

The seal of the Office of the Ohio Consumers' Counsel is a circular emblem. It features a central sun with rays rising over a landscape with fields and a river. The text "OFFICE OF THE OHIO CONSUMERS' COUNSEL" is written around the perimeter of the seal, and a five-pointed star is positioned at the bottom center.

**Senate Finance and Financial  
Institutions Committee**

Budget Testimony

Submitted by:

**Janine L. Migden-Ostrander**  
**Consumers' Counsel**

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## Budget Testimony

Janine L. Migden-Ostrander, Consumers' Counsel  
Office of the Ohio Consumers' Counsel

Chairman Carey, and members of the Senate Finance and Financial Institutions Committee, thank you for allowing me the opportunity to present a review of the Office of the Ohio Consumers' Counsel as well as our budgetary priorities for 2006 and 2007. I am Janine L. Migden-Ostrander, the Consumers' Counsel, and I serve as the state's residential utility consumer advocate. With me today are Bruce Weston, Deputy Consumers' Counsel, Dennis Stapleton, Director of Government Affairs, and Maureen Miller, Director of Communications.

The Office of the Ohio Consumers' Counsel, also known as the OCC, was created by the Ohio General Assembly in 1976. The legislature has called for our office over the past 29 years to represent the interests of your constituents, the residential customers of Ohio's publicly owned electric, natural gas, telephone and water companies.

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 Sec. 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 utility customers concerning review of decisions rendered by, or failure to act by, the public utilities commission."

Stated simply, the OCC serves as the legal representative for Ohio's residential utility customers. The PUCO serves in its capacity as the judge, while the OCC advocates and represents the interests of residential consumers. As the judge, the PUCO is required to balance its decisions among the interests of the utility companies, shareholders, each of the customer classes and other stakeholders while the OCC maintains its sole representation on the side of the residential utility customer.

I was appointed Consumers' Counsel in 2004 and have just completed my first year in office on April 5<sup>th</sup>. I have more than 20 years of utility law experience and have long been known as a strong consumer advocate.

The OCC employs approximately 75 professional staff members – attorneys, accountants, economists, engineers and investigators – who participate in legal proceedings, analyze issues, educate consumers and resolve complaints relating to utility services. The OCC is governed by a bi-partisan, nine-member board that is appointed by the Ohio Attorney General and confirmed by you here in the Senate.

As I mentioned earlier, and according to our statute, part of the OCC's role is to participate in legal proceedings in both state and federal courts, and intervene in rate cases at administrative agencies, such as the PUCO, the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC). However, there are a number of additional statutory requirements that the OCC has to meet that I would like to share with you.

The OCC:

1. Monitors utility company's 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. Resolves complaints from residential consumers about utility services, including cooperatively working with the companies on these issues.
6. Conducts statewide education programs to inform consumers about changes in their utility services and advises them of new services and options.

The OCC is a non-GRF agency and is funded through an assessment on regulated utility companies pursuant to Sec. 4911.18 of the Ohio Revised Code. By statute, the assessment must

equal the appropriation, and any unexpended funds are to be returned to the companies as a credit against the following year's assessment. Therefore, appropriations to the OCC are not available to the General Revenue Fund for general appropriation, and have no impact on the state's budget.

In looking at our priorities over the next two years, the OCC will continue its track record of providing residential consumer protection within a tightly constructed budget even though the complexities of the utility industry continue to grow and the magnitude of our caseload increases. In 2004 alone, the OCC was involved in no less than 130 utility cases with the PUCO, the FCC and FERC.

I am sure that you are all aware of the version of the budget bill passed by the House that sits before you today. It contains what we believe are radical changes that would be a serious detriment to the operation of the OCC and a disservice to your constituents. Not only does the House version of the budget reduce our fiscal operation by \$3 million, but more importantly it will handcuff our consumer response center and silence your constituents from calling our office for help in resolving their utility complaints.

In short, the House deleted the OCC's ability to receive telephone calls that deal with complaints from residential utility users. Addressing residential consumer complaints has been one of the statutory functions of the OCC for the past 29 years. We do not see the wisdom in changing a process that your legislative counterparts of the 111<sup>th</sup> General Assembly created.

The legislature has given the OCC the explicit authority in several statutes to take appropriate action in the handling of consumer complaints. With the most common method of contact coming via the telephone, we feel that the current version of the budget would virtually prevent the residential consumers of Ohio from receiving the proper representation promised to them in the law that was designed by the legislature to protect them.

Not only does the OCC's Consumer Response Center provide one-on-one contact to help consumers, but it also serves as OCC's eyes and ears to Ohio's residential utility customers. It is an integral part of our operations at OCC. The information we gain from consumers calling our toll-free hotline help us identify trends in utility service, changes in billing and other issues in order to aid residential customers. For example, consumers brought us information about power outages and electric reliability issues, needed changes in the disconnection rules, and their concerns about having to pay for the extension of power lines to new homes. Learning about these issues and our ability to take action helps our agency do a better job and fulfill our statutory obligations.

We submit to you today that both the OCC and the PUCO should be permitted to monitor and resolve consumer complaints by telephone and that any duplication from people requesting services from both agencies is minimal. The OCC believes that in the truest spirit of the law, the legislature knew that the PUCO should be the judge between the consumer and the utility and that the OCC should serve as the advocate.

I am asking you today, to restore the budget of the peoples' advocate back to the level recommended by Governor Taft and to reinstate the OCC's authority to handle complaints that are telephoned into our consumer response center.

Before I conclude my testimony today and prepare for your questions, let me list several major priorities that the OCC will face over the next biennium.

First, the OCC must continue to advocate for customers in electric proceedings in the wake of restructuring with an eye toward keeping rates affordable. We must support the continued development of natural gas choice programs and identify ways to reduce demand for natural gas and electricity. We must continue to advocate for the continuation of local telephone choice and seek ways to provide protection for consumers both in terms of price and information as well as consumer rights.

Second, educating the states' residential utility customers and helping them resolve utility issues will also 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. Nonetheless, if consumers do not understand the procedure for exercising that choice, then the eventual failure of that system is inevitable.

Third, we will continue to enhance our strong outreach and education program. OCC will continue to meet with groups, organizations and individuals across the state as well as engage in partnerships with other state agencies, community groups and state universities, to educate consumers about their utility services and how to make smart choices in a competitive environment.

Finally, we are at a crossroads 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. It is critical to understand the impact of today's policies on tomorrow's consumers. Ohio's residential utility customers have been well served by the strong advocacy efforts of our office and it is important for the OCC to maintain a positive role in the development of policies and procedures in today's changing utility environment.

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. On the federal level, for example, the OCC is monitoring and participating in activities relating to the states two Regional Transmission Organizations, PJM and the Midwest Independent System Operator, as well as proceedings before the Federal Energy Regulatory Commission.

As I enter into my second year as Ohio's Consumers' Counsel, I am extremely conscientious about maintaining as close as possible to current staffing levels and working within the budget the legislature provides us. 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.

Chairman Carey and members of the committee I thank you for your time and courtesy today, and my staff and I stand ready to answer your questions. Thank you.