



**Office of the Ohio
Consumers' Counsel**

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OHIO SENATE FINANCE COMMITTEE

Am. Sub. HB 153

Submitted by:

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

June 1, 2011

**Before The
Ohio Senate Finance Committee**

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

June 1, 2011

Introduction

Good afternoon Chairman Widener, Vice Chair Jones, Ranking Member Skindell and members of the Senate Finance Committee. I am Janine Migden-Ostrander, the Ohio Consumers' Counsel. I appreciate the opportunity to testify regarding Amended Substitute House Bill 153, as it relates to the Office of the Ohio Consumers' Counsel (OCC). In his original budget proposal, Governor Kasich proposed a 51.3 percent cut to the OCC's biennial budget. That is the largest cut ever proposed for the OCC, a non-General Revenue Fund agency that costs customers approximately \$1 per household, per year, paid for through an assessment on their utility bills.

That budget cut would severely restrict the benefits and protections that Ohioans receive from the OCC's advocacy of their interests with regard to their electric, natural gas, telephone and water services. The House of Representatives' Finance and Appropriations Committee retained the Governor's proposed cut. But the House Committee went further and made an amendment to restrict the OCC's ability to use the remaining budget funds for consumer advocacy to protect wholesale competitive markets which provide a greater benefit to customers than the retail competitive market. The House Committee adopted other amendments, for example, to make it more difficult for Ohioans to access the OCC's services.

The Senate Finance Committee proposal is a step in the right direction and we thank you for your efforts on behalf of our agency and all Ohio customers who benefit from the advocacy and services we provide. The Senate version of the budget bill provides funding of \$1.5 million that would cover one-time expenses such as unemployment payments and mandatory early retirement plans. Also, the Senate Committee removed what has been referred to in the press as a “gag order” that would prevent the OCC from advocating for least cost outcomes for natural gas customers and it restored the OCC’s contact information on customer bills. Ironically, the House Committee’s proposal to remove the OCC’s contact information from customer bills would actually create a cost – passed on to customers – for the system changes to their billing in order to delete the OCC’s information.

I would like to briefly discuss the impact of both the House and Senate recommendations in terms of the work the OCC does currently and what it will no longer be able to do in the future under both budget versions. While we are appreciative of the Senate’s recognition of our many one-time costs and restoring our ability to operate at the equivalence of a \$4.1 million budget for both years of the biennium, it is nevertheless a very radical cut in our ability to provide the level of expertise and services on behalf of residential and to the benefit of other utility customers that has been the hallmark of the OCC over the last thirty-five years. This is especially so when compared to the budget cuts of all other state agencies and when it is taken into account that the OCC is a **non-GRF** agency and cutting this budget does not reduce the state’s deficit.

For an overview of the OCC and the many savings and benefits we provide to not only residential but also commercial and industrial customers, please see the attachments to this testimony. In an attempt to set the record straight, we have also attached a document on the

myths that have been widely circulated during this budget process, in part by anonymous detractors of the OCC.

Consequences of the Proposed Budget Cut and Amended Statutory Language

1. The Budget Cut

Within the four walls of the OCC is the equivalent of centuries of expertise in utility issues. It would be a serious blow to Ohioans if that expertise was let go after it was assembled over the years to help them and when it can be harnessed for the public good. That loss is what we—and the Ohioans we serve—will face if the proposed 51.3 percent cut in the House version is retained and approximately 50 or more of the 74 highly skilled and knowledgeable staff members are terminated. With the addition of the \$1.5 million in nonrecurring budget funds to pay nonrecurring expenses (for which we are thankful), we would be able to retain about ten additional employees but we will still lose about half our staff.

The current 51.3 percent budget cut recommendations will significantly reduce the OCC's traditional ability to intervene in cases. This lack of advocacy will result in higher utility bills for customers at precisely the time they can least afford it. Difficult decisions will have to be made. In some important cases, the OCC would not be able to represent utility customers at all. This is a painful prospect that contradicts the very principle upon which our agency was founded. As their advocate, it is the OCC that presents evidence to the PUCO to help them render balanced decisions. Without that evidence, the scales will be unfairly tilted towards the utilities. This was the reason the Ohio Legislature created the OCC in the first place.

A budget cut of 51.3 percent under the House version will cause the OCC to immediately withdraw from an estimated 275 to 290 cases. The prospects are slightly better under the Senate

version where we anticipate withdrawal from 255 to 260 cases. While many of these cases are winding down or there has been little activity, there are at least as many cases that may yet have a real impact on customers. The number of cases that OCC will remain in will range from 55 to 95. The high number of cases is not because the OCC is litigious as our detractors enjoy stating. For example, this number represents only 9 percent of the total number of cases filed at the PUCO in 2010. In fact, more than 99 percent of the cases in which the OCC is involved are in response to cases initiated by utilities. Each utility routinely files numerous increases per year through tariff adjustments and riders added to customer bills. Without the representation of the OCC, rates will go up and **all customers** will pay more for nondiscretionary utility services. With many Ohio businesses struggling and one in ten Ohio households disconnected for nonpayment of either gas or electric services, this is not a good outcome. Minimizing the OCC's ability to help keep utility rates down will hurt Ohio's economic development, job retention and property values. There is nothing positive about cutting the OCC budget. In fact, during its existence, the agency has accounted for huge savings totaling \$10 billion.

For more than three decades, one of the OCC's most important tasks has been communicating with Ohio's 4.5 million households about their utility services. Just last year, our award-winning communications department met with 46,000 Ohioans through our outreach and education efforts. The team provided more than 500 educational presentations to more than 12,000 attendees and worked directly with more than 500 organizations and agencies throughout the state. Further, the very popular *Consumers' Corner* newsletter circulates to nearly 100,000 people six times per year. The OCC website drew more than 72,000 visitors last year. With the proposed budget cuts, these statewide efforts to provide the public with information will be

decimated. With the changes and complexity in utility law, cutting our budget will increase customer confusion and adversely impact the decisions many customers make.

The budget changes would also negatively affect the OCC's ability to handle complaints and inquiries from customers on a one-on-one basis as this agency has done since it opened its doors thirty-five years ago. Tens of thousands of Ohio utility customers would no longer have access to the OCC staff who can advocate on their behalf. This tradition of service to the public will be broken.

