



Before

The Ohio House of Representatives

**Finance and Appropriations Committee
Agriculture and Development Subcommittee**

Budget Testimony Regarding House Bill 59

Presented by:

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Good morning Chairman Derickson, Ranking Member Ashford and members of the Agriculture and Development Subcommittee. I am Bruce Weston, the Ohio Consumers' Counsel. Thank you for inviting me to testify regarding the budget for the Office of the Ohio Consumers' Counsel (OCC). With me today are Deputy Consumers' Counsel Melissa Yost and our three directors: Amy Kurt, public affairs; Chuck Repuzynsky, operations; and Dr. Aster Adams, analytical services.

Overview

At the outset, I thank the Administration for proposing the continuation of OCC's current budget during the next biennium, at \$5.6 million per year. Maintaining this budget is support for consumer advocacy for Ohioans regarding the affordability and reliability of their utility services. I respectfully ask for your favorable consideration of the Administration's proposal. I am

committed to delivering value for Ohioans with our budget, and will further discuss this budget amount in my testimony.

As background, OCC was created in 1976 by the Ohio General Assembly to represent Ohio's residential consumers on issues related to their electric, natural gas, telephone, and water utility services. The agency represents Ohio consumers in legal cases at regulatory agencies. Most of our cases for consumer advocacy are at the Public Utilities Commission of Ohio (PUCO). There, OCC appreciates the opportunity to provide evidence and law from a consumer perspective, alongside the advocacy of the public utilities and other parties. The PUCO then makes decisions based on the record in its cases, similar to a judge.

In this regard, OCC provides residential consumers with representation where they often would have little or none. For one thing, utility cases are highly technical, meaning it requires technical expertise to participate effectively in the process. Also, Ohioans are unlikely to have the time or resources to advocate on their own behalf in these complex cases where utilities are well represented by lawyers, economists, accountants and others.

OCC also provides consumer perspectives to you and your colleagues in the Ohio General Assembly for the legislative process. And we are happy to help you with inquiries from your constituents and in any other way.

Additionally, OCC provides outreach and education to consumers on utility issues. These issues include consumers' choices in the transition to competitive markets.

In its 37 years of advocacy, OCC has helped save consumers a lot of money on their utility bills. And those savings far outweigh the cost of OCC's budget.

Funding and Budget

In establishing the agency, the Ohio General Assembly decided that OCC's funding would not come from Ohio's General Revenue Fund (taxes). Instead, OCC's budget is funded through a fee on the intrastate gross earnings of utilities and other entities regulated by the PUCO, similar to how the PUCO is funded in part.

The entities that pay for OCC's assessment can choose to absorb this cost or pass it on to their customers. If all regulated entities charged their customers for the cost of OCC's budget, this charge would cost consumers approximately 2.35 cents for every \$100 in utility bills. This amount is equivalent to less than a dollar a year for a typical residential consumer. As stated, each year OCC saves consumers much more money than it costs.

In Fiscal Year 2012 (beginning July 1, 2011), OCC's annual operating budget was reduced from \$8.5 million to \$5.6 million. Just last year, in the Mid-biennium Budget Review Bill (HB 487 – 129th General Assembly), effective July 1, 2012, the Ohio General Assembly maintained OCC's funding at the \$5.6 million level (and rescinded a scheduled decrease). Thank you for preserving OCC's budget for consumer advocacy at the \$5.6 million level.

For Fiscal Years 2014 and 2015, OCC submitted a proposal for \$5.6 million annually. That proposal was within the Administration's budget guidance to

OCC (where the guidance allowed OCC's proposal to maintain the current budget). House Bill 59 maintains OCC's funding for consumer advocacy at the \$5.6 million level. This funding level will enable OCC to maintain its current level of advocacy for Ohio's utility consumers.

Creating Efficiencies

To adjust to the earlier decrease of about \$3 million and on a continuing basis after that, OCC has reviewed its operations toward creating further efficiencies. OCC's cost-saving measures included:

- Major workforce reductions (40 fewer positions);
- Closing its consumer call center (required by HB 153);
- Consolidating departments and senior management positions, and combining other staff positions;
- Twice reducing its rent;
- Reducing its vehicle fleet by three;
- Creating efficiencies through technology upgrades;
- And, to set the spirit of our approach, I declined the kind offer of a raise in my salary when I was appointed.

Structure of the Office

The Office of the Ohio Consumers' Counsel Governing Board is charged with the duty of hiring the Ohio Consumers' Counsel and the Deputy Consumers' Counsel. The Ohio Attorney General appoints the nine-member, bi-partisan, Board. The Board consists of three members representing farmers, residential customers and organized labor, respectively. The Board Chairman is Gene Krebs.

OCC's budget for delivering services is mainly payroll at about 76 percent. OCC's staff is organized into four departments working together to achieve its mission and vision for consumer advocacy:

Analytical: Utility cases are highly complex. Technical expertise, for analysis and expert testimony, is needed to advocate for Ohio consumers in utility cases. The needed expertise can include the areas of accounting, economics, engineering, finance, and other disciplines.

Legal: OCC is the legal representative for Ohio residential utility consumers in cases at the PUCO, Federal Energy Regulatory Commission, and the Supreme Court of Ohio. These cases can take months or sometimes even years to complete. The legal process can include written discovery, oral depositions, preparation and presentation of expert testimony, hearings with cross-examination of expert witnesses, and filing briefs and pleadings.

Operations: The Operations Department provides fiscal and administrative functions for the agency.

Public Affairs: The Public Affairs Department provides education for consumers, responds to media requests, and provides consumer perspectives and constituent assistance to legislators. Public Affairs maintains OCC's educational publications and website for assisting consumers.

One Other Matter in HB 59

Separate from OCC's budget, HB 59 includes a revision to O.R.C. Section 4905.31 that could affect Ohio utility consumers. The language appears on lines 67336 – 67352 of HB 59. Given this opportunity to testify, here are some preliminary concerns.

The revision would change the law regarding "reasonable arrangements." A reasonable arrangement can have a number of purposes that include providing a commercial or industrial customer with a discounted electricity rate in exchange for "economic development" or "job retention" programs. Public utilities are not necessarily willing to offer the discount to a business customer unless the utilities can collect, from someone, the revenues they lose in offering the discount. Residential consumers are sometimes the "someone" that is charged for the discount. We are wondering if it is the intent of the General Assembly that customers pay for the discount.

As to concerns, the proposal seems inconsistent with the arc of Ohio's policy favoring rates based on markets. Since Ohio law changed in 1999, the rates for generation service are to become market-based. Allowing for a contract with a utility offering a discount that is paid or subsidized by other customers is not a market-based rate.

On a related note, the law references a sunset date of 2018. But it's a soft sunset that allows the discounts from the contracts to exist in perpetuity. In other words, reasonable arrangements lock customers into a contract with the utility for a series of years and lock out competitors. The arrangements also lock other customers into paying for the arrangement for many years.

Another concern is that some might claim that the changes limit the discretion of the PUCO to spread the burden of this cost to both the customers of the utility and to the utility itself. This is concerning because, if the public utility does not absorb some of the discount, other customers would have to pay 100 percent of the discount that the utility is offering to a single customer. This can be costly for consumers – such as for small businesses and residential customers.

Currently, there is no limit on how many utility reasonable arrangements can be approved and no limit on how much customers' rates can be increased to pay utilities for such discounts. We encourage the Committee to ensure that the law protects customers' pocket books and the emerging competitive market.

Conclusion

Thank you for this opportunity to discuss OCC and our consumer advocacy for Ohioans. I would be happy to answer any questions.