



Janine L. Migden-Ostrander  
Consumers' Counsel

**MINUTES OF THE  
TWO HUNDRED SEVENTY-EIGHTH MEETING  
OF THE CONSUMERS' COUNSEL GOVERNING BOARD  
January 19, 2010**

Members Present: Gene Krebs  
Dorothy Leslie  
Joe Logan  
John Moliterno  
Karen Osterfeld  
Anthony Peto  
Jerome Solove  
Roger Wise

Members Absent: David McCall

Guests:

**CALL TO ORDER**

Chairman Solove called the meeting to order at 9:30 a.m.

**APPROVAL OF THE MINUTES**

The minutes from the November 18, 2009 meeting were approved.

**ELECTION OF OFFICERS**

Mr. Krebs made a motion that Mr. Solove serve as Chairman for another term. Mrs. Leslie seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Mr. Krebs made a motion that Mr. Moliterno serve as Vice-Chairman for another term. Mr. Wise seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

**CONSUMERS' COUNSEL REPORT**

Ms. Migden-Ostrander greeted the Board and congratulated Mr. Solove and Mr. Moliterno on their reappointments as Chairman and Vice-Chairman.

Ms. Migden-Ostrander introduced OCC's Employees of the Month and spoke briefly about each one. They are:

- Joe Serio, September
- Anthony Rodriguez, October
- David Bergmann, November
- Robin Tedrick, December

Chairman Solove expressed his appreciation to the employees of the month for their hard work and dedication.

New employees were introduced to the Board. They are:

- Angela Butler, Consumer Services
- Jennifer Janda, Consumer Services
- Brian Bayless, Consumer Services
- Bill Ferriot, Communications Department
- Adam Schira, Legal Intern
- Chris Allwein, Staff Attorney focusing on energy efficiency issues
- Jody Kyler, Staff Attorney focusing on federal cases

OCC is currently involved with several pieces of legislation. At the forefront remains the telecommunications legislation. The bill passed the Senate and is now in the House.

During the November Governing Board Meeting a resolution was passed supporting the Consumers' Counsel's efforts with regard to SB 162. After further reflection the resolution was amended and will be voted on today. Chairman Solove stated the proposed changes: in the third *Whereas* the word "almost" was added; in the last *Whereas*, the last sentence was added. Mr. Krebs made a motion to pass the resolution, Mr. Logan seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Ms. Migden-Ostrander mentioned FirstEnergy's move from PJM to MISO and discussed the implementation of that move. This move would benefit its affiliates but may be harmful to consumers.

The Vectren auction took place last week. The auction resulted in an 80 cents reduction in the price. OCC supports the results.

Ms. Migden-Ostrander reported that she is scheduled to testify at FERC on February 4, 2010 on RTO governance.

Ms. Migden-Ostrander received the 2009 Leadership Award in Energy Efficiency given by the Midwest Energy Efficiency Alliance.



**CASE OUTCOMES**

Mr. Weston reported on case outcomes since the last meeting.

**Columbia Gas Request for an Exemption of Gas Commodity Sales or Ancillary Services, PUCO Case No. 08-1344-GA-EXM**

OCC supported the proposed wholesale auction to replace the gas cost recovery mechanism traditionally used to set gas rates.

A lengthy discussion ensued regarding the auction process and its benefits to consumers.

Further scrutiny from the Commission is necessary to demonstrate whether customers would benefit from a competitive bid process in which retail customers are assigned to marketers.

**Duke's Request to Recover the Cost of Implementing Electric Residential DSM Programs, PUCO Case No. 08-1227-EL-UNC**

By letter, OCC clarified its position and requested adjustments to the stipulation. Among the adjustments were a provision that would clarify, beginning with demand side management programs in effect after December 31, 2009 that Duke would collect only such costs that are consistent with rules in Case No. 08-888-EL-ORD, which established energy efficiency benchmarks.

OCC did not sign the stipulation but did not oppose it either.

The PUCO approved the Stipulation without modification.

**Glatfelter Application for Certification as an Eligible Renewable Energy Resource Generating Facility, PUCO Case No. 09-730-EL-REN**

Glatfelter's purpose for certification as a renewable energy resource was to earn renewable energy credits and sell them on the market.

OCC objected to the application contending fuel for energy from the boiler it sought certification for failed to meet the legal definition of a non-treated byproduct.

The PUCO granted Glatfelter's application, basing its decision on facility's commitment to AEP's demand response program, applying a legal provision that applies not to mercantile customers, but to utilities.

The Board recessed at 10:30 a.m. and reconvened at 10:45 a.m.

**NEW CASES**

Mr. Adams reported on new cases for the period.

**Significantly Excessive Earnings Test (“SEET”), PUCO Case No. 09-786-EL-UNC**

In passing Am. Sub SB 221 the legislature’s vote determined that the PUCO should again regulate the full earnings of investor owned electric utilities.

**Reliability Standards, PUCO Case Nos. 09-756-EL-EES; 09-754-EL-EES; 09-757-EL-EES; and 09-759-EL-EES**

OCC participated in the technical conferences related to each of the Ohio electric utilities proposed reliability standards.

OCC’s comments stressed the importance of outage performance measures to help assure customers that the electric reliability standards are being followed and that appropriate and transparent reporting of compliance is implemented.

