



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

May 17, 2022

Members Present: Mr. Michael Watkins, Chair
Ms. Cheryl Grossman, Vice Chair
Mr. Randy Brown
Mr. Dorsey Hager, Jr.
Ms. Kelly Moore
Ms. Connie Skinner
Mr. Josh Yoder

Members Absent: Mr. Tim Callion and Ms. Jan Shannon

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:30 A.M. Chair Watkins welcomed new members Mr. Brown and Mr. Yoder to the Board. The Chair expressed the Board's gratitude to the Attorney General's Office for the appointments. Interim Board Secretary (Deputy Consumers' Counsel) Larry Sauer called the roll, with members present as shown above. Chair Watkins informed the Board that he is unable to attend the July meeting and that Vice-Chair Grossman would chair that meeting in his absence.

MEETING MINUTES:

Chair Watkins asked for a motion to approve the minutes of the March 15, 2022 Board meeting. A motion was made by Ms. Skinner to approve the minutes. Ms. Grossman seconded the motion. Mr. Sauer called the roll. The motion was approved unanimously.

NEW MEMBER INTRODUCTION:

Consumers' Counsel Bruce Weston welcomed the new members to the Board. Chair Watkins asked each Board Member to introduce themselves.

Mr. Josh Yoder stated he is a farmer in Plain City Ohio, previously involved with the Ohio Corn Growers Association and by educational training is an economist. Chair Watkins asked if he was related to the former Board Member Fred Yoder, and Josh Yoder responded that he is Fred's son. Chair Watkins commented that Fred Yoder was a valued member of the Board for many years.

Mr. Brown introduced himself as a farmer in southern Wyandot County. He stated that he is a fifth generation farmer. He currently farms with his son Kyle as contract growers, raising pigs. He previously served on the National Pork Board, Wyandot County Farm Bureau, the local school board and other associations. He presently serves on the Wyandot Popcorn Museum Board and the U.S. Pork Center of Excellence Board out of Des Moines, Iowa.

[Note: Subsequent to the meeting OCC developed a question for the Attorney General's office about the effective date of the Attorney General's appointment of the two new Board members (Mr. Brown and Mr. Yoder). Based on advice from an Assistant Attorney General on this question, OCC understands the following: the two new Board members may be considered members during the Board meeting and, in any event, the question does not affect any Board votes at the May meeting because there was a quorum present even without the new members.]

Consumers' Counsel Weston stated this would likely be the Board's last virtual meeting due to the June expiration of the state law allowing for virtual meetings. Mr. Weston noted that the presentation for the meeting is intended to serve as both an update of agency activities and an overview of the agency for the benefit of the new Board members.

RECOGNITION:

Deputy Sauer announced the hire of Connor Semple as a Staff Attorney. He stated that Connor had previously served OCC as a legal intern while attending law school. Mr. Sauer added that Connor had been working at the Ohio Court of Claims since passing the bar, and that he is pleased Connor is returning to OCC. He noted that both the current Consumers Counsel and the third Consumers' Counsel had started with the agency as legal interns.

Consumers' Counsel Weston discussed a recent tweet published by OCC recognizing agency staff during Public Service Recognition Week. He stated that a staff meeting was held where service pins were awarded to various OCC staff. He also highlighted a recognition that was posted on the agency website and thanked the Board Members for their public service.

REPORTS OF THE CONSUMERS' COUNSEL AND THE DEPUTY:

Consumers' Counsel Weston gave a brief overview of the creation of the Office of the Ohio Consumers' Counsel. He outlined the statutory composition and responsibilities of the Board. He stated the agency was created as an independent agency, in order to best represent consumers. He stated that the Board appoints the Consumers' Counsel, who serves as the agency Director, and the Deputy Consumers' Counsel, who also serves as the Legal Director. Mr. Weston named the four Consumers' Counsels that had been appointed since the creation of the agency (Mr. Weston being the fourth).

Mr. Weston continued that, per statute, the Chair of the Governing Board also has a seat on the PUCO Nominating Council. Chair Watkins briefly described his experience with the recent Nominating Council meeting to review candidates for PUCO Commissioner. He described that there are 12 people on the Council and they normally meet early in the year to recommend candidates to the Governor for appointment to the PUCO. He added that this recent meeting was the most active in recent years, with a lot of questions being asked of various candidates for PUCO commissioner. He explained that interviews are typically done in executive session and that some members of the Council are hoping to conduct the interviews in public session in the future.

