



Office of the Ohio Consumers' Counsel

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

**Meeting of March 18, 2025**

The members present were:

Mr. Michael Watkins, Chair  
Ms. Cheryl Grossman, Vice Chair  
Mr. Randy Brown  
Mr. David Fleetwood  
Mr. Dorsey Hager  
Mr. Bruce Lackey  
Mr. Josh Yoder

Members Absent: Ms. Connie Skinner and Ms. Jan Shannon

**CALL TO ORDER BY CHAIR:**

Chair Watkins called the meeting to order at 10:08 A.M. Board Secretary Susan Loe called the roll. The members answering as present were as shown above, with the exception of Ms. Grossman who joined the meeting about 10:15 A.M.

Chair Watkins asked the guests, staff and Board members to introduce themselves. Present were representatives from Gongwer and Hannah, Mr. Gene Freeman, staff from the PUCO and OCC, as well as the Board Members, Deputy Consumers' Counsel and Consumers' Counsel.

**APPROVAL OF THE MINUTES:**

Chair Watkins asked for a motion to approve the minutes of the January 2025 Board meeting. A motion was made by Mr. Fleetwood to approve the minutes as written. Mr. Brown seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present.

**CONSUMERS' COUNSEL'S REPORT:**

Consumers' Counsel Willis updated the Board on PUCO activities. Ms. Willis noted that there were several utilities requesting increases through rate cases, electric security plans, smart grid cases and capital expenditure rider cases.

Ms. Willis first discussed the AES rate case, which was about a 15% increase, or an average increase from \$153 to \$174 per month. She noted that affordability is an issue in this case, as well as failure to meet reliability standards. She added AES had failed to meet reliability standards for the last four years. She noted they were also asking for significant profits to be included in the rates, as well as energy efficiency expenditures and electric vehicle costs. OCC's position is these programs should generally be market driven, where participants pay for the cost.

She next discussed FirstEnergy's rate increase case, where OCC was filing testimony and objections to the Staff report. She noted there is a distribution rate freeze under the electric security plan that FirstEnergy reverted to. She noted that the largest increase would affect the Cleveland Electric Illuminating Company customers, with an average of \$13 per month increase. She added that there would be local public hearings in April, and noted that OCC was encouraging consumers to provide input at these hearings. She added that there is also a FirstEnergy Electric Security plan pending where FirstEnergy withdrew from its newly submitted plan and reverted instead back to ESP IV, which was tied to the HB 6 scandal. She explained the various increases to the customers of the three FirstEnergy companies in Ohio.

Ms. Willis next discussed a settlement reached with Duke Energy which included many consumer protections. She explained that OCC estimates consumer savings of \$215 million from what was originally sought by the utility. She noted that some parties opposed the settlement and that it was awaiting PUCO approval. She also discussed the Duke Power Forward rider which also included a consumer increase. She discussed Duke had also not met their reliability standards for the past three years and seeks less stringent standards. Mr. Lackey asked about penalties for failure to meet standards. Ms. Willis noted that there were penalties, but that they were not large enough to make a difference in utility investment decisions.

Ms. Willis next discussed the Enbridge rate case. She explained that Enbridge had originally requested a \$212 Million increase. OCC's analysis and PUCO Staff indicated that a decrease was warranted. She explained that Enbridge placed a full-page ad in the Columbus Dispatch stating that a lower, \$60 million increase, was now being sought. She also explained that Enbridge repeatedly sought delays in the process, which extends their current too-high rates. She noted that OCC also sought emergency relief for consumers a couple months ago, which had yet to be ruled on by the PUCO. Ms. Willis also explained OCC's prior concerns about the effects of the merger with the Canadian company. She noted that there was an issue over pension contributions and how to treat those in the case.

Ms. Willis next discussed AEP's Gridsmart settlement, which OCC opposed. She explained that OCC's testimony focused on affordability to consumers. She noted that poverty statistics in Ohio were getting worse and that AEP disconnects three times more people than any other utility. She noted there was also a concern about the cost allocated to residential customers, who don't receive the bulk of the benefits associated with Gridsmart.

