



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

Meeting of September 19, 2023

The members present were:

Mr. Michael Watkins, Chair
Ms. Cheryl Grossman, Vice-Chair
Mr. Randy Brown
Mr. David Fleetwood
Mr. Dorsey Hager
Ms. Kelly Moore
Ms. Jan Shannon
Ms. Connie Skinner
Mr. Josh Yoder

Assistant Attorney General Bryan Lee was also present at the meeting.

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:03 A.M. Deputy Consumers' Counsel O'Brien called the roll. The members answering as present were as shown above, with the exception of Ms. Grossman, Mr. Hager and Mr. Yoder, who joined the meeting while in progress at approximately 10:05 A.M.

MEETING MINUTES:

Chair Watkins thanked everyone for coming and noted that it was Consumers' Counsel Bruce Weston's last OCC Board meeting. The Chair informed there would be a reception after the meeting, where no Board business would be discussed. He congratulated Ms. Skinner and Ms. Grossman on their reappointments. (Chair Watkins was also reappointed.) He asked for a motion to approve the minutes of the July 18, 2023 Board meeting. A motion was made by Mr. Fleetwood to approve the minutes as written. Ms. Skinner seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present. (Mr. Hager and Ms. Grossman joined the meeting shortly after.)

Senator Mark Romanchuk, as guest speaker, joined the meeting and was introduced by Consumers' Counsel Weston. Mr. Weston expressed appreciation that over the years the Senator had demonstrated his concern for Ohio utility consumers. Mr. Weston noted that earlier, as a Representative, Mr. Romanchuk had introduced a pro-consumer bill to end electric security plans. Mr. Weston further noted that the Senator currently has introduced Senate Bill 143 for the same purpose. By way of introduction, Mr. Weston added that the Senator has 35 years of previous experience in small business including Hughes Aircraft Company and had served in a diplomatic capacity in the former Soviet Union, among other experiences.

Senator Romanchuk spoke briefly and stated that he was sorry to see Mr. Weston retire. He noted that when he came to the legislature he did not know very much and had learned a lot from Mr. Weston, Ms. Grossman and others. He added that he had earlier served on the House Public Utilities Committee and had appreciated OCC's involvement there. After further brief comments, he closed by saying that he had recently travelled to Italy and noted that there were a lot of representations of David in Italy, with paintings and sculptures. He commented that, in effect, Consumers' Counsel Weston had served as David, with Goliath being represented by the utilities. He thanked Mr. Weston for being Ohio's David.

Ms. Grossman stated that the Senator was also a David in the legislature, which is not always a popular position. Senator Romanchuk responded that he hoped more progress would be made and would like to see David have a win. He stated that the culture needs to be changed in the legislature, the PUCO and the utilities.

Chair Watkins asked about the House Bill 6 subsidies for the two coal plants. The Chair asked whether the recent crackdown by the federal government on emissions would, in effect, be able to accomplish ending the subsidies that consumers have been made to pay (first by the PUCO and now by House Bill 6). The Senator noted that, if a decision had to be made by the OVEC owners, all the owners of OVEC would have to agree to exit.

Mr. Weston noted that the OVEC subsidies were going to AEP, AES and Duke, at Ohioans' expense. He added that the Senator had earlier given sponsor testimony (on his bill last session to repeal the HB6 coal subsidies). For the information of those who want the OVEC coal plants to remain open, the Senator had made the point in his sponsor testimony last session that ending the HB6 coal subsidies (that consumers are paying) would not result in the shutdown of the OVEC coal plants. That is because the Ohio utilities cannot unilaterally close the two OVEC coal plants, without the other owners agreeing.

Ms. Grossman asked about any inquiries at the PUCO into the activities of the ex-PUCO Chair. The Senator responded that he watches and comments, mostly behind the scene, but he has been frustrated about the lack of action and results on such issues.

Director Weston next introduced Representative Sean Brennan. Mr. Weston reminded the Board Members of an Ohio Channel video (of a recent House Utilities Committee meeting) that was shown at a prior Board meeting. There, Representative Brennan had been one of two defenders of OCC during OCC staff testimony against HB79, where Representative Seitz has been uncivil to OCC's witnesses during questioning.

Director Weston noted, with appreciation, that he saw that first Consumers' Counsel William Spratley and his wife Faye had entered the Board's meeting room. He noted that Mr. Spratley had hired him (Mr. Weston) as a legal intern at the beginning of his career. And he said Mr. Spratley had also hired as interns Maureen Willis (soon to be the fifth Consumers' Counsel) and Janine Migden-Ostrander (who later became the third Consumers' Counsel).

Chair Watkins and Mr. Weston invited Mr. Spratley to address the Board. Mr. Spratley reminisced about a case that Mr. Weston had argued in front of the Supreme Court of Ohio. He stated that in that case the Justices had ordered refunds to consumers. He added that he was very impressed with the law firm the office had become.