2. OCC's Contact Information on Utility Bills and Other Information

The House amended ORC Secs. 4927.17, 4928.10(C)(4) and 4929.22 to remove the OCC's contact information from customer bills. The Senate Finance Committee recommendation is wisely to remove the House amendment and we thank you for it. Informational language about the OCC should remain on customer bills and notices as customers will want to contact the OCC, their advocate, regarding such matters as issues in pending rate cases. Removing the OCC's name from billing statements and other information serves no reasonable public policy purpose and actually penalizes customers by removing this important resource.

Further, there would be a cost to the utilities to remove OCC information from their billing statement—a cost that some utilities might seek to collect from customers. Thus, this amendment would cost customers money to deliberately deny them information about how to contact their advocate. Again, the Senate Finance Committee's recommendation to remove this section is greatly appreciated.

3. Language Restricting the OCC from Exercising its Judgment to Advocate for Lower Rates (“The Gag Order”) Would Harm Customers and The Senate Rightly Found a Fair Compromise.

A new provision to ORC Sec. 4911.02 added in the House version stated the following with respect to the OCC’s duties:

“The Counsel shall not advocate or otherwise promote any position contrary to the development of competitive markets in this state, including any position contrary to natural gas retail auctions, merchant function exit or the policies of this state relating to competitive natural gas markets as set forth in Chapter 4929 of the Revised Code.”

The Senate Finance Committee version states the following:

“The counsel shall follow the policies of the state as set forth in Chapter 4929 of the Revised Code.”

The OCC believes this language strikes a fair balance and is as it should be. In all of the OCC’s advocacy, we strive to be in compliance with the laws of this state and to follow the policies enunciated by the General Assembly and we pledge to continue to do so. A more detailed discussion of the House version of this amendment can be found in my May 5th testimony before this committee.

However, I have attached to this testimony information that shows the differences in savings and costs to consumers between the wholesale market that the OCC advocates for and the retail market which the gas marketers want. I give this to you in the event that the House version prevails in conference committee, for if it does, it might be illegal for me to present it to you at a future date when and if the gas marketers come forward with legislation to kill the wholesale market. The OCC believes that the market structure which the PUCO has in place currently works very well and is a model for other states around the country. It should not be torn asunder.

Conclusion

The OCC appreciates the progress that has been made in the Senate Finance Committee that restores some non-recurring funding to the OCC in the first year, retains the OCC contact information on customer bills and removes the gag order while holding the OCC to firm compliance with the policies of this state as we are at all times. These are all positive improvements and we thank you for them. The changes in the amendments represent a fair compromise.

However, we continue to believe that the equivalence of a 51.3 percent cut in the first year and an actual 51.3 percent cut in the second year is so deep that it will have significantly negative impacts on the rates customers will pay for utility service because our ability to represent our clients will be compromised. This action will not be good for Ohioans. Residential customers juggling their monthly bills, local businesses struggling to meet a payroll, large industrial customers evaluating the most cost-effective location in which to do business will all be critically evaluating one thing they all have in common – affordable utility rates.

The Ohio utility business is unique. We have more cases filed annually than most states. We have more large utilities with individual rate increase applications than most states. We also have one of the most complex regulatory regimes which straddle both the competitive and the regulated universe. A good evaluation of the needs of an advocacy agency can be measured by comparing the size of the advocate to its state commission. The OCC budget is currently nine percent of the budget of the PUCO, placing us 15th among the larger consumer advocacy agencies. With the proposed cut, the OCC budget will be approximately five to six percent the

size of the PUCO depending on the budget amounts adopted, placing us 19th to 27th relative to other consumer advocates.

Needless to say the size of the budget is not commensurate with the size of the job. As much as we appreciate the improvements to our budget numbers, we respectfully request that you increase the OCC budget from a 34 percent cut in the first year, followed by an additional 27 percent in the second year to a 5.5 percent cut in the first year followed by an 18.1 percent cut in the second year which matches the cut to the PUCO and essentially splits the difference between the House cut and the original budget submission of the OCC to maintain the same level of funding. This would be in addition to the 8.5 percent cut OCC already has in place which would make the total cut close to a one-third cut, but done in a more manageable fashion.

Any of these cuts will be dramatic and have adverse impacts on the OCC's advocacy and ultimately on the people we represent and on the economy of the state of Ohio. We urge you to hold the line in conference committee with the progress made to date and respectfully ask that you restore a larger portion of the OCC non-GRF budget so that we may continue to do our job helping Ohio's utility customers.

Thank you for your consideration. I am available to answer questions.

