



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

Meeting of November 21, 2023

The members present were:

Mr. Michael Watkins, Chair
Ms. Cheryl Grossman, Vice-Chair
Mr. David Fleetwood
Mr. Dorsey Hager
Ms. Connie Skinner

Members Absent: Mr. Randy Brown, Ms. Kelly Moore, Ms. Jan Shannon, 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 10:05 A.M. Consumers' Counsel Aide Tracy Greene called the roll. The members answering as present were as shown above.

MEETING MINUTES

Chair Watkins asked for a motion to approve the minutes of the September 19, 2023 OCC Board meeting. A motion was made by Ms. Skinner to approve the minutes as written. Mr. Hager seconded the motion. Ms. Greene called the roll. The motion was approved unanimously by members present.

Chair Watkins asked the members to consider the third Tuesday of the month for the 2024 Governing Board meetings and asked the members present if there were any conflicts. A motion was made by Mr. Hager to set the dates listed as tentative board meeting dates for 2024. Ms. Skinner seconded the motion. Chair Watkins noted that these dates would be reviewed with the absent members, and they would adjust the schedule if necessary. Ms. Greene called the roll. The motion was approved unanimously by members present.

Chair Watkins reminded the members about the ethics training that needs to be completed by the end of the year. He asked members to send a copy of the completion certificate to Deputy Consumers' Counsel O'Brien.

CONSUMERS' COUNSEL'S REPORT

Consumers' Counsel Willis reported on Chair Watkins' recent letter to the Nominating Council. She noted that this was the third request in three years for a special meeting of the Nominating Council in order to discuss

reforms. She stated that again there had been no response. She noted that all it would take is a second member to request the meeting and a meeting would be required.

The Chair noted that in January there would be nominations for a new Chair of the Governing Board, and asked for members who were interested to consider the position. Chair Watkins and Ms. Willis commented that whoever the Chair of the Governing Board is next year may want to consider continuing Chair Watkins' requests for badly needed reform of the Nominating Council.

Consumers' Counsel Willis next discussed various matters where the agency was advocating for residential consumers. She reported on the submetering complaint case and noted that the PUCO had excluded OCC from participating in that case. She added that unfortunately the PUCO had recently ruled that consumers of submeterers are not entitled to the same protections that exist for other utility consumers. She stated that OCC plans to challenge that ruling because the same protections that utility consumers have should be applied to submetered utility consumers. She noted that the utility involved in the complaint, AEP, was applying for rehearing. Ms. Willis reviewed some related press articles on submetering.

Ms. Willis next discussed the issue of disconnections during the winter. She noted that the PUCO had recently issued its winter disconnection/reconnection order, where they ease up on some of the restrictions to allow consumers to stay connected. She noted that OCC had advocated for further protections than what was provided by the PUCO order and shared a list of additional protections OCC sought.

Ms. Willis next discussed FirstEnergy, which presents a number of issues for OCC review. She explained that FirstEnergy has two million consumers, primarily in Northern Ohio. She noted that there was a hearing occurring concurrently regarding FirstEnergy's Electric Security Plan. She added that OCC has been very active in that case and had a number of expert witnesses presenting testimony. She noted it was a very time-intensive case, and that FirstEnergy was asking for a \$1.4 billion increase through various riders and also is seeking increases for other charges, including GridSmart. She explained that one of the things OCC had pushed for was virtual hearings, hoping to make it easier for consumers to participate and have their voices heard.

Ms. Willis next discussed OCC's request for a subpoena for the head accountant for FirstEnergy. She explained that it is known there were a number of accounting irregularities, misallocations, and recording-keeping issues with FirstEnergy's books and records. She noted that the Attorney Examiner refused to sign the subpoena. She added that there has not been a final ruling in that case as to whether OCC can bring the accountant in and ask some questions. She noted that another stay of six months was granted in the four FirstEnergy investigation cases, at the request of the U.S. Attorney, yet other FirstEnergy rate increases were allowed to move forward. She stated that OCC would continue to advocate for answers concerning H.B.6 and would continue to call for the PUCO to do the right thing for consumers with regard to FirstEnergy.

Ms. Willis next informed the Board that Dominion East Ohio Gas has filed a very large rate case, which the utility has not done for 16 years. She noted that throughout the 16 years Dominion has increased rates to consumers through capital expenditure riders which are permitted without a full rate case filing. She added that Dominion had a healthy 10.6% profit level since 2007. She explained that OCC would be devoting a lot of attention to this case, which includes requests to charge consumers over the next six to seven years for

significant capital expenditures. She also noted that Dominion was being acquired by a Canadian pipeline company (Enbridge) and that company would like to have its acquisition resolved by March of 2024. She stated that OCC would be reviewing that acquisition and its effect on 1.2 million Dominion consumers. Vice Chair Grossman asked if this acquisition was happening in other states. Ms. Willis noted that there were other Dominion entities being acquired, in North Carolina and in Wyoming. The consolidated Canadian company would then be serving 7 million consumers, making it the largest natural gas utility franchise in the United States. She noted that OCC will be doing what it can to make sure consumers are protected during the transition from Dominion to Enbridge.

Ms. Willis next discussed the \$221 million in consumer-funded coal subsidies related to the OVEC plants which are owned in part by Ohio utilities. She noted that the OVEC subsidies charged to consumers are a part of HB 6 that was not repealed, and is very expensive for consumers and not helpful for the competitive electric market. She discussed a recent case in 2019 where Duke had received consumer-funded coal subsidies for OVEC of \$24 million. OCC challenged the subsidies as not prudent, but the PUCO disagreed and allowed the subsidy. OCC has filed an application for rehearing and is awaiting a decision in that case.

