

**Before**  
**The Ohio House of Representatives**  
**Public Utilities Committee**  
**Presentation on the Role of the Office of the Ohio Consumers' Counsel**

**By Bruce Weston**  
**Ohio Consumers' Counsel**

**May 6, 2015**

Chairman Schaffer, Vice-Chair Roegner, Ranking Minority Member Ashford and Members of the House Public Utilities Committee, thank you for inviting me to discuss the role of the Office of the Ohio Consumers' Counsel and how the agency is helping Ohioans. I am Bruce Weston, the Ohio Consumers' Counsel. With me today are Deputy Consumers' Counsel Larry Sauer, Analytical Director Dan Shields and our Chief of Staff Monica Hunyadi. There is a companion Powerpoint for this presentation.

**Agency History and Background**

The Ohio General Assembly created the agency in 1976, to represent Ohio's residential consumers on issues related to their utility services. The Consumers' Counsel represents Ohio consumers in cases at regulatory agencies and the courts. A majority of our cases are at the Public Utilities Commission of Ohio (PUCO), where we present evidence and law from a consumer perspective. Similar to a judge, the PUCO makes decisions based on the record and the law.

The Consumers' Counsel provides residential consumers with representation where they often would have little or none. Utility cases are complex and technical. Technical expertise is required

to participate effectively in the process. Also, Ohioans are unlikely to have the time or resources to advocate on their own behalf in these cases where utilities and other parties are represented by lawyers and technical experts.

The Consumers' Counsel also provides consumer perspectives to you and your colleagues in the General Assembly through the legislative process. We welcome the opportunity to help Members with inquiries from constituents and in any other way.

Additionally, we provide outreach and education to consumers as a way to help them save money on their utility bills. For example, we educate consumers regarding their choices for energy suppliers.

In the related Powerpoint presentation, you can see our mission, vision and core values. There also is an explanation of our national association.

As the agency approaches 40 years of service, the Ohio Consumers' Counsel has helped Ohioans save a lot of money on their utility bills.

### **Funding**

The Consumers' Counsel's funding is not from Ohio's General Revenue Fund (taxes). The General Assembly decided the agency would be funded through a fee on the intrastate gross earnings of utilities and other entities regulated by the PUCO. That process is similar to how the PUCO is funded in part. The budget is \$5.6 million per year. If all regulated entities charged their customers for the cost of OCC's budget, this charge would cost consumers a few cents for

every \$100 in utility bills. Thank you and your colleagues for supporting services to help Ohio utility consumers.

### **Office Structure**

The Ohio Attorney General appoints the agency's nine-member, bi-partisan Governing Board. The Board Chairman is Gene Krebs (a former member of the Ohio House). The Governing Board appoints the Ohio Consumers' Counsel and the Deputy Consumers' Counsel. The nine Board members represent farmers, residential customers and organized labor, with three members appointed from each area. The Consumers' Counsel's staff and I are very fortunate to have the guidance of these Board members who volunteer their time to help their fellow Ohioans. And I appreciate the services of the Ohio Attorney General for the agency.

The Consumers' Counsel presently employs several dozen staff members. The agency has a need for employees with experience as attorneys, accountants, economists, engineers, investigators and others. The agency is organized as follows.

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

**Legal Department:** Attorneys are needed because the Consumers' Counsel is the legal representative for Ohio's residential utility consumers in cases at the PUCO, Federal Energy Regulatory Commission, the Supreme Court of Ohio and elsewhere. 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 motions.

**Operations Department:** The Operations Department provides fiscal and administrative support for the agency. These functions include Human Resources and IT.

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

### **Consumer Rate Information**

Consumers' Counsel Board Chairman Gene Krebs has asked that I provide two charts for recent testimony. The charts are based on data from the U.S. Energy Information Administration, regarding consumer rates.