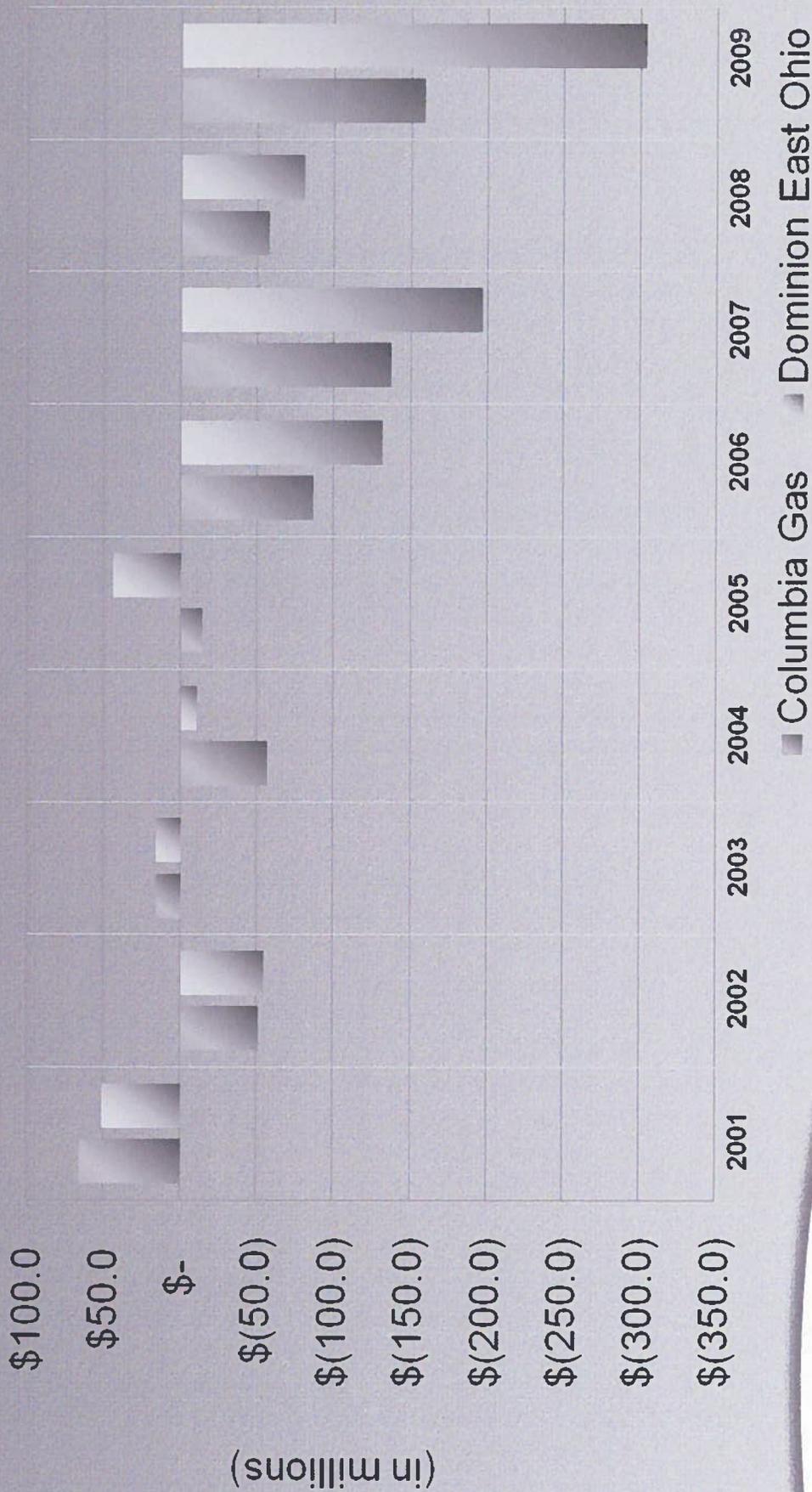
“Since the inception of the CHOICE program, participating customers have paid nearly \$545 million more for gas than they would have paid if they had remained GCR customers. Of this amount, \$348 million occurred during the audit period [November 2008-March 2010]”

- **Report to the Public Utilities Commission of Ohio on the Management and Performance Audit of Gas Purchasing Practices and Policies of Columbia Gas of Ohio, Inc., Case No. 10-221-GA-GCR (November 18, 2010) Prepared by Exeter Associates, Inc.**



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Gas Choice Savings (2001-2009)



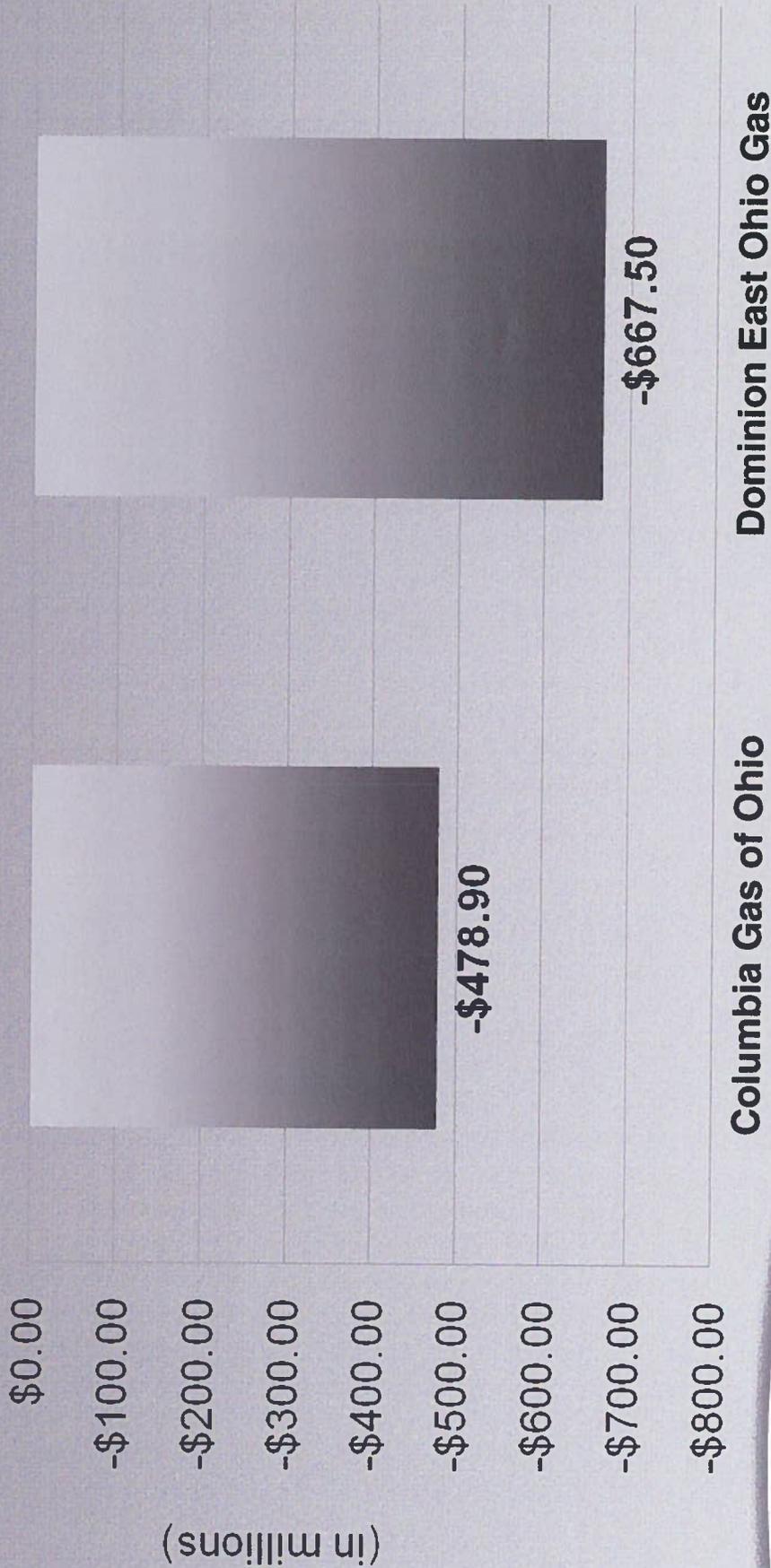
* Beginning in March 2007, OCC has estimated choice savings for customers in the Dominion East Ohio supply territory. The estimates do not include losses from the difference between the gross receipts tax percent charged to non-choice volumes and the county sales tax charged to choice volumes.



