

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Ohio-American Water Company)
To Increase its Rates for Water and Sewer) Case No. 03-2390-WS-AIR
Services Provided to its Entire Service Area)

In the Matter of the Application of)
Ohio-American Water Company)
for Approval of Accounting Changes with) Case No. 04-339-WW-AAM
respect to Deferral of Security Costs)
Incurred in the Wake of September 11, 2001)

**OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
OBJECTIONS TO THE STAFF REPORT
OF INVESTIGATION
AND SUMMARY OF MAJOR ISSUES**

RECEIVED-DOCKETING DIV
2004 NOV -11 PM 3: 57
PUCO

Pursuant to Ohio Rev. Code Sections 4909.19 and 4903.083, and Ohio Admin. Code Rule 4901-1-28, the Ohio Consumers' Counsel (OCC) files its Objections to the Staff Report of Investigation docketed in the above-referenced proceeding on September 30, 2004. OCC submits that these objections meet the specificity requirement of Ohio Administrative code Rule 4901-1-28. However, in the event that any objection is inadvertently unclear, a detailed, fully-developed explanation of OCC's position with respect to the Staff Report and the Application is found in OCC's direct testimony filed this day which is fully incorporated herein.

OCC submits that failure to object to any aspect of the Staff Report should not preclude OCC or any other party from cross-examination or introduction of evidence or argument in regard to issues on which the Staff's position changes between the issuance of the Staff Report and the closing of the record.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
Technician CH Date Processed 11/1/04

I. OBJECTIONS TO THE STAFF REPORT OF INVESTIGATION

A) Operating Income

1. The OCC objects to the Staff's inclusion of the \$4,419 in expense for the Huber Ridge System in the total Sludge Hauling Expense on schedule C-3.7. The Company incurred these expenses before the test year. Including them in the test year expense for sludge hauling distorts the total test year expense and is a violation of law including Ohio Rev. Code Section 4909.15. For that reason the adjustment to Sludge Hauling Expense on schedule C-3.7 should be reduced from \$7,244 to \$2,825.

B) Rate Base

2. The OCC objects to the Staff's failure to deduct Customer Deposits, Unclaimed Extension Deposit Refunds and Unclaimed Credits from "Water A" and "Water C" Rate Base on Schedule B-6, Other Rate Base Items. The Customer Deposits, Unclaimed Extension Deposit Refunds and Unclaimed Credits are customer rather than investor sources of funds that are available to the Company and should be deducted from Rate Base. Failure to deduct these amounts from rate base would be a violation of law including Ohio Rev. Code Section 4909.15. The date certain amount of Customer Deposits is \$8,344, the date certain amount of Unclaimed Extension Deposit Refunds is \$3,093 and the date certain amount of Unclaimed Credits is \$2,497. In total, this should result in a reduction of \$13,934 to rate base on Staff Schedule B-6.

C) Rate Of Return

3. OCC objects to the Staff's recommended rate of return. OCC's objection includes the basis that the DCF calculation incorporates the average annual change in GNP for the years 1929-2003. This method includes periods during World War II, the post World War II period and the inflationary period of the 1970s, which covers circumstances that are not representative of the current prospects. For example, 1989 was the most recent year in which the GNP growth was larger than the Staff's average. This suggests that the average relied upon is not representative of current or future GNP growth.

4. OCC objects to the Staff's determination of the CAPM because of the use of the spread of arithmetic mean total returns between large company stocks and long-term government bonds. Use of the arithmetic mean of annual returns inflates the estimated cost of equity because it unrealistically assumes that the relevant investment time horizon is only one year. Three to five year horizons better reflect the time horizon between Ohio American Water rate cases.

5. The OCC objects to the Staff's use of results obtained from the Ibbotson data, which covers the period 1926 through present and weighs all years equally. This equal weighing of early and late periods covered by the Ibbotson data ignores shifts in financial markets, tax laws, etc. that have

changed conditions. The data from the early years covered in the Ibbotson data are less relevant than more recent data in determining the risk premium. Instead the Staff should give more weight to the more recent years as it did in calculating the average interest rates to use in the CAPM analysis.