**Duke Energy Request for Cost Recovery for Damages Resulting from Hurricane Ike, PUCO Case No. 09-1946-EL-ATA**

The Company filed this case on December 11, 2009 and OCC intervened on December 18, 2009. Duke sought recovery from customers of approximately \$32.5 million in costs related to the September 2008 windstorm.

A discussion ensued regarding reliability.

**Ohio American Water Rate Case, PUCO Case No. 09-0391-WS-AIR**

OCC is recommending a rate of return of 7.23% as opposed to the Staff range of 7.60% to 8.10%.

Based on our proposed rate design, the average residential monthly bill in the Water A service territory would decrease from \$61.99 to \$56.97; Water C service territory would decrease from \$40.23 to \$37.66.

**AEP Application to Recover Deferrals Through Fuel Adjustment Clause, PUCO Case No. 09-1094-EL-FAC**

AEP is seeking PUCO approval to increase rates to their customers to collect as fuel costs the delta revenues created under a “temporary” special arrangement approved between Ormet and the Companies.

On January 9, 2009, that temporary arrangement was approved by the PUCO only nine days after it was filed without a hearing and without considering OCC’s comments opposing it.

**COMMUNICATIONS REPORT**

Ms. Gianforcaro reported on the activities of the Communications Department during November and December.

OCC prepared ten news releases related to cases that were reported on earlier today; one NASUCA news release on new officers; two guest columns submitted to the Call & Post on ways to save energy and budget heating bills and telephone legislation will harm residential consumers; and one letter to the editor sent to the Columbus Dispatch on natural gas aggregation.

Outreach & Education participated in 79 speeches; 11 train the trainer events; 65 site visits; 467 contacts for telephone legislation and more than 14,000 education materials that were mailed to organizations.

Four new fact sheets were prepared related to:

- Smart Grid: An introduction
- Revised telephone deregulation fact sheet to reflect Am. Sub. Senate Bill 162
- Revised telephone deregulation FAQs to reflect Am. Sub Senate Bill 162
- OAW proposed rate increase

OCC's web page had 12,309 visitors in November and December. On our web page visitors have access to a telephone deregulation section that communicates with consumers the impacts of HB 276 and SB 162. Online resources include:

- Fact sheets, charts
- Letters and related press releases
- Maps on broadband availability
- Testimony
- How to contact legislators

### **OPERATIONS REPORT**

Mr. Repuzynsky reported that OCC's budget figures are in line. He also reported that Benjamin Machado formerly with the Communications Department is now the Administrative Assistant in Operations.

### **CONSUMER SERVICES REPORT**

Mrs. Durban reported on the activities of the Consumer Services Division since the last meeting. Consumers Services has seen a 6% increase in calls during this time in 2008. This increase is attributed to an influx of service changes in the natural gas and electric industries.

### **LEGISLATIVE REPORT**

Ms. Gomberg reported on legislative activities since the last meeting. House Bill 344 would reduce the amount of expenses customers are paying for water rate cases.

OCC is currently working on energy issues with Rep. Gerberry to address energy efficiency programs.



With respect to the telecommunications deregulation bill; OCC is working on amendments to the bill. Ohioans Protecting Telephone Consumers' is a group of organizations working together to promote fair, competitive and reasonable priced telephone service. The Senate amended the bill to include some slight improvements for consumers. There are still major concerns that were not addressed.

The Board recessed for lunch at 12:00 p.m. and reconvened at 12:35 p.m.

**FCC Under the New Administration**

Mr. Bergmann reported on the Federal Communications Commission (FCC). The FCC is an independent United State government agency established in 1934 that regulates interstate and international communications by radio, television, wire, satellite and cable.

The Chairman and Commissioners are:

- Chairman Julius Genachowski
- Commissioner Michael J. Copps
- Commissioner Robert M. McCowell
- Commissioner Mignon Clyburn
- Commissioner Meredith Attwell Baker

FCC Bureaus and Offices include:

- Wireline Competition Bureau
- Wireless Telecommunications
- Consumer & Governmental Affairs Bureau
- Enforcement Bureau
- International Bureau
- Media Bureau
- Public Safety & Homeland Security Bureau

Key Issues currently before the FCC are:

- Broadband (National Broadband Plan)
- Net Neutrality
- Universal Service Fund
- Intercarrier Compensation
- Preemption
- Customer Protections
- FCC Reform

Chairman Solove mentioned that meetings with OCC economists will continue with any Board Members who are interested.

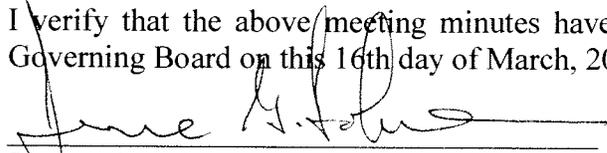
PUCO Commissioner selection is coming up Chairman Solove participates on the nominating committee.



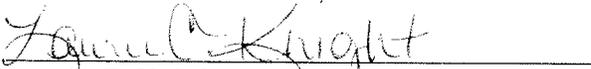
Ethics forms have been mailed and Board Members should receive them soon. Forms are due to the Ethics Commission April 15, 2010.

With no further business, the meeting adjourned at 1:45 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 16th day of March, 2010.



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



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