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Gas Choice Savings (2001-2009)

TOTAL (in millions)



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* Beginning in March 2007, OCC has estimated choice savings for customers in the Dominion East Ohio supply territory. The estimates do not include losses from the difference between the gross receipts tax percent charged to non-choice volumes and the county sales tax charged to choice volumes.

Tax increase to residential customers from going from wholesale auction to retail auction

Company	Number of residential customers	Annual Tax Differential
Columbia Gas SSO	730,153	\$8,464,046.00
Vectren Energy SCO	160,654	\$1,714,238.00
Dominion East Ohio Gas SCO	250,000	\$3,451,913.00
TOTAL		\$13,630,197.00

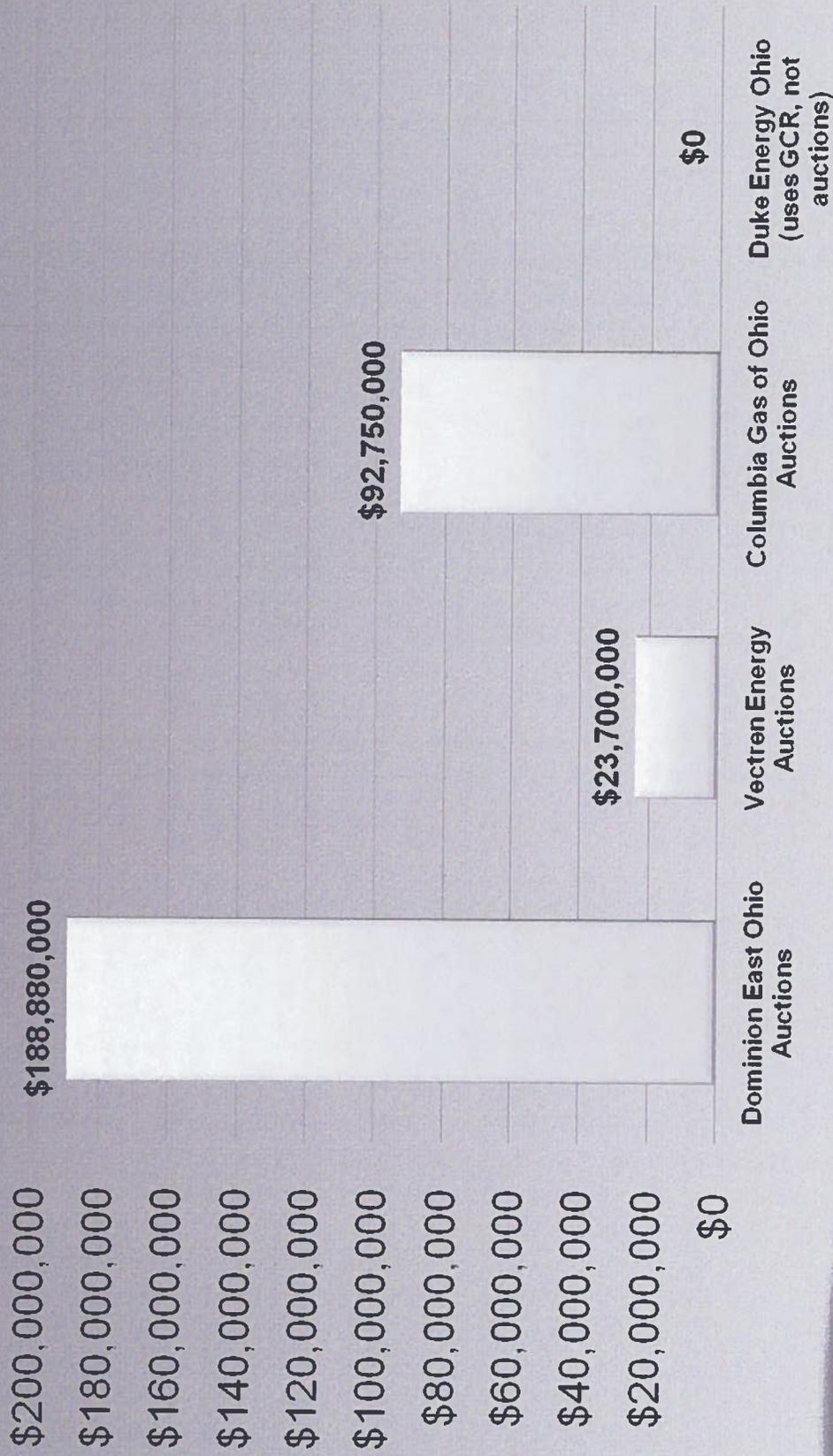
Note: Assume Columbia SCO customer number will be the same as current SSO, not including PIPP customers

Ohio Gross Receipt Excise Tax = 4.75%.
 Effective Rate for Columbia Gas of Ohio = 4.987%.
 Effective Rate for Vectren Energy = 4.8767%.
 Effective rate for Dominion East Ohio Gas= 4.6044%



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Savings from natural gas auctions



Natural Gas Auction Savings

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Office of the Ohio Consumers' Counsel

