

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Power Company for Authority to)	
Abandon Electric Service Lines,)	Case No. 22-693-EL-ABN
Pursuant to Ohio Revised Code)	
Sections 4905.20 and 4905.21.)	

**CONSUMER PROTECTION COMMENTS
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

The PUCO recently ordered that Nationwide Energy Partners (“NEP”) may submeter (resell) electric utility service to residential consumers living in apartment complexes currently served by AEP Ohio.¹ In this case, AEP now seeks to abandon its energy distribution lines that serve consumers in the Northtowne Apartment Complex.² Abandoning these service lines will harm residential consumers in the Northtowne property.³ Costs for AEP’s abandonment could also be passed on to the Northtowne residents. To protect consumers, the PUCO must (under R.C. 4905.21) conduct an evidentiary hearing to carefully consider these issues. To lessen the impact on residential consumers, the PUCO’s review of AEP’s Application should happen *after* the Supreme Court of Ohio has resolved any appeal of the PUCO’s order in Case No. 21-990-EL-CSS.

AEP’s Application relates specifically to NEP’s request that AEP provide “secondary service” to 59 service points at the Northtowne property to serve the

¹ *Ohio Power Co. v. Nationwide Energy Partners, LLC*, Case No. 21-990-EL-CSS, Opinion and Order (Sept. 6, 2023) (“Order”), at ¶ 224.

² Application at ¶ 5.

³ Application at ¶ 18.

residential consumer accounts.⁴ AEP claims that converting those 59 service points at NEP's request is costly and complex.⁵ According to AEP, completing the NEP submetering conversion would involve "abandoning the numerous distribution lines and removing other distribution assets currently installed on the property."⁶

AEP proposes instead to establish a "single point of primary service to the perimeter of the Northtowne property line at a mutually agreed location."⁷ AEP claims that this will reduce the cost of NEP's conversion request and result in lower rates for master-meter customer (*i.e.* the property owner).⁸

Under the Miller Act (R.C. 4905.20 and 4905.21) the PUCO cannot grant AEP's Application without conducting a hearing to fully consider the evidence regarding whether abandonment "is reasonable, having due regard for the welfare of the public and the cost of operating the service or facility ***."⁹ To minimize the harm to consumers, the PUCO's consideration of AEP's Application should be held in abeyance pending any appeals to the Supreme Court of Ohio of the PUCO's order in Case No. 21-990-EL-CSS.

⁴ Application at ¶¶ 12-13.

⁵ *Id.* at ¶ 13.

⁶ *Id.* at ¶ 16.

⁷ *Id.* at ¶ 14.

⁸ *Id.*

⁹ R.C. 4905.21.

II. CONSUMER PROTECTION RECOMMENDATIONS

A. **Abandonment of the Northtowne property will cause harm to residential consumers, and consideration of the Application should be held in abeyance pending appeals to the Supreme Court of Ohio.**

AEP states that it does not want to abandon service lines to consumers in the Northtowne property, yet it is compelled to seek a ruling from the PUCO under the Miller Act given the PUCO's rulings in Case No. 21-990-EL-CSS.¹⁰ AEP also states that if it abandons service to the Northtowne consumers, it would seek to reestablish service to consumers if it prevails on appeal to the Supreme Court of Ohio. To prevent even more harm to consumers, the PUCO should delay action on AEP's Application until the matters are resolved on appeal.

AEP acknowledges that abandonment of distribution lines at Northtowne is against the welfare of the public, particularly those energy customers who reside at Northtowne.¹¹ OCC agrees. AEP's abandonment of Northtowne distribution lines would have a significantly negative impact on the residential consumers at Northtowne, as well as raise wider consumer concerns in regard to submetering trends and practices throughout the consumer electric sector. AEP helpfully illustrates in the Application that Northtowne residential consumers would lose:

(1) the ability to choose a competitive retail electric service provider...;

(2) the ability to participate in AEP's Budget Plan and Average Monthly Plan;

(3) the ability to participate in the PIPP program...;

¹⁰ Application at ¶ 17.