Mr. Weston explained that former Vice-Chair Young had recently been appointed to the Nominating Council. He stated that about 40 years ago the OCC Governing Board had expressed concern about whether the Nominating Council would be effective for consumers. He stated that OCC would like to see consumer members on the PUCO. Mr. Weston stated the Nominating Council in his view has been a failure and has not produced balance on the PUCO for consumers.

Mr. Weston described two letters from Chair Watkins to the Nominating Council to consider reforms and to request a special meeting. He noted former Chair Koren at the Nominating Council did not grant either request.

Mr. Weston next described a letter he and the Ohio Poverty Law Center sent to the Governor, asking for reform and to not appoint another individual connected to utilities to the PUCO.

Mr. Weston described recent nominations sent to the Governor for membership on the Power Siting Board. One of OCC's nominees, Greg Sloan (a former employee of OCC) was ultimately appointed by the Governor. OCC has stated that one of the commissioner appointments for the PUCO should also come from nominations by OCC in a similar manner.

Next Mr. Weston described photographs with Governor DeWine, including his Oath of Office Ceremony (when Mr. DeWine was Attorney General) and a meeting where the Governor-Elect visited the OCC Board at their public meeting, before taking office.

Deputy Sauer next provided some statistical information about the OCC. The agency was created in 1976, currently has 29 employees and an annual budget of \$5.64 million. Residential consumers represented are about 4.5 million [plus their families]. In 2021 OCC participated in about 130 cases and filed about 357 pleadings. He added there are six major electric utilities, the largest being FirstEnergy. There are four major natural gas utilities, the largest being Columbia Gas. And there is one major water utility, Aqua Ohio.

Mr. Weston added that OCC has several temporary staffers to augment the work of the permanent staff. He explained the 4.5 million consumers represents the number of households. He added that the

OCC is currently representing consumers in utility rate increase cases with both Aqua and Columbia Gas. He described the activities of the OCC Outreach and Education staff that meets with groups to educate them about utility services.

Mr. Weston then discussed a Resolution of the Board opposing House Bill 6. He also described a joint OCC and Ohio Manufacturers' Association letter asking the Governor to veto House Bill 6. OCC testified 7 times in the General Assembly against House Bill 6 and testified for its repeal 11 times.

Mr. Weston explained that Ohio is a deregulated state with regard to electric power generation. Power plants are not within the jurisdiction of the PUCO. The competitive market is to determine the rate for the commodity of electricity. The transmission and distribution wires remain regulated. OCC's view is that subsidies for power plants, at consumer expense, are inappropriate in competitive markets. He described the OCC's Subsidy Scorecard that tracks these subsidies. Currently Ohio is at about \$15 billion in subsidies for electric utilities, at consumer expense. Mr. Weston explained House Bill 6 still has massive subsidies at consumer expense [about one-quarter billion dollars to date] for coal power plants, that have not been repealed. He noted that OCC keeps a counter of the subsidies and pollution from these plants on its website.

Mr. Weston next described another Resolution where the Board opposed a bill that supposedly was for reforming OCC (right after OCC had opposed House Bill 6). It was House Bill 246 and it would have given six (a majority) of the OCC Governing Board appointments to the General Assembly. He explained that this bill did not surface again after the indictment of former House Speaker Larry Householder, two months after the substitute version of the bill was introduced.

Deputy Sauer then explained the process of appealing a PUCO decision to the Supreme Court of Ohio. This process can sometimes take a couple years. A problem for consumers is that the charges collected by the utility while the appeal is pending are generally considered to be nonrefundable even if the Court declares the PUCO-approved charge to be unlawful. The Board adopted a resolution in 2019 to recommend changes so that utility charges that the Court determines to be unlawful can be refunded to consumers. Since 2009 there have been \$1.5 billion in unlawful electric charges invalidated by the Court that were not refunded to consumers.

Mr. Weston explained that the Supreme Court has jurisdiction over appeals of decisions from the PUCO. He explained the OCC has had some significant successes in appeals to the Supreme Court where the Court, by overruling the PUCO, has restored a balance that has been missing in some of these regulatory matters. He noted that unfortunately there is the problem of consumers being denied refunds of improper utility charges. The OCC continues to press for reform on this issue.

Mr. Weston next explained a Board resolution where the Governing Board called for the PUCO Nominating Council to be abolished. The Nominating Council nominates commissioner candidates to

the Governor for appointment to the PUCO. In its Resolution the OCC Board proposed appointments by public election with limits on contributions and other reforms. He noted that almost 40 years ago the OCC Governing Board had expressed concerns over the then new Nominating Council.

