

**Before**  
**The Ohio House of Representatives**  
**Finance Committee**  
**Finance Subcommittee on Agriculture, Development, and Natural Resources**  
**Testimony on House Bill 64 – Agency Budget and Basic Telephone Service for Consumers**

**Presented By Bruce Weston**  
**Ohio Consumers' Counsel**  
**March 4, 2015**

Chairman Thompson, Ranking Minority Member O'Brien and Members of the Finance Subcommittee, thank you for this opportunity to testify. I am Bruce Weston, the Ohio Consumers' Counsel. I am testifying on two matters – the budget for the Office of the Ohio Consumers' Counsel and the availability of affordable basic telephone service for Ohioans. With me today are Deputy Consumers' Counsel Larry Sauer and our Chief of Staff Monica Hunyadi.

**Overview**

I thank the Administration for proposing the continuation of the Consumers' Counsel's current budget at \$5.6 million annually. I support this funding level for fiscal years 2016 and 2017. This funding is for our services to Ohioans regarding the affordability and reliability of their electric, natural gas, telephone, and water utility services. I have been, and will continue to be committed to delivering value for Ohioans with our budget.

Here is some brief history about the agency. The Ohio General Assembly created the agency in 1976, to represent Ohio's residential consumers on issues related to their utility services. The Consumers' Counsel represents Ohio consumers in cases at regulatory agencies and the courts. A majority of our cases are at the Public Utilities Commission of Ohio (PUCO), where OCC

appreciates the opportunity to present evidence and law from a consumer perspective. Similar to a judge, the PUCO makes decisions based on the record and the law.

The Consumers' Counsel provides residential consumers with representation where they often would have little or none. Utility cases are complex and technical, and they require technical expertise to participate effectively in the process. Also, Ohioans are unlikely to have the time or resources to advocate on their own behalf in these cases where utilities and certain other parties are represented by lawyers and technical experts.

The Consumers' Counsel also provides consumer perspectives to you and your colleagues in the Ohio General Assembly through the legislative process. We welcome the opportunity to help Members with inquiries from constituents and in any other way.

Additionally, we provide outreach and education to consumers as a way to help them save money on their utility bills. For example, we educate consumers regarding their choices in the transition to competitive markets.

As we approach 40 years of advocacy, the Consumers' Counsel has helped Ohioans save a lot of money on their utility bills. And those savings outweigh the cost of our budget.

### **Funding and Budget**

OCC's funding is not from Ohio's General Revenue Fund (taxes). Instead, the Ohio General Assembly decided the agency would be funded through a fee on the intrastate gross earnings of utilities and other entities regulated by the PUCO, similar to how the PUCO is funded in part. In Fiscal Year 2012 (beginning July 1, 2011), OCC's annual operating budget was reduced from \$8.5 million to the current level, \$5.6 million.

The regulated entities that pay for OCC's assessment can choose to absorb this cost or pass it on to their customers. If all regulated entities charged their customers for the cost of OCC's budget, this charge would cost consumers several cents or less for every \$100 in utility bills. This amount is equivalent to less than a dollar a year for a typical residential consumer. We typically are able to save consumers much more money than this cost, either individually or by working with other stakeholders.

### **Continued Cost Reductions and Efficiencies**

The Consumers' Counsel has continued to serve Ohioans, consistent with the budget reflecting the earlier reduction of \$3 million. Cost reductions that were developed are continuing, as are our efforts to capture greater efficiencies. The continuing cost reductions from the budget decrease include: the earlier workforce reductions (several dozen positions); closing the consumer call center (required by House Bill 153); and the reduced rent. I am grateful to the Consumers' Counsel's staff for their strong work ethic and productivity at current staffing levels.

In addition, there are new efficiencies through technology upgrades. An example is the Administration's centralizing of IT functions. The agency also has endeavored to deploy contract services for technical expertise where effective in lieu of salaried personal services. And we launched our Twitter account and YouTube videos to cost-effectively reach more Ohioans.

### **Office Structure**

The Governing Board of the Office of the Ohio Consumers' Counsel appoints the Ohio Consumers' Counsel and the Deputy Consumers' Counsel. The Ohio Attorney General appoints the nine-member, bi-partisan Governing Board. These nine members represent

farmers, residential customers and organized labor, with three members appointed from each area. The Board Chairman is Gene Krebs. The Consumers' Counsel's staff and I are very fortunate to have the guidance of these Board members who essentially volunteer their time to help their fellow Ohioans.

OCC's budget for delivering services is mainly payroll at about 75 percent. The Consumers' Counsel's staff is organized into four departments working together to achieve its mission and vision for Ohio consumers.

**Analytical Department:** Utility cases are highly complex. Technical expertise, for analysis and expert testimony, is needed to advocate for Ohio consumers in utility cases and for other projects. The needed expertise can include the areas of accounting, economics, engineering, finance, and other disciplines.

