



Office of the Ohio Consumers' Counsel

January 4, 2021

The Honorable Mike DeWine, Governor
77 South High Street, 30th Floor
Columbus, Ohio 43215-6117

Re: Selection of PUCO Commissioners

Dear Governor DeWine,

I hope you, family and colleagues are well. Thank you for your leadership during the pandemic.

Respectfully, I am writing to recommend Greg Poulos for your pending commissioner appointment to the PUCO. Here is context for my recommendation. There should be bona fide consumer advocates appointed to the PUCO. Mr. Poulos works in consumer advocacy and formerly worked for Ohioans at the Ohio Consumers' Counsel (OCC). He would bring a much-needed perspective for balance and fairness at the PUCO. In this regard, a Dayton legal aid lawyer (Ellis Jacobs) – who has devoted his career to representing at-risk Ohioans including at the PUCO – was not even given an interview by the Nominating Council (for a chance to be nominated for your consideration). Here is a link to a news story about Mr. Jacobs's career of helping people and the denied interview: <https://bit.ly/38970F3>. Of course, the scandal involving tainted House Bill 6 and FirstEnergy is also context for any PUCO commissioner appointment.

Moreover, it is my recommendation that those who worked for utilities (or with other significant connections to utilities) should not be appointed as commissioners to regulate utilities for the people of Ohio. Up until the recent resignation of the PUCO chair, three of the PUCO commissioners (a majority) had worked for utilities.

On a related matter, I respectfully recommend that you appoint members to the PUCO Nominating Council who have had no hiring, advocacy or financial connection to FirstEnergy (including for tainted House Bill 6) – and who want to achieve reform of the nominating council for the public good. O.R.C. 4901.021(A) provides you with three direct appointments to the Nominating Council. In my opinion it's a failing of the law (O.R.C. 4901.021(A)(9)) that utilities are even involved on the Nominating Council for choosing their regulators. In this regard, the Ohio Consumers' Counsel Governing Board has called for reform of the process of selecting PUCO commissioners, in the interest of justice for millions of Ohioans. Attached is the Board's resolution.

Thank you for your consideration. Best wishes for 2021.

Respectfully,

Bruce Weston
Ohio Consumers' Counsel

cc: Michael Hall, Office of the Governor



Resolution

Office of the Ohio Consumers' Counsel Governing Board

In Favor of Reform of the Process for Selecting People to Serve the Public as PUCO Commissioners

- WHEREAS,** Electricity, natural gas, telephone, and water services provided by public utilities are essential for Ohioans; and
- WHEREAS,** The public utilities providing those essential services are regulated by the Public Utilities Commission of Ohio for the protection of Ohio consumers; and
- WHEREAS,** The regulation of utilities by the Public Utilities Commission is administered by five commissioners who serve staggered five-year terms; and
- WHEREAS,** There was an initiative on the Ohio ballot, in 1982, for amending the Ohio Constitution to change the process of selecting PUCO commissioners from gubernatorial appointment to direct election by the public; and
- WHEREAS,** The 1982 ballot initiative was defeated, due in part to the enactment that same year of legislation that was alleged to be a reform of the selection process for PUCO commissioners; and
- WHEREAS,** The 1982 legislation, which became effective in 1983, created a PUCO Nominating Council to nominate applicants for the governor's appointment of PUCO commissioners; and
- WHEREAS,** The Ohio Consumers' Counsel Governing Board, in 1982, passed a Resolution about the new Nominating Council and called for the Council to publicly interview individuals possessing qualifications that include, among other things, "a sensitivity to consumer interests and an ability to make independent-minded judgements and an ability to stand up to special interest pressures;" and
- WHEREAS,** Nearly four decades after passage of the alleged reform law for commissioner selection, three of the five current PUCO commissioners have worked for the special interests of public utilities that the PUCO regulates; and

WHEREAS,

A recent example of utility influence was revealed in a Criminal Complaint filed by the U.S. Attorney on July 23, 2020, with allegations of extraordinary expenditures by an entity not identified in the Complaint but believed to be FirstEnergy, to influence the outcome of House Bill 6 for subsidizing nuclear power plants formerly owned by FirstEnergy Solutions (though to date FirstEnergy entities and personnel have not been charged with a crime).

THEREFORE, BE IT RESOLVED, that the Ohio Consumers' Counsel Governing Board urges the Ohio General Assembly to:

- I. Reform, for the protection of the Ohio public, the process for selection of PUCO commissioners by enacting a law to select PUCO commissioners through direct election by the public; and
- II. Deter undue utility influence and undue influence from others and promote transparency in legislation for elections of PUCO commissioners by: (A) banning or strictly limiting utility and utility affiliate spending on commissioner elections, including but not limited to spending by utility-related individuals, corporations, political action committees, and non-profit organizations to the maximum extent allowed by law; (B) strictly limiting spending by others on commissioner elections, including but not limited to spending by individuals, corporations, political action committees, and non-profit organizations to the maximum extent allowed by law; (C) establishing a modest limit on campaign spending by each commissioner candidate; (D) requiring detailed pre-election and post-election reporting of direct and indirect spending for election of commissioner candidates; and (E) severely penalizing violations of election spending bans or limits and reporting requirements.

THEREFORE, BE IT FURTHER RESOLVED, that the Ohio Consumers' Counsel Governing Board urges the Ohio General Assembly to enact comprehensive reforms of the PUCO Nominating Council specifically and the PUCO commissioner selection process generally in the event that legislation is not enacted for public election of PUCO commissioners.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 25th day of August 2020:



Michael Watkins, Chair

Governing Board of the Office of the Ohio Consumers' Counsel