



GOVERNMENT AFFAIRS

Introduction and overview

Key legislation and rules affecting residential consumer utility bills and protections were at the forefront of state and federal legislative activity for the Office of the Ohio Consumers' Counsel (OCC) in 2009. Fast-moving telephone deregulation legislation designed by telephone companies would gut key consumer protections and could raise consumers' rates. The OCC along with more than 55 other consumer groups were fighting for changes on behalf of residential phone consumers.

On a different issue, the OCC worked with legislators to introduce House Bill 344, which is designed to protect water customers from excessive rate case expenses. The OCC is advocating for its approval.

Also in 2009, the state's energy bill from 2008 was completed with rules considered by the Joint Committee on Agency Rule Review (JCARR). The OCC challenged portions of those rules in an effort to preserve the integrity of the energy efficiency and renewable energy law.

On the federal level, Congress continued to debate climate change and energy policy. The OCC worked with the National Association of State Utility Consumer Advocates to closely monitor and provide input on behalf of Ohioans and residential utility consumers. Further, the work of Consumers' Counsel Janine Migden-Ostrander as a member of the National Coal Council is contributing to reports to the U.S. Secretary of Energy about developing clean coal technologies.

Telecommunications policy

One of the most challenging issues of 2009 was the introduction of Senate Bill 162 and House Bill 276, which proposed to further deregulate landline telephone service in Ohio. The Office of the Ohio Consumers' Counsel (OCC) responded quickly to the legislation by leading a group of consumer organizations representing seniors, low-income and other Ohioans who opposed the legislation. In addition, the OCC focused its efforts on educating consumers, meeting with legislators and the governor's staff, writing amendments and testifying at hearings. The consumers' counsel and others testified as opponents to the legislation, pointing out provisions that are particularly harmful to residential utility consumers.

Both bills, as proposed to the legislature, would:

- ▶ **Allow annual price increases for basic local telephone service.** This proposal would allow telephone companies to raise their rates every year, indefinitely, for basic telephone service. In some areas of the state, there is no alternative to landline telephone service because it is offered by only one provider. Therefore, some consumers may be faced with telephone rate increases of 20 to 40 percent in the next few years, with no alternative.
- ▶ **Weaken consumer protections in areas such as service quality, customer credits, billing and deposits.** The Public Utilities Commission of Ohio's (PUCO) current Minimum Telephone Service Standards – a set of rules and consumer protections which applies to all customers – would be eliminated and be replaced with weaker standards. The new law would create two interim levels of consumer protections based on the kind of service the customer is taking. Customers who have packaged or bundled telephone, Internet and/or cable television services would lose their current consumer protections. Instead, they could get: longer time without service



OCC Attorney David Bergmann testifies before an Ohio House committee about telecommunications legislation.



Groups united as Ohioans Protecting Telephone Consumers to oppose Senate Bill 162 and House Bill 276 include:

- ▶ AARP Ohio
- ▶ Advocates for Basic Legal Equality
- ▶ Appalachian Peace and Justice Network
- ▶ Behavioral Connections of Wood County
- ▶ Bellamy Alarm Co.
- ▶ Citizens Coalition
- ▶ Coalition on Homelessness and Housing in Ohio
- ▶ Columbus NAACP
- ▶ Communities United For Action
- ▶ Concerned Citizens Against Homelessness
- ▶ Deardoff Senior Center
- ▶ Empowerment Center of Greater Cleveland
- ▶ Findlay Hope House for the Homeless, Inc.
- ▶ Guernsey Monroe Noble Tri-County CAC, Inc.
- ▶ HARCATUS Tri-County Community Action Organization
- ▶ The Link
- ▶ NAACP Marion Ohio Unit
- ▶ NAACP Toledo Branch
- ▶ NAMI (National Alliance on Mental Illness) Franklin County
- ▶ National Association of Telecommunication Officers and Advisors, Ohio Chapter
- ▶ Neighborhood Housing Services of Toledo, Inc.
- ▶ Ohio Association of Community Action Agencies
- ▶ Ohio Association of Senior Centers, Inc.
- ▶ Office of the Ohio Consumers' Counsel
- ▶ Ohio Farmers Union
- ▶ Ohio Poverty Law Center
- ▶ ONYX (Organized Neighbors Yielding eXcellence)
- ▶ Ottawa County Transitional Housing
- ▶ Pastoral Ministries, Inc.
- ▶ Paulding County Senior Center
- ▶ Portage County Commissioners Multipurpose Senior Services Center
- ▶ Pro Seniors Inc.
- ▶ Samaritan Works, Inc.
- ▶ Society for Equal Action Independent Living Center
- ▶ SOURCES Community Network Services
- ▶ Urban Appalachian Council

