



Office of the Ohio Consumers' Counsel

MINUTES OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD

November 17, 2020

Members Present: Mr. Michael Watkins, Chair

Mr. Stuart Young, Vice-Chair

Mr. Tim Callion

Ms. Cheryl Grossman

Ms. Kelly Moore

Mr. Charles Newman

Ms. Jan Shannon

Ms. Connie Skinner

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:00 A.M. Interim Board Secretary (Deputy Consumers' Counsel) Larry Sauer called the roll, with members present as shown above. The meeting was held by conference call, as allowed by law during the coronavirus crisis.

Chair Watkins welcomed Connie Skinner as a new member of the OCC Governing Board. Ms. Skinner introduced herself followed by introductions by the other Board members.

MEETING MINUTES:

Chair Watkins asked for a motion to approve the minutes of the September 15, 2020 Board meeting. A motion was made by Ms. Grossman to approve the minutes. Ms. Shannon seconded the motion. Mr. Sauer called the roll. The September 15, 2020 Board meeting minutes were approved unanimously.

ANNOUNCEMENT:

Chair Watkins reported that Board member Dave Wondolowski has resigned from the Board. He was appointed to the Board in 2017 to fill an unexpired term and was reappointed in 2018. Chair Watkins noted that his participation on the Board was appreciated and will be missed.

Mr. Wondolowski's term does not expire until 2021. His unexpired term will be filled through an appointment by the Attorney General.

GUEST SPEAKER – JEFF JACOBSON, STRATEGIC INSIGHT GROUP:

Consumers' Counsel Bruce Weston introduced Mr. Jacobson. He is a strategist, consultant, lobbyist and policy expert for a range of business and non-profit clients (including OCC). He served in the Ohio House and Senate from 1992 - 2008, including as Senate President Pro Tempore.

Mr. Jacobson was invited to provide a recap on recent general election results and how that may affect policymaking in the General Assembly. He said Republicans increased their majority in the House and in the Senate. Both chambers announced new leadership.

Mr. Jacobson said Rep. Bob Cupp will continue as Speaker of the House and Rep. Bill Seitz will serve as Majority Floor Leader. Rep. Cupp has said there was a time as a committee chair when he would have to wait on leadership to provide direction for his committee to act. He has made it clear he does not intend to operate in that manner.

He said Senator Matt Huffman will be the new President of the Ohio Senate. He is known as a very hands-on leader forming judgements on issues and working from perspectives he has developed. But he also believes in trusting the members, giving them the responsibility, providing his perspective, and then letting them develop policy.

Mr. Jacobson also noted that Jennifer Bruner will be a new Supreme Court Justice. She was a Court of Appeals judge, former Ohio Secretary of State and former Common Pleas judge. He said it will be interesting to see the extent to which her perspective makes an impact on Supreme Court decisions going forward.

RESOLUTIONS:

Chair Watkins discussed draft Resolutions for honoring outgoing Board members Andra Troyer, whose term expired, and Dave Wondolowski, who resigned from the Board. Ms. Troyer was appointed to the Board in September 2017. Mr. Wondolowski was appointed to the Board in March 2017.

Ms. Moore made a motion to adopt the resolution commending Ms. Troyer for her service. The motioned was seconded by Ms. Grossman. Mr. Sauer called the roll. The resolution was passed unanimously.

Mr. Callion made a motion to adopt the resolution commending Mr. Wondolowski for his service. The motion was seconded by Mr. Newman; Mr. Sauer called the roll. The resolution was passed unanimously.

Mr. Weston noted that in speaking with Ms. Troyer she talked about her own principles for justice and equality and how important it was to her to serve Ohioans on the OCC Governing Board. He said she would appreciate this resolution as it meant a lot to her to serve the public on the Board.

RECOGNITION:

Mr. Weston recognized Colleen Shutrump, OCC Energy Resource Planning Advisor, as Employee of the Quarter for the 2nd quarter of 2020. Colleen joined the agency in August 2015. Prior to joining OCC, Colleen served as an Electricity Analyst and Advisory Staff member for five years at the Indiana Utility Regulatory Commission. Colleen was selected for this award for the work she performed protecting consumers, particularly at-risk consumers, during the pandemic.

Mr. Weston noted that OCC has been a strong advocate to protect at-risk Ohioans, during the pandemic, and he said one of OCC's key positions is to suspend utility disconnections of consumers. There are many Ohioans, both historically and currently, who find themselves in the position of lacking money for essentials.

Mr. Weston provided an update on OCC's participation in the state's 2020 Combined Charitable Campaign. He said the agency's goal, as set by the Campaign, was \$9,300, and that OCC staff raised \$10,700 for charity to help others. He expressed his appreciation to OCC employees for exceeding the state campaign goal and for helping people.

REPORT BY CONSUMERS' COUNSEL BRUCE WESTON:

Mr. Weston reported that he recently sent letters to the House and Senate recommending a repeal of H.B. 6 (sponsored by Reps. Callender and Wilkin). He said Jeff Jacobson testified on behalf of OCC, in the Senate, for the repeal. Mr. Weston described the testimony.

