



Presentation to:

Senate Public Utilities Committee

Presented by:

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Chairman Schuler, members of the committee, thank you for inviting me here today to talk to you about the important work of the Office of the Ohio Consumers' Counsel (OCC). I am Janine L. Migden-Ostrander and I am the Consumers' Counsel. With me are Bruce Weston, Deputy Consumers' Counsel, Dennis Stapleton, a former legislator and currently our Director of Government and Legislative Services, and other members of my staff.

The OCC serves as the advocate – the statutory voice – on behalf of Ohio's 4.5 million residential utility customers. The OCC was created through SB 94, which was passed by the Ohio General Assembly in 1976. The law calls for our office to represent the interests of residential consumers – your constituents – of Ohio's public electric, natural gas, telephone and water companies.

The Office of the Ohio Consumers' Counsel is governed by a bi-partisan nine-member Board, which is appointed by the Ohio Attorney General. Each Governing Board member serves a three-year term and represents three organized groups: residential consumers, family farmers and labor.

I was recently appointed Consumers' Counsel by the OCC Governing Board and took the oath of office on April 5th, 2004. I have more than 20 years of experience in utility law and have long been a strong consumer advocate.

The OCC employs about 80 professional, skilled staff members among whom are attorneys, accountants, economists, engineers and investigators. As the sole state agency dedicated to advocating for residential utility customers we participate in legal proceedings, analyze rate issues, educate consumers and mediate and resolve complaints relating to utility services.

The OCC is self sustained and is funded through assessments to the utilities. The OCC does not receive any funding through the General Revenue Fund. The valuable services we provide only cost consumers 4 cents for every \$100 they spend on their utility bills.

The primary role of the OCC is to advocate for residential customers through active participation in legal proceedings in both state and federal courts and administrative agencies, such as the PUCO, the Federal Energy Regulatory Commission, the Federal Communications Commission and the Ohio Supreme Court. However, there are a number of additional services that our agency provides that are of great importance. The OCC:

- 1) Monitors utility companies' compliance with rules and regulations.
- 2) Takes legal action against utility companies that do not comply with the law.
- 3) Analyzes utility rates and company earnings to ensure that residential customers are paying reasonable rates and receiving credits on their utility bills when appropriate.
- 4) Advocates for policies and regulations that protect the affordability, reliability and quality of service for residential consumers.
- 5) Develops and implements policies to provide value to customers with respect to their telecommunications and energy services.
- 6) Mediates and resolves complaints from residential consumers about utility services, including cooperatively working with the companies on these issues.
- 7) Conducts statewide education programs to inform consumers about changes in their utility services and advises them of new services and options to compare prices.

The utility industry has changed greatly since the OCC was formed 29 years ago, and the need for the services our office provides is more important than ever before. In 1976, when we were experiencing an energy crisis, fluctuating rates and monopoly utility services, the Ohio General Assembly had the foresight to give the residential customer a voice in proceedings relating to these vital utility services that keep us warm in the winter, cool in the summer and connect us with friends and family every day of our lives.

But much has changed since the 1970s. Congress set the stage to spark competition for local telephone service with the Telecommunications Act of 1996; competitive choices evolved in the natural gas industry and HB 9 soon followed; and in 1999 electric restructuring began with the passage of SB 3.

All of these changes signaled a new era in the utility industry as well as for the OCC.

It remains imperative that the OCC continue to advocate for the development of a competitive market per the legislative mandates enunciated in SB 3 and HB 9 so that customers can reap the benefits of the efficiencies inherent in a competitive market. It is also clear that consumers need to have their interests represented in light of regulations being lifted to ensure they are receiving quality service and that their rights are protected.

As the only state agency representing the interest of the consumer, the advent of providing more utility choices has served to increase the need for consumer education and assistance. Our Consumer Response Center, which provides consumers who call our toll free number with information about their utility services and helps them resolve their utility complaints, handled 109,000 contacts in 2004. Forty percent of those contacts related to telecommunications issues; 30 percent to natural gas; 20 percent to electric; and 10 percent miscellaneous. Last year alone, the OCC's call center handled complaints that resulted in savings of more than \$300,000 to individual consumers.