because of an outage or a disconnection; an increase in the amount of customer deposits; and elimination of credits for extended service outages. Customers with only basic telephone service would have limited and weakened protections that would be set by law. Telephone service has become a necessity for all Ohioans, especially seniors and people with disabilities or special needs. Losing the ability to have contact with key services or to call 911 could result in negative consequences.

- ▶ **Weaken the Lifeline discount program for low-income Ohioans.** The proposed legislation would weaken the Lifeline discount program by removing the current shield against rate increases for Lifeline participants and by removing the currently required educational marketing efforts. This likely means many eligible consumers may not be informed about the availability of Lifeline service, and those who receive it may still be faced with higher telephone bills. In addition, telephone companies will be able to raise rates even more to pay for a portion of the Lifeline discount.
- ▶ **Fail to provide broadband access to all Ohioans.** No commitment existed in the legislation for telephone companies to invest in broadband facilities in exchange for increased regulatory freedom. Expanding consumers' access to broadband, especially in rural areas, is important for economic development, job creation and providing consumers with all the opportunities that accompany broadband availability.

Note: This is a partial list.



Consumers' Counsel Janine Migden-Ostrander (right to left), Ron Bridges, of AARP, Joseph V. Maskovyak, of Advocates for Basic Legal Equality, at a press conference about telephone deregulation.

HB 276 was still being considered at the end of 2009. Amended Substitute SB 162 was passed by the Ohio Senate in late December. While changes were made to the Senate version, the legislation still would negatively impact many consumers in Ohio. Because of the broad impact of this legislation, the OCC helped form Ohioans Protecting Telephone Consumers to work together to help improve the proposed legislation. With groups, including AARP, the Ohio Association of Community Action Agencies, Ohio Poverty Law Center and other consumer advocates, working together, the OCC hopes to make progress on this issue in 2010.

Water policy

Years of multiple rate increases by some of Ohio's investor-owned water and sewer utilities and hundreds of consumer complaints required a response. The Office of the Ohio Consumers' Counsel (OCC) looked for solutions to limit some of the expenses these companies can collect from consumers in rate increase cases before the Public Utilities Commission of Ohio (PUCO). In 2009,

the OCC worked with members of the General Assembly to take legislative action that would limit these often expensive costs that are passed on to consumers.

The OCC staff worked with State Reps. Jay Goyal of Mansfield and Marian Harris of Columbus to develop House Bill 344. The legislation would limit the ability of some investor-owned water and sewage disposal companies to charge customers for costs of studies and certain legal and personnel expenses when the utilities file cases to increase rates. Rep. Goyal told the *Mansfield News Journal* he introduced HB 344 because constituents were frustrated with the number of rate increases sought by Ohio American Water (OAW). The other company that would be affected by the legislation is Aqua Ohio. The legislation is designed to limit expenses for companies serving 15,000 or more customers in Ohio.

OAW has sought, and been granted by the PUCO, four rate increases since 2002. As 2009 drew to a close, the OCC challenged OAW's latest rate increase request, which would boost the average residential water customer bill of 7 Ccf (hundred cubic feet) between 23 and 28 percent in 2010. If the PUCO approves the increase proposed by OAW, an average residential bill would nearly double since 2002. Aqua Ohio – the state's largest investor-owned water utility – has had four increases approved by the PUCO since 2001. Aqua currently has two rate increase applications pending before the PUCO.