The first chart reflects the need for continuing efforts by the Board and the agency to reduce Ohioans' electric bills, given that 32 states are identified with lower average residential electric rates than Ohio. The second chart shows that, since 2008, Ohioans have experienced the greatest increase in their electric rates compared to their counterparts in other restructured states (some of whom are seeing rate decreases). Additionally, there is a Board Resolution attached that relates to a telephone service issue in House Bill 64.

## **Consumer Issues - Electric**

Electric regulation in Ohio has continued to diverge from traditional rate cases toward single-issue ratemaking cases, under a 2008 law (SB 221). Traditional rate cases protect customers by allowing review of all aspects of utility operations affecting customers, including utility profits. Single-issue cases typically focus on a single charge or cost that the utility is seeking to increase on customers' bills. Other consumer issues are excluded from consideration in single-issue cases.

Recently, several utilities sought approval from the PUCO for long-term "Power Purchase Agreements" that would guarantee profits for deregulated power plants at the consumers' expense. Under a 1999 Ohio law, what utilities charge for power plants is to be determined by the competitive electricity market, not guaranteed by the government regulator (PUCO). We have recommended protecting customers from paying these subsidies. While FirstEnergy's proposal is still pending, the PUCO did act to deny the long-term agreements proposed by AEP and Duke Energy. However, in denying the agreements, the PUCO did offer guidance for future proposals.

Furthermore, there are parts of the 2008 energy law (SB 221) that should be changed to protect consumers. Our recommendations have included ending the allowance in the law for electric utilities to charge consumers for excessive profits. The 2008 law merely disallows utilities from charging for "significantly" excessive profits. And OCC proposed an end to the practice of allowing electric utilities to bill consumers for charges above the market price of electricity.

Also, OCC recommended a law to require refunds to consumers when the Ohio Supreme Court determines that the PUCO allowed utilities to collect inappropriate charges. In February 2014,

the Supreme Court held that even though AEP had collected \$368 million from consumers in unjustified charges, the law did not allow for “retroactive ratemaking” to refund the money. A complicating factor for consumers is that OCC has been unable to obtain a stay to stop the utility from collecting charges during an appeal. OCC cannot, as a practical matter, afford to post a bond with the Supreme Court to cover millions of dollars that the utility would not be collecting while an appeal is pending.

Another consumer issue relates to the niche market of entities that resell and submeter electric and water services. These entities operate without PUCO regulation. A result has been higher or much higher charges than what consumers otherwise would pay to public utilities. Last year this Committee passed House Bill 662 on this subject.

### **Consumer Issues - Natural Gas**

At a time when Ohio’s electric utilities are seeking re-regulation and subsidies from customers, natural gas utilities continue to show the benefits of using competitive markets to lower Ohioans’ natural gas bills.

Customers who purchase their natural gas at the utility’s “standard choice offer” are benefitting from some of the lowest prices since the competitive auctions began in 2006. In comparing the standard choice offer to a gas marketer’s rate, customers have found that the standard choice offer has generally been lower.

There are two components to the price of natural gas that customers pay for the standard choice offer. One component is the cost of the natural gas itself. The other component is for what is known as the natural gas “adder,” which is the cost for a supplier to deliver the gas.

For example, the recent competitive auction that established the adder for Dominion East Ohio's standard choice offer produced an extraordinary result for customers. The adder was a mere 2 cents per thousand cubic feet of natural gas (mcf).

### **Consumer Issues - Telephone**

The Federal Communications Commission (FCC) is in the midst of transforming from a public switched telephone network to an Internet-based network. It could potentially take years for the FCC to implement the switch.

In House Bill 64, telephone companies are supporting a proposal to discontinue Ohioans' basic telephone service. That service includes a dial tone for a flat monthly rate, access to 9-1-1, operator services and telephone relay services for the hearing impaired, among other things.

The latest proposal does include some improvements. I thank the Governor and the House of Representatives for the improvements.

### **Consumer Issues - Water**

Water issues include rates and water quality. And the issues include replacing infrastructure.

### **Consumer Education**

Historically, the Consumers' Counsel has offered a free speakers bureau for Ohio consumers and consumer organizations. And we have offered a newsletter and fact sheets to help consumers save money.