State Fiscal Year 2012 – 2013

Substitute HB 153

Updated June 1, 2011

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MYTHS & FACTS

MYTH: The OCC is Redundant

FACT: The OCC Serves a Unique Role that No Other Entity Serves

- ▶ The Office of the Ohio Consumers' Counsel (OCC) is the statutory advocate for Ohio's residential utility customers in matters related to their electric, natural gas, telephone and water services.
- ▶ The Public Utilities Commission of Ohio (PUCO) is the regulator, and acts as the judge in utility cases before them. The utilities file cases at the PUCO and act as the defendant of their proposal, whereas the OCC acts as the prosecutor, representing the people impacted by the utility's proposal.
- ▶ Without the OCC's participation in cases at the PUCO the utilities will be put at a distinct advantage over their customers and the PUCO will not have all of the facts before them in order to make reasonable decisions. The OCC was created to prevent this very imbalance.
- ▶ In the current fiscal biennium, the OCC's advocacy has provided customers with **\$54.8 million** in direct savings that would not have occurred but for our efforts, and an additional **\$1.9 billion** in shared savings where the agency has worked with other groups in a lead role to achieve these savings.

MYTH: Cutting the OCC's Budget Will Help Ohio's Budget Problems

FACT: The OCC Receives ZERO State Tax Dollars (General Revenue Fund)

- ▶ The OCC is funded from utility assessments exclusively, and therefore receives absolutely no funding from the General Revenue Fund (tax dollars).
- ▶ The OCC's funding is assessed from Ohio's utilities companies.

MYTH: The OCC is Overly Litigious

FACT: ● The OCC has a Commendable Record at the Supreme Court

● 99% of OCC's Cases are Responding to Cases Filed by Utilities

- ▶ The OCC settles more cases than we litigate.
- ▶ Since Janine Migden-Ostrander was appointed the Consumers' Counsel in 2004, the Office of the Ohio Consumers' Counsel (OCC) has appealed 24 cases that were decided by the Supreme Court.
- ▶ The OCC has had full or partial victories in 8 of those 24 cases.
- ▶ One of the OCC's most recent victories at the Supreme Court includes a finding that the PUCO unlawfully allowed AEP to recover \$850 million through increased rates. In another case decided this week, the court affirmed two PUCO decisions in which other parties filed appeals. On one of the cases, the OCC intervened to help defend the PUCO's decision.
- ▶ The majority of the cases that the OCC participates in are decided by the PUCO. This work is almost exclusively reactive, as almost all of the cases the OCC engages in, are a direct response to a filing, or request, made by a utility company. If the utilities filed less cases, the OCC would be in less cases, however, the duty

of the OCC is to defend customers, which causes us to be involved in the ever increasing number of cases that the utilities initiate.

- ▶ The OCC has formed numerous coalitions in major cases which reduces regulatory costs. Instead of numerous parties (in some cases as many as 20, but typically around five) filing individual documents, speaking with one voice substantially reduces the number of documents filed in case.

MYTH: The OCC staff is Overpaid

FACT: The Average OCC employee is Paid Less than the Private Sector or the Average PUCO employee

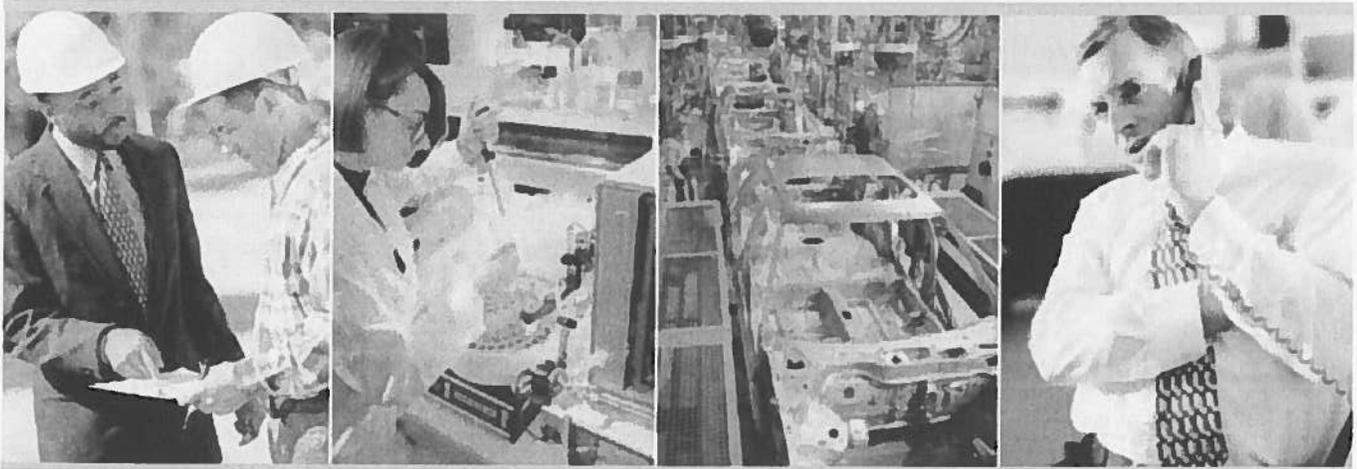
- ▶ According to the Ohio State Bar Association the average salary for a full-time business attorney in private practice in Columbus is \$140,477 whereas the average salary for an OCC attorney is \$88,200.
- ▶ The PUCO has 36 staff (or about 10 percent) who are paid more than \$100,000 compared to the OCC's seven staff (or about 10 percent) with similar salaries.
- ▶ In any case in which the OCC intervenes, the utilities significantly outspend the OCC for legal and technical expertise.
- ▶ It is important for the OCC to be able to hire and retain legal and technical expertise to be effective on behalf of its clients in utility proceedings in this state.