Electric policy

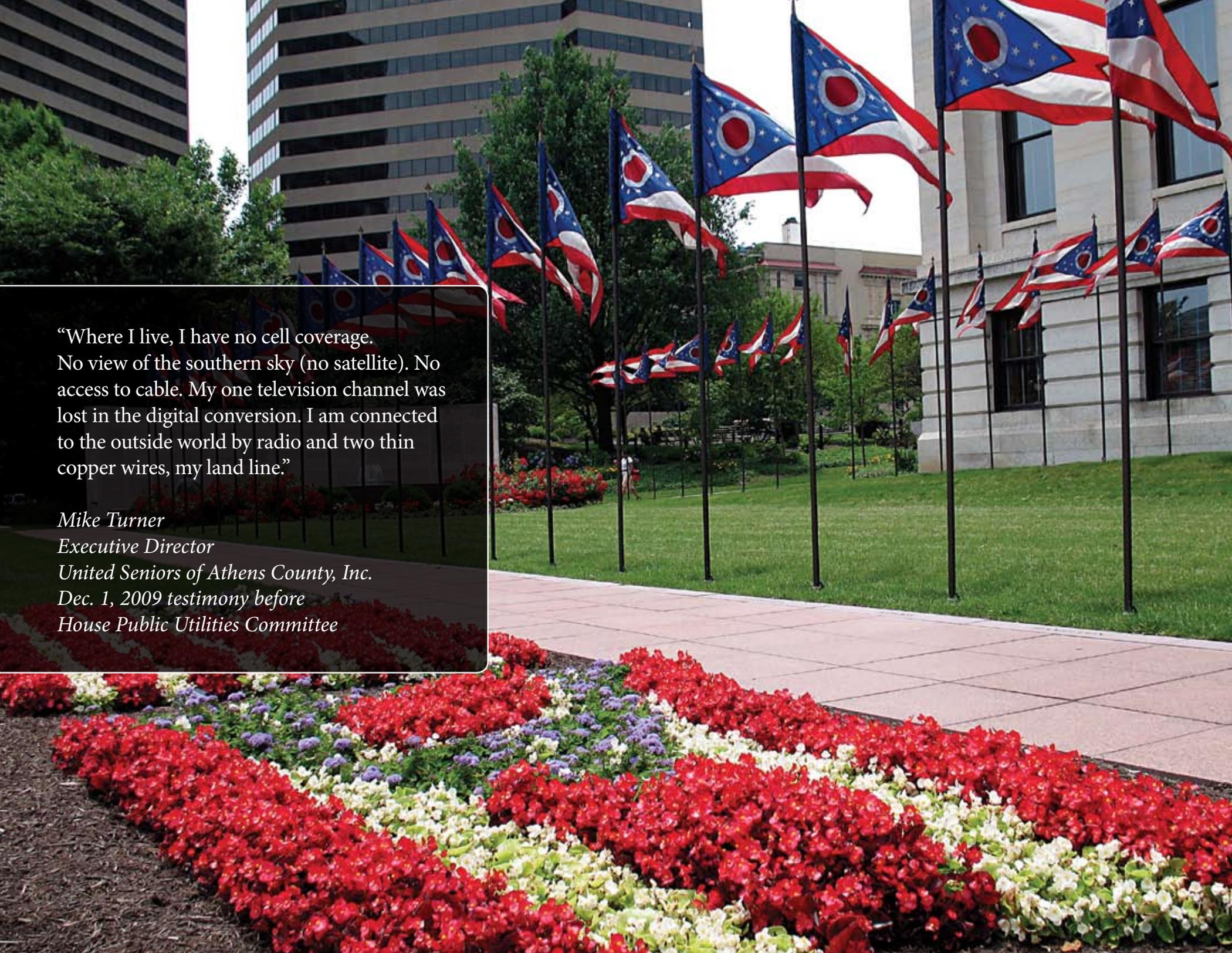
Given the importance of energy efficiency and renewable energy for residential consumers, the Office of the Ohio Consumers' Counsel (OCC) spearheaded an organization of public interest

advocates to recommend changes to Ohio's proposed Green Rules. These rules relate to the clean energy policies required by the implementation of Senate Bill 221, Ohio's electric law passed in 2008.

Members of Ohio Consumer and Environmental Advocates (OCEA) promoted strong energy efficiency programs, fair penalties for non-compliance, transparency and public participation in the process of developing Ohio's renewable energy and energy efficiency resources. The PUCO accepted many of the OCEA's comments in drafting initial rules guiding the implementation of SB 221's clean energy policies.

The rules reflected how clean energy can benefit consumers and the environment. They included a long-term plan to ensure a diversified energy portfolio; independent evaluation of energy savings; PUCO approval of energy efficiency upgrades by large electric users; and a 3 percent cap on renewable energy costs.

