



**MINUTES OF THE
OFFICE OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD**

Meeting of January 16, 2024

The members present were:

Mr. Michael Watkins, Chair
Ms. Cheryl Grossman, Vice-Chair
Mr. David Fleetwood
Mr. Dorsey Hager
Ms. Kelly Moore
Ms. Jan Shannon
Ms. Connie Skinner
Mr. Josh Yoder

Member Absent: Mr. Randy Brown

Assistant Attorney General Bryan Lee was also present at the meeting.

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:03 A.M. Board Secretary Susan Loe called the roll. The members answering as present were as shown above, with the exception of Mr. Fleetwood, Ms. Moore and Mr. Hager, who arrived a few minutes later.

ELECTION OF OFFICERS:

Chair Watkins asked the guests to introduce themselves. Present at the meeting were: Mike Livingston of Gongwer, several employees from the PUCO and several OCC staff members.

Chair Watkins noted that since it was January, it was time to elect the officers for the coming year. He called for nominations for Chair of the Board. Ms. Shannon nominated Michael Watkins, seconded by Ms. Skinner. Chair Watkins asked if there were additional nominations. A motion was made by Ms. Shannon to close the nominations; seconded by Ms. Skinner. Board Secretary Susan Loe called the roll. All members present voted yes, and the motion passed to elect Mr. Watkins for another term as Chair. Chair Watkins thanked the members for their vote of confidence.

Chair Watkins called for nominations for Vice-Chair. Ms. Shannon nominated Cheryl Grossman, seconded by Ms. Skinner. Chair Watkins called for any further nominations. A motion was made by Ms. Shannon to close the nominations; seconded by Ms. Skinner. Board Secretary Susan Loe called the roll. All members present

voted yes, with the exception of Ms. Grossman, who abstained. The motion passed to elect Ms. Grossman for another term as Vice-Chair.

APPROVAL OF THE MINUTES:

Chair Watkins asked for a motion to approve the minutes of the November 21, 2023 Board meeting. A motion was made by Ms. Skinner to approve the minutes as written. Ms. Grossman seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present, with the exception of Mr. Yoder, who abstained.

Chair Watkins asked the members to consider the tentatively approved meeting schedule for 2024 and asked if there were any conflicts. After discussion and due to scheduling conflicts, the members agreed to move the March meeting from March 19 to March 12, and the May meeting from May 21 to May 14.

CONSUMERS' COUNSEL'S REPORT

Consumers' Counsel Willis discussed some of the cases that the agency was involved in advocating for consumers. She first discussed a submetering case involving AEP and Nationwide Energy Partners (NEP), where the PUCO had ruled that the submeterer (NEP) is not a utility. Ms. Willis explained that this decision removes various protections from the apartment residents, such as PIPP and HEAP assistance, any requirement for payment plans, and a number of other protections that utility consumers are entitled to. Ms. Willis noted that this affects about 1,400 consumers. She added that of particular concern was that the PUCO did not allow OCC to intervene in the case, leaving the affected consumers without representation. She stated that OCC filed an appeal to the Ohio Supreme Court on the denial of intervention, as well as on the substance of the Commission's ruling.

Ms. Willis further explained that there is another submetering complaint case that Duke has filed against a submeterer, and that in that case Duke has supported OCC's motion to intervene. She added that so far, OCC has not yet been excluded from that case. Ms. Willis stated that OCC believes these consumers should have the same protections as all utility consumers. Ms. Moore asked about whether there would be language in the lease notifying tenants that they were not dealing with a utility company. Ms. Willis responded that she believed that language would be required to be in the lease, but in these cases many of these residents were being converted to a submeter, so the tenants would not have a choice. Ms. Willis noted that these submeters can substantially mark up the service costs.

Consumers' Counsel Willis next gave an update on the FirstEnergy rate cases, where OCC filed a pleading with other partners (including Northwest Ohio Aggregation Coalition and Ohio Manufacturer's Association) asking that in the current ESP case the distribution riders be stayed pending the stay of the four investigations. She stated that some of these riders relate directly to HB 6 charges to customers.

Ms. Willis next discussed a request for oral argument before the Ohio Supreme Court involving AES (formerly Dayton Power & Light) stability charge refunds to consumers of about \$79 million. The utility was also found

to have significantly excessive profits, but no refund was ordered. OCC opposed the settlement and is hoping for oral arguments this spring with a decision later this year.

