



**MINUTES OF THE
THREE HUNDRED AND FIFTH MEETING
OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD
September 9, 2014**

Members Present: Gene Krebs, Chairman
Fred Cooke
Sally Hughes
Roland Taylor
Mike Watkins
Fred Yoder
Stuart Young

Members Absent: Jason Clark
Susheela Suguness, Vice Chair

Guests: David Fein, Exelon
Jeff Clark, Attorney General's Office

CALL TO ORDER

Chairman Krebs called the meeting to order at 9:10 a.m. Mrs. Knight called the roll.

APPROVAL OF MINUTES

Mr. Watkins asked that the minutes be provided a week in advance. Chairman Krebs concurred and said the minutes should be sent a few days prior to the meeting. Mr. Yoder noted a correction on page 3 of the minutes – the word “propone” should be “propane.” With that correction Mr. Yoder moved to accept the minutes; Mr. Watkins seconded the motion. Mrs. Knight called the roll and the minutes were approved unanimously.

RECOGNITION BY THE CONSUMERS' COUNSEL

Consumers' Counsel Weston introduced the Employee of the Quarter, Deb Bingham. He praised Ms. Bingham for her work.

NEW EMPLOYEES

- Mr. Weston introduced Kevin Moore, Legal Department
- Monica Hunyadi (OCC Chief of Staff—Non-Case Services) introduced Sydney Gale, Public Affairs Department Intern
- Ms. Hunyadi also introduced Kristin Gramza, Public Affairs Department Intern

Mr. Weston introduced Larry Sauer, now Acting Legal Director and Maureen Grady, now Acting Senior Counsel.

Mr. Weston had words of appreciation to say about the public service of former Deputy Consumers' Counsel Melissa Yost, who resigned her position in August. Chairman Krebs would like a resolution prepared in Ms. Yost's honor for the November 12, 2014 Governing Board Meeting.

Mr. Weston introduced Kyle Kern and reported that she is now OCC's Energy Resource Planning Counsel.

Mr. Young arrived at 9:25 a.m.

Mr. Weston mentioned that FirstEnergy Solutions and Dominion Retail withdrew their offers to consumers in the retail electricity market and are no longer making new offers.

DAVID FEIN, EXELON

Mr. Weston introduced David Fein. Mr. Fein is Vice President, State Government Affairs for Exelon Corporation. Mr. Fein presented to the Board on retail competition for residential customers. He stated that Exelon does business in every state that allows them to do business. Constellation Energy was bought by Exelon three years ago. Constellation had a very large competitive retail business but a much smaller generation footprint. Merging with Exelon provided Constellation with generating assets to help serve their competitive retail business load, he said.

Consumer education is important and Exelon takes great pride in providing good consumer education.

Mr. Fein stated that Ohio has dealt with key issues regarding the transition to competition. In competitive markets there is the need to separate the natural monopoly of wires and the poles from the generation assets. Mr. Weston asked Mr. Fein to elaborate a bit on the generation transition.

The restructuring process has brought about wholesale auctions, beginning around 2009, that have resulted in an immediate reduction in costs to the benefit of customers.

Mr. Weston stated that the Board adopted a resolution last year supporting the preservation of standard offers. The standard offer has driven the price down. When the Duke Energy case was settled there was an immediate 17.5% reduction in the price that consumers' pay for the standard service offer.

Mr. Fein said that, as of March 2014, the highest percentage of customers who have switched suppliers is in FirstEnergy's territory. The other service territories (e.g. AEP) offer significant opportunities for customer switching growth. Looking at trends over the last four years, Ohio is viewed in the industry as 1 or 2 in terms of being the most attractive markets suppliers are looking at because there is so much opportunity to attract customers.

Chairman Krebs asked is it fair to say that opportunity means that currently customers are being overcharged. Mr. Fein stated that there are savings available to residential customers who purchase generation competitively. There is a savings opportunity compared to the standard service offer. The opportunity is not the same across the state, but suppliers are seeing much more acceptance of the notion that customers have the opportunity to buy electricity from someone else. That takes time and effort to educate customers. There is also significant competitive gas choice in Ohio that allows suppliers to serve customers' electric, natural gas and other services. The PUCO leadership has shown willingness to support competitive markets and a desire to continue down that path.

Mr. Fein noted that Ohio has a long history of riders; the charges don't necessary affect the market because everyone has to pay them. Suppliers compete on generation price and service, not total bill. The generation portion of the bill represents roughly 2/3 of total bill. While the non-bypassable Riders may not affect the competitive market, they do impact the total bill paid by customers.

