

The seal of the Ohio Consumers' Counsel is a circular emblem. It features a sun with rays rising over a landscape with mountains and a river. Below the landscape are three sheaves of wheat. The words "THE OHIO CONSUMERS' COUNSEL" are written around the top inner edge of the circle, and "OFFICE OF" is written along the bottom inner edge. A single five-pointed star is positioned at the bottom center of the seal.

Presentation to:
**House Finance and Appropriations
Agriculture Subcommittee**

Presented by:
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Chairman Core and members of the House Finance and Appropriations Agriculture Subcommittee, thank you for giving me the opportunity to present the budgetary priorities for the new biennium for the Office of the Ohio Consumers' Counsel, the state's residential utility consumer advocate. I am Janine L. Migden-Ostrander, the Consumers' Counsel. With me today are Dennis Stapleton, a former legislator and our Director of Legislative and Governmental Affairs, Monica Hunyadi, Director of Operations and Maureen Miller, Director of Communications.

Introduction

The Office of the Ohio Consumers' Counsel, also known as the OCC, serves as the advocate – the statutory voice – on behalf of Ohio's 4.5 million residential utility households. The OCC was created through Senate Bill 94 and passed by the Ohio General Assembly in 1976. It was a time when the nation was searching for solutions to the energy crisis and public utilities were constantly seeking rate increases from state public utility commissions. In this environment of an inflated economy, widespread consumerism and international oil cartels, many states – by 1978 there were 22 states in total – created residential utility consumer advocate offices.

The law calls for our office to represent the interests of your constituents, the residential consumers 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 and confirmed by the Senate.

While the OCC serves as the advocate for the state's residential utility customers, more specifically the role of the agency is dictated in part by Chapter 4911.02 of the Ohio Revised Code, which reads that the OCC "...may institute, intervene in, or otherwise participate in proceedings in both state and federal courts and administrative agencies on behalf of residential consumers concerning review of decisions rendered by, or failure to act by, the public utilities commission."

Stated simply, the OCC serves as the lawyer for residential utility customers. The Public Utilities Commission of Ohio serves as the judge. The OCC advocates for residential consumers, while the PUCO balances the interests of the utility companies, shareholders and each customer class when it makes rules and issues decisions.

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 who are attorneys, accountants, economists, engineers and investigators who participate in legal proceedings, analyze issues, educate consumers and resolve complaints relating to utility services.

The primary role of the OCC is to participate in legal proceedings in both state and federal courts and administrative agencies, such as the Public Utilities Commission of Ohio, 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 energy and telecommunications services.
- 6) 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 constantly evolved since the OCC was formed 29 years ago, and the need for the services our office provides is more important than ever before. We are entrenched in an environment that has experienced the restructuring of the electric, natural gas and telecommunications industries, rising natural gas prices, the development of choices in local telephone markets and the advancement of new technologies in the telecommunications industry as a whole. In 1976, the Ohio General Assembly had the foresight to give the residential customer an independent 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. A strong advocate, like the OCC, is critical for the well being of the people in Ohio.

It is true that 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 House Bill 9 soon followed; and in 1999 electric restructuring began with the passage of Senate Bill 3.

All of these events 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 to ensure that customers have choices in services and the added advantage of lower rates. 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.

Challenges for the 2006 – 2007 Fiscal Biennium

The OCC is self sustained and is funded through an assessment on the intrastate gross receipts of the state's investor-owned utility companies pursuant to Section 4911.18 of the Ohio Revised Code. In 1997, the Ohio General Assembly created the OCC Operating Fund, designed to separate the OCC's assessment dollars from the state General Revenue Fund. Our valuable services only cost consumers less than 4 cents for every \$100 they spend on their utility bills.

With a staff of just under 80 employees, which we have maintained for close to 10 years, and a small non-GRF budget, OCC has been able to provide efficient and effective advocacy for the residential utility customers it represents. Although the increasing number of utility issues has challenged our ability to keep pace during difficult financial times, the OCC has been able to provide direct services to more Ohioans than ever before in the past two years. At the same time, we have been extremely cognizant of our funding level and the state's financial crisis, and have operated within our budget during the previous biennium.

Over the next two years, the agency will continue its track record of providing additional consumer protection services that will benefit Ohioans, while working within our current budget request of \$9.2 million – the same budget we have maintained since 2003.

While the complexities of the utility industry continue to grow, the daunting number of legal cases in which the OCC participates continues to rise. In 2004 alone, the OCC was involved in more than 130 legal utility cases. More than 100 of those cases were at the PUCO, five have been appealed to the Ohio Supreme Court, and we have 18 cases pending before the Federal Communications Commission.

Due to the unprecedented number of additional cases that can have a dramatic impact on residential consumers, it is anticipated that the full budget amount will be needed as the OCC tackles these complex cases. A few noteworthy cases that will arrive in the new biennium include:

- Mergers by SBC and AT&T, Verizon and MCI, and Sprint and Nextel;
- Applications by American Electric Power, Cinergy, FirstEnergy and Dayton Power & Light to increase rates through a tracker mechanism;
- An application by Cinergy – and others are anticipated from other companies – for approval of a new power plant;
- Competitive power auctions in the FirstEnergy service territory;
- Electric distribution rate cases as the rate freezes end; and
- Dominion East Ohio filing to exit the merchant function and no longer sell natural gas to customers at the regulated rate.