Mr. Weston continued with his introduction of Representative Brennan and noted that OCC was pleased to be working with him on consumer protection issues related to utility services. He explained that Representative Brennan had dedicated his life to public service. He gave a brief history of the Representative's education and experience, including his service as a public school teacher for 30 years and as Parma councilman. Mr. Weston noted that the Representative had introduced legislation (HB120) to end the OVEC subsidies that AEP, AES and Duke are collecting from Ohio consumers.

Representative Brennan spoke about OCC's empathy for the residents of Ohio. He discussed his childhood, having been raised by a single mother in difficult financial circumstances. He commended Mr. Weston on his service to Ohio consumers. He called Mr. Weston a champion for consumer rights and noted that his advocacy had saved consumers money and ensured their consumer voices were heard in the halls of power. He reflected with appreciation that when he was young, he reached out to the OCC call center for assistance. He commended Senator Romanchuk for his service as well. He stated that he would not rest until funding for OCC is back to pre-2011 levels and the (now prohibited) OCC call center is reinstated for Ohio consumers. He presented Director Weston with a commendation from the House of Representatives on the occasion of his retirement. Mr. Weston thanked the Representative for his comments and the House commendation.

Mr. Weston next shared an article demonstrating the difficulties the Representative is facing with his consumer legislation. The article included a quote from Chair Stein of the House Utilities Committee, stating that he would not entertain House Bill 120 in Committee if the bill is returned to the Committee.

Consumers' Counsel Weston next introduced Mr. Chuck Keiper, Executive Director of the Northeast Ohio Public Energy Council (NOPEC). Mr. Weston commented that Director Keiper and NOPEC have been a valued partner with OCC for consumer advocacy. Director Keiper explained that NOPEC and OCC had a long-standing partnership in public service. He described various joint initiatives for consumers. And Mr. Keiper expressed appreciation for Mr. Weston's efforts for consumer protection over the years. Mr. Weston thanked Director Keiper for his comments and also for his testimony in support of OCC's budget request.

RECOGNITION

Mr. Weston recognized the employees of the quarter, Connor Semple and Nick Stallard. He noted that Connor had previously served as a legal intern and had returned to OCC as a staff attorney (where he is busy advocating for consumers). He said Connor has been dedicated to his public service. Next, Mr. Weston noted that Nick Stallard is OCC's legislative liaison and that he had a very busy second quarter. Nick's work included the recent budget bill in the state's biennial budget process. That is where OCC's budget is determined. Mr. Weston shared that, on other legislation, Nick had presented his first OCC testimony at the legislature.

Mr. Weston then noted new hires at OCC. He explained that Robert Eubanks is being welcomed to OCC from the Attorney General's Office, where he had represented the PUCO, among other work. He noted that Robert has a law degree, an MBA and a bachelor's degree in engineering, all from Ohio State University. Also, Mr. Weston welcomed Dorion Dortch who is joining OCC as an analytical intern. Dorion has a bachelor's degree in accounting and is pursuing her masters in accounting at Ohio State. She previously interned for a major accounting firm.

CONSUMERS' COUNSEL'S REPORT

Mr. Weston shared some photos from recent OCC participation at the State Fair and at some county fairs. The photos included a visit from Chair Watkins at a county fair where, at OCC's booth, he and OCC staffer Amy Carles talked with fairgoers about utility consumer issues. Also, Mr. Weston showed a photo from an annual, well regarded training presentation (given by Michigan State Professor Jan Beecher) for utility regulators from across the country. There, OCC's Mission for consumers was referenced as a good example of a public agency mission.

Acting Legal Director Maureen Willis (the Board's appointee to succeed Mr. Weston upon his retirement) reviewed the three electric security plans the OCC is actively involved in. She reviewed the AEP settlement agreement for its plan, which OCC is opposing, and noted that AEP has one of the largest disconnection rates in the state. She commented that AEP is actually asking for reliability standards to be lowered (made less stringent) for its utility service to consumers but is seeking increased funds for vegetation management/reliability.

Ms. Willis reviewed the settlement of the electric security plan of AES (formerly DP&L) where OCC also did not sign the settlement. The settlement has already been approved by the PUCO. She noted the poverty rate in the Dayton area is about 35% and OCC is very concerned about those residents' ability to pay for any increases.

She then discussed the proposed FirstEnergy electric security plan, which is pending. She noted that, although there is a stay at the PUCO for investigations into FirstEnergy, these same issues have relevance to the electric security plan (which is not stayed).

Ms. Grossman noted a timely article in the Ohio Capital Journal. Ms. Moore asked about the reliability issue related to AEP. Ms. Willis explained it is focused on vegetation management, tree trimming, etc., but that there is always a concern that reliability can be used as an excuse for finding a way to charge millions of dollars to consumers. Mr. Weston noted that if utilities have issues with meeting the reliability standards for their service to consumers, then they sometimes ask the PUCO to lower the standards (for the reliability of their service to consumers). That approach is contrary to OCC's view that the focus should be on requiring the meeting of the standards. Ms. Willis noted that the requested rate increases are approximately \$1 billion for FirstEnergy.