Ms. Willis next shared a list of various rate increase cases that OCC is involved in including AEP's Electric Security Plan, the Dominion rate case, the FirstEnergy Electric Security Plan and Grid Mod Plan, and the AEP Grid Mod case. She noted that these cases were all at varying stages. She discussed in further detail the Dominion rate case and the various requested increases. She noted that the rate increases involved a significant amount of money, including \$4.1 billion to be charged to consumers over the next seven years through various riders. She explained OCC has also asked for virtual public hearings in this case to hopefully increase consumer participation, which Dominion has opposed.

Ms. Willis next discussed AES reliability issues. She noted that the company has had difficulty complying with the Commission's minimum reliability standards for the past four years. She explained that the company and PUCO had come to an agreement that required a \$150,000 forfeiture. She noted that consumers had been paying a lot of money on the promise that reliability would increase. She noted that OCC questions how it is ok to charge consumers more money, yet provide them with less reliable service.

Ms. Willis next discussed the recent indictment of former PUCO chairman Sam Randazzo on 11 charges involving Federal bribery and embezzlement. She next discussed the 2024 FirstEnergy rate case, and explained that the last time FirstEnergy was in for a rate case was 2007. She noted that in the previous electric security plan there was a requirement that FirstEnergy come in for a rate case in 2024. She shared texts from FirstEnergy executives expressing their concern about a rate case in 2024 and that Sam Randazzo would take care of it for them. She further explained that the PUCO at first released FirstEnergy from filing a rate case in 2024, but then later reinstated the requirement. She added that the requirement was only reinstated after FirstEnergy agreed that it would not oppose the reinstatement.

DEPUTY CONSUMERS' COUNSEL'S REPORT

Deputy Consumers' Counsel O'Brien discussed matters that the OCC was involved in before the Federal Energy Regulatory Commission (FERC). She first discussed the Energy Harbor and Vistra merger. She stated that OCC and others had opposed the merger based on its potential negative impact on the retail energy market in Ohio and that it would ultimately drive up prices. She noted that FERC had delayed the merger seeking more information. She explained that in response, Vistra has proposed transferring two Ohio plants to a subsidiary, to take care of the anti-competitive effects of the merger. She noted that a FERC decision is pending.

She next discussed PJM's reliability report, predicting a lack of peak power by 2027. She explained that OCC's concern is that the report overly emphasizes worst case scenarios and could cause decision makers to rely on subsidies rather than the competitive market. She discussed an OMA response to the PJM report which highlighted several shortcomings. She also discussed an analysis from Mr. Wilson, of Wilson Energy Economics, who concluded that the best way to address the concerns was through capacity auctions. She added that OCC had sent a letter to the PJM Board endorsing OMA's position. Ms. Willis added that the report had caused a lot of alarm and referred to it as a "chicken little" report, that may result in drastic policy making including subsidies that are not necessary at this time.

LEGISLATIVE UPDATE:

Ms. Willis first discussed Representative Troy's bill, House Bill 363, which reforms the PUCO selection process. She explained that it calls for one of the members to be a bone fide consumer representative, expanded qualifications, more of a public and transparent process, among other things. She noted that it was consistent with Chair Watkins' prior letters to the Nominating Council to discuss reform.

Ms. Willis next spoke about House Bill 201, a gas infrastructure charge bill. She explained that this bill allows more charges to consumers for infrastructure. She explained that OCC had opposed the bill because it is a subsidy. Further, although there are caps to consumers' charges, there are various ways around the caps which allow additional costs, some of which can be incurred now and collected later. She noted that the legislative process was not optimal, because this language was quickly added to another unrelated bill. She further explained that the process was very hurried, didn't allow for much reaction, and was very clearly on a fast track. She noted that OCC has opposed these infrastructure charges in prior bills, but that at the time OCC learned of the language in the bill, it was too late for testimony. She explained that in this case a veto request was sent to the Governor, who unfortunately signed the bill. She added the OCC will now be working at the PUCO to keep an eye on the charges to consumers and make sure consumer funds are wisely spent.

Ms. Willis briefly discussed a list of other bills that OCC is monitoring and/or providing testimony on, including the virtual public meetings bill (HB 257) and Senator Romanchuk's bill to eliminate electric security plans (SB 143), which doesn't appear to be moving. She discussed opposition testimony filed in Senator Wilkins' bill (SB 102) and Community Solar (HB 197). She noted that OCC had testified in previous Community Solar bills and that generally OCC did not believe renewables should be subsidized by non-participating customers. She discussed in further detail a water lead pipe replacement bill (HB 226) that OCC is monitoring to ensure it is executed properly. She explained that the basic idea behind the bill was to socialize the cost of the water line replacement rather than having individual customers bear the cost. Ms. Grossman asked if anyone had studied the issues in Flint Michigan with their water problems. Ms. Willis responded that OCC had not studied those issues, but that it was a good question and there would be follow up. She noted that OCC had met with representatives of Aqua, Ohio's largest investor-owned water utility, about the plan. She noted that at this point Aqua was being open and transparent in their discussions. She stated that the safety issues in Flint would be added to OCC's list of concerns.