While our budget and staffing levels have remained constant, the amount of litigation and the different constituency groups who continue to ask for help with utility issues grows at a rapid pace. Meeting this type of demand for our services continues to be the OCC's greatest challenge.

OCC Priorities

One of the OCC's major priorities over the next biennium will be to manage our budget efficiently and effectively. We want to maximize the use of internal resources, while at the same time strengthening the knowledge base of our employees.

Externally, the OCC must continue to examine electric rate structures in the wake of restructuring with an eye toward lowering rates; support the continued development of natural gas choice programs; identify ways to reduce demand for natural gas as a means of controlling

the cost of the customer's gas bill; continue to advocate for the continuation of local telephone choice and the opportunity for customer savings; and seek ways to provide protection for consumers both in terms of price and information as well as consumer rights.

Educating the state's residential utility customers and helping them resolve utility complaints also will be at the forefront of our agency's objectives. Competitive choices in utility providers have opened the door wider for consumers seeking information on how to effectively participate in the marketplace.

Developing stronger outreach programming is also a critical component of the work of our agency. OCC will work to meet with groups, organizations and individuals across the state of Ohio as well as engage in partnerships with other state departments, community groups and universities, to educate consumers about their utility services and how to make smart choices in the competitive environment.

Current Advocacy Efforts

The OCC works tirelessly to advocate for consumers to pay reasonable rates and receive quality service from their electric, natural gas, telecommunications and water companies. All the while, we work toward robust competition to allow consumers to make meaningful choices and lower their monthly bills.

In the upcoming biennium, many current issues will likely be joined by an array of new concerns that will need to be addressed by the OCC. Given ample resources, the OCC will be able to continue to provide consumers with solid, dependable representation before state and federal regulators as well as meet its mission to resolve consumer complaints and provide information about utility services.

Electric

In the short nine 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 are not the answer.

The OCC has opposed attempts for electric utility companies to violate the rate cap promised in Senate Bill 3 and we have continued to advocate for the effective, efficient and affordable transmission of electricity. Rate plans submitted by American Electric Power, CG&E and FirstEnergy do not produce rate stability for consumers nor do they promote competition. With over \$4 billion in electric industry rate increases granted by the PUCO and which we have appealed to the Ohio Supreme Court, it is imperative for residential customers to have the OCC working as their advocate, or they will likely absorb significant increases in rates.

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 maintenance 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. The OCC plans to develop legislation that would hold electric companies accountable for improper maintenance and extended outages, to ensure that residential customers receive the reliable service they are already paying for in their rates.

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

Natural Gas

In the natural gas industry, the OCC focused its attention on reducing customer rates through its work in cases at the PUCO. We uncovered \$3.3 million in overcharges by Dominion East Ohio, which was returned to customers; and opposed companies' requests to raise natural gas distribution rates automatically.

In a recent case, the OCC opposed an agreement between Columbia Gas of Ohio and several parties that we believe will harm residential consumers and violate important regulatory principles. Due in part to the OCC's efforts resulted in the reduction of future distribution rates by approximately \$70 million and eliminated an additional \$29 million in other charges. Despite a few modifications, this settlement remains unacceptable to residential consumers and we have appealed this case to the Ohio Supreme Court.

Over the last four years, we have witnessed price volatility in the natural gas market. The OCC has advocated for a natural gas rate that reflects the best estimate of market conditions so that consumers would have accurate information on which to base their energy usage. We also fought for increased funding for energy efficiency and weatherization programs to soften the impact of high natural gas costs on customers' bills.

Natural gas choice continues to be a viable option for consumers to lower their natural gas bills. We plan to be supportive of identifying ways to increase customer participation levels around the state to bring more cost effective options to customers.

Telecommunications

A litany of cases at the state and federal level are impacting residential telephone service. The OCC has been advocating to protect customers against higher rates, provide competitive choices and to ensure consumer protections are in place.

Action by regulators at the FCC and the PUCO have given the OCC little confidence that competition for traditional local telephone service will become a permanent fixture for residential customers in Ohio. Lack of access to local telephone lines and equipment in addition to increases in the wholesale rates that competitors pay to lease lines, will further inhibit the development of choices in providers.

The OCC will remain an active participant in these ongoing proceedings in a vigilant attempt to protect consumers' interests and urge regulators to implement rules that give the time necessary for local competition to grow and expand.

New technologies in the industry, such as Voice Over Internet Protocol, are beginning to provide residential consumers alternative options for telephone service. While this technology presents opportunities and potential savings, the OCC must work to ensure that consumer protections for these services are comparable to those of traditional local telephone companies. In addition, we need to examine important public safety concerns involving the availability of 9-1-1 for customers who choose this service.

