



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

February 16, 2021

Members Present: Mr. Michael Watkins, Chair
Mr. Stuart Young, Vice-Chair
Mr. Tim Callion
Ms. Cheryl Grossman
Mr. Dorsey Hager, Jr.
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 Dorsey Hager, Jr. as a new member of the OCC Governing Board. Each Board member introduced themselves followed by Mr. Hager introducing himself.

MEETING MINUTES:

Chair Watkins asked for a motion to approve the minutes of the November 17, 2020 Board meeting. A motion was made by Ms. Grossman to approve the minutes. Ms. Skinner seconded the motion. Mr. Sauer called the roll. The November 17, 2020 Board meeting minutes were approved unanimously.

ELECTION OF GOVERNING BOARD CHAIR AND VICE-CHAIR:

Ms. Moore nominated current chair, Mr. Watkins, to continue as Chair of the OCC Governing Board. The nomination was seconded by Mr. Newman. With no further nominations being made, Ms. Shannon made a motion to close the nominations for Chair. Ms. Moore seconded the motion. Mr. Sauer called the roll. Mr. Watkins was elected Chair unanimously, with Mr. Watkins abstaining from the vote.

Ms. Shannon nominated current vice-chair, Mr. Young, to continue as Vice-Chair of the OCC Governing Board. The nomination was seconded by Ms. Grossman. With no further nominations being made Ms. Grossman made a motion to close the nominations for Vice-Chair. Mr. Newman seconded

the motion. Mr. Sauer called the roll. Mr. Young was elected Vice-Chair unanimously, with Mr. Young abstaining from the vote. The Chair noted that the members had voted on the election of the Chair and Vice-Chair.

RECOGNITION:

Mr. Weston recognized Jim Williams, OCC Utility Consumer Policy Expert, as Employee of the Quarter for the 3rd quarter of 2020. Jim has been with the agency for 25 years. Jim was instrumental with, and at one point in time managed, the former call center. Mr. Weston described Jim as fearless, courageous and a great resource to the agency. During the pandemic Jim's expertise and assistance helped OCC with its recommendations for protections for consumers, many of whom are facing financial hardship. Mr. Weston explained that recipients of Employee of the Quarter recognitions are honored with a poem; however, the poem to honor Mr. Williams was written for him and all OCC staff. Mr. Weston explained that employees throughout the agency had contributed to efforts to help consumers during the pandemic. And he explained how Mr. Williams epitomized that effort. Mr. Weston then read the poem for the Board members to hear.

Mr. Weston briefly discussed the call center history saying it dated back to early in the agency's history, when OCC took calls from the public to help them regarding utility-related issues. OCC over time developed a formal call center with a focus to help consumers with issues such as availability of service, reliability of service, or assistance with disconnection. In 2011, due to a change in the law (O.R.C. 4911.021) that prohibited a call center for complaints and a substantial budget cut, the call center was closed.

Deputy Consumers' Counsel Larry Sauer informed of new employee John Finnigan who joined OCC as an Assistant Consumers' Counsel in November 2020. John has significant utility regulatory experience, having represented Cinergy and later Duke Energy Ohio in cases before the PUCO for 16 years (1996 – 2012). He then represented the Environmental Defense Fund in Ohio and other jurisdictions for 8 years (2012 – 2020). John earned his B.A. from the University of Cincinnati. He earned an M.B.A. from Indiana University and a J.D. from the University of Cincinnati College of Law.

Mr. Weston expressed his, and Mr. Sauer's, appreciation to the OCC staff. The year 2020 was an unusual year with the pandemic, and OCC staff adapted quickly to Administration requirements for working remotely. The work on behalf of Ohio's residential utility consumers has continued uninterrupted during this time.

Mr. Weston reported that, as enabled by some state resources for agencies, OCC has been able to have some of its consumer assistance fact sheets translated to Spanish. In addition, OCC will begin making available a sign language service for the hearing impaired, also enabled by state resources.

Mr. Weston recognized Assistant Ohio Attorney General Halli Watson who is leaving the Office of the Attorney General. He thanked her for her services over the last seven years to the OCC Governing Board and to OCC. She has been a great resource providing information, answering questions, attending OCC Board meetings, and helping OCC to help millions of Ohioans.

