Office of the Ohio Consumers' Counsel

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

**Meeting of September 9, 2025**

The members present were:

Ms. Cheryl Grossman, Vice Chair (Acting Chair)
Mr. Randy Brown
Mr. David Fleetwood
Mr. Bruce Lackey
Ms. Connie Skinner
Mr. Josh Yoder

Members Absent: Chair Michael Watkins, Mr. Dorsey Hager, and Ms. Jan Shannon

## CALL TO ORDER BY CHAIR:

Vice-Chair Grossman called the meeting to order at 10:00 A.M. Susan Loe, Board Secretary, called the roll. The members answering as present were as shown above.

Vice-Chair Grossman asked the guests, staff and Board members to introduce themselves. Present were Paul Teasley from Gongwer News, Paul Keck from Hannah News, staff from the PUCO and OCC, Gene Freeman, Bryan Lee from the Attorney General's Office, as well as the Board Members, Deputy Consumers' Counsel and Consumers' Counsel.

## APPROVAL OF THE MINUTES:

Vice-Chair Grossman asked for a motion to approve the minutes of the July 2025 Board meeting. A motion was made by Ms. Skinner to approve the minutes as written. Mr. Lackey seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present.

## GOVERNING BOARD MEETING DATE:

Consumers' Counsel Willis explained that NOPEC was having a 50th anniversary gathering on the same date and time as the November Board meeting previously scheduled. She explained that NOPEC is an important partner to OCC, and she was hopeful the board meeting could be rescheduled. She suggested

Wednesday, November 19, as had been previously circulated to the Board. Mr. Fleetwood made a motion to reschedule the next meeting from Tuesday, November 18 to Wednesday, November 19. 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 explained that there were currently multiple active rate cases at the PUCO in various stages. She noted the rate cases include electric, gas, water and sewer, many of which are affecting the same communities. She stressed that affordability is being raised by OCC in all these cases. She gave an example from a recent settlement reached between Cumberland Gas and the PUCO, which adopted the rate of return. OCC argued that the rate of return should be set much lower to save customers money. She also noted OCC's focus on keeping fixed customer charges as low as possible.

She next discussed a settlement agreement with AES Ohio, where OCC negotiated no hike in the fixed charges and increased the shareholder funded bill payment assistance program. She noted they also eliminated the reconnection fee and the cost shifting under the EV program. She further explained that the settlement agreement included discussions on the transmission costs and how much should be shifted to consumers. She also noted that it was a single digit rate increase in this case. Mr. Lackey asked about EV cost shifting. Ms. Willis explained that utilities are interested in building EV connections for charging stations for third-parties to set up the actual stations. She noted that it was a way for utilities to be part of the EV business. She explained that residential customers should not have to pay for it. She noted that most of the customers that utilize EV's are likely to be middle or high income. She explained that OCC's concern is that the building of these stations should not be subsidized by residential consumer rates.

Ms. Willis next discussed the $60 million rate increase for CenterPoint, which OCC opposed. OCC concerns were that the increase is very high and raises issues of affordability for consumers. She noted that it included higher fixed charges, and the profits were on the very high side.

Ms. Willis next discussed the Christi Water company settlement, where there was a 7,500 gallon a day water leak that was being charged to consumers. She explained that OCC had conducted multiple depositions, and there had been hearings to determine the cause of the water leak. She explained that after the hearing the company identified where the water leak was occurring. She noted this was in a small area in Defiance Ohio, with only about 250 consumers. She explained that OCC continued to oppose the settlement and that the case is currently in the briefing stages. She is hopeful the PUCO will consider the new evidence and reconsider the settlement. Ms. Grossman suggested that OCC reach out to the Attorney General's office regarding the matter.

Ms. Willis next discussed FirstEnergy outages in the Lakewood/Barberton area. She noted that mayors had contacted the PUCO, which at this point has not opened a formal investigation. OCC filed a motion for the PUCO to use the existing FirstEnergy reliability docket to formally explore the outages. Ms. Willis explained that a formal investigation would require fact finding which would allow for a full vetting of the issues. She added that FirstEnergy had been collecting a distribution modernization rider, in the amount of half a billion dollars, without spending any of it on modernization. Perhaps if the money had been spent on the grid, consumers outages could have been avoided or minimized.