She next highlighted a deceptive energy marketing case against a company named Green Choice. She noted that the PUCO investigated and found consumers were harmed by deceptive marketing and enrollment practices including spoofing, exorbitant rates between 2-3 times the standard rate, and high pressure sales tactics. The PUCO rescinded Green Choice's certificate and fined it. OCC appreciated the PUCO's order, but OCC has, through a rehearing request, sought to permanently exclude Green Choice from doing business in the state.

DEPUTY CONSUMERS' COUNSEL'S REPORT

Deputy Consumers' Counsel O'Brien discussed matters that the OCC was involved in before the Federal Energy Regulatory Commission. She first reviewed OCC's complaint against PJM Interconnection, LLC, where OCC asked FERC to review the hundreds of millions of dollars' worth of supplemental transmission projects that are planned by Ohio utilities and charged to consumers.

She explained that these projects enable utilities to plan upgrades to their transmission facilities (and charge consumers for those upgrades) that fall into a regulatory gray area. She noted that the PUCO, the Power Siting Board and the Federal Energy Regulatory Commission do not review these transmission projects for cost effectiveness or prudence. She added that OCC has legitimate concerns about gold plating and other issues. She noted that in response to OCC's complaint, there have been protests from some of the utilities, but also some support from: other consumer advocates outside Ohio, the independent market monitor and the Federal Energy Advocate at the PUCO.

Ms. O'Brien next reported on OCC's protest of PJM's proposed changes in the pricing of electric capacity. She noted that PJM had proposed an overhaul of the way they treat capacity auctions which may result in higher electricity prices for Ohio consumers. OCC has filed a protest in order to review the issues. She added that FERC had issued a deficiency letter, asking PJM to provide additional information in support of its plan. She also reviewed related press articles.

LEGISLATIVE UPDATE

Ms. Willis highlighted some of the legislation that OCC is currently involved in and noted that the legislative activity had been somewhat light during the recent months. She introduced Nick Stallard, OCC's Legislative Liaison, to answer any detailed questions regarding pending legislation. She first reviewed House Bill 257 which would establish virtual meetings for certain public bodies, including the OCC Governing Board. She noted that Ms. O'Brien testified in support of that bill. She added that OCC also asked for an amendment to allow for Governing Board Members' stipends to be paid for attendance at virtual meetings.

She next discussed ESP reform bills, including Senate Bill 143, (Senator Romanchuk's bill), which OCC supports. She noted that OCC filed testimony opposing Senate Bill 102 (Wilkins), which has a number of reforms that are not beneficial to consumers. She stated that OCC was reviewing amendments and would likely be filing additional opponent testimony on SB 102.

She noted Senate Bill 121 is a bill on gas infrastructure, which is the next wave of bills that we are likely to see. She advised that while OCC favors economic development, OCC will continue to look at the costs involved to determine if they are reasonable and being shared fairly. She also discussed the Community Solar Program bill, and other legislation. She noted that these are smaller projects, but OCC is interested in who is paying for them, and whether there is cost shifting to residential consumers.

RECOGNITION

Ms. Willis next discussed the employee of the third quarter of 2023, Bill Michael. She explained that Bill Michael serves as an Assistant Consumers' Counsel and has been in that position for eight years. She noted that prior to joining OCC, Bill was with Suburban Gas. She noted that Bill had been very busy recently doing a lot of work in the AEP hearings and was recognized for his good work during the quarter.

Ms. Willis next discussed new hires. She stated that John Ritterbeck had been hired as an analyst in the Analytical Department to address federal energy issues, such as the ones discussed earlier by Ms. O'Brien. She informed the Board of the hiring of Tom Brodbeck, a staff attorney, coming from the Montgomery County Prosecutor's office. She noted that the legal department was always extremely busy and this new hire would be helpful. Finally, she noted also a second temporary staff attorney, John Steinhart, had been added to augment the Legal Department. She explained that the temporary staff attorneys had proven to be a good way to handle the overflow of "behind the scenes" work.

PUBLIC AFFAIRS REPORT

Merrilee Embs, Manager of the Public Affairs Department, discussed activities in the Public Affairs Department. Ms. Embs explained the roles of the three Outreach and Education staff and noted they had participated in 125 events and 20 informational visits during September and October. She added during these presentations OCC met with nearly 5,000 consumers. She noted that these presentations helped consumers with finding utility assistance and provided other useful information to consumers. She also discussed other projects that the Public Affairs staff were involved in, including creating updated videos, and updating the website and fact sheets. She noted there were over 67,000 visits to the OCC website in September and October, 62% of which came from mobile devices.

Ms. Embs next discussed the Combined Charitable Campaign. Each year the agency participates in this campaign. She noted that this year the agency raised \$9,766 for charities, and that as a whole, the state campaign had raised over \$2 million.

Chair Watkins noted there would be no executive session and asked if any of the members had any questions for any of the staff. Ms. Skinner thanked Consumers' Counsel Willis for a good job with the meeting and keeping it short. Ms. Willis responded that she was hopeful that sending the clippings throughout the month was a good way to keep the Board informed between meetings and to allow for the shortened meeting format. Vice Chair Grossman complimented Ms. Willis on her tone and contents of her comments to the media, letting people know that the OCC has legitimate concerns and the OCC is not going to go away. Ms. Willis noted that she appreciated the encouragement from Chair Watkins to "do the right thing." She added that it requires courage to take an unpopular view in order to do the right thing for consumers. Mr. Fleetwood added that the meeting had been very informative.

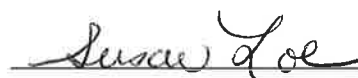
Ms. Fleetwood made a motion to adjourn the meeting. It was seconded by Ms. Grossman. Ms. Greene called the roll. The motion was approved unanimously.

The meeting was adjourned at approximately 10:49 A.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on January 16, 2024.



Michael Watkins, Governing Board Chair



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