Mr. Weston also recognized AG Deputy Director of Outside Counsel Caitlyn Nestleroth Johnson (not present at the meeting). She is transitioning to another position in the AG's office. He expressed his and Mr. Sauer's appreciation for her help with providing special counsel to OCC upon OCC's requests. OCC appreciates that over the years Attorneys General have assisted OCC in its consumer advocacy, regarding lawyered-up utilities, by providing special counsel to OCC upon OCC's request.

Mr. Weston reported that Dan Shields, OCC Analytical Director, has applied for the open PUCO commissioner's seat of former PUCO Chair Randazzo (who resigned). And he noted that Greg Poulos, a former OCC attorney, was on the slate of four names that the Governor initially rejected from the Nominating Council.

SCHEDULED PRESENTATION BY U.S. ATTORNEY DAVID DEVILLERS:

The U.S. Attorney for the Southern District of Ohio (who was involved in the filing of the Criminal Complaint related to tainted House Bill 6 regarding nuclear bailouts etc.) had been scheduled for a presentation to the Governing Board. Unfortunately, Mr. DeVillers was unable to attend the meeting due to a family emergency.

REPORT BY CONSUMERS' COUNSEL BRUCE WESTON:

For the benefit of the new Board member, Mr. Hager, Mr. Weston shared a brief overview of the history and purpose of OCC, reviewed the agency mission, vision and core values, and presented an overview of the agency's departments and staffing.

Mr. Weston discussed the National Association of State Utility Consumer Advocates (NASUCA) and how the first Consumers' Counsel (Bill Spratley) was one of the founders and the first president of our national consumer association. Being a part of this national association is beneficial for Ohio as we work with colleagues across the country who are involved in similar consumer issues.

Mr. Weston then talked about the OCC Subsidy Scorecard. The Subsidy Scorecard shows the above-market charges (subsidies) that Ohioans have been made to pay to utilities even though Ohio is supposed to be a deregulated (competitive) electricity state under the 1999 law. OCC continues to work for consumers to reap the benefits of power plant competition under the 1999 law, which should include lower prices and greater innovation.

**GUEST SPEAKER – SENATOR MATT HUFFMAN, OHIO SENATE PRESIDENT,
134TH GENERAL ASSEMBLY:**

Consumers' Counsel Bruce Weston introduced Senate President Huffman. He is serving his second term in the Senate representing the 12th Senate District, and previously served four terms in the Ohio House of Representatives.

President Huffman invited questions from the Board in order to provide information on topics they were most interested in. Ms. Grossman, asking the first question, inquired into the status of HB 6 repeal efforts.

President Huffman said he expects the Senate will soon pass Senate Bill 10, sponsored by Senator Mark Romanchuk. This bill will accomplish two objectives. It will repeal the special decoupling provision for FirstEnergy in HB 6. And it will repeal the FirstEnergy profits benefit (at consumer expense) that was part of the budget bill (House Bill 166) in 2019.

President Huffman also discussed the introduction of Senate Bill 44, that has joint sponsorship by Senators Michael Rulli and Jerry Cirino. This has a provision that will end the subsidy to the nuclear power plants that Energy Harbor owns (as the successor to FirstEnergy Solutions). President Huffman said he does not want the nuclear power plants to close and it has been made clear to him that the nuclear power plants will not close if this subsidy is removed. He anticipates this provision will also be passed out of the Senate.

Mr. Weston asked President Huffman for his thoughts on reform of the PUCO commissioner selection process. President Huffman replied by saying the selection should be based on the individual and their knowledge of utility issues.

President Huffman shared with the Board that the Senate is going to have a different approval process for Governor's appointments. Currently, appointments are brought to the Senate, assigned to a committee, and then approved without discussion. He said it is a process whereby the Governor makes an appointment and that appointment is confirmed by the Senate. He said he would like to see advocacy for candidates, not only with the Governor before the appointment, but also with the Senate as appointments are being considered. In addition, he would like the Senate to view appointments through a more critical lens, which would provide an additional check on the PUCO nominating council process.

Ms. Skinner asked President Huffman if there was anything happening in the Senate that might be of particular interest to the OCC. He said Senator Romanchuk has suggested changing the way decisions are made regarding utility rates. Due to riders and various plans, a lot of costs charged to consumers through riders are approved yet are hidden from consumers. Senator Romanchuk's idea is for utility companies to annually open their books, show how much money they made, how much of a fair return

was allowed for shareholders. Then rate increases based on that information would be approved or denied.