¹¹ *Id.* ¶ 18.

(4) the myriad of statutorily required disconnection and reconnection protections contained on Ohio Adm. Code 4901:1-18;

(5) regulated and transparent rates for electric distribution services;

(6) regulated processes for resolving disputes regarding pricing and services, and

(7) the numerous rights contained in Ohio Adm. Code 4901:1-10.”¹²

OCC respectfully suggests the PUCO hold this matter in abeyance pending any potential appeal by AEP in Case No. 21-990-EL-CSS. Should AEP prevail, the issues underlying the Application in this matter would be resolved. If AEP does not prevail on appeal, then litigation can resume on the issues presented in this matter. Delaying consideration of AEP’s Application (and the resulting submetering conversions) will benefit Northtowne residential consumers. Accordingly, the PUCO should hold these proceedings in abeyance pending the resolution of any appeals to Supreme Court of Ohio.

B. Residential consumers should not be made to shoulder the cost of work to complete the submetering conversions.

OCC is also troubled by the unanswered questions underlying this abandonment proceeding, particularly pertaining to cost. As previously stated, this matter arises from another case before the PUCO, Case No. 21-990-EL-CSS. There, a ruling was made against AEP’s favor. At the time of this writing, AEP still has a right of appeal in that matter. Should AEP abandon service at the Northtowne property, and yet win on the issues upon appeal, then what becomes of the abandonments or conversions which may

¹² *Id.* ¶ 18.

have been completed or begun? AEP admits that these conversions for NEP submetering are costly, hence the abandonment action.

It logically follows that abandonment of the property and removal of equipment by AEP would result in substantial costs as well. This would also stand true in the event service were to be returned, should AEP prevail on its appeal in No. 21-990-EL-CSS. The question remains: who will shoulder the cost for these alterations?

The PUCO handled abandonment and associated costs (albeit in the realm of gas utility service) in Case No. 21-986-GA-ABN, *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Abandon Certain Propane-Air Facilities*. There, Duke filed an application to authorize the abandonment of certain propane-air facilities pursuant to R.C. 4905.20 and 4905.21.¹³ Duke argued that its abandonment case presented unique circumstances, as the facilities to be abandoned were reaching the end of life and were of class of assets that would soon be retired, and thus no secondary market existed for Duke to recoup costs.¹⁴ The PUCO ultimately approved a settlement between Duke and the PUCO Staff that allowed for the deferral and recovery of certain costs related to the abandonment through future rate case proceedings.¹⁵

AEP is not seeking to abandon equipment or facilities that would otherwise soon be retired. Rather, AEP is seeking to abandon service to the Northtowne property to avoid the costs of converting the property for NEP's submetering.

Consumers should not have to pay costs for work performed by AEP to abandon the service lines at the Northtowne property, especially if AEP will incur additional costs

¹³ Case No. 21-986-GA-ABN Opinion and Order (Oct. 5, 2022) at ¶ 1.

¹⁴ *Id.* at ¶ 19.

¹⁵ *Id.* at ¶ 22-23.

to resume service to the Northtowne property if it prevails on rehearing or in a future appeal in Case No. 21-990-EL-CSS.

III. CONCLUSION

The PUCO should protect the residential consumers at the Northtowne apartments from losing their electric utility support, choices, rights and protections, as well as potentially shouldering costs for expensive conversions or abandonments. AEP Ohio's abandonment of the property will result in real and immediate harm to the residential consumers who continue to live there. The PUCO should adopt OCC's recommendations for consumer protection.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Consumer Protection Comments was served via electronic transmission upon the parties this 4th day of December 2023.

/s/ Thomas Brodbeck

Thomas Brodbeck

Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Comments Consumer Protection Comments by Office of the Ohio
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Thomas J. Brodbeck.