Mr. Weston next explained the formation of the National Association of State Utility Consumer Advocates (NASUCA), and Ohio's role in that process. He added that the first Ohio Consumers' Counsel, Bill Spratley, was the first President of NASUCA. He described NASUCA's important role in consumer advocacy.

Deputy Sauer reviewed the OCC's mission, vision and core values. He described the legal advocacy roles and the education component. Mr. Weston explained the OCC specifically represents consumers of investor-owned utilities. He explained that the budget is set by the legislature, but the funds come from assessments on utilities. He also briefly explained the budget process. Mr. Weston explained the history of the slashed OCC budget during the Kasich Administration and the prohibition of the OCC call center to answer calls from the public.

Deputy Sauer reviewed the various departments of the OCC and their roles in the agency. He reviewed examples of types of pleadings and motions typically filed by the Legal Department. The Consumers' Counsel reviewed a map that displayed some of the agency's advocacy partners, such as NOPEC, the Ohio Manufacturers' Association, the Ohio Poverty Law Center, and others. He then reviewed examples of OCC fact sheets to help inform consumers. And he noted the 2021 Annual Report. He highlighted the Board Chair's message in the Annual Report, calling for reform.

Deputy Sauer reviewed recent rate cases that the agency was involved in, and the difference between rate cases and rider cases. He next reviewed some recent settlements, including a negotiated rate decrease, a settlement that resulted in a refund to consumers, and the FirstEnergy settlement for \$306 million to be refunded and credited to consumers, among others. He next reviewed an example of OCC's consumer advocacy at the Federal Energy Regulatory Commission (FERC).

Consumers' Counsel Weston reviewed OCC motions asking for the PUCO to investigate FirstEnergy, and the resulting investigations. He also noted the recent withdrawal of PUCO hearing officer Gregory Price from these FirstEnergy cases.

Deputy Sauer explained the infamous distribution modernization rider case involving FirstEnergy. And he discussed shocking FirstEnergy text messages that had been revealed regarding former PUCO Chair Randazzo. He then explained the concerning impact of energy marketers on consumers and what consumers should do to protect themselves. Mr. Weston noted OCC's position that marketers shown to be deceiving consumers should be prohibited from conducting business in Ohio.

Mr. Weston then explained a recent frustrating case where AES (formerly DP&L) did not meet PUCO reliability/quality standards for service to consumers. And AES then requested that the standards be lowered, rather than having to meet the current standards.

Deputy Sauer explained the agency's position as pro-market. He noted that currently prices were on the rise and standard service offer prices were going up for consumers. He noted that natural gas prices had almost doubled in the past year. Mr. Weston added that the OCC was seeking consumer protections, especially for at-risk consumers, during this time of rising energy prices.

EXECUTIVE SESSION:

Vice Chair Grossman made a motion to enter into Executive Session to consider employment and compensation for two public employees, seconded by Ms. Skinner. Deputy Sauer called the role, with votes as follows:

Mr. Brown – Yes
Mr. Hager – Yes
Ms. Moore – Yes
Ms. Skinner – Yes
Mr. Yoder – Yes
Vice-Chair Grossman – Yes
Chair Watkins – Yes

(The Board returned from Executive Session at approximately 12:40 P.M.)

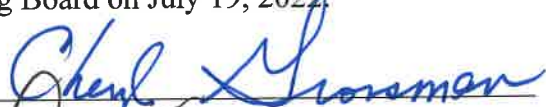
There was a motion by Vice Chair Grossman, seconded by Ms. Skinner, to increase the compensation of the Consumers Counsel and the Deputy Consumers Counsel by 3%, related to the state government's Cost of Living Adjustment/parity increase for state employees, effective in the pay period that includes July 1, 2022, and to permit rounding in the calculations. Deputy Sauer called the role, with votes as follows:

Mr. Brown – Yes
Mr. Hager – Yes
Ms. Moore – Yes
Ms. Skinner – Yes
Mr. Yoder – Yes
Vice-Chair Grossman – Yes
Chair Watkins – Yes


Vice-Chair Grossman made a motion to adjourn the meeting. It was seconded by Ms. Moore. Mr. Sauer called the roll. The motion passed unanimously.

The meeting adjourned at approximately 12:45 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel
Governing Board on July 19, 2022.



Cheryl Grossman, Board Vice Chair (Acting Chair)



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