

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates.)))	Case No. 20-0585-EL-AIR
In the Matter of the Application of Ohio Power Company for Tariff Approval.)))	Case No. 20-0586-EL-ATA
In the Matter of the Application of Ohio Power Company for Approval to Change Accounting Methods.)))	Case No. 20-0587-EL-AAM

POST-HEARING REPLY BRIEF OF WALMART INC.

Carrie H. Grundmann (Ohio Bar ID 96138)
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
Phone: (336) 631-1051
Fax: (336) 725-4476
E-mail: cgrundmann@spilmanlaw.com

Derrick Price Williamson
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
Phone: (717) 795-2741
Fax: (717) 795-2743
E-mail: dwilliamson@spilmanlaw.com

Counsel to Walmart Inc.

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Approval.)**

**In the Matter of the Application of)
Ohio Power Company for Approval to) Case No. 20-0587-EL-AAM
Change Accounting Methods.)**

POST-HEARING REPLY BRIEF

Walmart Inc. ("Walmart"), by its attorneys, respectfully submits this Reply Brief to the Public Utilities Commission of Ohio ("Commission") in order to address arguments made by Nationwide Energy Partners, LLC ("NEP") concerning the alleged need for an alternative rate mechanism for low-load factor customers in the General Service ("GS") Rate Class. The Commission must reject NEP's proposal for either a new rate class or a pilot program for at least three reasons:

1. The Commission should give little to no weight to the NEP witness addressing the impacts of the Joint Stipulation and Recommendation ("Stipulation") on low-load factor customers;
2. NEP's discussion of impacts on any "low-load factor customer" lacks credibility since NEP itself was the only customer sampled; and,
3. The "solution" presented by NEP is nothing more than a subsidy intended to boost NEP's profits.

ARGUMENT

In its Post-Hearing Brief, NEP relies on various statements from its witness Rehberg in support of its argument for a new rate class to benefit low-load factor GS customers (at the expense of other customers).¹ It bears noting that the NEP witness is an engineer with no formal training in accounting, economics,² or ratemaking,³ and has no experience in "cost-of-service analyses."⁴ Likewise, the witness has never testified before the Commission on any matter, including cost allocation, rate impacts, and cost of services studies.⁵ As a result, the Commission should give little to no weight to the witness's proposed alternative rate mechanism for low-load factor GS customers.

Even if the NEP witness had more credibility, the analysis he adopted is not reliable. In its Post-Hearing Brief, NEP counsel claims that the witness's analysis "shows how low-load factor GS customers will pay over twice as much...as compared to high-load factor GS customers."⁶ This conclusion is not supported by the evidentiary record. The new GS rate class for low-load factor customers proposed by NEP was based on an alleged "review" of four accounts. NEP witness Rehberg did not select those accounts; they were provided to him by NEP⁷ and happened to all be NEP accounts.⁸ The witness did not know who selected the accounts that were reviewed.⁹ The

¹ See generally NEP Post-Hearing Brief, pp. 8-31.

² Hearing Transcript ("Tr."), p. 657, lines 4-24.

³ *Id.*, p. 658, lines 15-17.

⁴ *Id.*, p. 658, lines 5-25.

⁵ *Id.*, p. 659, lines 5-19. His lack of experience in this area was exemplified by the revisions to his testimony that were made on the stand; in every instance where the testimony read "based on my experience," the witness replaced it with "in my opinion." *Id.*, p. 642, lines 11-13, p. 643, lines 1-3, p. 644, lines 22-24, p. 645, lines 3-4.

⁶ NEP Post-Hearing Brief, p. 14.

⁷ Hearing Tr., p. 743, line 22 to p. 744, line 5.

⁸ *Id.*, p. 745, lines 6-15.

⁹ *Id.*, p. 759, line 17 to p. 760, line 6.

witness acknowledged that he played no role in determining the criteria to apply in selecting the allegedly representative sample.¹⁰ There is literally no record evidence as to whether this sampling was representative of other low-load factor customers. The witness's testimony as to other types of low-load factor customers is purely speculative as he did not review their usage data.¹¹

Moreover, although the witness claimed that he was "adopting" the testimony previously filed by Suzanne Buckley on behalf of NEP and had "verified" her analysis, he did not actually know whether he and Ms. Buckley both evaluated the same four accounts, and the witness¹² did not have access to Ms. Buckley's prior work papers.¹³

The reality is that witness Rehberg was provided account data for four accounts by NEP and belonging to NEP, an entity that has a vested interest in the rate structure that NEP proposed because it allows them to continue to earn a profit margin by submetering their accounts. The witness simply plugged numbers into a spreadsheet; as he states, all he did was "a mathematical analysis."¹⁴ There was no attempt to obtain usage data for other low-load factor customers. There was no attempt to determine if the four accounts analyzed were representative of other low-load factor customers. Quite simply, there was no full and complete analysis. To that end, NEP has not presented evidence that the rate schedule it proposes, whether in a permanent or pilot form, actually would benefit other low-load factor customers or that it would not harm other customers. The evidence on the record was actually to the contrary.