MYTH: The OCC has the Largest Budget in the Country

FACT: The OCC's Budget Reflects the Need for Utility Customer Representation

- ▶ From the time Janine Migden-Ostrander became Consumers' Counsel in 2004, the OCC's budget has decreased by 8.5 percent with an 8 percent decrease in staff, while its workload on cases on behalf of Ohio's utility customers has increased by more than 100 percent.
- ▶ The OCC's budget cannot be looked at in a vacuum. The size of any consumer advocacy agency or utility regulator should reflect the needs of a state's utility customers, which should take into account the number of utilities in the state, the number of utility filings, changes in utility laws and regulations, population, and complexity of the utility industry. For example, California's advocacy office has a budget three times that of the OCC. The OCC's regulatory structure is far more complex than most states, due to partial electric and gas deregulation.
- ▶ Ohio has a much more complicated utility industry than most states, with approximately 119 investor owned gas, electric, water, and telephone companies and more than 260 competitive retail electric, natural gas, and telephone companies that file hundreds of cases at the PUCO, every year. With a large population and six major metropolitan centers that each has unique utility providers, Ohio has a great need for a strong consumer advocacy office.
- ▶ A more appropriate comparison that takes into account the complexity of the utility industry in any given state is to compare the size of the budget of the OCC to the size of the budget of the PUCO.
- ▶ The OCC has a budget that is 9 percent the size of the PUCO's, whereas 14 other state advocacy offices have budgets that are a larger percent of their state regulator's budget. For instance, Indiana's advocacy office has a budget that is 60 percent the size of their Regulator's budget in FY 2010/2011.
- ▶ Each time the legislature changes utility laws a flurry of activity including rulemakings and new cases, occurs at the PUCO directly thereafter which in turn necessitates involvement from the OCC.
- ▶ For example, in 2008, the legislature passed an energy bill initiating a swarm of utility filings at the PUCO. The Legislature recently passed HB 95, which will also contribute to additional activity from the natural gas industry at the PUCO.

Office of the Ohio Consumers' Counsel: Good for Ohio Businesses and Good for Ohio's Residential Utility Customers



The Office of the Ohio Consumers' Counsel (OCC) is a statewide agency created in 1976 by the General Assembly to represent the interests of Ohio's residential utility customers in matters relating to their public utility services—electric, natural gas, water and telephone. Savings achieved by the OCC provide benefits not only to residential customers, but also to commercial and large industrial customers. It is a collateral benefit from the standpoint that the reductions in utility revenue increases that the OCC achieves are shared by all customer classes.

In the current biennium, the OCC has saved customers \$54.8 million in direct savings and \$1.9 billion in shared savings. Savings achieved by the OCC have well exceeded its costs. New businesses seeking to locate in Ohio will likely examine energy costs as one of the drivers in their decision making. To the extent that the OCC can keep rates down, this makes Ohio more attractive for job retention and business development.

The OCC's current biennial budget of \$8.5 million faces a more than 50 percent budget cut—the largest cut ever proposed for the OCC, a non-General Revenue Fund (GRF) agency. Any budget reduction to the OCC would not go back to taxpayers, but would go to the utility companies. In addition to the positive affects case savings have had on Ohio businesses, the following are additional highlights of how the OCC also is good for businesses:

1. The OCC's Representation of Residential Customers Also Helps Businesses

Energy costs are a driver in business decisions to either locate or stay in Ohio. When the OCC advocates in a case for a decrease in the rates requested by a utility and is successful, that results in savings for businesses as well as residential customers. For example, for every \$100 the OCC saves in an electric case to increase rates, \$40 goes back to residential customers while

\$60 goes to businesses, both small and large. To the extent the OCC keeps rates down, this helps economic development and job retention.

2. The OCC Supports the Competitive Market in the Natural Gas Industry

The OCC has advocated strongly for wholesale auctions to set the price of natural gas that customers pay. Wholesale auctions have provided demonstratively



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lower rates for customers when compared with retail auctions or door-to-door solicitations. The competitive wholesale natural gas market has saved natural gas customers nearly \$300 million.

3. The OCC Supports Competitive Markets in Electricity When It Provides a Better Value for Customers than Regulation

The OCC has consistently supported the market rate offer when electric utilities have proposed it because it has been the least costly option. The OCC supported the move towards a competitive auction over having a regulated rate under an electric security plan because the former would have saved customers more money than the latter. In the case of FirstEnergy, a competitive auction was contained within the regulated rate offer. Structuring it this way was more costly to customers than an auction under a market rate plan. As a result of a competitive bid, FirstEnergy's rates which were the highest in the state are now lower than the rates of Duke Energy Ohio and Dayton Power & Light which each have a regulated rate.

4. The OCC has demonstrated flexibility, adaptation to change and support for new technologies

The OCC supports modernization of the electric grid and all the benefits that can bring to the public. AEP, Duke and FirstEnergy have embarked on pilot programs and will continue to advance the implementation of smart meters and technologies. The OCC recognizes that smart grid can provide tools to help customers lower their usage while at the same time lowering system wide costs. The consumers' counsel participates on the Board of the Smart Grid Consumer Collaborative, a national consortium of utility representatives, vendors, consultants and advocates who have come together to work on customer education to make these programs work well.

5. The OCC Supports Clean Coal Technologies

The Consumers' Counsel serves on the National Coal Council and was appointed by U.S. Department of Energy (DOE) Secretary Samuel W. Bodman (under President George W. Bush) and reappointed by Secretary Steven Chu (under President Barack Obama) and serves on the policy committee, having contributed to policy papers addressing underground coal gasification and carbon capture sequestration.

The OCC also served on FutureGen which was a project to bring a major U.S. DOE experimental clean coal with carbon capture sequestration project to Ohio. Further, the OCC has participated in project review for the US DOE Midwest Carbon Sequestration Partnership Program spearheaded by Battelle.



6. The OCC's Advocacy for Distributed Generation Could Help Manufacturer's Reduce Their Energy Costs

The OCC has long been a proponent of distributed generation and combined heat and power which enables manufacturers to take waste heat and convert it to usable energy, thus reducing energy costs. The OCC worked extensively at the Public Utilities Commission of Ohio advocating for better interconnection standards and the removal of price barriers that impeded the development of this option. For example, utilities historically charged very high mandatory monthly back up rates for any company installing its own sources of generation. The OCC successfully argued that customers should be able to avoid these high, uneconomic charges and instead pay market prices for power when it was needed. The OCC's advocacy had the support of several large business groups.