However, after submitting the rules to the Joint Committee on Agency Rule Review (JCARR) – the state agency responsible for ensuring agency rules comply with the intent of legislation – the PUCO twice withdrew them. A weakened set of rules, which was developed without the input of interested consumer parties, was resubmitted in late October. OCEA members were concerned the PUCO's final version of the rules violated the intent of the law and reduced the actual amount of new energy efficiency that would develop and, at the same time, could reduce investments in renewable energy in Ohio. The OCEA asked the PUCO for a rehearing and urged JCARR to recommend rejection of the rules as submitted. JCARR, however, accepted the PUCO's proposed rules in November.



“Where I live, I have no cell coverage. No view of the southern sky (no satellite). No access to cable. My one television channel was lost in the digital conversion. I am connected to the outside world by radio and two thin copper wires, my land line.”

*Mike Turner
Executive Director
United Seniors of Athens County, Inc.
Dec. 1, 2009 testimony before
House Public Utilities Committee*

The revised rules relaxed the definition of energy efficiency savings for commercial and industrial customers which hurts all Ohioans by not allowing energy efficiency to work as intended. The goal was to maximize the use of low-cost energy efficiency measures to defer the need to build expensive power plants – especially in these uncertain times. The revised rules also allowed utilities to use any type of fuel to create electricity, store those megawatts for later use and purchase the equivalent renewable energy credits to meet the state’s renewable standards. The OCEA believes the proper interpretation of the law is that only renewable energy can be used to store power. This is important to ensure a market for in-state renewable energy develops in Ohio.

The OCC staff believes the adopted rules could cost Ohio jobs in the long run because the rules might discourage the development of clean energy alternatives, sending a negative message to the wind and solar industries that Ohio is trying to attract. Without stricter rules, Ohio companies will be less likely to lower their energy demand which will make them less competitive in global markets. With less energy efficiency, consumers could be saddled with higher energy rates when expensive power plants need to be built to satisfy energy demand.

Federal energy and climate policy

In Washington, D.C., President Barack Obama made it a national priority for Congress to develop a strategy to reduce the greenhouse gases that contribute to global warming. He also wants to revamp the United States’ energy policy to drive the development and deployment of renewable energy and energy efficiency across the country.

In June, the U.S. House of Representatives passed the American Clean Energy and Security Act (H.R. 2454) which, similar to Ohio’s energy policy, mandates renewable energy development. Additionally, it placed a cap on carbon emissions and reduced that cap over time, creating a market for a carbon trading program.

The Office of the Ohio Consumers’ Counsel (OCC) continued to monitor this policy as it was considered in the U.S. Senate as the year came to an end. The OCC developed and submitted proposals to Ohio senators that would help reduce the impact of a carbon cap on residential consumers’ bills and ensure consumers receive the necessary protections in this changing national energy environment.

THE OCC BENEFITS FOR LOW-INCOME CONSUMERS IN 2009: The OCC led a coalition with several other advocacy groups to bring about major changes in the Percentage of Income Payment Plan (PIPP) program at the PUCO and Ohio Department of Development. In addition to advocating lowering the monthly PIPP payment levels, the OCC successfully obtained major reform in arrearage crediting and the opportunity for low-income customers to eliminate future debt.

Members of Ohio Consumer and Environmental Advocates include:

- ▶ AARP Ohio
- ▶ Advocates for Basic Legal Equality, Inc.
- ▶ Citizen Power
- ▶ Citizens Coalition
- ▶ Consumers for Fair Utility Rates
- ▶ Edgemont Neighborhood Coalition of Dayton
- ▶ Empowerment Center of Greater Cleveland
- ▶ Environment Ohio
- ▶ Environmental Law and Policy Center
- ▶ Greater Ohio
- ▶ Legal Aid Society of Greater Cincinnati
- ▶ Midwest Energy Efficiency Alliance
- ▶ Natural Resources Defense Council
- ▶ Northeast Ohio Public Energy Council
- ▶ Northwest Ohio Aggregation Coalition
- ▶ Neighborhood Environmental Coalition
- ▶ Office of the Ohio Consumers’ Counsel
- ▶ Ohio Environmental Council
- ▶ Ohio Farmers Union
- ▶ Ohio Interfaith Power & Light
- ▶ Ohio Poverty Law Center
- ▶ Sierra Club Ohio Chapter

Note: Not all members of the OCEA participate in all filings and actions.