Ms. Willis next discussed the HB6 OVEC subsidies which ended on August 14 through HB15. She explained that AEP and Duke are now seeking to collect more for earlier expenses they incurred. Ms. Willis believes the intent of the legislation was that payments for the coal subsides end on August 15, period. In fact, OCC believes there is actually $15 million in credits owed to consumers. She also noted that AEP has recently reported record earnings.

She next discussed that HB 15 also included new rules for energy marketers, and explained that OCC is also involved in the rules docket proceeding.

Ms. Willis next discussed the FirstEnergy transmission case, where FirstEnergy is asking for a $531 million increase in fixed customer charges under its Energize 365 program. She noted that OCC is concerned once again about affordability.

Ms. Willis next discussed disconnection data, which provides the numbers of disconnections by zip code. She commented that OCC would expect the numbers to rise as the rates continue to rise. She noted that this data is used to help bolster arguments for bill payment assistance for utility consumers.

Ms. Willis next discussed the issue of audit independence. She noted the PUCO recently rolled back the practice of allowing the utility to review the draft audit before it is filed, but that OCC still has concerns about the PUCO staff weighing in on the audits. She noted that the audits are important for consumer protection and should be completely independent. Ms. Grossman asked if the practice of allowing the utilities to review the draft audit was a long-standing practice. Ms. Willis answered that it had been in existence for a long time. She noted originally the practice was to allow utilities to review draft audit reports to identify proprietary information or correct mathematical errors, but that over time it has allowed substantive changes lobbied for by utilities. She noted the recent PUCO ruling was a very welcome change. She explained they will now post the audit report under seal for all parties to review, with no sharing of drafts with other parties, including utilities. If there is proprietary information, it will be redacted before being made public.

Ms. Willis next discussed hearings related to HB 6. She explained that former PUCO Commissioner Ashley Brown testified for OCC and recommended refunds, penalties and other consumer-friendly remedies. She noted that the PUCO has not acted at this point. She reminded the Board that the U.S. Attorney had stalled the proceedings three times during their federal investigations. She is hopeful the PUCO will eventually penalize FirstEnergy for their multiple violations, providing some relief for consumers. She also explained that OMA asked for FirstEnergy's franchise to be revoked.

Vice-Chair Grossman noted that it was a very busy time for the agency. Ms. Willis agreed, and thanked legal and analytical staff, who were busy working evenings and weekends on these matters.

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

Ms. O'Brien stated there had been another welcome decision at the Ohio Supreme Court, where OCC had a win with respect to AES Ohio's significantly excessive earnings test case. The Supreme Court reversed the PUCO's 2021 decision to allow AES Ohio to retain $61 million in significantly excessive profits based on future capital commitments. OCC argued that the statute specifically requires these excessive earnings to be refunded to consumers. She noted that the court did not, however, order an immediate refund to consumers, but rather sent the matter back to the PUCO for recalculation. She explained that OCC would be very active at the PUCO in that case. Ms. Willis noted that the utility is likely to argue at the PUCO that the refunds to consumers should be much less. Ms. Willis noted there was a second refund case with AES pending at the Supreme Court that potentially involves over $150 million in consumer refunds.

Mr. Fleetwood asked if the $61 million includes interest. Ms. Willis explained it did not include interest and advised that OCC likely will be seeking interest on that $61 million. Otherwise, consumers will have provided a no-interest loan to the utility during the seven years while the cases were pending. Vice-Grossman asked if OCC tracks the total amount of refunds that have happened as a result of OCC efforts. Ms. Willis explained that when OCC wins at the court, consumer refunds typically are not granted because of a 1957 Supreme Court ruling barring retroactive ratemaking. She noted that denied refunds since 2009 for electric cases alone total $1.7 billion. She noted there were three SEET refunds, two for AEP and one for FirstEnergy, and she could identify those exact numbers and provide them to the Board. Deputy Consumers' Counsel noted there had been excellent briefing in the case, which involved input from a lot of other OCC staff besides herself.

