



Office of the
Ohio Consumers' Counsel
Residential Utility Consumer Advocate

HOUSE PUBLIC UTILITIES COMMITTEE

HB 87

Submitted by:
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March 30, 2011

**TESTIMONY OF
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL
BY
MELISSA R. YOST
BEFORE THE
HOUSE PUBLIC UTILITIES COMMITTEE**

Good morning, Chairman Stautberg, Ranking Member DeGeeter and members of the committee. I am Melissa Yost, Senior Counsel with the Office of the Ohio Consumers' Counsel (OCC). The OCC is the statutory representative of Ohio's 4.5 million residential utility customers. Janine Migden-Ostrander, the Consumers' Counsel, and I would like to thank each of you for considering this important piece of legislation and for providing the OCC with the opportunity to testify in support of House Bill 87.

As Ohio's residential utility customer advocate, the OCC works to protect the residential customers of investor-owned water and sewer utilities from unreasonable rate increases. The OCC supports HB 87 because it will reduce the amount of water and sewer rate-case expenses Ohio's residential customers will be required to pay.

In my testimony today, I will outline the specifics of this bill and why it is needed. I will conclude by urging this committee to act swiftly in passing HB 87 in its current form.

Rate Cases at the PUCO

Rate cases are an important part of setting the rates for regulated utilities. Rate cases are an opportunity for the OCC and other parties to review the expenses and revenues of a utility and advocate before the Public Utilities Commission of Ohio (PUCO) that customers pay no more than what is just and reasonable. But too frequent rate cases, especially in the water and sewer industries, lead to unreasonable costs being incurred by the utilities that are then collected from customers in the form of increased rates.

The costs that are associated with preparing and presenting a rate case are known as "rate-case expenses." Rate-case expenses can include, but are not limited to, fees and expenses of attorneys,

consultants, witnesses, utility employees and the cost of preparing studies related to rate cases. There is little incentive for water and sewer companies to minimize these costs because—in general—current practice allows water and sewer utilities the opportunity to recover all of their reasonable rate-case expenses.

Additionally, in the water industry in Ohio, many customers have experienced an excessive number of rate cases, in some cases every year or two. In other Ohio industries, such as the gas industry, gas companies have filed for rate cases, on average, once every 4 to 8 years.

Overview House Bill 87

HB 87 would require large investor-owned water and sewer companies to pay their fair share of rate-case expenses incurred when they request a rate increase. As proposed, HB 87 would cap the portion of those expenses that companies could recover from customers at 50 percent. Understanding that smaller investor-owned water and sewer companies may lack the resources of the larger companies, the proposed bill does not apply to companies that serve fewer than 15,000 customers in Ohio.

It is undisputed that rate increases benefit a company's investors. Accordingly, it is just and reasonable that those investors—who reap the benefit—should also share in the cost of a rate case. In addition, a sharing of rate-case expense should cause the water or sewer company to be more vigilant of the money it is spending to put forth its case, hence, saving money for customers and shareholders alike.

Why House Bill 87 is Needed

If HB 87 becomes law as currently proposed, it would affect Aqua Ohio, Inc. and the Ohio American Water Company, the only investor-owned water and sewer utilities in Ohio with more than 15,000 customers. Combined, the two companies serve approximately 143,000 customers in Ohio. As I mentioned before, water and sewer rate increase requests have become more frequent. Since 2000, Aqua Ohio and Ohio American Water have brought 12 rate increase requests before the PUCO. (Figure 1 below shows each of the rate cases initiated by Aqua Ohio and Ohio American Water, and the estimated cost of their rate case expenses, according to PUCO Staff

reports.)

Figure 1. Estimated rate case expenses from customers since 2000 of Ohio’s investor-owned water and sewer utilities that serve a total of 15,000 customers or more.