Mr. Weston provided an overview of the history of OCC. He reviewed the agency's mission, vision and core values. Next, he presented an overview of the agency's departments and staffing. He noted two interim manager appointments in the wake of Monica Hunyadi's retirement. JP Blackwood is serving as the interim manager for Public Affairs and Lisa Lyman is serving as the interim manager for Operations.

Mr. Weston also described the creation, in 1979, of the National Association of State Utility Consumer Advocates (NASUCA). OCC's first Consumers' Counsel, Bill Spratley was one of NASUCA's founders. NASUCA provides a forum for state consumer advocates around the country to discuss and share information related to utility regulation.

Mr. Weston also talked about an ongoing challenge for consumer protection. The problem is a 60-year old Court precedent that does not allow for consumer refunds, even if charges are found to be improper on appeal. (The Ohio Supreme Court has ruled that refunds could be made to consumers if the PUCO originally orders that the charges are refundable, but the PUCO does not typically make charges refundable.)

BOARD MEETING DATES FOR 2021:

The Board meeting schedule for 2021 was proposed as follows:

February 16, 2021

March 16, 2021

May 18, 2021

July 20, 2021

September 14, 2021

November 16, 2021

A motion to approve the schedule was made by Ms. Shannon. The motion was seconded by Ms. Skinner. Mr. Sauer called the roll, and the 2021 Board meeting schedule was approved unanimously.

REPORT BY CONSUMERS' COUNSEL BRUCE WESTON (CONTINUED):

Mr. Weston described OCC's position for preferring competitive markets for electric power plants. OCC would like prices for the output of power plants to be based on the economic forces of supply and demand, and not based on government subsidies that the utilities obtain at consumer expense.

Mr. Weston shared the well-known OCC Subsidy Scorecard. It shows the subsidies for electricity that state government has made Ohioans pay since 2000, after electric deregulation was enacted in 1999. OCC frequently shares the Subsidy Scorecard with policymakers and others to demonstrate the need for stronger consumer protections.

Mr. Weston summarized a few resolutions adopted by the Board. In June 2020, the Board adopted a Resolution opposing H.B. 246 (sponsored by Rep. Vitale), which became a bad bill that threatened OCC and its consumer protection. H.B. 246 was introduced at the time of H.B. 6. In its later substitute version, it appeared to be retaliation against OCC for its positions against (now tainted) H.B. 6 and a FirstEnergy profits benefit in H.B. 166. Sub. H.B. 246 would have politicized the OCC Board through allowing the legislature (House Speaker and Senate President) to control six of the nine appointments to the OCC Board. Since 1976, the Attorney General has appointed the Board members. This bill was still pending at the time of the meeting (and ultimately expired at the end of the two-year session.)

In August 2020, the Board adopted a resolution for reforming the process of how commissioners are appointed to the PUCO. Given the PUCO regulates utility companies, it is inappropriate to have former representatives of utility companies as PUCO commissioners. Yet, presently, three of the five commissioners at the PUCO have ties to utilities. (Note: Three days after the Board meeting, on November 20, 2020, PUCO Chair Randazzo resigned after his Columbus home was raided by the FBI and FirstEnergy filed its 3rd quarter SEC Form 10-Q referencing a transaction between it and Mr. Randazzo.)

In July 2019, the Board adopted a Resolution for allowing consumers to be given refunds if a court ruled that a charge was unlawful.

REPORT BY DEPUTY CONSUMERS' COUNSEL LARRY SAUER:

Mr. Sauer described OCC's concerns with the PUCO's settlement process. One concern is the process by which a utility obtains signatures to settle a case, which can involve the utility paying cash or cash equivalents to parties. This is presented to the PUCO for approval. Mr. Weston noted OCC does not have any cash to give parties to join us in our positions.

Mr. Sauer also provided an update of the H.B. 6 scandal. OCC presented proponent testimony on H.B. 738 (sponsored by Reps. Skindell and O'Brien) and H.B. 746 (sponsored by Reps. Lanese and Greenspan). Both are bills to repeal H.B. 6, before the House Select Committee on Energy Policy and Oversight (chaired by Rep. Hoops).

OCC also testified before the Senate Public Utilities Committee as a proponent for Senate Bill 346 (sponsored by Senators O'Brien and Kunze), which is a bill to repeal H.B. 6. The Committee will also hold a hearing on H.B. 772 (sponsored by Romanchuk), for repeal of H.B. 6.

Mr. Sauer reported two of the five co-conspirators in H.B. 6 scandal (Mr. Longstreth and Mr. Cespedes) pleaded guilty. And shortly thereafter, FirstEnergy terminated its Chief Executive Officer Charles Jones, and its senior vice president of external affairs (Mr. Dowling) and its senior vice president of product development and marketing (Mr. Chack).

Mr. Sauer noted a recent development, that the FBI executed a search warrant at the Columbus home of PUCO Chair Randazzo. It is also being reported that the U.S. Securities and Exchange Commission is investigating matters related to H.B. 6.

