

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Amendment of Rules     )  
4901-1-01 through 4901-1-05 of the Ohio     )     Case No. 07-535-AU-ORD  
Administrative Code to Permit the             )  
Electronic Filing of Documents.             )

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

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**I. INTRODUCTION**

On May 9, 2007, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) issued an Entry allowing interested persons to file comments and reply comments regarding the PUCO Staff’s proposed amendments to rules 4901-1-01 through 4901-1-05 of the Ohio Administrative Code. Those proposed rules permit the electronic filing (“e-filing”) of documents. The Office of the Ohio Consumers’ Counsel (“OCC”), AT&T Entities (“AT&T”), Ohio Telecom Association (“OTA”), and Columbia Gas of Ohio, Inc. (“Columbia”) filed comments on the proposed e-filing rules. OCC submits the following in reply to the comments of AT&T, OTA, and Columbia.

**II. REPLY COMMENTS**

**A. 4901-1-02 Filing of Pleading and Other Papers**

As outlined in OCC’s Comments, OCC supports the PUCO Staff’s proposal to permit e-filing. But it is important that the Commission permit e-filing of documents and not require the e-filing of *all* documents in the future. Conventional (non-electronic)

filing should be permitted so that consumers that do not have access to a computer or the internet are not disadvantaged.

The PUCO Staff proposes that the e-filing deadline be 5:30 P.M. In its Comments, OCC stated that it could support a filing deadline of 11:59 P.M. -- which is consistent with the current filing deadline for e-mail or electronic comments filed with the Federal Communications Commission<sup>1</sup> -- and maintained that the limitations to conventional filings should not necessarily be imposed upon e-filings. See OCC's Comments at 4.

OTA also supports an 11:59 P.M. filing deadline if the Commission could develop an e-filing system that is capable of filing documents without manual intervention. See OTA's Comments at 3. OCC concurs with OTA's recommendation that the Commission should move toward an e-filing system that is designed to accept filings automatically and to record the filing date and time without manual intervention. Thereafter, an 11:59 P.M. filing deadline could be appropriate. But OCC does not object to the Commission maintaining a 5:30 P.M. filing deadline until e-filing can be accomplished without manual assistance.

**B. 4901-1-05 Service of Pleadings and Other Papers**

The timely service of pleadings is vital to protecting the interests of residential consumers. OTA states that the Commission should modify its e-filing system, as well as the rule on consenting to service by e-mail, to allow attorneys and unrepresented parties to consent to service by e-mail at the time of subscription to e-filing in a case. See OTA's Comments at 5. OCC concurs with this recommendation.

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<sup>1</sup> See Electronic Comment Filing System User Manual at 1.2.

Furthermore, the Commission should modify its system to reflect that the counsel of record consents to service by e-mail where another person actually e-files the document. For example, OCC's Comments in this case were e-filed by someone other than the counsel of record. But DIS indicates that the filer (the person who logged onto DIS) has agreed to be automatically served via e-mail when it should indicate that the attorney or counsel of record has consented to electronic service. The person who must be served per the Commission's rules is not always the person who e-filed the document. DIS should reflect that the counsel of record has consented to service by e-mail whether or not they actually e-filed the document.

**C. Source Format Documents**

OCC concurs with Columbia that the Commission should require an e-filer to submit a source format document in addition to the required PDF. See Columbia's Comments at 1. As the PUCO Staff noted, in most instances the original source files are of greater usefulness to the parties and the Commission than the PDF version, providing superior indexing and search capabilities. See Entry at 4 (May 9, 2007). An e-filer should only be permitted to e-file without providing the source file(s) if such a filing is accompanied by a statement of good cause that explains the e-filer's inability to comply with the rules and a request seeking an appropriate waiver.

Furthermore, the Commission should require the filing of PDFs that are created from electronic source files, as opposed to scanned images. PDFs created from the actual sources have considerably smaller file sizes than those that are created from scanned images, provide more accurate content indexing for search functions, and facilitate the creation of work product (including copy/paste) by users of the documents.

### III. CONCLUSION

The proposed rules affect the rights of residential consumers in Ohio since the e-filing of documents allows the public to submit and/or receive various types of filings. The proposed rules will also affect the operations of the OCC itself, the statutory representative of all residential consumers in the cases in which the OCC is involved. See R.C. Chapter 4911. OCC respectfully requests that the Commission adopt e-filing rules consistent with OCC's Comments and the Reply Comments stated above.

OCC also recommends that opportunities for refinement of the rules should exist as experience with e-filing is gained. Such opportunities may be desirable earlier than the statutorily required review of the Commission's rules as the result of evolving technology and the rapid accumulation of experiences following the introduction of a new system. See R.C. 119.032. OCC appreciates the Commission's willingness to provide for e-filing, the effort of the PUCO Staff regarding development of systems as well as the accompanying rules, and the opportunity to provide comments and reply comments on the proposed e-filing rules.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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I hereby certify that a copy of the foregoing Office of the Ohio Consumers' Counsel's Comments was served by first class United States Mail, postage prepaid, to the persons listed below, on this 11th day of June, 2007.

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Summary: Reply Comments of the Office of the Ohio Consumers' Counsel electronically filed by Mrs. Bonnie C Morava on behalf of Office of the Ohio Consumers' Counsel