REPORT BY CONSUMERS' COUNSEL BRUCE WESTON (CONTINUED):

Mr. Weston discussed Senate Bill 9, which is pending in the Senate Government Oversight and Reform Committee. If passed this bill could lead to a 30% reduction in state regulations. OCC submitted written testimony. There, OCC asked for utility regulations generally to be exempted from the proposed reduction, so as to not end regulations needed for consumer protection against utility monopolies. And OCC wrote that regulations supporting Ohio's subsidy culture could be eliminated. And other regulations should be adopted for consumer protection reforms.

Mr. Weston discussed the PUCO nominating council and the need for reform in how PUCO commissioners are selected. Mr. Weston sent a letter to Gov. DeWine with recommendations for the appointment of bona fide consumer representatives to the PUCO. The Northeast Ohio Public Energy Council (NOPEC) sent a letter to the Governor as well, advocating for a qualified consumer proponent be appointed as a PUCO commissioner.

Mr. Weston provided an update on OCC's efforts to help consumers during the pandemic. To that end, OCC has recommended, for consumer protection, redirecting funding from low-income weatherization programs to the higher priority of bill payment assistance. And OCC proposed indefinitely suspending disconnections of utility service for non-payment during the pandemic.

OCC FISCAL REPORT:

Mr. Weston provided an update on OCC's budget proposal (to the Administration), which reflected a proposed increase of \$700,000. He noted that some Board members had expressed interest in recent years for OCC to request an increase for OCC's budget. The Administration proposed a \$100,000 increase. And it did not accept OCC's request for a change in the law to allow a limited-purpose consumer call center.

Mr. Weston also noted that another OCC consideration is to propose a change or clarification in the law, for OCC to have the ability to contract for special counsel on its own without the additional process layer of making requests through the Attorney General's office. (This approach would be similar to OCC's contracting with other experts needed for OCC's consumer services.)

OCC STAFF RETURN TO OFFICE:

Mr. Weston said that the Administration had previously invited state agencies to submit proposals for return to agency offices, by May 2021. A surge in coronavirus cases occurred, so those state plans are not being immediately implemented. Currently, OCC is awaiting further state guidance on how/when to prepare for a return to offices. Mr. Weston noted his appreciation of the Governor's concern for the people of Ohio and efforts to protect people from the coronavirus.

REPORT BY DEPUTY CONSUMERS' COUNSEL LARRY SAUER:

Mr. Sauer provided a case activity update to the Board. The discussion included three HB 6-related investigation cases taking place at the PUCO regarding FirstEnergy, per requests for consumer protection from OCC. And OCC is involved in a distribution rate case affecting AEP's consumers, in which OCC, AEP, PUCO staff, and other parties are currently involved in settlement discussions.

Mr. Sauer discussed reform needed in the PUCO settlement process. Specifically, there should be an end to the practice of utilities providing cash payments to various parties in exchange for signing a settlement.

Mr. Sauer noted reform is also needed in the PUCO litigation process. He said recently OCC has been in discovery disputes with utilities whose intent was to impede the agency's litigation efforts by delaying or preventing OCC from deposing witnesses such as utility personnel.

Mr. Sauer gave an update on HB 6-related activity. He said OCC testified seven times in 2019 against HB 6 and OCC has so far testified six times for the repeal of H.B. 6.

Mr. Sauer noted that S.B. 10 would repeal FirstEnergy's decoupling charge in H.B. 6 and the profit-related provision in the state budget bill (H.B. 166). And he noted S.B. 10 would give refunds to consumers for the profit and decoupling charges. Mr. Sauer said OCC testified in support of this bill, acknowledging that it is a good start (though repeals of other parts of H.B. 6 are needed). The next step in legislation should seek a repeal of the H.B. 6 coal and nuclear power plant subsidies. Mr. Sauer further noted that the legislature should investigate the H.B. 6 scandal including looking into undue utility influence. OCC also supports reforming the 2008 electric utility law, under which consumers have been charged too much.

Mr. Sauer reported on other pending bills in the Ohio House to repeal H.B. 6. Those repeal bills include H.B. 10 – (Rep. Leland); H.B. 18 (Rep. Lanese); and H.B. 57 (Reps. Skindell and O'Brien). In the Ohio Senate there is another partial H.B. 6 repeal bill, S.B. 44, which ends the nuclear bailout (Senators Cirino and Rulli).

Ms. Moore made a motion to adjourn the meeting. It was seconded by Mr. Young. 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 March 16, 2021.



Michael Watkins, Board Chair



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