules to ensure that electric utilities implement the energy efficiency and peak demand reduction programs appropriately and comply with the new benchmarks in a rigorous manner.

The Commission recognized the need for substantive changes to the annual review process and transparency issues in general.



V&M Star Request for Special Arrangement with Ohio Energy, PUCO Case No. 09-80-EL-AEC

OCC raised concerns in its comments about the lack of substantive information provided by V&M and the lack of PUCO oversight.

OCC did not sign onto the stipulated agreement between the parties out of concerns about insufficient oversight and lack of accountability for proposed costs to customers.

The Commission approved the stipulated agreement of a 10-year contract between V&M and Ohio Edison.

Review of the Energy Emergency Rules 4901:5-17, 4901:5-37 Ohio Administrative Code, PUCO Case No. 06-1201-AU-ORD

OCC and other parties requested an industry forum prior to the issuance of the Commission order to supplement the rule comment process and examine the impact of proposed changes on stakeholders.

Among other things, the Commission denied OCC's request for a pre-order industry forum to examine the effects of emergency rule modification on stakeholders and consumers.

Duke's Request to Adjust Rider AMRP Rates, PUCO Case No. 08-1250-GA-UNC

OCC objected to the remedial work done in 2006 and 2007 as part of Duke's 2008 maintenance expense. The exclusion of such expenses would reduce the Rider AMRP rate by \$0.14 for residential customers.

OCC recommended that Duke identify projects that may qualify for funding from the American Recovery and Reinvestment Act of 2009 and document its efforts. The Stipulation provided that among other things that Duke eliminate \$1,603,775.02 from the AMRP revenue requirement calculation related to remedial camera inspection expenses for the April 2001 through May 2006 installation.

Verizon Application for Alternative Regulation of Basic Local Exchange Service, PUCO Case 09-0989-TP-BLS

OCC opposed Verizon's request, claiming the level of competition in the contested exchanges was insufficient to meet the Company's burden of proof and the proposed rate increases were not in the public interest.

OCC sought to prevent the Company's request to increase its monthly rates for residential basic service by up to \$1.25 and its rates for caller ID service by up to \$.50 each year.

The Commission ruled Verizon had met its burden of proof in 21 of the 24 exchanges for which it requested permission to raise rates.

Embarq Application for Out of Service Grace Period Under MTSS, PUCO Case No. 08-1118-TP-WVR

OCC asserted that MTSS standards that require timely restoration in outage affected communities were not met and asked for a reduction in the timeframes under which all of Embarq's exchanges would qualify for a 48 hour grace period.

The Commission's order granted grace periods in most of the requested exchanges.

CenturyTel and Embarq Joint Application for Merger, PUCO Case No. 08-1267-TP-ACO

OCC asserted the PUCO could not approve the merger unless the companies demonstrate the transaction will result in "adequate service at reasonable rates and otherwise, promote the public convenience."

The Commission denied OCC's motion and approved the joint application by the applicants.

AT&T Ohio Printed Telephone Directory Waiver, PUCO Case No. 09-42-TP-WVR

OCC objected to the waiver request on the grounds that AT&T did not show good cause and failed to propose adequate notice to existing customers that they would no longer receive a printed telephone directory.

The Commission granted AT&T's waiver request, and stated that directory listings will be available through two web sites and on a CD-ROM, available in the Columbus and Cleveland areas, and a printed copy could be requested by calling a toll-free number.

Sage, TW Telecom, Nuvox, Nexus and Cavalier Telephone and TV Printed Directory Waivers, PUCO Case Nos. 09-0156-TP-WVR, 09-0157-TP-WVR, 09-0158-TP-WVR, 09-0159-TP-WVR and 09-0160-TP-WVR

OCC objected to the waiver requests on the same grounds as AT&T's request for a waiver of MTSS standards. The OCC concluded that the companies did not show good cause and failed to propose adequate notice to their existing customers that they would no longer receive a printed directory.

The Commission granted all five "me too" waiver requests, stating the OCC had raised the same objections in the AT&T case.

The Board recessed for lunch at 12:05 p.m. and reconvened at 12:50 p.m.

NEW CASES

Mr. Adams reported on the new cases in which OCC has become involved in since the last board meeting.

PUCO's Investigation Into the Value of Continued Participation in Regional Transmission Organizations, PUCO Case No. 09-90-EL-COI

This case was filed on April 7, 2009. Two Regional Transmission Organization (RTOs) administer the operation of the wholesale markets and the transmission of electricity into and out of Ohio, affecting the rates paid by Ohio retail customers.

FERC's Order No. 2000 established the following goal for RTOs "to promote efficiency in wholesale electricity markets and to ensure that electricity consumers pay the lowest price possible for reliable service."

Ormet Primary Aluminum Application to Revise or Cancel a Contract, PUCO Case No. 09-119-EL-AEC.

This case was filed February 17, 2009. The Ormet Primary Aluminum Corp. filed an application to establish a unique arrangement with Ohio Power and Columbus Southern Power for electric service at its facility in Hannibal, Ohio.

OCC, Commission Staff, Ormet, AEP and other parties continue to negotiate a potential settlement of the case for 2009.