Ms. O'Brien discussed Grid Mod 1 (so-called grid modernization) for FirstEnergy and the \$516 million that has been charged to consumers. OCC's concerned view is that the report of the PUCO-hired auditor shows FirstEnergy to be essentially unauditible. She noted that FirstEnergy was not keeping sufficient data to show what are the benefits of Grid Mod 1. Despite these shortcomings, FirstEnergy is now moving ahead with its Grid Mod 2 plan. She discussed OCC's filed comments about concerns with Grid Mod 1 and Grid Mod 2. OCC's position is that consumers should be provided with refunds if FirstEnergy is not able to demonstrate grid modernization benefits to consumers.

Mr. Weston next discussed the status of the motion to protect consumers from disconnection when there are delays in the processing of financial assistance applications. OCC and its legal aid partners filed the motion, which the PUCO granted in part. He noted that a number of the utilities have protested the PUCO's ruling to grant, in part, OCC's motion to protect consumers.

Deputy O'Brien next reviewed the status of the merger of Energy Harbor and Vistra Energy. (Energy Harbor owns the former FirstEnergy nuclear plants that were at the center of tainted House Bill 6.) She explained that OCC (and NOPEC) had filed protests against the merger on the basis that it would adversely affect competition in Ohio and thereby harm consumers (who rely upon the effectiveness of the competitive markets). She noted that the Independent Market Monitor for PJM and the Department of Justice also submitted concerns about the merger. She explained that FERC issued a deficiency letter, stating that more information must be provided by Energy Harbor and Vistra.

Referencing the wording of the PUCO's "apples-to-apples" website for energy marketer offers, Mr. Weston next reviewed the issue of "bad apples" in energy marketing. He noted some recent rotten (bad apple) offer prices to consumers (meaning prices that are much too high) from energy marketers. As an example, he noted a Pure Energy electric price in the Duke area that is about four times a rate that OCC estimated would be based on a market-driven price. He noted that the PUCO had recently stated it could begin taking consumer protection action against such bad marketer prices that are unconscionable. He next displayed a Tomorrow Energy Corp. natural gas offer price that was about five times the standard offer price from Dominion. He commented that the PUCO should not allow such outrageous prices to be displayed to consumers on the PUCO's apples-to-apples website. And he said that the PUCO should disallow the offering (to consumers) of such high non-market prices.

Mr. Weston then introduced former OCC Board Chair Gene Krebs. Mr. Krebs congratulated Ms. Willis on her appointment from the Board. He noted that this was a moment of transition for the agency, just as it was in 2011 when the agency budget was cut in half. Regarding the government's cutting of OCC's budget, he noted that, as a former legislator, he has always been concerned about the government being affected by regulatory capture (by the utility industry). He encouraged OCC and the Board to keep fighting for consumers. Mr. Krebs commended Consumers' Counsel Weston for being forthright and consistent in his belief structure and seeing OCC through very difficult times. He wished Mr. Weston well in retirement.

Consumers' Counsel Weston noted for the Board that there are two decades of Deputies present at the meeting: Mr. Weston, Ms. Yost, Mr. Sauer, and Ms. O'Brien. Mr. Weston introduced Larry Sauer and Melissa Yost, former Deputy Consumers' Counsels (who were appointed by the OCC Board and served with Mr. Weston). Deputy Sauer spoke briefly and noted that Consumers' Counsel Weston's efforts had resulted in billions of dollars in savings to consumers over the years. He thanked Mr. Weston for his friendship and mentorship.

Ms. Yost noted Mr. Weston's work ethic and commented that such hard work would be unsustainable without Mr. Weston's true passion for helping people and a dedication for doing the right thing. Ms. Yost shared a quote that she said applies to Mr. Weston: "To give real service you must add something which cannot be bought or measured with money and that is: sincerity and integrity."

Director Weston thanked everyone for their kind comments.

Mr. Weston informed the Board that the PUCO ordered a third stay of investigations of FirstEnergy regarding its scandals, and noted that this would total an 18-month stay of the investigations.

Mr. Weston concluded with brief remarks. He mused that his mother had wanted him to be a doctor, but she was pleased with this job for helping people. He said he is grateful and appreciative to have been able to serve the public for so many years. He said that this type of work was the kind of job that he went to law school to do, to work in the public interest. He thanked the Board Members, staff and their predecessors for the opportunity. He wished Ms. Willis well.

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Ms. Moore made a motion to adjourn the meeting. It was seconded by Ms. Grossman. Ms. Loe called the roll. The motion was approved unanimously.

The meeting was adjourned at approximately 12:20 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on November 18, 2023.



Michael Watkins, Governing Board Chair



Susan Loe, Interim Board Secretary
Ohio Consumers' Counsel Governing Board