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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**


In the Matter of the Review of Chapters)
4901:5-17, 4901:5-19, 4901:5-21, 4901:5-)
23, 4901:5-25, 4901:5-29, 4901:5-33,) Case No. 06-1201-AU-ORD
4901:5-35, and 4901:5-37 of the Ohio)
Administrative Code.)

**REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

On October 11, 2006, the Public Utilities Commission of Ohio ("PUCO" or "Commission") issued an Entry pursuant to Section 119.032, Ohio Revised Code, in which the Commission calls for comments on current rules governing energy emergencies. The Staff of the PUCO ("Staff") proposed amendments to the following rules ("Energy Emergency Rules") in the Ohio Administrative Code: Chapters 4901:5-17 (addressing the governor's emergency powers), 4901:5-19 (addressing fuel emergencies related to the generation of electricity), 4901:5-21 and 4901:5-23 (addressing coal allotment and other matters affecting coal shortages), 4901:5-25 (addressing natural gas emergencies), 4901:5-29 (addressing heating oil and propane emergencies), 4901:5-33 (addressing transportation fuel emergencies), 4901:5-35 (addressing set-asides and emergency reporting), and 4901:5-37 (addressing outages on transmission facilities).¹

¹ Entry at 1 (October 11, 2006).

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On November 7, 2006, a Joint Motion for Extension of Time to File Comments and Reply Comments was filed.² On November 8, 2006, a Memorandum in Support of the Joint Motion for Extension of time was filed by the Ohio Rural Electric Cooperatives, Inc. and Buckeye Power, Inc. On November 14, 2006, the Commission issued an Entry granting the Joint Motion for Extension of time thereby requiring interested parties to file Initial Comments by December 15, 2006.

The Office of the Ohio Consumers' Counsel ("OCC") filed its Initial Comments on December 15, 2006. OCC represents Ohio's 4.5 million residential consumers. Other interested stakeholders also filed initial comments by December 15, 2006.³ Interested stakeholders were offered an opportunity to file reply comments by January 16, 2007,⁴ and OCC herein provides its Reply Comments to the Commission.

II. REPLY COMMENTS

A. Reporting to Consumers

The Energy Emergency Rules include requirements that the energy suppliers, during an energy emergency, will provide their consumers with notifications/informational updates pertaining to energy supplies and conservation or

² The Joint Movants are Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Columbus Southern Power Company, Ohio Power Company, Dayton Power and Light Company, and Duke Energy.

³ Initial Comments were filed by the following stakeholders: Stand Energy Corporation (November 17, 2006); Eagle Energy, LLC (November 20, 2006); Columbus Southern Power Company and Ohio Power Company, The Dayton Power and Light Company, Duke Energy Ohio, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company; The Ohio Gas Marketer Group, Ohio Oil and Gas Association, Industrial Energy Users-Ohio; The East Ohio Gas Company d/b/a Dominion East Ohio; American Municipal Power-Ohio, Inc.; Ohio Rural Electric Cooperatives, Inc., and Buckeye Power Inc.; The Ohio Coal Association; (December 15, 2006); and Ohio Department of Public Safety (December 18, 2006).

⁴ Entry at 1 (November 14, 2006).

curtailment requirements.⁵ Several commenters raised concerns that the expansive definition of energy suppliers could result in consumers receiving redundant messages from the governmental aggregator, the competitive marketers, suppliers, producers and the utility.⁶ Duplicative reporting responsibilities could lead to conflicting messages and potential confusion for consumers receiving such information. To alleviate this potential problem, one commenter stated: "Under voluntary curtailment, communications to consumers should be done only by the Commission, Consumers' Counsel and public utilities, not upstream suppliers such as competitive natural gas service providers, aggregators, suppliers or producers."⁷

OCC agrees with the comments of the Ohio Gas Marketer Group, but to be in a position to accurately reflect the state of the emergency, OCC must be provided with the same pertinent information that the customers receive regarding energy supply shortages or requests to reduce consumption. Having current information will aid OCC in providing an informed and quick response to consumer inquiries regarding the energy emergency. The rule should require each energy supplier that provides notice to its consumers regarding energy supply shortages or requests to reduce consumption, to provide that same information to OCC.

⁵ See, 4901:5-19-04(A)(1) and (A)(2) at 7; 4901:5-19-05(A)(2) at 9, 4901:5-19-05(A)(3) at 10; 4901:5-25-04(A) and (B) at 32; 4901:5-25-05(A)(1)(A), (B), (C), and (E) at 34-35.

⁶ Initial Comments of the Ohio Gas Marketer Group at 8, Initial Comments of the Ohio Oil and Gas Association, and Initial Comments of Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company at 4. (December 15, 2006).

