



**MINUTES OF THE  
TWO HUNDRED FIFTY-SEVENTH MEETING  
OF THE CONSUMERS' COUNSEL GOVERNING BOARD  
September 22, 2005**

**Members Present:** Mark Gehri, Vice Chairman  
Herman Kohlman  
Dorothy Leslie  
John Moliterno  
Jerome Solove, Chairman  
John Steinberger

**Members Absent:** Nancy Dix  
Michael Murphy  
Mark Totman

**Guests:** Kent Shimeall, Attorney General's Office

**Call to Order**

Chairman Solove called the meeting to order at 9:10 a.m.

**Approval of Minutes**

On page 1, paragraph 3, the first sentence which stated "Chairman Solove moved that the Minutes of the May 18, 2005 Governing Board Meeting be approved" was deleted. With that change the Minutes of the July 20, 2005 Governing Board Meeting were approved.

Chairman Solove stated that the format for today's meeting will be different and asked the Board for comments at the end of the meeting.

**Adoption of Bylaws**

Mr. Weston reported that OCC has obtained its own PIN code for electronic filings with the Legislative Services Commission (LSC). This PIN code is necessary for OCC to process the Governing Board's amended Bylaws. Prior to this, OCC shared a PIN code with the PUCO; however, the PUCO was not comfortable with sharing such a private code. LSC was helpful in creating an arrangement whereby OCC would be assigned a PIN that is separate from that of the PUCO. To accomplish this transition, the Governing Board needs to rescind its Bylaws and then adopt the revised Bylaws with a number system that is different from the numbering for PUCO rules.

Mr. Shimeall explained that these are called administrative rules. The statute is in the Revised Code; the Revised Code gives authority to create administrative rules. In essence what we have done is create an administrative rule under a new rule number.

Mr. Moliterno moved to rescind 4901:4-1-01. Mr. Steinberger seconded the motion and Mrs. Knight called the roll. The motion was passed unanimously. Mr. Steinberger moved to adopt 4911-4-01. Mrs. Leslie seconded the motion and Mrs. Knight called the roll. The motion was passed unanimously.

### **Consumers' Counsel Report**

Ms. Migden-Ostrander reported on the new structure of the Board meetings and requested feedback from the Board regarding presentations by third parties.

- Chairman Solove stated that he would like to see the presentations to continue.
- Mr. Moliterno has enjoyed the presentations and believes it is important to be knowledgeable about the issues. However, presentations can be lengthy and result in Board meetings being rushed. He suggested presentations be done in the afternoon.
- Mr. Steinberger enjoys the presentations and agrees that they can be lengthy. He suggested presentations be 30 minutes in length with 10 minutes for questions and answers.
- Mr. Kohlman stated that he would not like to see time limits given to presenters.
- Mrs. Leslie believes that it would be difficult to put a time limit on an outside presenter. Their purpose is to inform the Board. For in-house presenters, she would like presentations to be concise.
- Mr. Gehri agreed with Mr. Moliterno that third party presentations should be done in the afternoon.

The consensus of the Board was to have third party presentations at every meeting and have them begin in the afternoon.

Ms. Migden-Ostrander introduced new employees:

- Jamaal Redman, Legal Intern
- Bonnie Morava, Case Team Coordinator
- Deb Bingham, Case Team Coordinator



Consumers Energy Council of America (CECA) Conference

Ms. Migden-Ostrander attended the CECA Conference on September 21 where she is participating in a study on fuel technology and planning for future energy needs.

**House Bill 66 – The Budget Bill**

Ms. Migden-Ostrander reported that HB 66 impacted OCC in two ways: how we are going to comply with language in the law that states that OCC shall not operate a telephone call center for consumer complaints, and the reduction of OCC's budget.

Ms. Migden-Ostrander reported on how we have complied with HB 66. There have been no layoffs of OCC personnel as a result of HB 66. However, vacant positions in the Consumers Services Division will not be filled. Ms. Migden-Ostrander reviewed with the Board OCC's actions to implement HB 66.

- OCC has changed its Customer Response Center to the Consumer Services Division.
- Beginning September 19, 2005, two weeks ahead of schedule, OCC began forwarding the complaints it receives to the PUCO.
- OCC continues to operate its toll free number for non-complaint related services to consumers.
- The word "complaint" is being removed from all written and electronic media that we provide to consumers.
- OCC's definition of a complaint differs from the PUCO. OCC believes that we should assist consumers who call us for help regarding issues that do not involve a dispute or disagreement with the utility company. Helping customers with such non-complaint matters is a service that OCC provides to residential consumers.
- The PUCO is required to provide OCC with data transfer. Data refers to all information related to a customer complaint, reports generated, etc. From that OCC hopes to be able to track trends in order to take appropriate actions for customers.