AEP Application for Waiver of the Individual EDU Standard and Reporting of the Average Telephone Answer Time, PUCO Case No. 09-0280-EL-WVR

This case was filed May 4, 2009. AEP is requesting a waiver of the rules pertaining to telephone response time, reporting requirements and record retention.

Complaint of Nexus Realty Tenant Association and Raymond Frye, Jr. vs. Duke Energy, PUCO Case No. 09-69-GE-CSS

This case was filed February 18, 2009. It involves the review of the reasonableness and lawfulness of Duke's refusal to recognize Raymond C. Frye, Receiver for Nexus Realty Properties, as a new customer and subsequently threatening disconnection of gas and electric services to tenants at Nexus locations on the basis of the former customers' unpaid accounts.

Dominion Retail and Ohio Consumers' Counsel, PUCO Case No. 09-0257-CSS

This is a complaint case filed by OCC March 24, 2009 against Dominion Retail Inc., DBA Dominion East Ohio energy (DEOE), for allegedly engaging in marketing, solicitation, sales acts or practices which are unfair, misleading, deceptive or unconscionable acts that demand relief as should be ordered by the PUCO.

Ohio American Water Company's Rate Case, PUCO Case No. 09-0391-WS-AIR

The pre-filing notice in this case was filed May 7, 2009. The Company proposes an increase of \$8.75 million which is 23.4% less system improvement charge increase of \$560,000 (not yet approved). The filing includes \$17.7 million in capital expenditures (\$4.3 million included in SIC). The rate proposal also includes 3 Step increases: Step 1:

\$10.06 million increase (23%) effective April 1, 2011. Step 2: \$5.1 million increase (9%) effective April 1, 2012. Step 3: \$4.3 million increase (7%) effective April 1, 2013.

LOOKING BACK AND LOOKING FORWARD: THE FIRST AND NEXT FIVE YEARS OF CONSUMERS' COUNSEL ADVOCACY

Ms. Migden-Ostrander reported on the first five years of advocacy. A more in-depth document was distributed to the board.

During Ms. Migden-Ostrander's first five years the OCC has successfully:

- Restored trust and accountability to the public
- Continued OCC's legacy of intervening in proceeding
- Strengthened OCC's frontline advocacy
- Addressed issues relevant to each industry proactively
- Created task forces to explore new options for enhanced services for customers
- Provided the OCC staff with a sense of purpose and mission
- Managed the OCC budget so that ratepayer money is spent wisely
- Was responsive to the legislature and other government agencies
- Created guidelines for an ethics standard that serves the agency and the consumers well
- Fostered an atmosphere that encourages analysis and strives for improvement

During the next five years under Ms. Migden-Ostrander OCC will strive to:

- Integrate consumer advocacy with technology
- Goal 1: Require transparency through planning, verification and audits of utility costs passed on to consumers
- Goal 2: Promote individual customer energy independence in electric and gas usage
- Goal 3: Require integrated resource planning to assure that least cost options to meet consumers' energy needs are adopted
- Goal 4: Ensure that customers receive utility service through the least cost option, whether it be through a regulated rate or a competitive rate
- Goal 5: Advocate for customer rights and protections for all customers, including low income

John Moliterno left at 2:35 p.m.

OPERATIONS REPORT

Mr. Repuzynsky reported on the activities of the Operations Department since the last Governing Board Meeting.

Expenses including outstanding encumbrances for the fiscal year through April were \$7.1 million or 83.2% of the total annual budget of \$8.5 million.

There are two positions that will be filled. They are:



- o Electrical Engineer – Analytical Department
- o Human Resource Coordinator – Operations Department

LEGISLATIVE REPORT

Mr. Snell reported on legislative activities since the last Governing Board Meeting.

The Ohio House of Representatives passed OCC's budget two weeks ago. From there it goes to the Senate followed by Conference Committee. The State budget must be signed by the Governor by June 30, 2009.

COMMUNICATIONS REPORT

Ms. Gianforcaro reported on the activities of the Communications Department. Since the last meeting, there have been 29 news releases and consumer alerts issued concerning the electric, gas, telephone and water cases that were mentioned earlier.

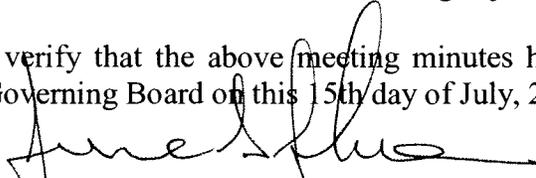
Outreach and Education activities include: Consumer Advisory Panel Meeting in Athens, Gahanna, Wilmington, Findlay, and Norton; Energy Education Bookmark Contest sponsored by the Ohio Environmental Council and OCC; National Consumer Protection Week; Arnold Classic "Active Aging"; Ohio Association of Senior Centers; and Ability Center of Port Clinton.

Mr. Logan left at 3:25 p.m.

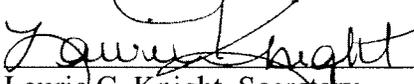
A special mailing was sent out to promote the Dayton Power & Light Local Public Hearings.

With no further business the meeting adjourned at 3:35 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 15th day of July, 2009.



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



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