



**MINUTES OF THE
TWO HUNDRED EIGHTY-EIGHTH MEETING
OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD
September 21, 2011**

Members Present: Harold Cassel
Gene Krebs
John Moliterno
Joe Logan
Michael Watkins
Roger Wise

Members Absent: Sally Hughes
Dorothy Leslie
Anthony Peto

Guests: Michael Schuler, Attorney General's Office

CALL TO ORDER

Vice Chairman Moliterno called the meeting to order at 9:30 a.m.

ELECTION OF CHAIRMAN

Mr. Logan made a motion to elect Vice Chairman Moliterno to Chairman of the Governing Board. Mr. Krebs seconded the Motion and Mrs. Knight called the roll. The motion passed unanimously.

The Board will vote on a new vice chairman at the next meeting.

APPROVAL OF THE MINUTES

The minutes of the July 19, 2011 and the August 24, 2011 meetings were approved.

EXECUTIVE SESSION

Mr. Logan made a motion for the Board to enter Executive Session to consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Mr. Krebs seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

The Board entered Executive Session at 9:40 a.m.

The Board returned to Open Session at 10:20 a.m.

MOTION TO ACCEPT THE RESIGNATION OF THE CONSUMERS' COUNSEL

Mr. Wise made a motion for the Board to accept the resignation of Janine Migden-Ostrander as the Consumers' Counsel, with our deep regret and great appreciation for her outstanding public service to this Board and to Ohio's residential utility consumers effective October 15, 2011. Mr. Logan seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

MOTION TO ASSIGN DUTIES AND POWERS TO THE DEPUTY CONSUMERS' COUNSEL

Mr. Logan made a motion for the Board to assign all the duties and powers of the Consumers' Counsel to Bruce J. Weston in his capacity as Deputy Consumers' Counsel, effective October 16, 2011, in which capacity he may also be known as Interim Consumers' Counsel. Mr. Watkins seconded the motion and Mrs. Knight called the roll. The motion passed unanimously.

Mr. Krebs suggested the Board hold a special meeting in October to discuss the Board's plan for hiring a new Consumers' Counsel.

The Board recessed at 10:40 a.m. and reconvened at 10:50 a.m.

CASE OUTCOMES

Mr. Weston reported on case outcomes.

Duke Energy Electric Fuel Case, PUCO Case No. 10-0974-EL-FAC and 10-0975-EL-RDR

OCC's position in this case is that customers should be credited the sales margins for Duke's 2010 sale of emission allowances as soon as practicable. In addition, Duke should refine processes to better monitor the actual work performed and completed in conjunction with power plant performance.

The PUCO adopted and approved the stipulated agreement. The stipulation provides that Duke's compliance with the agreements contained in the settlement will be the subject of the next FPP-SRT audit.

FirstEnergy Force Majeure Regarding Alternative Energy Under SB 221, PUCO Case No. 11-2479-EL-ACP

It is OCC's position that FirstEnergy's request for the PUCO to excuse it, by force majeure (an unforeseen occurrence outside a party's control) from solar energy requirements for 2010 should be denied. The requirements relate to Senate Bill 221.

The PUCO granted FirstEnergy's force majeure request with the condition that FirstEnergy meet its revised 2011 solar energy benchmark.

Columbia Gas Auction Process, PUCO Case No. 08-1344-GA-EXM

It is OCC's position that the standard service offer (SSO) has consistently been one of the lowest cost options available to Columbia customers compared to contracts offered by retail marketers in the program known as "Choice." In addition larger wholesale suppliers may decline participation in the SCO auction because they do not want to be certified as competitive retail natural gas suppliers.

The PUCO's Order authorized a continuation of the stipulated 2009 agreement provided that the Company transition to a retail (SCO) auction in 2012.

Dominion's Pipeline Infrastructure, PUCO Case No. 11-2401-GA-ALT

OCC's position is that Dominion failed to demonstrate additional benefits to customers that would justify additional costs over and above those originally agreed to. Ultimately, OCC did not oppose an agreement in the case, for reasons related to safety and other concerns.

The joint application was adopted and approved.

RESOLUTIONS

Chairman Moliterno presented, for Board approval, Resolutions honoring Jerry Solove and Dorothy Leslie for their years of service to the Board and Ohioans.