<i>Aqua Ohio</i>			<i>Ohio American Water</i>		
Rate Case Expenses ¹ case-by-case			Rate Case Expenses ^{1, 2} case-by-case		
Case Number	Rate Case Expenses	Rates Effective	Case Number	Rate Case Expenses	Rates Effective
09-1044-WW-AIR	\$172,000	Sept. 9, 2010	09-391-WS-AIR	\$ 523,417	May 19, 2010
09-560-WW-AIR	\$ 96,000	May 6, 2010	07-1112-WS-AIR	\$ 400,001	Nov. 13, 2008
07-564-WW-AIR	\$ 75,000	May 15, 2008	06-433-WS-AIR	\$ 399,960	March 7, 2007
03-2290-WW-AIR	\$ 100,000	Oct. 20, 2004	03-2390-WS-AIR	\$ 292,000	Feb. 25, 2005
01-2924-WW-AIR	\$ 100,000	Nov. 8, 2002	01-626-WW-AIR	\$246,000	Feb. 7, 2002
00-713-WW-AIR	\$50,000	Mar. 23, 2001	99-1038-WW-AIR	\$400,000	June 29, 2000
Totals	\$593,000		Totals	\$2,264,378	

The OCC has heard from more and more customers who are concerned about their increasing water and sewer costs—especially during these difficult economic times. They report having to make very tough decisions about how to balance their basic cost of living expenses: mortgages or rent; medication; and other life necessities that include utility services. When considering the current levels of poverty and unemployment in Ohio, one can begin to understand why customers can no longer afford the costs of water and sewer service. Unemployment in Ohio stands at 9.2 percent³—an 84 percent increase over the 5 percent

¹ Except for Case No. 09-391-WS-AIR, rate case expense figures are provided in PUCO Staff Reports as recommendations to the PUCO commissioners. In Case No. 09-391-WS-AIR, the Commission granted OAW \$692,785 in rate case expense in its May 5, 2010 Opinion and Order.

² Ohio American Water in its initial brief before the PUCO, Case No. 09-391-WS-AIR (page 35), totals its rate case expenses for its last six rate cases at \$3,361,349.

³ <http://jfs.ohio.gov/RELEASES/unemp/201103/unemprelease.asp>

unemployment level in 2002.⁴ Poverty levels have climbed to 15.2 percent—a 43.4 percent increase in the last decade.⁵

But the statewide poverty and unemployment levels may not be as telling as the hardship that is being experienced in many of the communities served by the large investor-owned water and/or sewer utilities. The number of people in poverty in the city of Marion has increased from 13.8 percent a decade ago to 23.1 percent in 2009. Lawrence County is experiencing poverty at a level of 20.1 percent. Trumbull and Ashtabula counties are experiencing poverty levels around 14 and 16.1 percent respectively.⁶

While the water utilities are not required by law or PUCO rules to report the number of service disconnections for non-payment, the OCC had an opportunity in a recent case to obtain some disconnection data. For the largest investor-owned water utility in the state, an approximate 39 percent increase in service disconnections was reported between 2008 and 2009.⁷ During the same period, an increase of 12 percent of natural gas and electric customers were disconnected for non-payment.⁸ A large number of disconnections of a utility service for non-payment is often a key indicator of the lack of affordability of a utility service. Certainly, water service is as essential to the health and well-being of customers as electric and natural gas utility services. The magnitude of disconnections of Ohioans from their water utility services is cause for concern.

⁴ <http://www.ers.usda.gov/Data/Unemployment/RDList2.asp?ST=OH>

⁵ “Poverty: 2008 and 2009. American Community Survey Briefs, ACSBR/09-1. <http://www.census.gov/prod/2010pubs/acsbr09-1.pdf>, at 5.

⁶ U.S. Census Bureau, American Fact Finder, http://factfinder.census.gov/servlet/ACSSAFFacts?_event=ChangeGeoContext&geo_id=05000US39101&_geoContext=01000US%7C04000US39&_street=&_county=marion&_cityTown=marion&_state=04000US39&_zip=&_lang=en&_sse=on&ActiveGeoDiv=geoSelect&_useEV=&pctxt=fph&pgsl=010&_submenuId=factsheet_1&ds_name=ACS_2009_5YR_SAFF&_ci_nbr=null&q_r_name=null®=null%3Anull&_keyword=&_industry=

⁷ *In the Matter of the Application of Aqua Ohio, Inc. for Authority to Increase its Rates and Charges in its Lake Erie Division.*, Case 09-1044-WW-AIR, Testimony of James D Williams, June 21, 2010, at 9.