He added that legal actions have been brought in civil court by the Attorney General of Ohio and the cities of Columbus and Cincinnati.

OCC is also continuing efforts at the PUCO for an investigation into FirstEnergy. OCC is inquiring into FirstEnergy's possible use of customer funds for H.B. 6 activities.

OCC VISION AND MISSION STATEMENTS:

Mr. Weston said he is considering an update and refresh of the OCC mission and vision statements. He said the pandemic prompted him to think about enhancing the mission and vision. He requested input from the Board members. In that regard, Mr. Weston spoke with the Board members about the elements for an organization's mission and vision. And he gave some examples. Chair Watkins recommended that the Board members have some time beyond the meeting for thoughtful consideration of the matter.

OCC STAFF RETURN TO OFFICE:

Mr. Weston said that the Administration had set a schedule for state employees to return to agency offices between January and May 2021. He noted that OCC is planning for a return to its leased commercial office space would likely be towards the end of that window. But he also noted that the Governor had made strong remarks about the pandemic recently, so the return to offices could be later than the present schedule. He noted his recognition that the Governor is trying to protect people from the coronavirus.

OCC FISCAL REPORT:

Mr. Weston referred the Board to the fiscal report included in the Operations memo. He reported that OCC submitted its agency budget proposal in September, per OBM's schedule.

GUEST SPEAKER – REPRESENTATIVE MARK ROMANCHUK:

Mr. Weston introduced and welcomed Rep. Romanchuk. The Representative is serving a third term, representing the Second House District (which is Richland County).

Rep. Romanchuk expressed his appreciation to the Board members for their service and to Mr. Weston and OCC for their valuable work. He said utilities are very powerful and have the upper hand in the Statehouse when it comes to pro-utility legislation. But, when OCC walks in the door, he feels it starts to level the playing field. He added he has great respect and appreciation for OCC.

Rep. Romanchuk said there are four new charges in H.B. 6 that his bill, H.B. 772, would repeal, as those charges bring no value to Ohio or to our grid and are essentially unnecessary. He added his bill would also require refunds to customers, as in Ohio there are generally no refunds to utility consumers. Two of those charges, the OVEC coal plant charge (benefiting AEP, DP&L and Duke) and the decoupling charge (benefiting FirstEnergy), have already started. His bill would also require that all the charges collected so far would be refunded to consumers. The bill would also stop the nuclear charge and solar subsidy charge which are scheduled to start January 1, 2021; therefore, he included an emergency clause in the bill, so those charges never get started.

Rep. Romanchuk discussed the OVEC subsidy which the PUCO previously granted at consumer expense for the two coal-fired plants. One of the plants is in Indiana, so Ohioans are subsidizing a plant in a different state. He said millions of dollars have been paid in subsidies to these two plants. And he said those subsidies are now scheduled to continue through 2030 and likely beyond, due to a deferral that allows the utilities to continue to charge consumers for subsidies past the 2030 mark.

The decoupling charge in H.B. 6 was added for the benefit of FirstEnergy. The charge allows it to collect from consumers revenue that it never earned.

Rep. Romanchuk said a new piece of information has come to light since the H.B. 6 scandal broke. The members originally were told that FirstEnergy needed to be subsidized in order to keep the nuclear

plants open. However, about 10 months after the passage of H.B. 6, the nuclear plants' owner (now Energy Harbor) announced an \$800 million stock buyback. In addition to the \$800 million stock buyback, information is also coming out that the company may be profitable.

Mr. Weston noted that, regarding the decoupling issue, FirstEnergy's fired CEO described the H.B. 6 charge as recession proofing.

Rep. Romanchuk said he will be providing sponsor testimony before the House Select Committee on Energy Policy and Oversight.

Vice-Chair Young asked if Rep. Romanchuk, who will moving to the Senate in January, hoped to have this wrapped up before then. Rep. Romanchuk said that, although the Senate President and the House Speaker have both said they want this taken care of by the end of the year, he doesn't expect that to happen.

Mr. Callion expressed his appreciation to Rep. Romanchuk for his work and for the information he provided. Rep. Romanchuk closed by saying he appreciates the advocacy work of OCC and that the agency is very much needed.

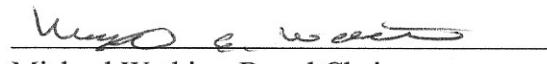
STATE ANNUAL ETHICS TRAINING:

Mr. Sauer reminded the Board of the state's annual ethics training requirement that, under the Governor's executive order, must be completed by December 31st. Mr. Sauer will email the information to Board members, with links to the training.

Ms. Moore made a motion to adjourn the meeting. It was seconded by Mr. Callion. Mr. Sauer called the roll. The motion was unanimously approved.

The meeting adjourned at 12:00 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on February 16, 2021.


Michael Watkins, Board Chair


Larry Sauer, Interim Board Secretary
Ohio Consumers' Counsel Governing Board