Mr. Logan made a motion for the Board to approve the resolution for Jerry Solove. The motion was seconded by Mr. Krebs. The motion passed unanimously.

Mr. Wise made a motion for the Board to approve the resolution for Dorothy Leslie. The motion was seconded by Mr. Watkins. The motion passed unanimously.

NEW CASES

Dr. Adams reported on new cases.

CSP/OPC SEET (Significant Excessive Earnings Test), PUCO Case Nos. 11-4571-EL-UNC and 11-4572-EL-UNC

The Company filed this request on July 29, 2011. CSP calculates that its return on equity is 17.54%; however, OCC calculates it to be 19.42%.

OCC's request for a rehearing regarding the exclusion of off-system sales margin and the methodology used in calculating the adjusted return on equity was denied.

Staff Proposal for an Economic Development Tariff Template, Case No. 11-4304-EL-UNC

The benefits of this tariff proposal include facilitating economic development; job retention; job procurement; and mitigating costs to both customers and electric utilities.

Economic development is available to mercantile customers who: create or increase minimum annual payroll by \$5M or more; add at least 75 permanent, new employees based in Ohio; and make a capital investment in Ohio of at least \$50M.

Mr. Krebs stated that Mrs. Kurt should be included in discussion on this topic.

OPERATIONS REPORT

Mr. Repuzynsky reported that two months into the fiscal year total expenditures including outstanding encumbrances at the end of August were about \$1,074,000 or 19% of our total annual budget.

Recent resignations include the network administrator and our senior energy policy analyst. These positions will be addressed. In addition to these two positions, OCC is looking to fill a legal intern position.

LEGISLATIVE REPORT

Mr. Weston presented the Legislative Report in Mrs. Kurt's absence. The Legislature is back in session and working on the new legislative district maps.

The Governor's Energy Summit took place September 20 and 21. It is expected that there will be energy legislation introduced sometime this winter or spring. It is unclear whether the focus will be on natural gas or if electric issues will be included.

American Electric Power is working on legislation that would allow them to securitize some of their assets. We are reviewing their proposal and talking with the company and legislators about some suggested improvements in hopes that we will be able to support their bill.

Aqua is interested in pursuing legislation similar to HB 95 (the gas bill that passed earlier this year). This legislation would allow them to increase customer bills through riders on top of customers' rates, rather than by filing a rate case.

We continue to monitor HB 87 (Grossman & Goyal) and SB 150 (Hughes), which are the water bills that we support. These bills would cap the amount of rate case expense that customers must pay at 50% of the overall expense. We do not know if these bills will get further hearings this fall.

COMMUNICATIONS REPORT

Mr. Weston presented the Communications Report in Ms. Gianforcaro's absence. Over the last two months, OCC prepared 3 news releases; 2 customer alerts, 44 fact sheets, and 1 guest column.

Outreach and Education gave 3 speeches; 2 train-the-trainer presentations; and attended 4 regional meetings.

OCC's website had 8,700 visitors in July and August.

The Board recessed at 11:35 a.m. and reconvened at 11:41 a.m.

CONSUMERS' COUNSEL'S REPORT


Ms. Migden-Ostrander reported that the AEP ESP case is our most active. In this case, AEP, PUCO Staff and others signed onto a settlement. Parties who did not sign onto the settlement are OCC, FirstEnergy Solutions, Industrial Energy Users - Ohio, Ohio Partners for Affordable Energy and Appalachian Peace and Justice Network. This case is a first of its kind inasmuch as there is a large utility intervening in another utility's case and opposing their settlement. The basis of FirstEnergy's intervention is that the settlement is anti-competitive.

We have experienced some significant gains with Columbia Gas in terms of them renewing and increasing their energy efficiency programs.

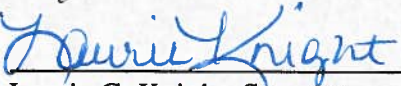
Ms. Migden-Ostrander expressed her sincere gratitude to the Governing Board for all of their support during this difficult time.

With no further business the meeting adjourned at 12:00 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 15th day of November, 2011.



John N. Moliterno, Chairman
Ohio Consumers' Counsel Governing Board



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