



**MINUTES OF THE  
THREE HUNDREDTH MEETING  
OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD  
November 19, 2013**

Members Present: Gene Krebs, Chairman  
Frederick Cooke  
Susheela Suguness, Vice Chair  
Roland Taylor  
Mike Watkins  
Fred Yoder  
Stuart Young

Members Absent: Jason Clark  
Sally Hughes

Guests: Jeff Clark, Attorney General's Office  
Eric Burkland, OMA President  
Kim Bojko, OMA Counsel  
Jason Black, Battelle

**CALL TO ORDER**

Chairman Krebs called the meeting to order at 9:05 a.m. Mrs. Knight called the roll.

The Senate has confirmed Chairman Krebs and Mr. Taylor's appointments. Mr. Cooke's appointment is awaiting action from the full Senate.

Chairman Krebs welcomed Mr. Cooke to the Board.

**APPROVAL OF THE MINUTES**

Mr. Yoder moved to approve the September 17, 2013 meeting minutes. Ms. Suguness seconded the motion. Mrs. Knight called the roll. The minutes are approved.

**RESOLUTION**

Chairman Krebs noted that Joe Logan's term on the Board had ended. Consumers' Counsel Weston said words of appreciation for Mr. Logan's service to the Board and to Ohio consumers. For the Board's consideration, Chairman Krebs read a Resolution honoring Joe Logan for his service to the Ohio Consumers' Counsel Governing Board. Mr. Watkins moved to adopt the resolution; Mr. Taylor seconded the motion, and Mrs. Knight called the roll. The motion passed unanimously to adopt the Resolution honoring Joe Logan.

### **ELECTION OF VICE CHAIR**

Mr. Taylor nominated Ms. Suguness for Board Vice Chair; Mr. Watkins seconded the motion, and Mrs. Knight called the roll. The motion passed unanimously for Ms. Suguness to be Board Vice Chair.

### **2014 GOVERNING BOARD MEETING DATES**

The 2014 Board meeting dates were approved as follows, after discussion regarding the September and November dates:

Tuesday, January 21, 2014

Tuesday, March 18, 2014

Tuesday, May 20, 2014

Tuesday, July 15, 2014

Tuesday, September 9, 2014

Wednesday, November 12, 2014

### **EMPLOYEE OF THE MONTHS**

Larry Sauer is the employee of the months for May and June 2013. Mr. Weston complimented Mr. Sauer's service to consumers as a member of OCC's Legal Department.

### **NEW EMPLOYEE INTRODUCTIONS**

Mr. Weston introduced Monica Hunyadi, Consumers' Counsel Aide.

Deputy Consumers' Counsel Yost introduced David Plumb, Legal Extern.

Mr. Weston also noted that Arla Cahill, who was attending the meeting from the PUCO and who is a former OCC employee, is retiring from the PUCO; he said best wishes to her. He also welcomed Gretchen Blazer who will be attending in the future from the law firm of Porter Wright.

### **SUBSTITUTE SENATE BILL 58 AND HOUSE BILL 302**

Mr. Weston discussed Senate Bill 58, including history related to Senate Bill 3 in 1999 and Senate Bill 221 in 2008 that affected Ohioans' electric utility service. Mr. Weston said that Senate Bill 58 is not good for OCC's Vision of affordable utility bills for consumers. Senate Bill 58 is a selective rewrite of Senate Bill 221 that focuses on energy efficiency and renewable energy.

Senate Bill 58 makes energy efficiency more costly for Ohio consumers and more profitable for Ohio utilities. Mr. Weston said that OCC would have different priorities for changing Senate Bill 221, which would include eliminating Senate Bill 221's allowance for electric utilities to charge customers for excessive profits. Senate Bill 221 merely limits utilities from charging customers for significantly excessive profits.

Mr. Weston noted that Senate Bill 221 provides electric utilities with the advantage of an option to, in essence, veto PUCO decisions in certain cases affecting rates. Senate Bill 58 diminishes the PUCO's authority to balance the interests of customers and utilities in the ratemaking process.

Ohioans are paying hundreds of millions of dollars above the market price for electricity. This is unfortunate because market prices are historically low.

Mr. Yoder asked what has changed with respect to renewables.

Mr. Weston replied that Senate Bill 221 has a standard for certain renewable energy purchases to be made in Ohio, which Senate Bill 58 would eliminate. Mr. Yoder stated it's alarming that the legislation would eliminate this renewable energy provision from the law and later noted that he would not want to see Ohio take a position of not being interested in renewables.

Mr. Weston replied that OCC's focus has been on the energy efficiency parts of the legislation that could cause dramatic cost increases for customers, and no position was taken on in-state renewables. (Later in the meeting, Mr. Weston clarified that OCC, the Ohio Manufacturers' Association and others jointly proposed an amendment to Senate Bill 58 that would, among other things, preserve the in-state renewables requirement in Ohio law.) Chairman Krebs spoke about the advantages of having diversified sources of generation for electricity.

### **OHIO MANUFACTURERS' ASSOCIATION**

The Ohio Manufacturers' Association (OMA) was invited to address the Governing Board. Mr. Burkland (OMA President) and Kim Bojko (OMA Energy Counsel) presented OMA's position opposing Senate Bill 58. OMA and OCC are working together regarding the legislation. Mr. Burkland spoke favorably about energy efficiency and said that energy efficiency is less expensive to customers than generation. Ms. Bojko explained details of how Senate Bill 58 would make energy efficiency costly for Ohio customers.