The OCC was supportive of important pieces of legislation over the last biennium including, Ohio's Do-Not-Call law and enhanced wireless 9-1-1. As a result, consumers are protected against unwanted telemarketing calls and they will be safer now that cell phone companies will deploy technology that will make the callback number and location of the cell phone user immediately available to emergency personnel.

Reaching Out to Consumers

As the only state agency representing the interest of the consumer, the advent of 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, received 109,000 contacts last year. Through these contacts, our staff handled more than 12,600 complaints for Ohio consumers, resulting in savings of \$336,124 and numerous instances of help for Ohioans.

In an effort to increase the level of assistance that the Consumer Response Center staff is able to provide, 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. This link enables them to guide consumers to community organizations that have funding available to help pay their utility bills, especially during the winter heating and summer cooling seasons. The OCC added other tools to help the investigators manage larger caseloads, ensuring that more consumers in need are served promptly and more efficiently.

Residential utility customers are very supportive of the OCC's assistance. One consumer wrote to the OCC: "When I signed up with a local telephone competitor, I was promised a package with multiple features. After receiving my first bill, I noticed the features were listed, but were not available on my telephone. After six months of trying to get the issue resolved I contacted the OCC. With their help, the issue was resolved quickly. My account was credited \$85 and I switched back to my local telephone provider without a delay of service." Betty Koehn – Milan, Ohio

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.

The OCC has long been committed to communicating with residential consumers to help educate them about their utility services. Through presentations to groups, working with the media and taking advantage of the Internet, the OCC has been able to bring relevant and timely utility information to Ohioans.

In the last two years, OCC representatives visited with individuals, organizations and social service agencies in all of Ohio's 88 counties. We developed programming to help consumers stay connected to their utility services in times of need, promoted the Do-Not-Call telemarketing legislation and informed consumers about the rising costs of natural gas. In addition, we have increased our efforts to reach non-English speaking audiences and consumers with special needs such as the visually impaired.

To help consumers become more knowledgeable, the OCC distributed more than 700,000 educational materials and improved its website to include top news items, interactive rate comparison calculators and tools to compare service packages and prices for local telephone service. In 2004, over 970,000 consumers relied on the agency's website for information. Enhancements to the website and our new Action Alerts Network have made it easier for consumers to become more informed and support the OCC's work as their advocate.

Future Goals

We are at a crossroad in the energy and telecommunications industries. As the sole advocate for residential utility customers, it is imperative that the OCC seize the opportunity to build a future that protects consumers by providing affordability while at the same time contributing to national energy reliability and independence. With the advent of customer choice, the energy and telecommunications industries have been in a state of evolution. The OCC must not only be consistently vigilant to advocate for fair and reasonable rates, reliable service and quality of service, but it must also always keep an eye towards the future. It is critical to understand the impact of today's policies on tomorrow's consumers.

Looking to the future, it is my intention to help the OCC 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 that 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

- Challenge the PUCO-approved electric rate plans, which do not comply with the law and result in excessive rate increases.
- Work toward creating fully developed wholesale markets, which would increase the flow of electricity and likely provide more choices and options to residential consumers.
- 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.

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 measurable savings for customers as a result of the many proposed mergers and ensure that customers benefit.
- 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 monitor and participate in activities relating to the state's two Regional Transmission Organizations, PJM and the Midwest Independent System Operator, as well as proceedings before the Federal Energy Regulatory Commission.

With concerns of rising natural gas costs, and the predicted steady increase in rates, it is imperative to find ways to reduce demand as a means of helping customers control their natural gas bills. The OCC already has begun to research and develop energy efficiency opportunities, also referred to as 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 have 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 innovative programming. As an example, we have begun researching the possibility of implementing a statewide community voice mail program. This program would provide voice mail service to individuals in crisis. The OCC's role in this worthwhile project is to bring community organizations and telecommunications providers together to assist the thousands of individuals throughout Ohio who are in need.

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.
- Fostering new technologies consistent with Governor Taft's Third Frontier initiative.

Ohio's residential utility customers have been well served by the strong advocacy efforts of our office. It is important for the OCC to maintain a positive role in developing policies and

procedures in today's changing utility environment. At the same time, we must look to the future and the long-term impact of the course it sets.

As I complete my first year as Ohio's Consumers' Counsel, I am extremely conscientious about maintaining as close as possible to current staffing levels and working within the same budget this office has had since 2003.

While working within our requested budget, we will still be able to deliver positive changes for residential consumers. We will seek ways to partner with other stakeholders to create a better energy and telecommunications future for Ohioans. This means exploring new frontiers in emerging technologies and programs and bringing them to Ohioans while still maintaining affordability, a high level of consumer protections and service quality.

We stand ready to serve your constituents to the best of our abilities, protect them against unfair practices in the utility marketplace, provide them with options for improved services and empower them to take control of their energy and telecommunications needs.

In the process of accomplishing these goals, the OCC will continue its track record of efficiency and meet a higher standard in our role to protect residential utility customers.