⁷ Initial Comments of the Ohio Gas Marketer Group at 13 (December 15, 2006).

B. Fuel Source Advisory Council

In its Initial Comments, OCC was concerned that the Energy Emergency Rules provide for a Fuel Source Advisory Council without any further definition or description.⁸ The Fuel Advisory Council plays an important role in identifying emergency situations, advising the Chairman on energy supply issues, and formulating a recommendation to the Governor, including the need to declare an energy emergency that implicates these rules. Because of the important responsibilities and the potential wide-spreading repercussions that implementation of proposed Rule 4901:5-19-5 will have, it is important that the Fuel Advisory Council include members from outside the Commission, its Staff, and utility industry representatives.

Similarly, the Initial Comments of Columbus Southern Power and Ohio Power Companies recognize that the Energy Emergency Rules lack a definition and description of the Fuel Advisory Council, and recommend that "the [fuel] advisory council should be comprised of public utility industry representatives * * *."⁹ However, the above recommendation of Columbus Southern Power and Ohio Power Companies is too limiting. OCC proposed in its initial comments that the rule should establish a membership that reaches beyond just the Commission and utility industry representatives, and should include representatives from OCC, Ohio Emergency Management Agency, as

⁸ OCC Initial Comments at 7. See 4901:5-19-02(I) states:

The Commission's Fuel Source Advisory Council may notify and advise the Chairman of the Commission about electric power supply problems and shortages and may make recommendations, including the need for the Governor to declare an energy emergency and to implement Rule 4901:5-19-05 of the Ohio Administrative Code.

⁹ Initial Comments of Columbus Southern Power Company and Ohio Power Company at 3 (December 15, 2006).

well as any other organization/agency whose interests are affected by an energy emergency.¹⁰

The proposed rules should be amended to include and identify other agencies, departments and/or organizations whose representatives are eligible to participate on the Fuel Advisory Council. Therefore the Fuel Advisory Council should include, in part, representatives from the Commission Staff, OCC, Ohio Emergency Management Agency, and utility industry representatives to assure the interests of all parties affected by an energy emergency are appropriately considered.

C. Simulate an Emergency to Put the Rules to the Test

In OCC's initial comments it proposed to the Commission that prior to finalizing these rules, the Commission should undertake an emergency simulation in order to test the emergency preparedness of the Commission and energy suppliers affected by the rules.¹¹

Other commenters, along this same line, have proposed additional steps for Commission consideration prior to the implementation of the Energy Emergency Rules. Given the complexity of these rules, OCC is supportive of the following additional recommendations: (1) "While Ohio Revised Code Section 4935.03 provides the governor with authority to declare an energy emergency, would it be prudent to allow the new governor's administration the opportunity to review these rules prior to implementation?"¹² (2) "The Commission should convene an industry forum to address

¹⁰ OCC Initial Comments at 7 (December 15, 2006).

¹¹ OCC Initial Comments at 9-11 (December 15, 2006).

¹² Initial Comments of the Ohio Department of Public Safety at 1 (December 18, 2006).

the fuel emergency rules.”¹³ (3) Review the emergency requirements of the regional transmission organizations (“RTO”) to assure that the Energy Emergency Rules are not in conflict with the emergency protocols established by the RTOs.¹⁴

The Commission should be generally supportive of additional steps in the rules review process which are designed to assure interested parties understand the proposed rules and their obligations under the rules. Such additional steps will ultimately serve the Commission by assuring that in the event of an emergency the energy suppliers will be in compliance with these rules.

III. CONCLUSION

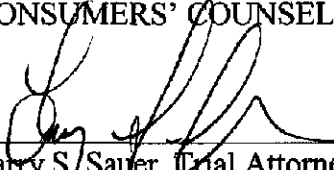
The OCC supports the amendment of the Energy Emergency Rules and urges the Commission to adopt the proposed amendments with the changes outlined in OCC’s Initial Comments filed on December 15, 2006, and discussed above.

¹³ Initial Comments of the Ohio Coal Association at 5, and Initial Comments of American Municipal Power-Ohio, Inc. at 9 (December 15, 2006).

¹⁴ Initial Comments of Columbus Southern Power Company and Ohio Power Company at 4-5; Initial Comments of The Dayton Power and Light Company at 4-5; and Comments of Duke Energy Ohio at 10.

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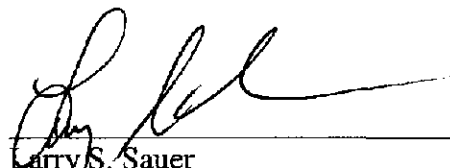
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Office of the Ohio Consumers' Counsel Reply Comments*, was served by first class mail, postage prepaid, on the parties identified below this 16th day of January 2007.


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