OMA's major concerns about Senate Bill 58 include:

- Significantly expands what counts as efficiency;
- Allows unprecedented unjustifiable cost recovery for utilities;
- Limits utilities' abilities to use demand reduction to suppress wholesale prices for capacity; and
- Reduces important consumer protections.

Ms. Bojko stated that a recently circulated revised bill does not satisfy OMA's concerns about the legislation. Mr. Burkland noted that the electric distribution utilities are monopolies that are subject to regulation because they do not have competition. That being so, he said that requirements for energy efficiency are not interference with the free market system as some are claiming, but are regulations for a regulated industry.

Chairman Krebs asked if Substitute Senate Bill 58 (and the recently circulated but not yet introduced revised bill) would hurt Ohio's ability to attract and/or keep jobs. Mr. Burkland replied yes. He explained that the General Assembly's continued debate about these issues creates uncertainty in the investment process. Mr. Young asked Mr. Burkland what is OMA's approach. Mr. Burkland replied that OMA's approach is "to tell the truth as we know it," analyze the data to the best of their ability and encourage legislators to vote in the best interests of Ohio.

Mr. Yoder asked why the legislation is on a fast track. Chairman Krebs noted that there is an organization called American Legislative Exchange Council (ALEC) whose structure is to identify proponent model legislation that can be introduced across America. He said that Senator Seitz (the bill sponsor) is a participant in ALEC and that Senate Bill 58 is based on ALEC model legislation. Chairman Krebs said that the legislation is not necessarily a benefit for jobs and it makes Ohio by and large a higher cost and less competitive state. He said that OCC and OMA are saying there are some grave concerns about the bill and are asking that consideration of the bill be slowed to take a look at it.

The Board was in recess from 10:40 a.m. to 10:50 a.m.

#### **NORTHEAST BLACKOUT – August 14, 2003**

Ms. Yost provided a presentation to the Board on the Northeast Blackout. On August 14, 2003, a transmission outage began in Ohio and spread to 7 other U.S. states and Canada. Millions of people lost power, most of which was restored within two days.

#### **Causes of the Blackout**

The U.S.–Canada Power System Outage Task Force found that there were four primary causes to the outage:

1. FirstEnergy and East Central Area Reliability Council (ECAR) failed to assess and understand the inadequacies of FE's system and FE did not operate its system with appropriate voltage criteria.
2. Inadequate situational awareness at FirstEnergy.
3. FirstEnergy failed to manage adequately tree growth in its transmission rights-of-way.
4. Failure of the interconnected grid's reliability organizations to provide effective real-time diagnostic support.

FirstEnergy was not penalized for its role in the Blackout. The Energy Policy Act of 2005 made reliability standards mandatory for bulk power systems with fines of up to \$1 million per day per violation (that cannot be collected from customers).

#### **2003 BLACKOUT - WHERE ARE WE NOW?**

Ms. Yost introduced Jason Black, PhD., who was invited to make a presentation to the Governing Board on the 2003 electricity outage. He holds the position of Research Leader, Grid Solutions at Battelle. Mr. Black is an expert on demand response and technology-market-

regulatory interactions. He spoke to the Board about general types of electricity blackouts and blackout prevention.

### **REPORT OF THE OHIO CONSUMERS' COUNSEL**

Mr. Weston presented his report. Manufactured gas plant clean-up is a topic that has been discussed previously by this Board. The PUCO ruled that utility consumers will pay to clean up Duke's manufactured gas plant pollution.

Duke requested a \$62.8 million rider designed to recover from customers approximately \$20.9 million annually for 3 years. OCC's positions include that Duke's costs are not used and useful in providing natural gas service to current customers as of the date certain and Duke also failed to demonstrate that its remediation efforts were reasonable and prudent.

The PUCO Staff's position was that the law's standards (including used and useful) should limit Duke to merely \$6,367,724 in remediation costs for charging to customers.

The PUCO issued its Order on November 13, 2013, finding that Duke has supported its claim that the remediation costs incurred were a cost of providing utility service. Commissioners Steven Lesser and Asim Hague issued a dissenting opinion, so the PUCO's vote was 3-2.

Chairman Krebs stated concern about the PUCO's interpretation of the law's phrase "used and useful" and urged the OCC staff to pursue all remedies including legislative affirmation for the phrase in the statute.

Mr. Yoder made a motion that OCC pursue all avenues to direct staff to look at every and all possibilities to discover the best possible way to deal with this issue. Mr. Young seconded the motion. Mrs. Knight called the roll. The motion passed unanimously.

An article in The Plain Dealer regarding transmission improvements reported that FirstEnergy's "goal now is to become more of a regulated company. This is because regulators, who are less fickle than the competitive marketplace, will guarantee profits," according to The Plain Dealer.

The PUCO adopted a rule that allows electric consumers to opt out of having a smart meter installed in their home. OCC had recommended to the PUCO that it allow such an opt out procedure for consumers.

Mr. Yoder noted a meeting that he and others had with the Farm Bureau to discuss the issue in the agricultural community of residential meters being switched to commercial meters. This topic will be discussed at the Farm Bureau's annual meeting in a couple weeks.

Ms. Yost indicated that Mr. Black of Battelle offered to have the Board tour Battelle's facility in the future.

With no further business the meeting adjourned at 12:10 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 21st day of January, 2014.



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Gene Krebs, Chairman  
Ohio Consumers' Counsel Governing Board



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Laurie C. Knight, Secretary  
Ohio Consumers' Counsel Governing Board