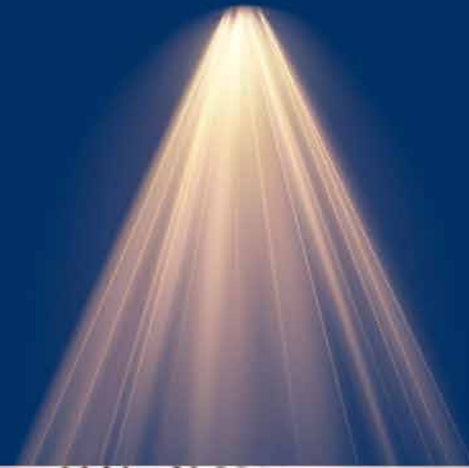




Office of the Ohio Consumers' Counsel

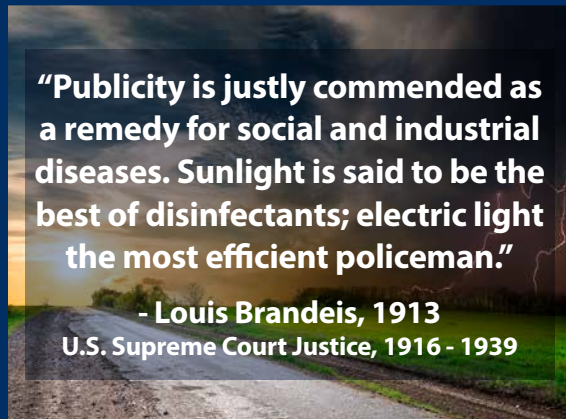


Statehouse NEWS BUREAU
**Consumers' Counsel Wants HB6
Coal Plant Subsidies Repealed**

Photo Courtesy Madison Courier



Energy Justice



**"Publicity is justly commended as
a remedy for social and industrial
diseases. Sunlight is said to be the
best of disinfectants; electric light
the most efficient policeman."**

**- Louis Brandeis, 1913
U.S. Supreme Court Justice, 1916 - 1939**



ANNUAL 2021 REPORT

Your Residential Utility **Consumer Advocate**

Ohio Consumers' Counsel – 2021 Highlights

- ▶ OCC again served as the voice of millions of Ohio residential utility consumers, calling for consumer protections in more than 130 cases before the Public Utilities Commission of Ohio, Federal Energy Regulatory Commission and the Ohio Supreme Court.
- ▶ OCC and its advocacy partners continued to call for PUCO reform, including reform of the selection of commissioners. The real measure for commissioner selection reform is appointments of bona fide consumer advocates to the PUCO.
- ▶ OCC continued its tireless advocacy to protect consumers with truth and justice regarding the FirstEnergy scandals involving House Bill 6 and the PUCO. That advocacy includes seeking answers in investigations of FirstEnergy in PUCO cases and seeking repeal of the coal power plant bailout for AEP, Duke and AES in House Bill 6. H.B. 6 subsidies for nuclear plants and decoupling were repealed.
- ▶ OCC presented testimony to the General Assembly 16 times on 10 separate legislative bills. Six testimonies related to repeals of House Bill 6.
- ▶ OCC, the Northeast Ohio Public Energy Council and others negotiated for two million consumers in a high-stakes dispute involving FirstEnergy's charges to consumers for too-high profits. Under the resulting major settlement (that was approved), FirstEnergy will refund \$306 million to consumers through 2025.
- ▶ OCC negotiated for 1.3 million residential consumers in a case that AEP filed seeking a rate increase. The resulting (approved) settlement obtained by OCC and others eliminated the residential rate increase (with even a slight rate decrease), saving AEP consumers \$110 million per year over AEP's proposed increase.
- ▶ OCC negotiated for 400,000 residential natural gas consumers in cases involving Duke Energy. The resulting settlement, which resolved several cases (and is awaiting a PUCO decision), will protect consumers regarding energy marketing, the clean-up of polluted manufactured gas plant sites, corporate tax charges that Duke must return to consumers, and \$3.8 million for at-risk consumers including low-income and seniors.
- ▶ OCC and its advocacy partners sought "energy justice" in filings to protect at-risk consumers during the health and financial crises. OCC partnered with legal aid agencies and low-income advocates to seek consumer protections from utility disconnections.
- ▶ OCC's appeal led to the Ohio Supreme Court overturning a PUCO decision on charges to Suburban Natural Gas consumers. The Court found that the PUCO had improperly allowed Suburban to charge consumers for certain costs related to a pipeline that OCC asserted was longer than needed (to be "used and useful") for consumers' service.
- ▶ OCC's Outreach & Education team increased their number of outreach events by more than 20 percent over 2020, for a total of 831, by seeking out virtual presentation opportunities. The events are for helping consumers, and those aiding consumers, regarding their utility services.
- ▶ OCC developed in 2021 a list of three nominees for the Governor's appointment of the public member on the Ohio Power Siting Board, per R.C. 4906.02(A). Consumers' Counsel Bruce Weston sent the list to the Governor in early January 2022.

