

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

---

**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](mailto: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](mailto:dwilliamson@spilmanlaw.com)

*Counsel to Walmart Inc.*

Dated: July 6, 2021

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**TABLE OF CONTENTS**

<b>ARGUMENT .....</b>	<b>2</b>
<b>CONCLUSION .....</b>	<b>5</b>

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**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).<sup>1</sup> It bears noting that the NEP witness is an engineer with no formal training in accounting, economics,<sup>2</sup> or ratemaking,<sup>3</sup> and has no experience in "cost-of-service analyses."<sup>4</sup> Likewise, the witness has never testified before the Commission on any matter, including cost allocation, rate impacts, and cost of services studies.<sup>5</sup> 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."<sup>6</sup> 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 NEP<sup>7</sup> and happened to all be NEP accounts.<sup>8</sup> The witness did not know who selected the accounts that were reviewed.<sup>9</sup> The

---

<sup>1</sup> See generally NEP Post-Hearing Brief, pp. 8-31.

<sup>2</sup> Hearing Transcript ("Tr."), p. 657, lines 4-24.

<sup>3</sup> *Id.*, p. 658, lines 15-17.

<sup>4</sup> *Id.*, p. 658, lines 5-25.

<sup>5</sup> *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.

<sup>6</sup> NEP Post-Hearing Brief, p. 14.

<sup>7</sup> Hearing Tr., p. 743, line 22 to p. 744, line 5.

<sup>8</sup> *Id.*, p. 745, lines 6-15.

<sup>9</sup> *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.<sup>10</sup> 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.<sup>11</sup>

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 witness<sup>12</sup> did not have access to Ms. Buckley's prior work papers.<sup>13</sup>

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."<sup>14</sup> 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.

---

<sup>10</sup> *Id.*, p. 744, lines 17-22.

<sup>11</sup> *Id.*, p. 764, line 23 to p. 765, line 15.

<sup>12</sup> *Id.*, p. 744, lines 11-16.

<sup>13</sup> *Id.*, p. 670, lines 12-17.

<sup>14</sup> *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.<sup>15</sup> 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.<sup>16</sup> 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."<sup>17</sup> 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.

---

<sup>15</sup> NEP Post-Hearing Brief, p. 18.

<sup>16</sup> Hearing Tr., p. 727, lines 18-25.

<sup>17</sup> *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](mailto: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](mailto: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 6<sup>th</sup> 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  
jkylern@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  
mleppa@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



**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/6/2021 3:50:27 PM**

**in**

**Case No(s). 20-0585-EL-AIR, 20-0586-EL-ATA, 20-0587-EL-AAM**

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