Ms. O'Brien next discussed an appeal of FERC's Order 1920 and 1920A, a comprehensive rule that established long-term transmission plan guidelines. She noted that the FERC order was over 1,000 pages, and that many other parties have appealed certain aspects. She explained that OCC joined other parties in a brief that appeals the order to the 4th Circuit United States Court of Appeals. She explained that some of OCC's issues include that there is an escalation of transmission rates, a lack of cost controls, concerns about shifting transmission upgrades to Ohio residential consumers, and failure to protect Ohio consumers from projects promoted by other states. She explained the process is that the parties collaborate and produce joint briefs. She added that OCC relies heavily on an outside counsel who is very experienced in FERC matters.

**LEGISLATIVE UPDATE:**

Mr. Stallard, legislative liaison, next discussed OCC's current legislative activities. He first updated the Board on activities around the large natural gas bill, HB 142. He also discussed HB 173, legislation involving submetering, and noted that OCC was preparing comments on this bill. He noted that there were also two other competing bills, but that HB 173 was currently the most active bill at the House. He next discussed SB 99, which concerns reform of the nominating counsel process, and allows OCC to provide nominations for a Commissioner spot to the Governor. Mr. Lackey asked who appoints the nominating counsel. Ms. Willis responded that she would confirm, but that membership requirements were set by statute, and she believed the Governor also makes some appointments.

Mr. Stallard next discussed HB 427, which allows consumers to voluntarily enroll in a utility program that would allow the utility, (through the use of smart thermostats), to lower consumers' power usage during high demand. Ms. Willis further explained that if the consumer complies, they would receive bill credits. She noted that it is like demand response bill credits that industrial customers currently receive. OCC is currently reviewing the legislation to determine if it needs to be amended to allow for consumer protections.

Mr. Stallard next discussed SB 245 which prohibits utilities from using funds collected by consumers for political spending. He also discussed SB 246 which prohibits certain disconnections for low-income individuals. He noted that these were both minority-sponsored bills.

Mr. Stallard next explained that OCC has been actively communicating with legislators on rate matters that affect their constituents. Ms. Willis added that OCC has also been meeting with city councils, including Steubenville and Lima recently, to educate them about pending rate cases. Harrison Siders commented that many of the meetings with individual representatives in their districts were being delayed to the fall due to members' schedules, but that he and Ms. Euton were able to represent OCC at various events and fundraisers.

**FISCAL INFORMATION:**

Ms. Loe discussed the employee of the second quarter of 2025, who was John Schroeder. She noted that as John's supervisor she frequently hears from OCC staff about how patient, helpful and competent John is. She next gave the Board an update on OCC's Fiscal Year 26 expenditures thus far and noted that spending was as expected two months into the fiscal year. She next updated the Board on the number of full-time and part-time employees, and efforts underway to fill two vacant analytical positions.

**PUBLIC AFFAIRS REPORT:**

Merrilee Embs, Public Affairs Director, gave the Board a brief update on public outreach and website activities. She first shared statistical information on the release of the first newsletter and noted the next edition would be released in November. She explained that OCC outreach and education events would include a QR code so that individuals could easily subscribe to the newsletter. She reported that, since the last meeting, over 5,000 consumers had been reached at 127 events, including over 1,200 individuals at the Ohio State Fair. She next shared media statistics and discussed certain television events and news stories. Ms. Grossman asked to see the comparison from prior years at the November meeting, as well as updates on the newsletter. Ms. Willis discussed recent topics that had been of interest to the media, including data centers, rising prices, outages, and other issues affecting consumers. She also updated the Board on upcoming speaking engagements. Ms. Embs next discussed the consumer inquiries and how they are handled by staff. Mr. Yoder encouraged further outreach to county commissioners.

An attendee at the meeting asked about Ms. O'Brien's testimony at the Supreme Court. Ms. Willis and Ms. O'Brien explained that ratemaking is highly statutory. Ms. O'Brien provided which sections of the Ohio Revised Code would be helpful to review to understand utility ratemaking. Ms. O'Brien explained the specific statutes involved in the recent excessive earnings case. Ms. Willis noted that everything that the PUCO does has to be founded in statute.

Various Board members complimented all the work being done by staff.

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

The meeting was adjourned at approximately 11:35 A.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on November 19, 2025.

Cheryl Grossman, Governing Board Vice-Chair (Acting Chair)

Susan Loe

Susan Loe, Board Secretary
Ohio Consumers' Counsel Governing Board