Mr. Yoder asked if there was a theme across these various rate increases. Ms. Willis explained that one theme was economic development in Ohio. She noted that in the AEP data center case, OCC has been urging that those new businesses should bear their own infrastructure costs and behind-the-meter generation on their own. Ms. Willis stressed that OCC needs to continue to keep an eye on affordability issues for consumers.

She next discussed the \$14 million "mistake" in the last Duke rider case. Duke was attempting to collect the difference in a rider. She explained that this was a case where the independent auditor report was influenced by the utility. She noted that the PUCO reprimanded Duke for its involvement, but that was the extent of it. She noted that OCC is concerned with the improper and possibly illegal procedure where the utility is given a draft of the audit report before its publicly filed. Vice-Chair Grossman asked whether the State Auditor could be involved, and Ms. Willis responded that was something to research. She added that a similar issue was pending at the Supreme Court, which would be discussed later, where PUCO staff influenced the final report.

Ms. Willis next discussed AEP's filing of two fuel cell arrangements with Amazon and Cologix. She explained that AEP wanted to construct, procure, own, maintain and operate fuel cell plants for these mercantile customers. She noted that OCC's concern is that this is a regulated utility operating within the competitive market and that costs would somehow be passed through to other customers, including the cost of capital. She noted there is also legislation pending that proposes to keep utilities out of these types of ventures. She noted that although OCC is in support of behind the meter efforts, it should not involve a utility, but rather third parties. She noted that fuel cell plant business is riskier than distribution. She also explained that there were a lot of independent power producers, or merchant power plant owners, that would likely be happy to build and keep AEP out of behind the meter space.

Ms. Willis next discussed the FirstEnergy witnesses who pleaded the fifth in depositions and explained that OCC is seeking a court order to compel the witnesses to provide answers to OCC's questions. She noted that Ohio law does not allow these witnesses to plead the fifth in PUCO investigations.

Ms. Willis next discussed two recent presentations at the Ohio Chamber of Commerce conference. She noted that there were common interests regarding what was happening with the energy markets and potential solutions. She noted that this was a good relationship building opportunity.

**DEPUTY CONSUMERS' COUNSEL'S REPORT:**

Deputy Consumers' Counsel O'Brien discussed matters that the OCC is involved in before the Federal Energy Regulatory Commission (FERC) and OCC appellate work. She noted that OCC had been participating both individually and with other state advocates at FERC. She noted, for example, OCC joined with four other states on a complaint regarding the base residual auction which resulted in inflated prices. She also discussed a complaint brought by the Governor of Pennsylvania against PJM, where a settlement was reached that included a price cap and a price floor for the next two auctions. She also discussed other cases regarding PJM's proposals to revise the capacity auction market rules. She reviewed a list of the cases where OCC had filed protests, complaints or other involvement.

Ms. O'Brien next discussed PJM's transmission proposal where OCC filed a rehearing request of a FERC order adopting PJM's Reliability Resource Initiative. She explained that OCC argued that there should be a cost metric involved and is seeking greater transparency in the selection process. Ms. Willis added that transmission costs and wholesale auction rates ultimately affect consumers, so OCC's advocacy at the federal level is essential. Ms. O'Brien added that in the PJM pricing reform case OCC filed for rehearing and is now participating in a subsequent appeal at the 4<sup>th</sup> Circuit. She explained that the issue for OCC is cost allocation and shifting transmission costs onto utility consumers in Ohio.

Mr. Lackey asked whether this involved adding powers and transmission lines being constructed adjacent to existing lines as backup. Ms. O'Brien noted that this has more to do with the generation projects coming online. Ms. Willis commented that Ohio is looking to build more plants in the state so to reduce these huge transmission costs. Mr. Lackey asked if FERC had local offices. Ms. O'Brien responded that as a Federal Agency, FERC was located in Washington D.C., and they regulate wholesale. Ms. Willis noted that in addition to the Deputy, OCC had retained outside legal counsel and an analytical consultant assisting OCC with these highly technical issues. She noted that the utilities had ample resources to converge on Washington D.C., unlike the advocates.