**Legal Department:** The Consumers' Counsel is the legal representative for Ohio's residential utility consumers in cases at the PUCO, Federal Energy Regulatory Commission, the Supreme Court of Ohio and elsewhere. These cases can take months or sometimes even years to complete. The legal process can include written discovery, oral depositions, preparation and presentation of expert testimony, hearings with cross-examination of expert witnesses, and filing briefs and motions.

**Operations Department:** The Operations Department provides fiscal and administrative (including HR and IT) support for the agency.

**Public Affairs Department:** The Public Affairs Department provides education for consumers, responds to media requests, and provides consumer perspectives and constituent assistance to legislators. Public Affairs maintains OCC's educational publications and website for assisting consumers.

Gene Krebs (Consumers' Counsel Governing Board Chairman) has asked me to provide you with two charts as attachments to my testimony. The charts are based on data from the U.S. Energy Information Administration. The first chart reflects the need for continuing efforts by the Board and the agency to reduce Ohioans' electric bills, given that 31 states are listed as having lower average residential electric rates than Ohio. The second chart shows that, since 2008, Ohioans have experienced the greatest increase in their electric rates compared to their counterparts in other restructured states (some of whom are seeing rate decreases). In this regard, Chairman Krebs announced last year that, in 2015, the Consumers' Counsel Governing Board will be studying why Ohioans are not paying lower electric bills. He asked me to relay that, if you have questions for him on this subject, he could appear here to provide answers. He further noted that "assumptions about the cost tend to founder on the rocks of facts."

**Consumer Issue in House Bill 64 (Basic Telephone Service)**

In addition to containing the Consumers' Counsel's budget, HB 64 includes legislation that affects basic telephone service for Ohioans. This consumer issue appears in the Bill on lines 47450 to 47846, lines 81288 to 81344, and lines 84492 to 84531. This proposal is similar to the one that appeared in HB 490 at the end of 2014. This proposal does contain some improvements over HB 490, and I thank the Governor for that.

I tend to favor competitive markets over regulation. But the mere act of deregulating does not mean that a market has or will have effective competition for consumers. That point is applicable to this deregulatory legislation. For example, consumers and business users can carry a cellphone. But the lack of signal on that cellphone in many rural areas of Ohio means that the wireless service is not adequate as an alternative to the local phone company's service for those consumers and businesses. This circumstance is an example of why the need for consumer protection is so important on this issue.

The telephone companies seek this legislation to, among other things, allow for state consistency with the potential future policy of the Federal Communications Commission (FCC), per lines 47642 through 47657. There is not a need to rush. The FCC is engaged in an historic transition of the public switched telephone network to an Internet-based network. That transition will take time to implement, potentially years. Yet the law requires the PUCO to adopt rules consistent with the FCC's rules (lines 81337-81339), on a timeline that is potentially before the FCC even acts. More needs to be known about the FCC's plans. In this regard, the FCC is still receiving comments on its proposal. This FCC approach does not require establishing now an Ohio timeline for allowing telephone companies to withdraw basic service.

The Bill would allow telephone companies to give consumers and the PUCO a notice of intent to abandon basic phone service with only 120 days before the abandonment date. (Lines 47650 to 47655). There should be more than 120 days. And an abandonment of service should be presented to the PUCO as a request and not as a mere notice of the telephone company's future action. The PUCO should retain the right to exercise its judgment to protect consumers, if needed, regarding a telephone company's request.

New Section 4927.10 (lines 47642 to 47655) would exempt the telephone companies from the prohibition in Ohio law against abandoning basic service, if the FCC adopts an order allowing telephone companies to withdraw the interstate access component of basic service. There already is a law that allows for withdrawal of service. That law is R.C. 4927.11(C). And that law requires the telephone company to prove its proposal to the satisfaction of the PUCO. It makes sense to require that proof in this legislation, for Ohioans who depend upon the PUCO for protection of their utility bills and service quality.

HB 64 requires that the replacement for basic service will be a “reasonable and comparatively priced voice service.” (Lines 47658 through 47683) That standard will be determined for consumers by the PUCO, within the parameters set forth in the Bill (Lines 47703 through 47709). Requiring that the replacement service be “reasonable and comparatively priced” is another of the Administration’s improvements over HB 490. I appreciate that.

As in HB 490, there is a collaborative process involving the PUCO, the Consumers’ Counsel, telephone companies, and possibly others. The collaborative process would, among other things, attempt to identify customers who would have no telephone service available should their telephone company withdraw basic service. I appreciate the opportunity for the Consumers’ Counsel to serve consumers on this collaborative. If a customer would lose service and is not identified by the collaborative, the legislation would require the customer to take action (by filing a petition at the PUCO) within 30 days after receiving the abandonment notice from the telephone company. The PUCO would have 90 days to act on the petition. (Lines 47671 to 47673)

This procedure, where the customer would have to petition the PUCO, is outside the experience of most Ohioans. Providing in the law that telephone companies must request PUCO approval to abandon service, as recommended above, is a better system for consumers than the approach of mere notice to consumers (and it is better than the process involving Ohioans' filing of petitions).

