

FILE

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

PUCO

In the Matter of the Application of the)
Commission Consideration of Waivers of) Case No. 05-1191-AU-UNC
the Administration Code.)

APPLICATION FOR REHEARING
BY
THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL

Pursuant to R.C. 4903.10 and Ohio Adm. Code 4901-1-35, the Northeast Ohio Public Energy Council ("NOPEC") hereby applies to the Public Utilities Commission of Ohio ("Commission" or "PUCO") for rehearing of the Entry dated September 28, 2005 in the above-captioned case (the "Entry").

NOPEC is a regional council of governments established under Chapter 167 of the Ohio Revised Code and is a political subdivision of the State of Ohio. NOPEC is comprised of 115 member counties, municipalities and townships in an eight (8) county area in northern Ohio. As a PUCO-certified governmental aggregator, NOPEC arranges for electric generation supply for about 450,000 electricity consumers, and also has arranged for natural gas supply for as many as 150,000 natural gas customers.

NOPEC's aggregation customers have many questions and inquiries about their electric and natural gas bills. With the advent of energy deregulation and residential choice programs, these inquiries have increased, particularly from senior citizens. The frequency and sheer number of questions and inquiries will likely increase even more as energy prices

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increase dramatically, as it is expected that this winter will be especially difficult for many Ohio utility consumers. NOPEC's aggregation customers often avail themselves of assistance from the Office of Ohio Consumer's Counsel ("OCC"). Eliminating NOPEC's aggregation customers' access to the telephone number of OCC—a source of vital information to Northeastern Ohio utility consumers—is of much concern to NOPEC and the 115 elected officials of its member communities throughout eight Northeast Ohio counties. This winter, there is more need than ever for utility consumers to have access to the OCC's telephone number on their bills.

In the Entry, the Commission initiated and granted a waiver of its administrative rules. No utility or any other party, to NOPEC's knowledge, had asked for such a waiver. When an administrative agency changes a rule, it is supposed to provide notice and an opportunity to comment to the public. The Commission gave no notice to NOPEC, other interested parties, the OCC, or the general public, nor did it give NOPEC and others an opportunity to comment on this important matter before it eliminated customers' access to the Office of the Ohio Consumers' Counsel.

The Commission should rescind the waiver. The waiver is unreasonable and unlawful and contrary to the public interest in at least the following respects:

- A) The Commission's Entry is inconsistent with R.C. 4911.021 which does not affect OCC's responsibility to provide assistance to residential consumers as their statutory representative with respect to non-complaint matters.
- B) The Commission's Entry does not state correctly that the language of the Ohio Administrative Code rules requires the inclusion of OCC's information in notices to customers.

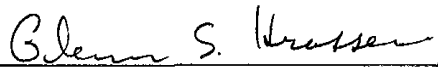
- C) The blanket waiver was initiated and granted without notice to NOPEC, the public or others, and without a request by any party, and violates fundamental due process.
- D) If the Commission believes it needs to modify the existing rules, the Commission should undertake a formal agency rulemaking proceeding in accordance with Ohio law.

NOPEC believes that the Commission's current rules comply with Amended Substitute House Bill 66 ("HB66") and no change in the Commission's rules is necessary. NOPEC requests that the Commission grant its application for rehearing and rescind the waivers permitting Ohio utilities to remove OCC's contact information from their billing and disconnection notices. NOPEC has recently learned that some utilities are already in the process of removing OCC's contact information. OTA's October 25th filing (at p.2) in this case states that "several of OTA's members have already begun to implement it...[the Entry]". Pursuant to R.C. 4909.16 and 4905.06, NOPEC requests that the Commission order the utilities to continue to include this information in its present form until new rules superseding the existing rules are in effect.

In the alternative, if the Commission believes that any waivers are necessary, NOPEC requests that the Commission authorize the utilities to maintain the status quo and to continue to include this information in its present form until new rules superseding the existing rules are in effect. If the Commission deems it necessary to modify the existing rule, to provide for waivers, it should do so only through a formal rulemaking docket in

which all interested parties, including NOPEC, can provide comments. The beginning of the highest energy cost winter in history is not the time to be changing the status quo.

Respectfully submitted,


 / *FD on note.*

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Application for Rehearing of the Northeast Ohio Public Energy Council was served by first class United States Mail, postage prepaid, to the persons listed below, on this 20 day of October, 2005.



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per
return*

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