Ms. O'Brien also noted that OCC was very involved with an organization within PJM called Consumer Advocates for the PJM States. This group will be involved in pre-meetings where these issues are discussed. She also noted OCC has been more engaged in joining PJM and FERC online meetings. She added that Maureen planned to attend a technical conference in June in Washington D.C. She explained that it was a very technical area that required a lot of resources and OCC had been taking proactive efforts to be more involved. Mr. Yoder asked if the new administration is bringing any anticipated changes that would affect how FERC does business. Ms. O'Brien responded that Commissioner Christie is now the chairman and has previously taken positions that were favorable to consumers. Ms. Willis added that there is an expectation that there will be some changes, including policies that involve shrinking government and opening up regulations to create more power. She noted that FERC is trying to resolve potential energy shortages, as well as bring down the high prices. She added that due to the

capacity issues with the recent auction, OCC estimates an additional \$16 per month in transmission charges is expected to affect Ohio consumers.

Ms. O'Brien next discussed some activities at the Ohio Supreme Court and noted that the day before the meeting OCC had filed a merit brief in a joint appeal regarding an 2018-2019 audit of AEP's operation of the OVEC plants. The auditor was supposed to determine whether AEP's operations of the plants were prudent. In a draft audit report, the auditor found that the must-run basis was not prudent, because they were kept running even if operating at a loss most of the time. She added that OCC became aware through a public records request that the independent auditor initially determined in a draft report that AEP's operation of the plants was not in the best interest of ratepayers. OCC also learned that a PUCO staff member asked the auditor to tone down that conclusion, which was changed in the final audit report.

Ms. O'Brien explained that as a result, the PUCO ended up approving \$74.5 million in coal plant subsidy costs over those two years. OCC argued that an improper standard was used, there was undue influence as well as denial of procedural due process. She explained OCC was not allowed to subpoena the PUCO employee who requested the change in the audit report. Ms. Willis noted that the auditor ended up completely omitting the conclusion that the plants were not in the best interest of ratepayers, which was the ultimate issue at question. Ms. O'Brien noted that although OCC had been denied the subpoena to question the PUCO staff member, OCC had been allowed to admit evidence of the draft audit report and the email request. Ms. O'Brien noted that the PUCO responded that it would be irresponsible for them to rely on the draft audit report.

Ms. O'Brien next discussed OCC's appeal of Duke's rate case where consumers were charged \$29 million for propane storage caverns that were not used and useful as of the date certain. She explained OCC had filed briefs and Duke had filed a motion to dismiss that had not been granted, so briefing was proceeding.

Ms. O'Brien next discussed two pending appeals involving AES. At issue are AES's significantly excessive profits in the amount of \$61 million that were not refunded to consumers, and \$152 million in rate stability charges that AES was allowed to reinstate from an old ESP. OCC's position is that this charge was based on an old generation charge, lacking evidentiary support. She noted that another issue on appeal is whether or not utilities can reinstate their previous electric security plan rather than the standard service offer when they withdrew from their electric security plan. She noted that oral arguments were scheduled in April, which will be conducted by the Consumers' Counsel and the Deputy Consumers' Counsel. Vice-Chair Grossman asked if the oral arguments could be watched and was informed that it would be recorded on the Ohio channel website and can be viewed live or later.

**LEGISLATIVE UPDATE:**

Consumers' Counsel Willis gave a brief overview of OCC's legislative activities. She first discussed two energy regulatory reform bills, House Bill 15 and Senate Bill 2. She noted they appeared to be on a fast track, and that OCC was a proponent on both bills. She explained that both bills ended the OVEC coal subsidies. She noted that HB6 had the charges going through 2030, so this would result in hundreds of millions of dollars in savings. She also explained that both bills proposed ending electric security plans, and reform of the settlement process. She added that the legislation also included proposals for continuing to keep utilities out of generation, including behind the meter generation, marketer reforms with limits on teaser rates, the preservation of the standard service offer, and more. She noted that OCC had been working with sponsors of the bills and other members of the legislature, and providing testimony. She noted that legislative interactions were positive.