Mr. Fein next addressed key market developments and trends in 2014

Mr. Fein said that the PUCO embarked on a retail market investigation. The supplier trade association urged that PUCO initiative. The PUCO issued an order and is now implementing that order which is designed from a marketing and operating perspective to make it easier for companies to come into the state and compete.

The polar vortex had a negative impact on some competitors who did not have enough supply to meet demand. Some suppliers have chosen to seek recovery of increased costs.

Mr. Weston pointed out that the polar vortex led to the Board wondering what does the fine print in consumers' contracts mean. An issue arose as to whether the supplier can charge consumers when the supplier is not able to meet demand at a time of market stress. FirstEnergy Solutions, one such supplier, has decided not to proceed with its initial consideration to charge residential customers for such costs.

Mr. Fein stated that Exelon is one of the nation's leading competitive power generators, with approximately \$24.9 billion in market capitalization, and 35,000 MW of generation (second largest generating company in the U.S.). The Exelon companies participate in every stage of the energy business, from generation to competitive energy sales to transmission to delivery.

He said that Exelon has seen other companies positioning themselves to pick up the void FirstEnergy Solutions left. There is an opportunity for growth. Exelon is looking forward to the growth opportunity available in Ohio.

Mr. Watkins asked if the recent trends toward shutting down generation facilities and getting out of the generation business would reduce the total number of generating companies nationwide.

Mr. Fein replied that it depends on the company. Duke is selling their generating facilities. AEP is still deciding how to proceed with merchant assets. Exelon is committed to participating in the competitive markets. The recent industry trend has moved towards consolidation because shareholders of merchant generation companies do not want to bear risks especially now at a time of low wholesale generation prices making it difficult to recover costs.

Mr. Yoder asked how Exelon is going to control costs, meet the goals of the administration and still generate electricity using coal-fired generation. Mr. Fein responded Exelon owns predominantly nuclear and natural gas generation units. He said Exelon does not have the same pressure because it does not rely on coal.

Chairman Krebs thanked Mr. Fein for his presentation.

The Board recessed at 10:05 a.m. and reconvened at 10:15 a.m.

OHIO FAIRS

Ray Foeller and Andy Tinkham presented an overview to the Board on OCC's booths at county fairs. OCC has participated at the Ohio State Fair, Montgomery County Fair and Allen County Fair.

Andy Tinkham demonstrated the light board that OCC used at the fairs. The light board shows consumers the wattage they use for different types of light bulbs.

Upcoming events include Farm Science Review on September 16-18, London, Ohio and the Coshocton County Fair on September 25-October 2.

OCC intends for there to be a continuing effort in this regard. And we are looking at attending the Darke County Fair next year, one of the largest county fairs in Ohio with 400,000 visitors.

Mr. Watkins attended the Allen County Fair for one day.

Next, Mr. Weston showed OCC's first YouTube video for educating consumers. The video features Mr. Yoder discussing consumers' choices for their energy supplier. Mr. Weston thanked the Public Affairs Department and Monica Hunyadi for her leadership producing the YouTube video.

Chairman Krebs would like next year's Board meetings devoted to the question "why Ohio consumers have not yet received the full benefits of deregulation, especially at a time of low market prices."

Mr. Yoder mentioned that with regard to deregulation people do not know the difference between generation and distribution. He knows some people who switch and do not see a difference in the monthly bill. Chairman Krebs echoed similar concerns pointing to OCC data that has shown Ohio's residential cost of electricity ranks higher than 32 states in the U.S.

POWER PLANT RE-REGULATION UPDATE

OCC Analytical Department Director Dan Shields discussed a follow-up on the subject of utility proposals for power plant re-regulation. In 1999 the legal framework began to ensure competitive markets for generation service. Because prices are recently at an historic low, customers should be benefiting.

Power Purchase Agreements have been filed by FirstEnergy (August 4, 2014), Dayton Power & Light (May 23, 2014), Duke Energy Ohio (May 29, 2014) and AEP (December 20, 2013) to address economically challenged plants. The PUCO Staff and OCC have recommended that AEP's proposal be rejected by the PUCO.

CONSUMERS' COUNSEL'S REPORT

Mr. Weston reported to the Board on the status of charges for the clean-up of manufactured gas plant pollution. FirstEnergy filed an Electric Security Plan (ESP) allowed by the passage of Senate Bill 221. OCC has proposed that the opportunity for utilities to file ESPs should be eliminated because deregulation is nearing completion. We will continue to advocate for consumers on that issue.