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Office of the Ohio Consumers' Counsel: Accomplishments During State Fiscal Year 2010-2011, to Date



This document highlights some of the Office of the Ohio Consumers' Counsel's (OCC) key accomplishments for residential utility customers for the **State Fiscal Year 2010-2011 (July 1, 2009-June 30, 2011), to date.**

Electric Customers

► **Prevailed at Supreme Court of Ohio in three rulings reversing PUCO decisions in American Electric Power's (AEP) Electric Security Plan (ESP) case:** The Office of the Ohio Consumers' Counsel (OCC) won a major victory for AEP customers April 19 when the Supreme Court of Ohio, in a unanimous 7-0 decision, ruled the Public Utilities Commission of Ohio (PUCO) allowed the electric utility to charge unlawful and unreasonable rates.

On three issues that included AEP's perceived risk to provide default electric service to shopping customers, charging retroactive rates and collecting carrying charges on their environmental investments, the Court upheld the OCC's arguments that such charges were improper.

On the issue of AEP's perceived risk to be a backup provider of electricity for shopping customers, the Court upheld arguments by the OCC and Industrial Energy Users that the PUCO erroneously approved \$456 million in costs. The case was returned to the PUCO for re-consideration.

The Court also found the PUCO unlawfully allowed AEP to collect \$63 million in retroactive rate increases after approving the ESP in March 2009. In its decision, the PUCO set AEP's rates at a level that allowed the utility to recover 12 months of revenue in nine months. The OCC prevailed in its arguments but refunds were not ordered because the Court found the laws prohibiting retroactive rates also prohibit any refunds to be given.

The third OCC victory related to the PUCO's erroneous approval of \$330 million in carrying costs for AEP's previous environmental investments. Again, the Court returned the case to the PUCO for further consideration.

The OCC plans to continue working to prevent further collection of the default service risk compensation and carrying charges from customers and will pursue remedies to make customers whole.



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► **Saving Money for American Electric Power's (AEP) Columbus Southern Power and Ohio Power Customers:** The OCC advocated for refunds of up to \$156 million to customers due to the significantly excess earnings of AEP's Columbus Southern Power operating company. The OCC partnered with other groups representing industrial, commercial and low-income clients to advocate for these refunds and was successful in getting refunds for customers. On January 11, 2011, the Public Utilities Commission of Ohio (PUCO) decided the case and ordered Columbus Southern Power to refund approximately \$43 million to customers.

In another case before the Federal Energy Regulatory Commission, the OCC participated in an agreement with AEP which sought to change how transmission costs are allocated among its subsidiaries in Ohio and other states. The OCC believed the new methodology was a more stable way to address winter/summer peak variability. The OCC's advocacy resulted in saving AEP Ohio customers \$26.6 million over the next three years.

In the applications for the establishment of reasonable arrangements between the electric companies and Ormet Primary Aluminum Corporation and Eramet Marietta Inc., the joint efforts of the OCC and its partners saved customers more than \$160 million a year from 2010 to 2018 by advocating to cap the rate discounts offered to Ormet and Eramet at reasonable levels and to limit the amount of lost revenues to be collected from all customers of Columbus Southern and Ohio Power.

► **Saving Money for FirstEnergy Customers:** The OCC reached an agreement with FirstEnergy in its Deferred Distribution Cost Recovery Case providing accelerated payments to FirstEnergy that saved customers \$178 million in avoided interest charges. Also as a result of this agreement, an additional \$2.5 million of shareholder dollars were added to a low-income fuel fund.

► **Advocating for FirstEnergy's All-Electric Residential Customers:** In response to the large public outcry after FirstEnergy removed a previously available discount for all-electric customers, the OCC worked vigorously to protect FirstEnergy's all-electric customers. The OCC worked with legislators, the PUCO staff, members of Citizens for Keeping the All-Electric Promise and other customers to advocate for a permanent, affordable and fair solution for all of FirstEnergy's residential customers. The OCC educated thousands of customers through

local town hall meetings, its customer services division and distribution of educational materials. The OCC is currently litigating this case and anticipates an outcome in the spring of 2011.

► **Saving Money for Duke Energy Customers:** In the Duke Energy Distribution Rate Case, the OCC's advocacy helped achieve a settlement which resulted in a savings of \$30.3 million less than the \$85.6 million Duke had requested.

In another case, the OCC's in-house expert testimony was instrumental in achieving a Commission decision that saved Duke customers from paying \$35 million to cover lost generation revenues resulting from decreased energy consumption.

The OCC's advocacy led to a recent PUCO decision which saved Duke's customers an addition \$14 million. On Jan. 11, 2011, the PUCO disallowed about half of Duke's \$28.5 million request to recover the costs related to the 2008 Hurricane Ike windstorm. The PUCO's decision was based on a number of the OCC's recommendations.

► **Saving Money for Dayton Power & Light Customers:** The OCC and other parties negotiated an agreement in a case resolving Dayton Power & Light's proposed Electric Security Plan, which froze the company's current distribution rates until 2012 and attained additional savings amounting to \$309 million over the period 2009 to 2012.¹

► **Developing Cost-Effective Energy Efficiency Programs:** Through a stakeholder process, the OCC assisted in the development of energy efficiency programs administered by Ohio's major electric and gas utilities that will allow customers to save money on their bills. These programs are local, reduce energy imports and put more Ohioans to work.

Additionally, the OCC helped ensure that Ohio's energy law, SB 221 (127th G.A.), was upheld when FirstEnergy submitted out-dated and irrelevant transmission and distribution energy efficiency improvements to meet its 2009 energy efficiency requirement. The PUCO agreed with the OCC's arguments and rejected FirstEnergy's proposal.