¹⁰ *Id.*, p. 744, lines 17-22.

¹¹ *Id.*, p. 764, line 23 to p. 765, line 15.

¹² *Id.*, p. 744, lines 11-16.

¹³ *Id.*, p. 670, lines 12-17.

¹⁴ *Id.*, p. 673, lines 16 to 674, line 2.

Finally, the overwhelmingly likely outcome of adopting the NEP proposal to create a low-load factor GS class is that those customers will be subsidized by other customers. NEP argues that its proposal is "designed to be revenue neutral," but that is demonstrably untrue.¹⁵ The only way in which these low-load factor customers would produce the same level of revenue (as set forth in the Stipulation) is if they did not take advantage of the rate structure NEP proposes; *i.e.*, if their consumption did not change.¹⁶ Indeed, the very reason for proposing this low-load factor GS rate schedule is to give these customers "better tools under their control today to be able to manage their costs."¹⁷ To argue that the utility would recover the same revenue while simultaneously arguing for a rate structure that explicitly allows a customer to avoid costs is simply inconsistent and must be rejected.

¹⁵ NEP Post-Hearing Brief, p. 18.

¹⁶ Hearing Tr., p. 727, lines 18-25.

¹⁷ *Id.*, p. 728, lines 22-25.

CONCLUSION

For all the reasons set forth herein and its previously filed Post-Hearing Brief, Walmart Inc. respectfully requests that the Commission approve the Joint Stipulation and Recommendation filed in this case on March 12, 2021, as subsequently updated on May 11, 2021, and reject the rate structure proposed by Nationwide Energy Partners, LLC for low-load factor GS customers.

Respectfully submitted,

SPILMAN THOMAS & BATTLE, PLLC

/s/Carrie H. Grundmann

Carrie H. Grundmann (Ohio Bar ID 96138)

110 Oakwood Drive, Suite 500

Winston-Salem, NC 27103

Phone: (336) 631-1051

Fax: (336) 725-4476

E-mail: cgrundmann@spilmanlaw.com

Derrick Price Williamson

1100 Bent Creek Blvd., Suite 101

Mechanicsburg, PA 17050

Phone: (717) 795-2741

Fax: (717) 795-2743

E-mail: dwilliamson@spilmanlaw.com

Counsel to Walmart Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Post-Hearing Reply Brief of Walmart Inc. was served by electronic mail, upon the following Parties of Record on this 6th day of July, 2021.

/s/ Carrie H. Grundmann

Carrie H. Grundmann (Ohio Bar ID 96138)

stnourse@aep.com
cblend@aep.com
twolffram@aep.com
egallon@porterwright.com
Christopher.miller@icemiller.com
werner.margard@ohioattorneygeneral.gov
kyle.kern@ohioattorneygeneral.gov
Thomas.shepherd@ohioattorneygeneral.gov
Angela.obrien@occ.ohio.gov
Christopher.healey@occ.ohio.gov
john.finnigan@occ.ohio.gov
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com
bojko@carpenterlipps.com
paul@carpenterlipps.com
bethany.allen@igs.com
joe.oliker@igs.com
michael.nugent@igs.com
evan.betterton@igs.com
fdarr2019@gmail.com
rdove@keglerbrown.com
mpritchard@mcneeslaw.com
rglover@mcneeslaw.com
bmckenney@mcneeslaw.com
ccox@elpc.org
rkelter@elpc.org
rlazer@elpc.org
whitt@whitt-sturtevant.com

fykes@whitt-sturtevant.com
dparram@bricker.com
rmains@bricker.com
dborchers@bricker.com
eakhbari@bricker.com
mjsettineri@vorys.com
glpetrucci@vorys.com
eowoyt@vorys.com
mfleisher@dickinsonwright.com
mmcdonnell@dickinsonwright.com
mleppla@theOEC.org
tdougherty@theOEC.org
ctavenor@theOEC.org
little@litohio.com
hogan@litohio.com
dstinson@bricker.com
mwarnock@bricker.com
ktreadway@oneenergylc.com
dromig@armadapower.com
todonnell@dickinsonwright.com
jschlesinger@keyesfox.com
lmckenna@keyesfox.com
donadio@carpenterlipps.com

Attorney Examiners:

sarah.parrot@puco.ohio.gov
greta.see@puco.ohio.gov

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Summary: Brief Post-Hearing Reply Brief of Walmart Inc. electronically filed by Carrie H Grundmann on behalf of Walmart Inc.