We have added Tweets to our educational efforts, from our Twitter account. Also, we now have YouTube videos for education. And we have a website for providing information to consumers.

Again, thank you for inviting me to discuss the role of the Office of the Ohio Consumers' Counsel. Our staff is dedicated to helping Ohioans with their utility services.

## 2014 RESIDENTIAL ELECTRIC RATES BY STATE

State	December 2014
	YTD Cents/Kwh
1 Washington	8.71
2 North Dakota	9.25
3 West Virginia	9.33
4 Arkansas	9.49
5 Louisiana	9.49
6 Idaho	9.76
7 Oklahoma	9.96
8 Kentucky	10.05
9 Montana	10.26
10 Tennessee	10.33
11 Nebraska	10.44
12 Oregon	10.47
13 South Dakota	10.51
14 Wyoming	10.53
15 Missouri	10.59
16 Utah	10.73
17 North Carolina	11.12
18 Virginia	11.19
19 Indiana	11.25
20 Iowa	11.35
21 Mississippi	11.37
22 Illinois	11.41
23 Alabama	11.52
24 Georgia	11.57
25 Texas	11.82
26 Florida	11.98
27 Arizona	11.98
28 Kansas	12.13
29 Minnesota	12.14
30 Colorado	12.18
31 South Carolina	12.27
32 New Mexico	12.33
33 Ohio	12.38
34 District of Columbia	12.78
35 Nevada	12.88
36 Pennsylvania	13.34
37 Delaware	13.37
38 Maryland	13.62
39 Wisconsin	13.89
40 Michigan	14.50
41 Maine	15.32
42 New Jersey	15.80
43 California	16.29
44 Massachusetts	17.40
45 Vermont	17.50
46 New Hampshire	17.54
47 Rhode Island	17.56
48 Alaska	19.31
49 Connecticut	19.59
50 New York	20.05
51 Hawaii	37.34
U.S. Total	12.50