In an effort to increase the level of assistance that the Consumer Response Center staff is able to provide consumers, we made several improvements and changes during the past year. We improved our database used to track complaints and information requests. Our investigators can now link directly to financial assistance resources, which allows them to guide consumers to community organizations that have funding available to help pay bills, especially during the winter heating and summer cooling seasons.

With the increased need for our services, the OCC investigators also will be working to become even more effective with issue identification and complaint resolution.

In the short 10 months that I have been Consumers' Counsel, much of our work has focused on electric restructuring and the end of the market development period. The promise of restructuring has been slower to materialize than the participants in the legislative process had anticipated.

History teaches us that progress in utility regulation is incremental and takes patience,

perseverance and time to accomplish. While the OCC acknowledges that the competitive market has been slow to develop, we believe that a variety of barriers still exist. The rate stabilization plans proposed by three of the state's major electric companies are not the answer.

The OCC has opposed the rate plans submitted by American Electric Power, CG&E and FirstEnergy because we believe they harm residential consumers and violate Ohio's electric choice law. That law requires two options to be provided to customers after 2005: 1) an offer based on the price of electricity in the market; and 2) a rate based on the results of a bid among competitive suppliers.

The rate plans varied by company, but each is likely to result in higher rates while failing to adequately provide customers the two options specified in the law. The utility-submitted plans also contained violations of existing PUCO-approved electric choice transition agreements. The rate plans do not produce rate stability for consumers nor do they promote competition.

The OCC is supportive of continuing the work necessary to provide residential customers with the ability to choose an electric supplier and potentially save money. Ohio should examine our state's experience and determine what has worked, what has failed and what can be done to further enhance customer choice so that it delivers benefits far into the future.

Ohio has endured two major power outages in the last two years that affected hundreds of thousands of residential customers. In order to minimize the number of outages and their severity, the OCC believes that uniform statewide tree trimming and vegetation management standards should be developed. Each electric company should be required to follow more specific rules and guidelines that would hold them financially accountable if proper maintenance on the distribution system is not performed.

On behalf of residential customers, the OCC provided recommendations to both the United States-Canadian Power Outage Task Force, which was charged with investigating the causes related to the August 2003 blackout, and to the Public Utilities Commission of Ohio. In addition, as a member the National Association for State Utility Consumer Advocates, we have testified

before Congress on the importance of implementing a federal energy policy that will hold utility companies accountable for not providing the electric reliability that consumers are already paying within the rate structure.

The OCC will continue to advocate for the development of choices for electric service and for consumers to receive reliable power at reasonable prices.

We also have been actively involved in important utility legislation. We partnered with the Ohio Attorney General and advocated for the passage of SB 28, the state's Do-Not-Call law. This law protects consumers from unwanted telemarketing calls and gives the Ohio Attorney General authority to hold companies accountable for improper solicitation. The OCC assisted in drafting the legislation and provided testimony in support of the bill. In addition, we launched a grassroots education campaign encouraging consumers to voice their support for an Ohio Do-Not-Call law.

The OCC was supportive of the enhanced wireless 9-1-1 legislation, which mandates the deployment of technology for cellular phone companies to make the call back number and location of the cell phone user immediately available to emergency personnel.

Looking to the future, it is my intention that the OCC help build a better future for residential utility customers that:

- Provides affordable energy
- Contributes to national energy reliability and independence
- Ensures reliable, quality utility services
- Presents opportunities for consumers to save money
- Empowers consumers to manage their energy and telephone usage

To achieve these goals, I have developed a plan of action that consists of a myriad of ideas from energy efficiency programs and innovative rate designs to new generation technologies in the energy industry to the delivery of broadband services and other technologies to rural and urban customers. It also identifies opportunities for partnerships, opens dialogues with communities

and sets additional priorities for advocacy at both the state and federal levels.

While we have only just begun to shift resources already existing within the OCC to accomplish these goals, we have made considerable progress in the past year. Specifically, the OCC has developed strategies for utility companies to implement energy efficiency programs. We have begun exploring alternative sources of fuel that can produce lower prices in the long term. The OCC also has instituted an open door policy to discuss utility issues with other consumer groups. It is important to meet with groups and individual consumers to gain insight into their utility concerns and collaborate on possible solutions.