Vice Chair Grossman asked Ms. Willis to comment on what some electric utilities were doing in opposition. Ms. Willis explained that the energy bills are not being favorably received by the utilities. She explained that utilities, through EEI, were placing Facebook ads and other advertising and marketing complaining about how negative these changes are for Ohio and urging people to contact their representatives and oppose the changes. She noted that there was a lot of money at stake and the utilities want to continue to receive the revenues allowed by current law.

Ms. Willis next discussed Senate Bill 103, which appears to have a lot of favorable rate making changes for gas utilities that OCC will need to look at closely. She also discussed a pending submetering bill that OCC was working on with members of the General Assembly. She also discussed net metering, and other pending legislation, including her recent budget testimony. She shared a graph depicting OCC's recent activities at the General Assembly. She also thanked Harrison Siders and Beau Euton for their assistance with working with the legislature.

**EMPLOYEE INFORMATION:**

Ms. Loe, Operations Director, gave a brief update on employee information, including the Employee of the Quarter, Tonja Stewart Shaw. She noted that Tonja had retired from the PUCO several years ago, where she had served as a lead in their call center and had served as their low-income program expert. She noted that Tonja had joined OCC after her retirement, and serves as an Outreach and Education Coordinator, travelling throughout the state meeting with Ohioans and educating them about the OCC and other helpful information. She noted that Tonja had been particularly helpful in recent months in coordinating site visits of the Consumers Counsel and Deputy Consumers Counsel at local meetings.

**PUBLIC AFFAIRS REPORT:**

Merrilee Embs, Public Affairs Director, gave the Board a brief update on public outreach and website activities. She noted staff had been jointly working on the annual report, which is due April 1. She also shared some statistical information on media releases.

She stated that during National Consumer Protection Week, Outreach & Education staff had interacted with 2,900 consumers at 127 events (virtual and in-person) in the past two months. She also noted there had been an expanded effort, including the Consumers' Counsel and Deputy Consumers' Counsel, in communities that are affected by the rate case filings. She stated that those efforts had resulted in eight resolutions against the rate increases in various communities. She highlighted some recent media interviews and shared statistical information on consumer calls and emails.

Vice-Chair Grossman asked about what services would be available if OCC was able to have its call center back. Ms. Embs responded that OCC would actually be able to help consumers and advocate on their behalf, rather than referring them to other entities/agencies. Mr. Yoder asked if OCC tracks the type of concerns received from the public, and Ms. Embs responded affirmatively, and noted that questions about electric bills and also assistance were most common. Ms. Willis noted that our budget did not specifically ask for the call center, however it would enhance OCC's ability to assist consumers. She noted that staff would share yearly statistics at the next meeting.


Mr. Lackey asked if there were any DEI initiatives that are being questioned. Ms. Loe responded that there are continuing minority contracting initiatives, and also there are no changes in hiring practices at this time. Mr. Lackey asked if he were to reach out to his representative on any of the bills, should he identify himself as a Board Member. Ms. Willis said it would be helpful to assist with getting the word out about the work OCC is doing to help their constituents. Ms. Grossman complimented Ms. Willis, Ms. Euton and OCC staff for their efforts in building relationships with the legislature.

Mr. Fleetwood made a motion to adjourn the meeting, seconded by Mr. Lackey. Ms. Loe called the roll. The motion was approved unanimously by the members present.

The meeting was adjourned at approximately 11:45 A.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on May 20, 2025.

  
Michael Watkins, Governing Board Chair

  
Susan Loe, Board Secretary  
Ohio Consumers' Counsel Governing Board