Power Purchase Agreements are a big issue in the FirstEnergy ESP case. And we will be advocating in the best interests of FirstEnergy's 1.9 million residential consumers.

The Ohio Attorney General has reappointed Mr. Watkins, Mr. Yoder and Mrs. Hughes. We will inform the members when their reappointments have been confirmed by the Ohio Senate.

OCC has contacted the County Commissioners' Association to obtain their mailing list, and we sent our newsletter to them. The first profile of a Governing Board member for the newsletter will be Mr. Yoder.

Chairman Krebs asked that the next newsletter profile be about Mr. Watkins.

OCC has been involved in opposing charges to consumers for the utilities' clean up of manufactured gas plants. Recall that AEP has about \$400 million of customers' money because the Supreme Court ruled that charges already collected from customers need not be refunded under Ohio law, even when the Court finds that the charges should not have been authorized by the PUCO. OCC is concerned about a system where utility companies are not required to refund money to consumers when their charges are determined by a Court to be inappropriate. In the Duke Case, the Supreme Court has been considering a stay, and presently we and other parties have been invited to submit briefs on whether a bond is necessary to obtain a stay.

OCC's budget request is due on October 10, 2014. The plan is to request a budget of \$5.6 million, which is the current level. The greatest portion of our budget will be personnel. After one month of the fiscal year, 19% of our budget has been spent. Operations Director Chuck Repuzynsky said that last year we underspent our budget by approximately \$900,000.00. Much

of this under-spending relates to open positions and spending less on consultant contracts than originally encumbered.

Mr. Weston provided an overview of the budget process. OCC has conversations with public officials concerning the budget request. The General Assembly provides an opportunity to testify in both chambers regarding our budget. Mr. Weston explained he likely will testify at least once before a committee in the House and also in the Senate.

Mr. Young asked are we trying to be so tight (with money) that we cannot effectively get our job done. Mr. Weston replied no.

Mrs. Hughes asked if OCC conducts exit interviews when people leave. And she inquired why Deputy Consumers' Counsel Yost left the agency. Mr. Young explained he phoned Ms. Yost to ask her certain questions about her departure, and said he had a great conversation with her. Chairman Krebs plans to have lunch with Ms. Yost to discuss her thoughts about her time at OCC.

Chairman Krebs spoke of the "positive" perceptions of Consumers' Counsel Weston that he has heard from members of the legislature, lobbyists, and media, and that Mr. Weston is viewed as "effective."

Mr. Weston emphasized that we are trying to find capable people that have experience in this complex field or that we can mentor, in order to fill open positions.

Mr. Watkins stated that we should not get hung up on the \$900,000 lapse due to the staffing.

Mr. Cooke asked if we have the ability to analyze the overall state budget.

Mr. Weston stated that he understands his thoughts, but we are not an agency that is funded from the state's general revenue fund. Therefore our budget does not affect the budgets of other agencies.

Mr. Weston noted the Board has offered him two salary increases, both of which he has declined. Mr. Weston would like to note that one reason for his declining the Board's offers for salary increases is because there has not been an all-staff increase for Consumers' Counsel employees in a number of years.

Chairman Krebs asked for the January meeting to include a discussion consisting of a longer review of the agency budget to better understand the structure of the agency (how many lawyers, economists, analysts, support staff, etc.), to give the Board a better understanding of the budget components.

EXECUTIVE SESSION

Mr. Yoder moved to go into executive session to consider the appointment, employment, and compensation of a Deputy Consumers' Counsel. Mr. Young seconded the motion. Mrs. Knight called the roll. The motion passed unanimously.

Executive Session began at 11:45 a.m. and concluded at 12:30 p.m.

PUBLIC SESSION

Mr. Yoder moved that the Board hire Larry Sauer for the position of Deputy Consumer Counsel. Mrs. Hughes seconded the motion. Mrs. Knight called the roll. The motion passed unanimously.

Mr. Young moved that the Board of the Ohio Consumers' Counsel set Mr. Sauer's salary at \$107,000 annually, to be reevaluated in March, 2015. Mr. Watkins seconded the motion. Mrs. Knight called the roll. The motion passed unanimously.

There was prior interest in a discussion of Issue One. It may be discussed in the future, as for now it will not be on the upcoming ballot. But it may be on a future ballot.


Mr. Yoder wondered if at the January meeting we could discuss utilities and rights of way and everything that goes along with it.

With no further business, the meeting adjourned at 12:40 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 12th day of November, 2014.



Gene Krebs, Chairman
Ohio Consumers' Counsel Governing Board



Laurie C. Knight, Secretary
Ohio Consumers' Counsel Governing Board