EMPLOYEE UPDATES

Ms. Loe, Operations Director updated the Board on the new hires since that last meeting. She stated that Denise Walters had been hired as a Case Team Coordinator, to fill the vacancy left by Tracy Greene when she took the position of the Consumers' Counsel's aide. She noted that Denise had worked for OCC about 20 years ago in the same capacity. Ms. Loe continued that Ryan King was also hired in December as a Public Affairs Intern. She explained that Ryan is a student at The Ohio State University majoring in Political Science. She added that he formerly had interned at the Ohio House of Representatives.

Ms. Loe next informed the Board the Merrilee Embs was recently promoted to Director of Public Affairs. She noted that Merrilee had been with OCC since 2019 and has been serving as a manager in Public Affairs for the

past year. She added that Merrilee recently earned her Master's in Mass Communications/Public Relations from Murray State, and has a bachelor's in Journalism from Wright State.

PUBLIC AFFAIRS REPORT

Merrilee Embs, Manager of the Public Affairs Department, discussed activities in the Public Affairs Department. Ms. Embs explained that Outreach and Education staff had participated in 76 regular events and 41 informational visits during November and December. She added during these presentations OCC encountered about 2,000 consumers. She also discussed other projects that the Public Affairs staff were involved in, including producing updated videos, one on "Wise Energy Choice" and "Utility Assistance 101" on the other one. She added that production would start likely in March. She next informed the board that there were 44,635 visits to the OCC website during the past two months, most of which came from mobile devices. She noted that the number one viewed page was home energy assistance programs.

She also discussed the "How to Spot a Bad Apple" feature that was recently added to the website. The site discusses marketers that are a good choice and others that have extremely high rates to help provide guidance to consumers. Ms. Willis added that this had been an idea from previous Consumers' Counsel Weston. She added that the purpose is to help consumers understand the PUCO's Apples to Apples website and discussed some of the tips and warnings. She discussed a recent PUCO case involving Inspire Energy, a marketer that had an introductory rate that increased up to \$699 per month. She added that there had also been some deceptive marketing practices that the PUCO found in their investigation of Inspire. She noted that OCC became aware of this when a settlement was filed that opened the case, and that the OCC was denied intervention in that case. She noted that the process was not public and OCC had filed objections. Ms. Moore asked if this company was still on the PUCO Apples to Apples site. Ms. Willis noted that was a really good point and explained that OCC had argued that any marketer that charges 2 ½ times the standard rate should be delisted from the site, but that thus far the PUCO was not removing them. She noted that this rate was far beyond 2 ½ times the standard rate. Ms. Willis noted that the law and the PUCO rules require a public process.

Chair Watkins commented that this is not just an Ohio problem; that these marketers are operating nationwide and taking advantage of people who don't understand the rates and what could happen. Ms. Willis noted that there had been proposed legislation to eliminate teaser rates, but it hadn't been implemented. She said marketers may weigh the cost of a fine and continue doing business engaging in prohibited practice, because they are making so much money.

Ms. Grossman asked how often the website updated, and Ms. Embs responded that it was updated very frequently. She also asked whether OCC was considering newsletters. Ms. Willis responded that currently a quarterly newsletter was being considered. She also noted links to various cases that were posted on the website to get important information to consumers. She also noted the visuals on the website that highlighted certain issues for consumers, including the coal subsidies tally. Ms. Grossman stated that a newsletter would be a good idea to get information out to those who may not come to our website seeking information, and to also share with the media. She suggested the newsletter focus on the hot topic, the most controversial, to let the consumers know what is happening. Ms. Moore added that it would be a good handout at outreach events. Chair Watkins asked about other social media platforms. Ms. Embs responded that Tweets (or Threads) are being utilized and that OCC is looking at other ways to get the word out through social media, especially related to public hearings.

Vice-Chair Grossman and Chair Watkins thanked the Board for their confidence in reappointments of their positions. Ms. Willis also thanked them for their continued commitment and willingness to spend their time in support of OCC.

Chair Watkins noted there would be no executive session and asked if any of the members had other business. Ms. Skinner made a motion to adjourn the meeting. It was seconded by Ms. Moore. Ms. Loe called the roll. The motion was approved unanimously.

The meeting was adjourned at approximately 11:11 A.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on March 12, 2024.



Michael Watkins, Governing Board Chair



Susan Loe, Interim Board Secretary
Ohio Consumers' Counsel Governing Board