Another change from HB 490 is that the proposed law allows the PUCO to require that phone service be made available to consumers for an indefinite period. (Lines 47687 to 47702) I appreciate that the Administration has improved the proposal with this approach.

The Bill directs the PUCO to study the transition to an Internet-based phone network. (Lines 81311 through 81323) The study could be beneficial if it were focused on protecting Ohio consumers during the transition to a future network. In this regard, the PUCO's study should include recommendations to the Ohio General Assembly for protecting consumers in any such transition.

On June 4, 2013, the Governing Board of the Office of the Ohio Consumers' Counsel adopted a Resolution for consumer protection. The Board voiced its support for "maintaining the most basic telephone service with price and quality protections for consumers...." The Resolution is attached to this testimony.

Finally, these matters prompt me to recommend a clarification to Ohio Revised Code 4911.021, adopted in 2011. This statute limits the Consumers' Counsel's ability to help Ohioans with their utility-related complaints. ORC 4911.021 states as follows:

The consumers' counsel shall not operate a telephone call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.



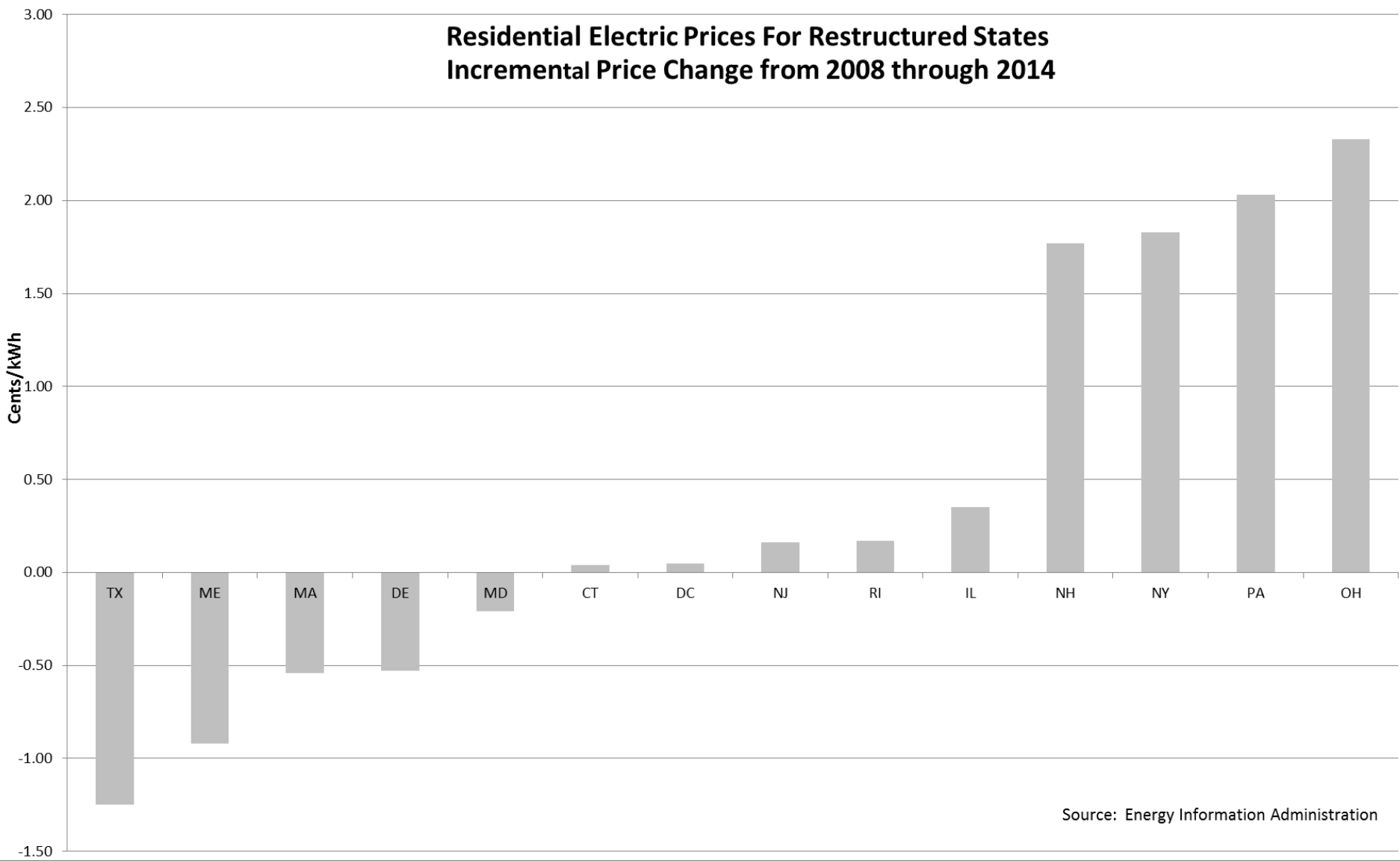
ORC 4911.021 should be clarified to allow the Consumers' Counsel to handle consumer complaints. This change would be consistent with providing services that the public would reasonably expect from a government agency that assists consumers. The clarification that I am proposing would not change the limitation in ORC 4911.021 against the Consumers' Counsel operating a telephone call center. And, in requesting this statutory change, I am not proposing any budget increase for handling consumer complaints.