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Natural Gas Customers

- ▶ **Encouraging a Competitive Market and Saving Money for Columbia Gas Customers:** The OCC negotiated a settlement with Columbia Gas of Ohio requiring the company to set its gas prices through a wholesale auction. The OCC estimated the savings resulting from the first wholesale auction would range from approximately \$38 million to \$50 million. The OCC has supported competition through a wholesale auction as the most cost-effective way to provide natural gas to residential customers.
- ▶ **Exposing Misleading and False Marketing Information:** The OCC filed a formal complaint against Dominion East Ohio Energy, an independent retail supplier, for distributing a marketing postcard with misleading statements to potential customers. The PUCO staff supported the OCC's position and the parties reached a settlement requiring Dominion East Ohio Energy to forfeit \$50,000 to the State's General Revenue Fund. The company must forfeit an additional \$100,000 if it violates PUCO rules regarding marketing practices during a one-year period.
- ▶ **Holding Gas Marketing Companies Accountable:** In addition to advocating on behalf of Dominion East Ohio Energy's customers, the OCC participated in an agreement involving unfair and deceptive practices used by another gas marketer, Just Energy. After numerous complaints from customers about the company's door-to-door solicitation practices, the OCC agreed with the PUCO staff, the company and others to set conditions on a two-year renewal of Just Energy's certification. The company was required to forfeit \$111,000 to the Ohio General Revenue Fund, commit to further forfeitures if similar complaints are received by the OCC or PUCO, implement stringent training guidelines for its contracted sales staff, and have all of its sales agreements verified by a third party throughout the term of the agreement.
- ▶ **Saving Money for Customers of Dominion East Ohio:** In Dominion East Ohio's application to replace its current Standard Service Offer and Standard Choice Offer rates, the PUCO approved a joint stipulation among the OCC and other parties regarding the terms and conditions of the company's retail and wholesale auctions. As a result, the OCC estimated customer cost savings of approximately \$41.3 million for Dominion's residential customers.

In another case, the OCC joined with the PUCO Staff to argue against the inclusion of some operations and maintenance costs in Dominion East Ohio's application to adjust its rider rates for the pipeline infrastructure replacement program. Subsequently, the PUCO excluded \$6.52 million in costs that would have otherwise been passed on to customers.

- ▶ **Saving Money for Customers of Vectren:** In Vectren Energy Delivery of Ohio's application, an auction was held to replace its current Standard Service Offer (SSO) rates with Standard Choice Offer (SCO) and Default Sales Service (DSS) rates, pursuant to the PUCO-approved joint stipulation among the OCC and other parties about the company's retail and wholesale auctions. As a result of the Jan. 13, 2010 SCO auction, the OCC estimated customer cost savings of approximately \$10.1 million for Vectren's residential customers for the 12 months from April 1, 2010 to March 31, 2011. A subsequent Jan. 18, 2011 auction resulted in further savings for SCO and DSS customers estimated at \$13.6 million for the period from April 1, 2011 to March 31, 2012.
- ▶ **Supporting Low-Income Programs to Assist Ohio's Residential Utility Customers:** The OCC negotiated settlements in several cases resulting in natural gas utilities such as Columbia, Dominion and Vectren providing more than \$4 million for low-income natural gas bill payment assistance programs.

Water Customers

- ▶ **Reducing Water Rate Increases for Ohio American Water (OAW) Customers:** The OCC helped achieve significant improvements for customers through the reduction in OAW's proposed revenue increase from 23.4 percent overall to 7.12 percent. The OCC successfully convinced the PUCO to direct OAW to respond to water quality complaints in a timely fashion.
- ▶ **Reducing Water Rate Increases for Aqua Ohio Customers:** The OCC helped negotiate settlements in rate cases with the Lake Erie and Masury Divisions of Aqua, reducing proposed rate increases. As part of the Masury agreement, the OCC negotiated a commitment from Aqua to contribute \$5,000 to help low-income customers.

Additionally, after receiving multiple complaints from Aqua customers, the OCC asked the PUCO to fine Aqua for failing to resolve billing issues that affected thousands of residential customers throughout its service territory.



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The PUCO ordered its staff to complete an investigation that upheld the OCC's concerns and resulted in Aqua being ordered to pay a \$132,000 forfeiture to the General Revenue Fund and an additional \$25,000 to help low-income customers pay their water bills.

Telecommunications Customers

► **Bringing Broadband to Rural Ohio:** As a condition for its participation, the OCC negotiated an agreement with Frontier Communications that resulted in a commitment from Frontier to deploy broadband facilities in 85 percent of its territory (located in southeast Ohio) acquired as part of a merger with Verizon Communications. The broadband deployment is to be completed by 2013. This will foster economic development and competition.

► **Seeking Telephone Customer Protections and Affordable Rates:** The OCC provided leadership in working with more than 60 other customer, senior and low-income advocacy groups to negotiate changes in landmark legislation that would further deregulate the telecommunications industry in Ohio. Through their joint efforts, the OCC successfully restored some customer protections for Ohioans with basic local telephone service and temporarily protected Lifeline customers from annual rate increases permitted by the legislation. A two-year pilot voicemail program for low-income customers without access to telephone service was also established at the suggestion of the group. The OCC will participate in an eight-member select committee to review the impact of the legislation.

Outreach, Education and Consumer Services

► The OCC's Customer Services Division assists individual customers through a toll-free hotline addressing complaints, questions and concerns regarding their utility services. The Consumer Services Division responds to 3,500 to 5,500 customer contacts per month. These interactions include complaint handling, assisting customers facing service disconnection and customer education.

► The OCC provides customers with up-to-date information about their utilities, including changes in rates and services, new opportunities for switching to competitive providers and how to protect themselves against telephone scams.

► During the past biennium, the OCC's outreach and education staff participated in more than 2,600 events with nearly 90,000 customers in attendance. These events include speeches, training programs for Ohio's social service providers and community visits. At these events and through other methods, the OCC distributed approximately 500,000 pieces of educational materials to utility customers.

► The OCC's Communications staff also responded to media inquiries, issued news releases about key utility customer issues and issued its popular Consumers' Corner newsletter to nearly 100,000 subscribers 12 times during the past biennium. The agency also educated customers with fact sheets and other publications.

► The OCC's web page consistently receives positive feedback from users for its ease of use and content. During the past two years, approximately 123,000 unique visitors (76 percent of them new to the page) used the OCC's website for information.

► In each of Ohio's five regions, the OCC has a well-established Consumer Advisory Panel whose members provide insight and feedback to the agency about issues of particular concern or interest to residential utility customers in their region. The OCC is fortunate to have this key connection to Ohioans via these dedicated professionals.

Endnotes:

1. Although the PUCO issued its order in this case on June 24, 2009, the new tariffs and rates became effective June 30, 2009 and remain in place for this fiscal biennium and beyond.



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