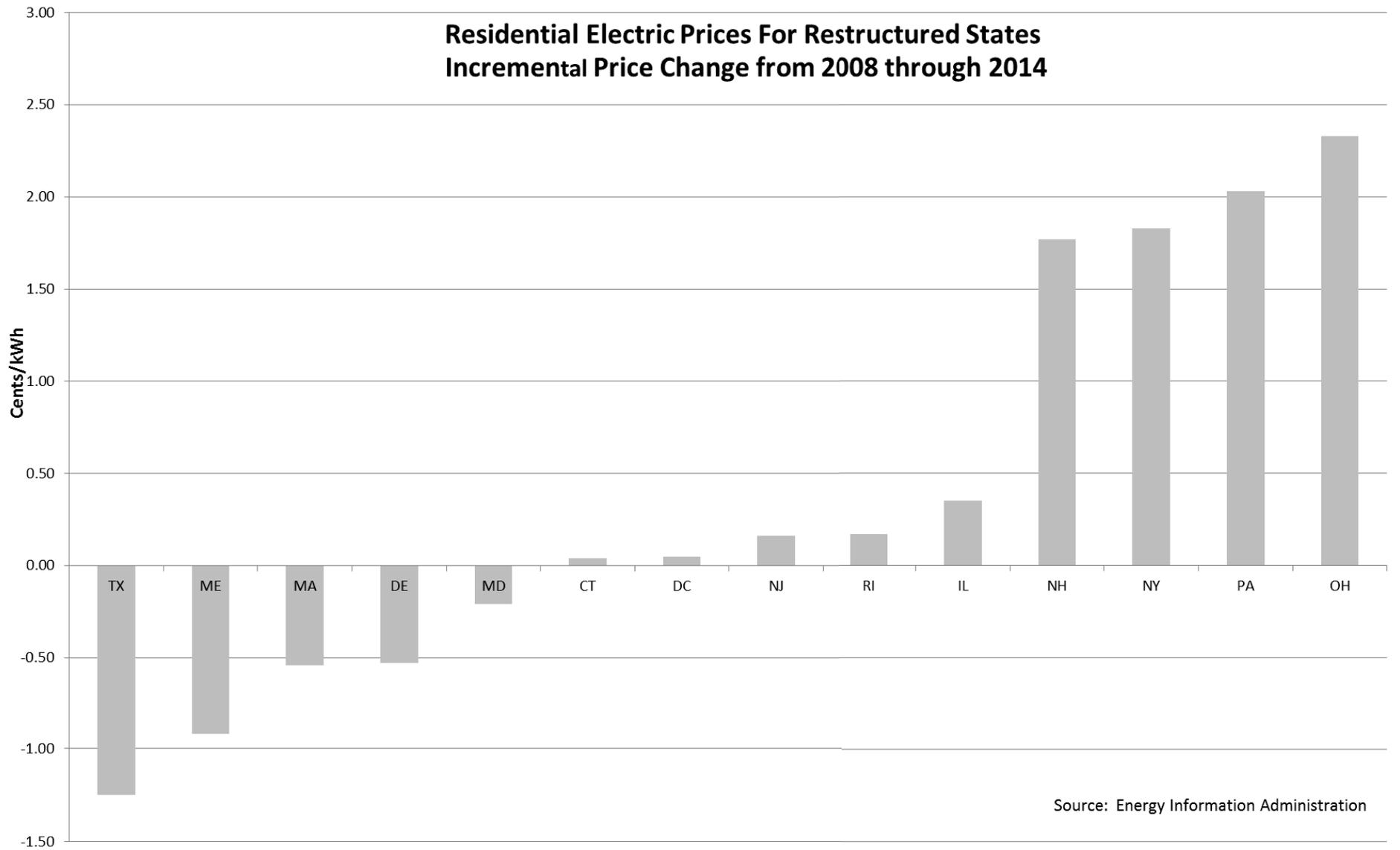
Source: U.S. Energy Information Administration EIA Table 5.6.B. Average Retail Price of Electricity to Ultimate Customers by End-Use Sector, by State, Year-to-Date through December 2014 (Cents per Kilowatthour)

See Technical notes for additional information on the Commercial, Industrial, and Transportation sectors.

Notes: - See Glossary for definitions. - Values for 2014 are preliminary estimates based on a cutoff model sample.

See Technical Notes for a discussion of the sample design for the Form EIA-826.

### Residential Electric Prices For Restructured States Incremental Price Change from 2008 through 2014



Source: Energy Information Administration

# *Resolution*

## *Governing Board of the Office of the Ohio Consumers' Counsel*

### **In Support of Basic Local Telephone Service for Ohio Consumers**

- WHEREAS,** Ohioans are dependent upon electricity, natural gas, telephone and water services; and
- WHEREAS,** It is the policy of the state of Ohio to ensure the availability of adequate basic local exchange service to citizens throughout the state; and
- WHEREAS,** Basic local telephone service is an essential service to thousands of consumers, especially elderly and rural consumers; and
- WHEREAS,** Ohio law requires incumbent local telephone companies to provide basic local telephone service, on a reasonable and nondiscriminatory basis, to all persons in their service areas who request basic local telephone service; and
- WHEREAS,** Ohio law provides pricing and service quality protections for basic local telephone service; and
- WHEREAS,** The pending state budget bill (Am. Sub. H.B. 59) may be amended with language that, among other things, could allow incumbent local telephone companies, in as soon as two years and at their option, to transfer customers from regulated basic local telephone service to an unregulated "voice service" that would not have pricing and service quality protections.

**THEREFORE, BE IT RESOLVED,** that the Governing Board of the Office of the Ohio Consumers' Counsel supports maintaining the most basic telephone service with price and quality protections for consumers and further recommends that, if this subject is to be considered, the subject should be considered in a stand-alone bill separate from the budget bill.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 4<sup>th</sup> day of June 2013.



Gene Krebs, Chairman

Governing Board of the Office of the Ohio Consumers' Counsel