Mr. Williams reported that the Consumer Services Division is adapting quickly to this change in their job. They are innovative and capable professionals who have adapted themselves to addressing consumers' rights and protections.

Initially, Consumer Services staff had concern regarding their role. Lengthy discussion ensued regarding OCC's new role concerning consumer complaints.



A copy of Amended Sub House Bill 66 was distributed to those in attendance. Discussion ensued.

Mr. Steinberger expressed concern that the public have proper recourse should they not be satisfied with how their utility complaint is handled. Ms. Migden-Ostrander explained that if a customer is not satisfied and calls us back we will take their information and communicate this to the PUCO. A discussion ensued.

Ms. Migden-Ostrander will look further into the issue of customer satisfaction and try to obtain clarification. She stated that OCC will comply fully with HB 66. A lengthy discussion ensued.

Chairman Solove raised a question regarding staffing. If Consumer Services is no longer taking complaints from residential customers, how do we justify twelve employees. Ms. Migden-Ostrander explained that there are two compliance analysts who are not a part of the Consumer Services Division. They are part of the Analytical Department and have always had the function within OCC of compiling reports based upon information received from our Compliance Specialists. Once that information is received our Compliance Analyst would then put together a report which would track trends. This information is then given to our case team. Once trends have been identified, the Consumer Services Division will work with the Compliance Analyst to follow-up with consumers verifying their information. These new job duties in addition to answering consumer questions and assisting in non-complaint consumer matters will keep the Consumer Services Division very busy.

The Board recessed at 11:00 a.m. for a fifteen minute break.

The Board reconvened at 11:25 a.m.

### **Budget**

Ms. Migden-Ostrander stated that it will be difficult for OCC to provide the level of advocacy historically provided within the confines of our current budget, but we remain committed to representing consumers to the fullest extent possible. Despite this difficulty we will not allow there to be a budget deficit.

Mr. Repuzynsky provided a re-cap of OCC's budget and expense comparison by category for FY 06.

He explained that expenditures were made in FY 05 that will not have to be made in FY 06 such as, new work spaces and computer equipment.

Chairman Solove asked that expenses be broken out in more detail for personal services, supplies and maintenance and equipment. Mr. Repuzynsky will provide this information by separate mailing to the Board. A discussion ensued.



Due to our budget, service level adjustments have occurred in the following areas:

- Analytical Services: The use of outside experts has been reduced. This reduction comes at a time when there is potentially a greater need for their services. Because of this, in-house training has been increased to further the expertise of our staff.
- Outreach & Education: Breakfast Breaks have been eliminated and other promotional events will be done at a reduced level.
- Consumer Services Division: Redirecting efforts away from complaint handling.

Chairman Solove requested a meeting with Ms. Migden-Ostrander and Mr. Repuzynsky to discuss budget issues. He invited any interested Board members to attend either in person or by telephone.

#### **Executive Session**

Mark Gehri made a motion to enter executive session "I move that we go into executive session to consider the employment of an employee and to discuss pending or imminent court actions." Mr. Moliterno seconded the motion and Mrs. Knight called roll. The motion was passed unanimously.

The Board entered Executive Session at 12:10 p.m.  
Executive Session ended at 2:40 p.m.

Chairman Solove stated that three Board Members are up for reappointment: Mr. Solove, Mrs. Leslie and Mr. Gehri. Mr. Gehri will not seek reappointment due to his plans to retire and move out of state. He has agreed to stay on the Board through the January 2006 meeting. Chairman Solove and Mrs. Leslie have agreed to remain on the Board.

#### **Policy Positions**

Monongahela Power Columbus Southern Power Merger: We were presented with a situation where at the end of the market development period, Monongahela Power customers could potentially incur significant rate increases. In deregulation there are winners and losers. The winners are the customers, like those in the FirstEnergy service territory who can potentially go to market rates and save money. Those residents in the southern part of the state who typically pay less have the potential to pay more if they go to market rate.

For Monongahela Power customers rates could increase by 70%. Legislation had been introduced to require Monongahela Power to provide a rate stabilization plan. OCC's position is we do not believe that rate stabilization plans should be the rule of the day because we believe that the rate stabilization plans do not benefit all of the customers of



all companies in Ohio. However, we would have supported legislation that was limited to Monongahela Power to provide relief to its customers.

Columbus Southern Power has agreed to acquire Monongahela Power's customers. This will result in a significant increase in customer rates because they will now be paying Columbus Southern Power rates which are higher than those of Monongahela Power. OCC has intervened in this case.

Merger Conditions: SBC/AT&T and Verizon/MCI proceedings are at the PUCO under a statute which states "a merger must promote public convenience and result in the provision of adequate service for a reasonable rate." OCC's concern is that these mergers must in fact promote, advance, and improve the public convenience rather than just demonstrate the lack of harm.