⁸ According to the Ohio Statistical Customer Accounts Receivable (OSCAR) Report provided to the PUCO, there were 476,490 gas and electric disconnections in 2009 compared with 424,952 disconnections in 2008.

The situation with Ohio customers having to pay for the water utilities' rate-case expenses has reached the point where limits are needed. For example, in a rate case decided by the PUCO in May 2010, a large water and sewer utility estimated it had spent more than \$973,000 in rate-case expenses in pursuing an increase for its approximately 56,000 customers.

Hundreds of customers of this water company testified in public hearings and wrote letters that were filed in the PUCO docket. These customers are at their breaking points because of the frequency and dollar amount of increases in their water and sewer rates. Some of these residential customers have indicated that they are unable to sell their homes because of the cost of their water service. Some customers testified that they have resorted to rationing showers among family members or that they do not water their lawns because of the high cost of water. These residential customers are concerned that their high water prices are contributing to overall neighborhood blight. They are pleading with the OCC to help them.

Additionally, local leaders have become more involved than ever before in the fight to rein in water costs. As the last General Assembly debated HB 344 and SB 228 (which are the same as HB 87), townships and cities across the state passed resolutions in support of these identical bills.

**Cities, Townships, and
Others Who Supported
HB 344 and SB 228 of
the 128th General
Assembly⁹**

Blendon Township
City of Kirtland
Clinton Township
Madison Township
City of Marion
MidOhio Regional Planning
Association (MORPC)
Norwich Township
Pleasant Township
Perry Township
Prairie Township
Sagamore Hills Township
Sharon Township
Shalersville Township
Truro Township

⁹ The resolutions from each of these entities can be found at www.pickocc.org/waterbill. Each of the resolutions supported HB 344 and SB 228 of the 128th General Assembly. These bills are identical to HB 87.

Ohio's Investor-Owned Water Industry is Different from other Regulated Utilities

Ohio's investor-owned water industry is different from other regulated utilities in various ways. First, their customer base is much smaller, as most areas in the state are served by government-owned water systems. Ohio's two largest investor-owned water companies have a combined 143,000 customers, while the other investor-owned water companies serve fewer than 15,000 customers. According to the 2009 Annual Reports filed with the PUCO, Columbia Gas of Ohio, Dominion East Ohio, Vectren Energy Delivery of Ohio and Duke Energy Ohio—Ohio's four largest natural gas companies—serve a combined 3,332,034 customers.

Second, Ohio's larger private water companies have filed rate cases at the PUCO on a much more frequent basis than any other regulated industry in Ohio. As stated previously, since 2000, these two water companies have filed a total of 12 rate cases. In that same time period, Ohio's four largest natural gas companies have filed a total of 6 rate cases.¹⁰

Ohio's water companies are filing more rate cases and incurring rate-case expenses more frequently, and then those costs are spread over a fewer number of customers. This results in higher costs to Ohio's water and sewer customers. In contrast, the recovery of rate-case expenses from Ohio's gas customers is barely felt because those expenses are spread out over millions of customers.

Regulated utilities have offered other proposals to reduce rate-case expenses. One utility proposal is to allow the companies to raise their rates without the scrutiny of a rate case—through riders. While this approach may reduce the rate-case expense, and “solve” this one issue, the reduced scrutiny may lead to higher rates overall, therefore creating a much bigger

¹⁰ See *In the Matter of the Application of the Cincinnati Gas and Electric Company for an Increase in Rates*, P.U.C.O. Case No. 01-1228-GA-AIR, *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates*, P.U.C.O. Case No. 07-589-GA-AIR, *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Authority to Amend Filed Tariffs to Increase the Rates and Charges for Gas Distribution Service*, P.U.C.O. Case No. 08-0072-GA-AIR, *In the Matter of the Application of The East Ohio Gas Company d/b/a/ Dominion East Ohio for Authority to Increase Rates for its Gas Distribution Service*, P.U.C.O. Case No. 07-0829-GA-AIR, *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Service and Related Matters*, P.U.C.O. Case No. 07-1080-GA-AIR, *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its filed Tariffs to Increase the Rates and Charges for Gas Service and Related Matters*, P.U.C.O. Case No. 04-0571-GA-AIR.

problem, and much higher costs for customers.