In conclusion, I appreciate the Administration's budget proposal for this agency and for our services to 4.5 million Ohio households. Also, I look forward to working with Members of the Subcommittee and the General Assembly on telephone policy in HB 64 for consumers who use basic local telephone service. Thank you.

2014 - YTD Through Nov		
		Residential
	STATE	Cents/Kwh
1	Washington	8.77
2	West Virginia	9.36
3	North Dakota	9.39
4	Louisiana	9.52
5	Arkansas	9.53
6	Idaho	9.76
7	Oklahoma	10.06
8	Kentucky	10.08
9	Montana	10.32
10	Tennessee	10.35
11	Oregon	10.49
12	Wyoming	10.53
13	Nebraska	10.56
14	South Dakota	10.57
15	Missouri	10.71
16	Utah	10.79
17	North Carolina	11.19
18	Virginia	11.21
19	Indiana	11.27
20	Mississippi	11.37
21	Illinois	11.42
22	Iowa	11.48
23	Alabama	11.57
24	Georgia	11.68
25	Texas	11.79
26	Florida	11.98
27	Arizona	12.06
28	Kansas	12.20
29	Minnesota	12.20
30	Colorado	12.25
31	South Carolina	12.32
32	Ohio	12.39
33	New Mexico	12.39
34	District of Columbia	12.84
35	Nevada	12.87
36	Pennsylvania	13.38
37	Delaware	13.40
38	Maryland	13.63
39	Wisconsin	13.94
40	Michigan	14.55
41	Maine	15.28
42	New Jersey	15.82
43	California	16.22
44	Massachusetts	17.14
45	New Hampshire	17.45
46	Vermont	17.58
47	Rhode Island	17.62
48	Alaska	19.41
49	Connecticut	19.59
50	New York	20.13
51	Hawaii	37.59
	U.S. Total	12.53

EIA - Table 5.6.B. Average Retail Price of Electricity to Ultimate Customers by End-Use Sector, by State, Year-to-Date through November 2014 and 2013 (Cents per Kilowatthour)

## Residential Electric Prices For Restructured States Incremental Price Change from 2008 through 2014



Source: Energy Information Administration

# *Resolution*

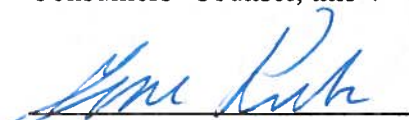
## *Governing Board of the Office of the Ohio Consumers' Counsel*

### **In Support of Basic Local Telephone Service for Ohio Consumers**

- WHEREAS,** Ohioans are dependent upon electricity, natural gas, telephone and water services; and
- WHEREAS,** It is the policy of the state of Ohio to ensure the availability of adequate basic local exchange service to citizens throughout the state; and
- WHEREAS,** Basic local telephone service is an essential service to thousands of consumers, especially elderly and rural consumers; and
- WHEREAS,** Ohio law requires incumbent local telephone companies to provide basic local telephone service, on a reasonable and nondiscriminatory basis, to all persons in their service areas who request basic local telephone service; and
- WHEREAS,** Ohio law provides pricing and service quality protections for basic local telephone service; and
- WHEREAS,** The pending state budget bill (Am. Sub. H.B. 59) may be amended with language that, among other things, could allow incumbent local telephone companies, in as soon as two years and at their option, to transfer customers from regulated basic local telephone service to an unregulated "voice service" that would not have pricing and service quality protections.

**THEREFORE, BE IT RESOLVED,** that the Governing Board of the Office of the Ohio Consumers' Counsel supports maintaining the most basic telephone service with price and quality protections for consumers and further recommends that, if this subject is to be considered, the subject should be considered in a stand-alone bill separate from the budget bill.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 4<sup>th</sup> day of June 2013.



Gene Krebs, Chairman

Governing Board of the Office of the Ohio Consumers' Counsel