

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's )  
Investigation of Submetering in the State of ) Case No. 15-1594-AU-COI  
Ohio. )

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**MEMORANDUM CONTRA OF  
NATIONWIDE ENERGY PARTNERS, LLC  
TO JOINT MOTION FOR LOCAL PUBLIC HEARINGS**

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Now comes Nationwide Energy Partners, LLC (“NEP”) and submits the following response to the Joint Motion for Local Public Hearings filed by the Office of the Ohio Consumers’ Counsel, The Ohio Poverty Law Center, and Mark Whitt (collectively, “Movants”). Through their Motion, Movants request that in the context of this investigation, the Commission hold public hearings concerning the public’s views on submetering.<sup>1</sup> Because the relief sought by Movants is misplaced, the Motion should be denied.

As the Commission noted in its Entry dated December 16, 2015, the purpose of the Commission’s investigation is to “determine the scope of the Commission’s jurisdiction over submetering.”<sup>2</sup> The question of this Commission’s jurisdiction is purely legal, not factual. *See, e.g., In re P.N.M.*, 4th Dist. Adams No. 07CA841 and 07CA842, 2007-Ohio-4976, ¶ 38, (“jurisdiction is a legal question, which we review de novo”); *accord City of Akron v. Ohio Dep’t of Ins.*, 10th Dist. Franklin Nos. 13AP-473, et al., 2014-Ohio-96, ¶ 21. The holding of public hearings to consider the public’s views on submetering would not in any sense inform the Commission on the *legal* question of its statutory jurisdiction over submetering. That is to say,

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<sup>1</sup> Movants’ Motion at 2.

<sup>2</sup> December 16, 2015 Entry at ¶ 3.

such public hearings would not (and could not) assist the Commission in its determination of whether, as a legal matter, a submetering company qualifies as a “public utility” subject to the Commission’s jurisdiction under R.C. 4905.03 and/or under the *Shroyer* test. Therefore, it is unnecessary and counter-productive for the Commission to hold public hearings until the Commission makes the threshold legal determination that it is vested with the requisite statutory jurisdiction over submetering.

For the foregoing reasons, NEP requests that the Commission deny Movants’ Joint Motion for Local Public Hearings.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing Memorandum Contra Nationwide Energy Partners, LLC is also being served (via electronic mail) on the 28th of September 2016 upon all persons/entities listed below.

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Summary: Memorandum Contra to Joint Motion for Local Public Hearings electronically filed by Mrs. Gretchen L. Petrucci on behalf of Nationwide Energy Partners, LLC