6. The OCC objects to the Staff's failure to recommend that OAW be granted the low end of the Staff's rate-of-return range of 7.60% because OAW has not been providing adequate service as required under R.C. 4905.22 and defined under *Miami Wabash v. CG&E*, Case No. 02-2162-EL-CSS, Opinion and Order (September 23, 2003). On page 76, under the System Improvements/Capital and Operational Recommendations section, the Staff noted: "The Company has or is in the process of making capital improvements in the various districts. However, since RWE AG acquired the Company's former parent company, American Water Works Company, several capital improvement projects have been tabled. On page 77 of the Staff Report the Staff noted: "[T]he customers in the Harprest system are not receiving adequate service due to undersized 1- and 2-inch galvanized mains that are constantly breaking." And on page 78 of the Staff Report the Staff identified problems in the Huber Ridge Water & Wastewater Systems: "Reliability and service quality concerns on Carthage Court dictate that the 2-inch galvanized main on the street be replaced." The Company did receive sufficient cost recovery for capital

improvement projects in the last rate case and should have met the necessary system improvement and maintenance schedules.

D) Rates And Tariffs

7. The OCC objects to the Staff proposing to increase the Reconnection Charge from \$10.00 to \$39.00 for former Citizen Utility customers and from \$31.50 to \$39.00 for other customers because such an increase violates the principles of rate continuity and gradualism as identified and relied upon in *In the Matter of the Application of Ohio Edison Company for Authority to Change Certain of Its Filed Schedules Fixing Rates and Charges for Electric Service*, Case No. 89-1001-EL-AIR, Opinion and Order (August 16, 1990) at 214.

E) Service Monitoring And Enforcement

8. The OCC objects to the Staff's recommendation that the Commission direct the OAW call center in Alton, Illinois to work with Commission's Investigation and Audit Division to establish a viable 3-way calling process within 30 days of the Opinion and Order in this case without also recommending that the Commission direct the OAW call center in Alton, Illinois to work out a similar viable 3-way calling process with the OCC. The OCC must address residential customer complaints and needs access to an efficient complaint handling process as well. Pursuant to R.C.

4911.19. public utilities are required to respond to the OCC inquiries on behalf of residential customers in a timely manner.

9. The OCC objects to the Staff's failure to recommend a plan addressing the Blacklick service quality issues despite the Blacklick system customers expressing their dissatisfaction with the water quality and the inconclusive results of repeated surveys of Blacklick customers. The Staff should host a panel discussion with the Blacklick customers to investigate various methods of treating the hard water and financing options that may be available to improve water quality.

F) Customer Service

10. OCC objects to the Staff not recommending that OAW provide testimony in the next rate case regarding its investigation into initiating a meaningful water conservation and water efficiency program for residential customers. The Company has requested a rate increase for most of its residential customers of almost 19% in this case and a rate increase close to 37% for residential customers in the former Citizens' Utilities territory. A conservation and efficiency program for customers will help mitigate the increased rate pressure customers will experience from the Company's rate increases.

11. OCC objects to the Staff not recommending that OAW provide testimony in the next rate case regarding its investigation into initiating a bill pay assistance program for its low-income customers. Customers have been having difficulty paying their bills as evidenced from the numerous contacts regarding disconnection and payment arrangements that the Commission's Investigation and Audit Division has received. The requested rate increase will place even greater pressure on customers and the Company should be responsive to customer needs.

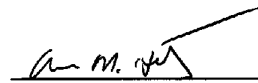
SUMMARY OF MAJOR ISSUES

Pursuant to Ohio Rev. Code 4903.083, OCC set forth the following as major issues in these proceedings:

1. The appropriateness of Service Monitoring and Enforcement;
2. The appropriate residential tariffs and policies toward the residential class;
3. The appropriate residential reconnection charge;
4. The appropriate Rate of Return for ratemaking purposes;
5. The appropriate level of Operating Income; and
6. The appropriate level of Rate Base.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



Ann M. Hotz, Trial Attorney
Assistant Consumers' Counsel

The Office of the Ohio Consumers' Counsel

10 West Broad Street, Suite 1800

Columbus, Ohio 43215-3485

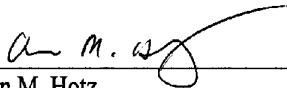
Telephone (614) 466-8574

Facsimile (614) 466-9475

hotz@occ.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that copies of the Office of the Ohio Consumers' Counsel's
Objections to the Staff Report of Investigation and Summary of Major Issues, have been
served by first class mail, postage prepaid to the following parties of record this 1st day
of November, 2004.



Ann M. Hotz
Assistant Consumers' Counsel

PARTIES OF RECORD

MATTHEW SATTERWHITE, ESQ.
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, Ohio 43215-3793

SALLY W. BLOOMFIELD, ESQ.
THOMAS J. O'BRIEN, ESQ.
AMY STRAKER BARTEMES, ESQ.
Bricker & Eckler, LLP
100 South Third Street
Columbus, Ohio 43215-4291