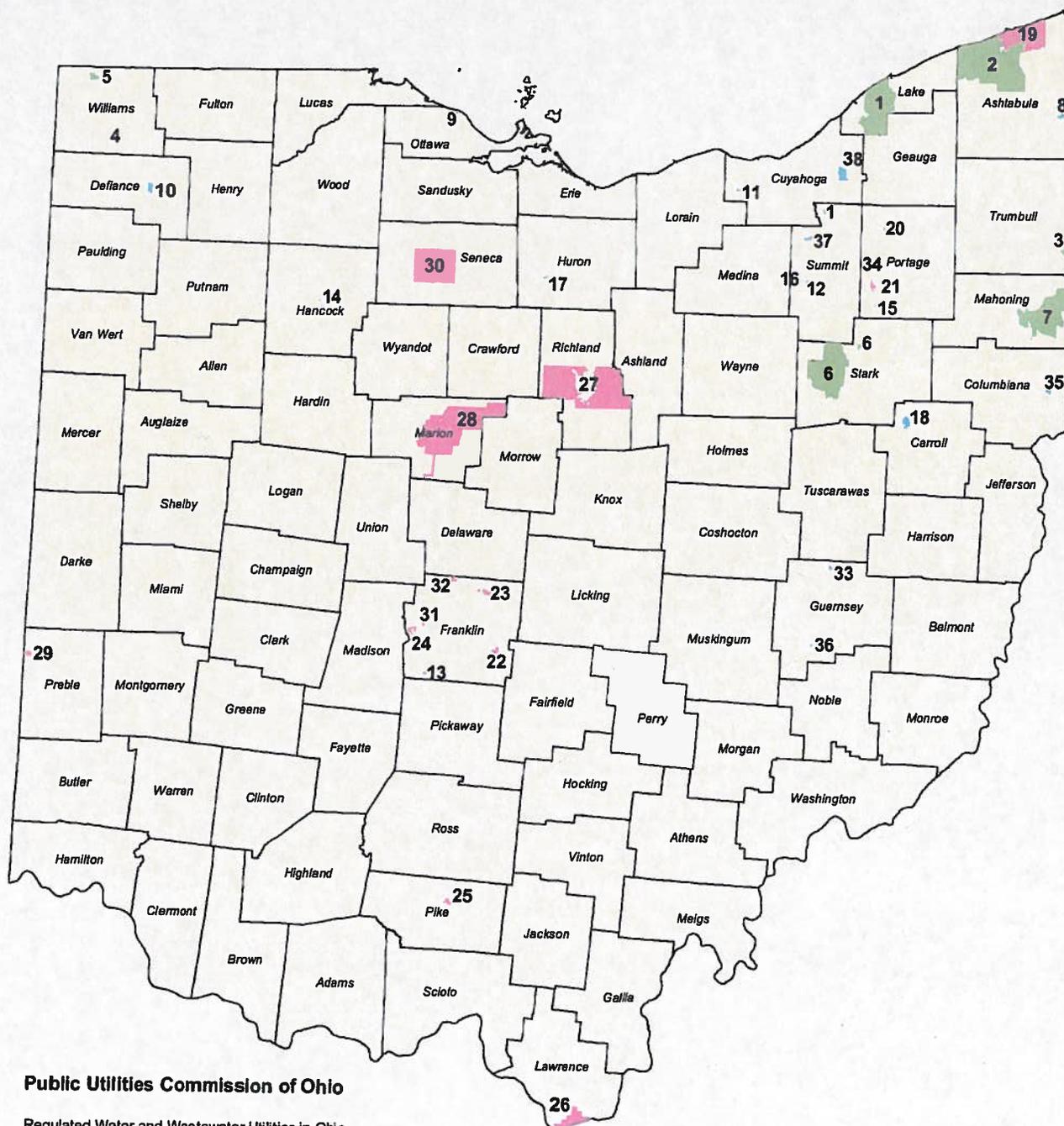
The Challenges Specific to Water and Sewer Rate Cases