There is much work yet to be done, but we have begun putting the policies and processes in place to be successful in achieving these benefits. The following are some of my industry specific goals on which we are working on to protect Ohio's residential consumers and provide them with lower rates and more choices in utility services and providers.

Electricity

- Ensure that plans put into effect for customers who do not choose an alternative supplier when the freeze on generation rates ends on December 31, 2005 are the lowest cost possible. It is also important that effective competition is able to flourish so as to produce lower prices.
- Work toward creating fully developed wholesale markets, which would increase the flow of electricity and likely provide more choices and options to residential consumers.
- Support energy efficiency programs that allow customers to reduce their consumption and lower their bills. Other added benefits are reduced costs system-wide due to a decrease in demand, less constraints on transmission that increases reliability, less pollution, less dependence on foreign sources of fuel thereby increasing national security.
- Examine rate structures throughout Ohio to help produce lower rates. For example, incentives could be promoted that offer lower rates to customers who use energy during off-peak hours.
- Explore energy options for least-cost, reliable energy solutions that will serve customers now and into the future.
- Support the deployment of alternative energy sources.

Natural Gas

- Support the continued development of natural gas choice programs.

- Work to identify and secure improvements to existing choice programs to increase customer participation and savings.
- Identify ways to reduce demand and manage natural gas usage in order to stabilize or lower residential consumers' monthly bills.

Telecommunications

- Support reasonable consumer protection standards, comparable to the Minimum Telephone Service Standards, for cellular customers and those using emerging technologies such as Voice over Internet Protocol or VoIP.
- Advocate for local telephone companies to be required to continue leasing parts of their network to competitive providers. This system has allowed choices to develop for SBC Ohio and Verizon customers.
- Ensure that emerging technologies and high-speed Internet access are available to residential consumers in all parts of Ohio, including rural areas.

Water

- Ensure that water quality and safety are protected in a cost effective manner.
- Advocate for compliance with safe drinking water standards.
- Seek innovative ways to lower consumers' bills through conservation programs while improving the quality of their water service.

To help facilitate achieving these goals, I have reallocated existing resources to begin working on some of these issues.

On the federal level the OCC will increase its activity monitoring and participating in activities relating to the state's two Regional Transmission Organizations, PJM and the Midwest Independent System Operator, as well as the Federal Energy Regulatory Commission.

With concerns of rising natural gas costs, and the predicted steady increase in rates, along with dramatic electric generation rate increases, it is imperative to find ways to reduce demand as a means of helping customers control their energy bills. The OCC already has begun to research and develop energy efficiency opportunities, also referred to demand side management programs, for residential utility customers. In addition, we plan to concentrate on energy portfolio planning and ways in which we can better incorporate alternative energy as a power source.

High natural gas rates and the threat of disconnection has rendered hundreds of thousands of consumers without heat during the coldest winter months and those consumers who need additional assistance paying their heating bills is a segment of the population that we need to protect.

We will closely monitor low income issues and find ways to help the neediest segments of our population through assistance programs, funding mechanisms and alternative programming. For example, customers in the 151 to 200 percent of the poverty guideline have no assistance programs available to them. This segment of Ohioans is comprised largely of senior citizens and the working poor.

There are many opportunities to deliver positive changes for residential utility customers. It is important to explore new frontiers in emerging technologies and programs, while still maintaining affordable rates, a high level of consumer protection and quality of service. By partnering with stakeholders, utility companies and competitive service providers, we can create win-win solutions for customers. The benefits would include:

- More energy and telecommunications options.
- Allowing consumers to take charge of their energy usage on the customer side of the meter.
- The development of voluntary programs that reduce demand on the system, thereby lowering energy costs overall and reducing stress on the transmission system.
- Supporting FutureGen and fostering new technologies consistent with Governor Taft's Third Frontier initiative.

Under my leadership and direction, the Office of the Ohio Consumers' Counsel is working very hard to add value to residential utility customers, and we believe that while the road is long, we have already set in motion a process for achieving tangible customer benefits. The bottom line is that we need to look at energy policy in a different way and we need to be proactive, not only to protect ratepayers today but also in the future.

Again, thank you for allowing me to share some of the OCC's accomplishments and our ideas on how we can build a better future for Ohio's residential utility customers.

