BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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

I. INTRODUCTION

This case concerns Nationwide Energy Partner's ("NEP") submetering service to residential utility consumers in the Northtowne Apartments. Ohio Power Company ("AEP Ohio") seeks in this action to abandon service lines to 286 Northtowne residents. The Office of the Ohio Consumers' Counsel ("OCC") opposes NEP's submetering to residential utility consumers because it would cause residential consumers to lose the rights and protections they receive from being served by a PUCO-regulated utility like AEP Ohio. AEP Ohio's request to abandon service to the 286 service lines in the Northtowne Apartments would harm residential consumers and would be contrary to the "welfare of the public" under the Miller Act (R.C. 4905.20, 4905.21).

The PUCO should, however, hold this proceeding in abeyance until any appeals of the PUCO's Order in Case No. 21-990-EL-CSS have been resolved. In that case, the PUCO ruled that it has no jurisdiction to regulate NEP or protect consumers from NEP's substandard submetering service. AEP Ohio sought rehearing of the PUCO's order in Case No. 21-990-EL-CSS (as did OCC), and the PUCO recently issued an order denying

AEP Ohio's application for rehearing.[1] An appeal of this decision by AEP Ohio to the Supreme Court of Ohio will resolve the abandonment issues in this case.

In addition to holding this matter in abeyance, the PUCO should preclude AEP from moving forward with converting or abandoning service to the Northtowne residents in the meantime. Work by AEP Ohio to convert or abandon service will result in costs passed on to consumers. Consumers should not be forced to pay for submetering conversions, or any work related to AEP Ohio's abandonment of service lines, until the issues in Case No. 21-990-EL-CSS are determined on appeal.

II. REPLY COMMENTS FOR CONSUMER PROTECTION

NEP filed comments and a motion to dismiss this case on December 4, 2023. AEP Ohio filed initial comments in this matter as well, arguing that the PUCO should *deny* the motion for abandonment, as AEP Ohio's abandonment of service lines would harm the Northtowne consumers.[2] The PUCO should focus on protecting consumers first, by adopting the recommendations of OCC.

AEP Ohio's abandonment of service lines to the Northtowne Apartments would harm residential utility consumers. However, the PUCO should defer ruling on AEP Ohio's application until appeals to the Supreme Court of Ohio have been resolved, and forbid any conversion work at Northtowne relating to submetering or abandonment from proceeding. AEP Ohio's application is directly related to the outcome of any appeal of Case No. 21-990-EL-CSS, the dispute between AEP Ohio and NEP regarding NEP's

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[1] Case No. 21-990-EL-CSS, Second Entry on Rehearing (Dec. 13, 2023).

[2] AEP Ohio's Application for Abandonment by Ohio Power Company, ¶ 18; *See also* Initial Comments of AEP Ohio, at 11-15.

submetering services. There exists a potential for AEP Ohio to appeal the PUCO's recent decision to deny AEP Ohio's application for rehearing in that matter. A decision by the Supreme Court of Ohio could resolve the instant matter. Accordingly, should this matter proceed, it should be held in abeyance pending the outcome of any appeals in Case No. 21-990-EL-CSS. Any work performed at Northtowne related to conversion or abandonment before the resolution of this matter could result in unnecessary costs and harm to residential consumers through the down-line recoupment of those costs through billing increases.

Holding this proceeding in abeyance pending appeals and forbidding any abandonment work from being performed at Northtowne in the interim will protect consumers from costs that AEP Ohio may charge for abandonment and completing the submetering conversions and any additional costs to undo those changes if AEP Ohio prevails on appeal and reestablishes the 286 service lines. The costs of regulatory uncertainty should not be foisted onto the Northtowne residential consumers.

Separately, granting AEP Ohio's application would harm consumers. AEP Ohio's Initial Comments make direct reference to the harm an abandonment of Northtowne would cause residential consumers.[3] There, AEP Ohio discusses how abandonment would cause Northtowne customers (residents) to lose access to PIPP, to lose the right to shop the market for generation supply, to face disconnection without statutory protections, as well as the high likelihood of other residential customers facing billing increases to pay for any service conversions.[4] AEP Ohio ultimately argues that any

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[3] *See* Initial Comments of AEP, 22-693-EL-ABN.

[4] *Id.* at 5-11.

abandonment of Northtowne would be "against the welfare of the public" under the Miller Act.[5] In other words, AEP Ohio argues *against* its own application for abandonment.

NEP's Comments make no effort to challenge the harms which would be caused by AEP's abandonment.[6] Rather, NEP notes that allowing the submetering of Northtowne by NEP to go into effect would *not* cause harm (effectively defending its own business practices).[7] Rather than focusing on the effects of the abandonment of Northtowne on residential consumers, NEP argues that AEP Ohio need not abandon the property at all, and that this situation (and the Application, itself) are entirely a circumstance of AEP Ohio's own creation.[8] NEP's Comments amount to legal arguments against the PUCO entertaining AEP Ohio's arguments, which coincides with NEP's Motion to Dismiss this matter.

The OCC agrees with AEP Ohio that abandoning the service lines in Northtowne would cause the consumers great harm. In this regard, OCC agrees with AEP Ohio that granting the motion for abandonment would be unreasonable and contrary to the public welfare under the Miller Act. OCC opposes any outcome that would harm residential consumers, and respectfully insists the PUCO put residential consumer's considerations at the foremost in this matter.

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[5] *Id.*

[6] *See* Comments of NEP, 22-693-EL-ABN.

[7] *Id.* at 19-20.

[8] *Id*. at 13-14.

III. CONCLUSION

The PUCO should act to protect the Northtowne residential consumers who will be harmed if AEP Ohio's application for abandonment is granted. The PUCO should delay action in this case until the Supreme Court of Ohio determines the outcome of any appeals in Case No. 21-990-EL-CSS, and through injunction forbid any work at the Northtowne property in the interim related to abandonment of service. 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 Reply Comments was served via electronic transmission upon the parties this 19th day of December 2023.

/s/ Thomas J. Brodbeck
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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 Reply Comments by Office of the Ohio Consumers' Counsel electronically filed by Alana M. Noward on behalf of Brodbeck, Thomas J..