

PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Commission's Investigation into :Case No.
XOOM Energy Ohio, LLC's Compliance:22-267-GE-COI
with the Ohio Administrative Code :
and Potential Remedial Actions :
for Non-Compliance. :

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PROCEEDINGS

Before Jesse Davis, Attorney Examiner, held at
the Public Utilities Commission of Ohio, 180
East Broad Street, Hearing Room 11-C, Columbus,
Ohio, on Tuesday, March 5, 2024, at 10:00 A.M.

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Armstrong & Okey, Inc.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
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- - -

APPEARANCES:

Vorys, Sater, Seymour and Pease LLP
By Mr. Michael J. Settineri
52 East Gay Street
Columbus, Ohio 43215

On behalf of XOOM Energy
Ohio, LLC.

Ms. Angela O'Brien
Deputy Consumers' Counsel
65 East Gay Street, 7th Floor
Columbus, Ohio 43215

On behalf of the Office of
Consumers' Counsel.

Ms. Amy Botschner O'Brien
Assistant Attorney General
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the
Public Utilities Commission
of Ohio.

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1 Tuesday Morning,
2 March 5, 2024.

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4 ATTORNEY EXAMINER: Good morning,
5 everyone. Today is March 5th, 2024. It's about
6 10:09 A.M. My name is Jesse Davis, I am
7 the Attorney Examiner assigned to hear this case
8 that the Public Utilities Commission of Ohio has
9 called for hearing at this time and place Case
10 No. 22-267-GE-COI which is captioned In the
11 Matter of XOOM Energy Ohio, LLC.

12 First we will start with appearances
13 starting with Staff.

14 MS. BOTSCHNER O'BRIEN: Thank you,
15 your Honor. On behalf of the Public Utilities
16 Commission of Ohio, Dave Yost, Ohio Attorney
17 General, John H. Jones, Section Chief, Public
18 Utilities Section, by Assistant Attorney General
19 Amy Botschner O'Brien, 30 East Broad Street,
20 26th Floor, Columbus, Ohio.

21 With me today from the Staff is
22 Barbara Bossart and Megan Delisi.

23 ATTORNEY EXAMINER: Thank you very
24 much. And on behalf of XOOM Energy?

25 MR. SETTINERI: Good morning, your

Honor. On behalf of XOOM Energy Ohio, LLC Mike Settineri with the law firm of Vorys, Sater, Seymour and Pease, LLP, 52 East Gay Street, Columbus, Ohio 43215.

ATTORNEY EXAMINER: Thank you. And on behalf of the Office of Ohio Consumers' Counsel?

MS. ANGELA O'BRIEN: Good morning, your Honor. On behalf of the Office of the Ohio Consumers' Counsel, Maureen Willis, Consumers' Counsel, Angela D. O'Brien, Deputy Consumers' Counsel, 65 East State Street, Suite 700, Columbus, Ohio 43215.

ATTORNEY EXAMINER: Thank you. So we will go ahead and start with Staff.

MS. BOTSCHNER O'BRIEN: Okay. The parties have stipulated to the admission of Staff Exhibit 1, which is the In the Matter of the Investigation of the XOOM Energy Ohio, LLC's Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance, Case No. 22-267-GE-COI.

And this document is the Staff Report filed in that case again from June 6th, 2022 and I have marked it as Staff Exhibit 1.

1 Also Staff Exhibit 1A, which is
2 amended version, a shortened amended version, of
3 that Report.

4 ATTORNEY EXAMINER: It will be so
5 marked.

6 (EXHIBITS MARKED FOR IDENTIFICATION)

7 MS. BOTSCHNER O'BRIEN: And this is
8 a very, very voluminous document. I have in
9 order to save us some trees just have one copy
10 here. Of course, this is all in the PUCO DIS
11 system for the parties to look at.

12 Would anybody who is either here or
13 the Attorney Examiner, or court reporter like
14 this full copy?

15 ATTORNEY EXAMINER: I don't believe
16 so.

17 MR. SETTINERI: Your Honor, on
18 behalf of XOOM, while we agree to the admission
19 of those two Staff Reports, obviously XOOM, that
20 agreement to admit those exhibits should not be
21 viewed as agreement to the allegations and the
22 contents of the Staff Report as to the facts
23 given that we have a stipulation in this
24 proceeding.

25 ATTORNEY EXAMINER: Okay.

1 MR. SETTINERI: Thank you.

2 MS. ANGELA O'BRIEN: No objection.

3 ATTORNEY EXAMINER: Thank you.

4 Staff's Exhibits 1 and 1A are admitted.

5 (EXHIBITS HEREBY ADMITTED INTO
6 EVIDENCE)

7 MS. BOTSCHNER O'BRIEN: Thank you,
8 Your Honor.

9 ATTORNEY EXAMINER: Thank you. Mr.
10 Settineri.

11 MR. SETTINERI: Your Honor, at this
12 time we will call Mr. Bryce McKenney to the
13 stand on behalf of XOOM Energy Ohio, LLC.

14 (WITNESS SWORN)

15 MR. SETTINERI: Your Honor, before
16 we commence I would like to mark some exhibits
17 starting first with XOOM Exhibit 1, which is the
18 direct testimony of Mr. McKenney.

19 ATTORNEY EXAMINER: It shall be so
20 marked.

21 (EXHIBIT MARKED FOR IDENTIFICATION)

22 MR. SETTINERI: And within that
23 testimony we reference other exhibits. First we
24 would mark as XOOM Exhibit 2 correspondence from
25 the Office of Ohio Consumers' Counsel filed in

1 the case docket dated August 3rd, 2023.