Focus for regulators are as follows:

- Federal Trade Commission and the Department of Justice focus is on competition;
- Federal Communications Commission focus is on if the merger is in the public interest; and
- Public Utilities Commission of Ohio focus is on public convenience.

In the SBC/AT&T merger case, a coalition has been formed that includes: OCC, Appalachian Peoples Action Coalition, Edgemont Neighborhood Coalition, and Neighborhood Environmental Counsel/Consumers for Fair Utility Rates.

The PUCO has set forth a list of issues that would have to be examined; they are market power, in-state presence, affiliates, quality of service, cost savings and enforcement.

Information on Natural Gas Prices: Mr. Hayes reported that gas prices typically follow oil prices. Much of the gas Ohioans consume is produced on the Gulf Coast. As well, 50% of the nation's refineries are located in Louisiana and Texas. Thus, Hurricane Katrina had a dramatic affect on Ohio's gas prices.

Ms. Migden-Ostrander stated the direction of the trends in natural gas prices is a real concern, in particular the affordability of gas this winter. Low income residents at 150% of the poverty guideline have access to programs such as HEAP, PIPP, HWAP. However, residents at the 151-200% of poverty guideline are not eligible for such programs.

OCC is advocating budget billing for customers to help them manage their heating costs.

OCC has begun a dialogue with the executives of the four major gas companies, Columbia Gas of Ohio, Dominion, Vectren and Cincinnati Gas & Electric to discuss a statewide energy efficiency program. Energy efficiency provides sustained savings.

Mr. Steinberger left at approximately 3:00 p.m.

Duke Cinergy Merger: Due to the anticipation of unregulated energy markets in the late 90s, Duke spun off an unregulated generation facility called Duke Energy North America (DENA). DENA either purchased or built a number of power plants through the country, several of which are located in the Midwest. These assets never made the money that Duke had hoped they would. There is a potential for these assets to be overpriced. OCC is concerned that Ohio ratepayers not be burdened.

Mr. Moliterno left at approximately 3:30 p.m.

### **Case Outcomes**

Mr. Weston reported on case outcomes:

- Ohio American Water Company: This case was created by statute to allow water companies to recover system improvements. The PUCO granted a rate increase of approximately \$7.00 per year and required the company to create a better audit trail with respect to its property records.
- Dominion East Ohio GCR: Accounting records are reviewed for accuracy. OCC settled this case with the Company agreeing that the gas costs were properly incurred.
- Cincinnati Gas & Electric: OCC did not intervene in this case. CG&E wanted to introduce a new bill format called a condensed bill that would show the due date, amount due and the consumption or usage. This case was subject to discussion with OCC and the Company attempting to resolve issues informally without OCC moving to intervene.
- Telephone Companies: This case involves alternative operator services and inmate operator services. The charges for these services can be extremely high. OCC participated in this case to protect families of inmates from these high charges. The PUCO adopted limits on what telephone companies can charge to set up such a call as well as per minute charges.
- FirstEnergy: OCC settled with FirstEnergy. FirstEnergy wanted to recover transmission costs (cost approved by FERC). The company wanted to pass these costs through to consumers. The agreement that was reached is that the costs would come through to consumers but for no more or less than what FERC authorizes.



### New Cases

- June 17, 2005 - Dayton Power & Light requested approval of a billing cost rider to recover costs of changes to their billing system. OCC intervened in this case on July 18, 2005.
- August 25, 2005 - PUCO opens cases for a CG&E and a Dominion Gas Cost Recovery Biennial Management Performance and Financial Audits. Reports are due spring 2006.

### Communications

OCC's Stay Connected education campaign focused on the following:

- Rising natural gas prices – talking points are available for use when talking to the public. These talking points are continually updated as new information is received.
- Media relations activities – we have talked a lot to the media, sent letters to the editor referencing Hurricane Katrina and its impact on natural gas prices.
- Publications – we have updated our fact sheets that deal with natural gas prices, what makes gas prices rise, gas choice 101, budget billing, etc.
- Outreach – over the last three months we have distributed over 100,000 publications that reference low-income energy assistance programs.
- Website – has been updated to promote natural gas choices.

Our regional Community Advisory Panel meetings have all been scheduled.

Once again this year OCC sponsored a booth at the Ohio State Fair and we signed up 2,978 people to receive our newsletter.

The Board discussed the format of the meeting and liked the new format for the meeting.

The next meeting is November 16, 2005.

The meeting adjourned at 4:30 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 16th day of November 2005.



Jerome G. Solove, Chair  
Ohio Consumers' Counsel Governing Board



Laurie C. Knight, Secretary  
Ohio Consumers' Counsel Governing Board