In each rate case in which OCC intervenes, the OCC is cognizant of rate-case expenses, and weighs the benefit of requesting additional discovery or local public hearings against the potential resulting effect on rate-case expenses and, ultimately, customers. In response to OCC's due diligence, utilities may use consultants to respond to questions or incur costs associated with holding local public hearings. Consultant fees, as well as the costs associated with local public hearings are potentially passed on to customers in rates.

House Bill 87 will hold water and sewer utilities and their shareholders responsible for at least half of the rate-case expenses that they will be allowed to recover in future rate cases. This legislation will further encourage the utilities to more closely monitor the costs of their rate cases and exercise more restraint in the manner and frequency with which they pursue higher rates.

Conclusion

Chairman Stautberg, Ranking Member DeGeeter and members of this committee, in closing, I would like to thank each of you for your interest in this matter that is so important to Ohio's water and sewer customers. On behalf of residential customers receiving water and/or sewer service from utilities that serve more than 15,000 customers who would be governed by this legislation, the OCC urges you to support this proposed legislation. The OCC looks forward to working with you in providing solutions to reduce the water and sewer rates paid by customers of Ohio's large utilities into the future.



Public Utilities Commission of Ohio

Regulated Water and Wastewater Utilities in Ohio
2007

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|----|-------------------------------------|----|---------------------------------|
| 1 | AQUA OHIO - LAKE ERIE DIV. | 20 | OHIO AMERICAN - AURORA EAST |
| 2 | AQUA OHIO - LAKE ERIE EAST DIV. | 21 | OHIO AMERICAN - BEECHCREST |
| 3 | AQUA OHIO - MASURY DIV. | 22 | OHIO AMERICAN - BLACKLICK |
| 4 | AQUA OHIO - NORLICK PLACE DIV. | 23 | OHIO AMERICAN - HUBER RIDGE |
| 5 | AQUA OHIO - SENECA DIV. | 24 | OHIO AMERICAN - LAKE DARBY |
| 6 | AQUA OHIO - STARK REGIONAL DIV. | 25 | OHIO AMERICAN - LAKE WHITE |
| 7 | AQUA OHIO - STRUTHERS DIV. | 26 | OHIO AMERICAN - LAWRENCE COUNTY |
| 8 | CAMPLANDS WATER CO., LLC | 27 | OHIO AMERICAN - MANSFIELD |
| 9 | CARROL TOWNSHIP TREATMENT SER VICES | 28 | OHIO AMERICAN - MARION |
| 10 | CHRISTI WATER SYSTEM INC. | 29 | OHIO AMERICAN - PREBLE |
| 11 | COLUMBIA PARK WATER & SEWER SYSTEM | 30 | OHIO AMERICAN - TIFFIN |
| 12 | COPLEY SQUARE WATER/SEWER CO. | 31 | OHIO AMERICAN - TIMBERBROOK |
| 13 | CORDELL REGIONAL UTILITIES, INC. | 32 | OHIO AMERICAN - VALLEY |
| 14 | EAGLE CREEK UTILITY CO. | 33 | SALT FORK UTILITIES |
| 15 | FAIRLANE WATER CO. | 34 | SANDELWOOD WATER CO. |
| 16 | FRAZIER, LTD. | 35 | TOMAHAWK UTILITIES |
| 17 | HOLIDAY SERVICE CORP. | 36 | UTILITY OPERATORS CORP. |
| 18 | MOHAWK UTILITIES | 37 | WATER & SEWER LLC |
| 19 | OHIO AMERICAN - ASHTABULA | 38 | WOODBRAIN REALTY CO. |