2 ATTORNEY EXAMINER: It shall be so
3 marked.

4 (EXHIBIT MARKED FOR IDENTIFICATION)

5 MR. SETTINERI: And then we would
6 mark as Joint Exhibit 1 the Joint Stipulation
7 and Recommendation filed in this proceeding
8 dated August 2nd, 2023.

9 ATTORNEY EXAMINER: It shall be so
10 marked.

11 (EXHIBIT HEREBY MARKED FOR
12 IDENTIFICATION PURPOSES)

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14 BRYCE MCKENNEY
15 called as a witness, being first duly sworn,
16 testified as follows:

17 DIRECT EXAMINATION

18 By Mr. Settineri:

19 Q. Good morning, Mr. McKenney.

20 A. Good morning.

21 Q. Do you have before you what has been
22 marked as XOOM Exhibit 1?

23 A. I do.

24 Q. And can you identify that for the
25 record, please?

1 A. This is my direct testimony on
2 behalf of Xoom Energy Ohio, LLC.

3 Q. Was that prepared by or at your
4 direction?

5 A. It was.

6 Q. And do you have any changes or
7 revisions to that testimony at this time?

8 A. I do not.

9 Q. Now, your testimony at Page 5
10 references a copy of a letter that has been
11 marked as XOOM Exhibit 2. Do you see that
12 reference in your testimony. Page 5, top of
13 the page?

14 A. I do.

15 Q. And can you identify for the record
16 what's been marked as XOOM Exhibit 2?

17 A. It is a letter on the letterhead of
18 the Office of Ohio Consumers' Counsel regarding
19 the settlement.

20 Q. And that's the same letter that has
21 been referenced in your testimony; correct?

22 A. Correct.

23 Q. And then also if you can identify
24 what's been marked as Joint Exhibit 1?

25 A. That is the Joint Stipulation and

1 Recommendation.

2 Q. And at the bottom of Page 4, is that
3 the Stipulation referenced in your testimony
4 that's been marked as Joint Exhibit 1?

5 A. It is.

6 Q. All right. If I asked you
7 the questions in your testimony today would your
8 answers be the same as written?

9 A. They would.

10 MR. SETTINERI: Thank you. At this
11 time, your Honor, the witness is available for
12 any questions.

13 ATTORNEY EXAMINER: Thank you, Mr.
14 Settineri. Ms. O'Brien.

15 MS. ANGELA O'BRIEN: No questions.

16 ATTORNEY EXAMINER: Thank you.

17 MS. BOTSCHNER O'BRIEN: No questions
18 from Staff.

19 ATTORNEY EXAMINER: Thank you very
20 much. Thank you, sir. You may step down.

21 MR. SETTINERI: So, your Honor, at
22 this time we would move for the admission of
23 XOOM Exhibit 1 as well as XOOM Exhibit 2, along
24 with the Joint Stipulation and Recommendation,
25 which is Joint Exhibit 1.

1 ATTORNEY EXAMINER: Are there any
2 objections?

3 MS. ANGELA O'BRIEN: No objections.

4 MS. BOTSCHNER O'BRIEN: No
5 objection.

6 ATTORNEY EXAMINER: Thank you very
7 much. Joint Exhibit 1, Xoom Exhibit 1 and Xoom
8 Exhibit 2 are admitted into the record.

9 (EXHIBITS ADMITTED INTO EVIDENCE)

10 MR. SETTINERI: Nothing further
11 from XOOM Energy at this time. Thank you.

12 ATTORNEY EXAMINER: Anything from
13 OCC?

14 MS. ANGELA O'BRIEN: No.

15 ATTORNEY EXAMINER: Thank you very
16 much. Okay. With all that said, all the
17 evidence has been admitted and that is all for
18 today and we are adjourned.

19 MS. BOTSCHNER O'BRIEN: I just want
20 to make sure, you have admitted Staff Exhibit 1,
21 Staff Report from June 6th, and Staff Exhibit
22 1A, Staff Report from June 15th?

23 ATTORNEY EXAMINER: Yes.

24 MS. BOTSCHNER O'BRIEN: Thank you.

25 MR. SETTINERI: Your Honor, just for

1 the record, obviously this is decision only, no
2 briefing required?

3 ATTORNEY EXAMINER: Yes. I didn't
4 think so given that no one was sort of champing
5 at the bit to bring up a briefing schedule, so I
6 wasn't going to press the issue.

7 MR. SETTINERI: Thank you, your
8 Honor.

9 ATTORNEY EXAMINER: Yes. So just
10 once more, no one is entertaining briefs at this
11 time?

12 MS. ANGELA O'BRIEN: No, your Honor,
13 not from us.

14 MS. BOTSCHNER O'BRIEN: Not from
15 the Staff.

16 ATTORNEY EXAMINER: Excellent. Just
17 checking. Thank you all very much. We are
18 adjourned.

19 MR. SETTINERI: Thank you.

20 MS. BOTSCHNER O'BRIEN: Thank you.

21 MS. ANGELA O'BRIEN: Thank you.

22 (At 10:20 A.M. the hearing was
23 adjourned)

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25

CERTIFICATE

I do hereby certify that the foregoing
is a true and correct transcript of the
proceedings taken by me in this matter on March
5, 2024, and carefully compared with my original
stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

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in

Case No(s). 22-0267-GE-COI

Summary: Transcript March 5th 2024 In the Matter of the Commission's
Investigation into XOOM Energy Ohio, LLC's Compliance with the Ohio
Administrative Code and Potential Remedial Actions for Non-Compliance.
electronically filed by Mr. Ken Spencer on behalf of ARMSTRONG & OKEY INC.
ATTORNEY and Spencer, Michael O. Mr..