

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Cynthia Wingo,	)	
	)	
Complainant,	)	
	)	
v.	)	Case No. 16-2401-EL-CSS
	)	
Nationwide Energy Partners, LLC,	)	
	)	
Respondent.	)	

**COMPLAINANT’S MOTION TO HOLD MOTION TO DISMISS IN ABEYANCE  
PENDING A RULING ON COMPLAINANT’S MOTION FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT (EXPEDITED RULING REQUESTED)**

Complainant filed a motion for leave to amend her Complaint on July 19, 2017. That motion has been fully briefed and awaits decision. Despite the pending motion to amend the Complaint, Nationwide Energy Partners (NEP) has filed a motion to dismiss the Complaint. There is no point in responding to NEP’s motion to dismiss until the parties know which version of the Complaint—the original or the proposed amendment—will control this proceeding. NEP’s motion to dismiss should be held in abeyance until that decision has been made.

Holding the motion to dismiss in abeyance serves everyone’s interests. If leave to amend is granted, the motion to dismiss is moot. If leave to amend is denied, it would *still* be premature to respond to the motion to dismiss within the ordinary time allotted, because a denial of leave to amend may trigger a request for Commission interlocutory review. There is no good reason for the parties to brief the motion to dismiss at this time—or ever, if leave to amend is granted (as it should be).

Accordingly, pursuant to Rules 4901-1-12(A) and (C), Complainant requests expedited issuance of an entry holding the motion to dismiss in abeyance. Complainant has not contacted

opposing counsel about waving the filing of a memorandum contra. Under Rule 4901-1-12(F), however, the Attorney Examiner may grant this motion without the filing of a memorandum contra, because holding the motion to dismiss in abeyance “will not affect a substantial right of any party.” Conversely, it would be highly prejudicial to Complainant to deny this motion and force her to respond to the motion to dismiss at this time.

Dated: August 14, 2017

Respectfully submitted,

*s/ Mark A. Whitt*

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## **CERTIFICATE OF SERVICE**

This document was filed via the Commission's e-filing system on August 14, 2017. Parties who have subscribed to electronic service will receive notice of this filing from the Commission. Service is also being made this day to the following persons by email:

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*s/ Mark A. Whitt*

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Summary: Motion to Hold in Abeyance Motion to Dismiss electronically filed by Ms. Rebekah J. Glover on behalf of Ms. Cynthia Wingo