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Mission

OCC advocates for Ohio’s residential utility consumers through representation and education in a variety of forums.

Vision

Informed consumers able to choose among a variety of affordable, quality utility services
with options to control and customize their utility usage.

Core Values

Communications

We will share information and ideas to contribute to the making of optimal decisions by our colleagues and ourselves.

Excellence

We will produce work that is high quality and we will strive to continuously improve our services.

Integrity

We will conduct ourselves in a manner consistent with the highest ethical standards.

Justice

We will advocate for what is fair for Ohio’s residential utility consumers.

Respect

We will treat each other, our partners and the public with consideration and appreciation.

Governing Board Chair

A message from Michael Watkins

The Governing Board of the Office of the Ohio Consumers' Counsel (OCC or Agency) appreciates the opportunity to present to the Ohio General Assembly this 2021 Annual Report. In the Agency's 45th year, reform of utility regulation for protection of millions of Ohio residential consumers was a key issue and is a focus of this message.

In 2021, two of five PUCO Commissioners had worked for the utility industry that the PUCO regulates. There would have been three of five Commissioners with ties to the utility industry but for the resignation of the PUCO Chair in November 2020, after his links to FirstEnergy were revealed. On the other hand, none of the PUCO Commissioners has worked in advocacy for utility consumers. Further, the public has seen revelations from the FirstEnergy scandal about utility influence involved in the commissioner appointment process.



The current nominating process for PUCO appointments, involving the PUCO Nominating Council, has a four-decades history of rarely resulting in appointment of consumer advocates. 2021 was no exception to that history. On August 18, 2021 and as a member of the PUCO Nominating Council, I wrote a letter to the Council's Chair (Michael Koren) requesting that the Council meet to "consider reforms..." No other member of the Nominating Council supported my request and Chair Koren declined to call a meeting. There was a similar result with a letter that I wrote to the Council Chair in 2020. Also in 2021, Consumers' Counsel Weston corresponded with the Governor regarding the need for reform.

Ohioans need reform for the appointing of commissioners to regulate monopoly utilities. People with backgrounds in bona fide consumer advocacy and the public interest, not with ties to the utility industry, should be appointed to the PUCO.

But even if the PUCO commissioner selection process is reformed (and it should be), I urge Ohioans to keep their eye on the ball. That means focusing on results. As stated, the results need to be that people with backgrounds in bona fide consumer advocacy and the public interest are appointed to the PUCO. That is how reform for selection of PUCO commissioners ultimately should be judged. Don't be fooled by anything less.

That's why, on August 25, 2020, the Consumers' Counsel Governing Board adopted a Resolution to dramatically reform the process "by enacting a law to select PUCO commissioners through direct election by the public." The Board's Resolution included the need to "Deter undue utility influence...and promote transparency..."

On another key consumer issue, I am also proud that OCC continued with dedicated consumer advocacy in 2021, just as it has since 2019, regarding House Bill 6 and FirstEnergy's scandals with government. OCC has had the public's back throughout this crisis in government regulation and justice. Last year OCC continued its consumer protection by taking a leading role in investigating the FirstEnergy scandals in cases at the PUCO.

In the legislature, it was good that part of House Bill 6 was repealed. But inexplicably the massive bailout at public expense for two coal power plants (owned by AEP, Duke and AES) was not repealed from House Bill 6. I commend OCC for its efforts to protect consumers by seeking a repeal of the coal plant subsidies. And I appreciate the legislators who have bills pending for a repeal.

Governing Board Chair

In a case involving FirstEnergy, OCC and others succeeded in negotiating a high-stakes settlement. FirstEnergy will refund \$306 million to its two million Ohio consumers. In another settlement, OCC and others negotiated for AEP's 1.3 million residential consumers. AEP had proposed a rate increase. But the negotiations were successful to the point of eliminating the rate increase for residential consumers (with even a slight decrease). These cases are more examples of much hard work by the Agency.

I commend the Agency, and other consumer partners, for seeking protections of at-risk consumers during the year, including from disconnection of utility services. Protecting Ohioans in need has long been part of OCC's advocacy. It has been all the more important during the pandemic and as Ohioans emerge from it.

I thank the members of the Governing Board for their public service to Ohioans in 2021. The Board members are an important part of the Agency's commitment to doing the right thing for millions of Ohioans. Also, the Governing Board thanks our guests who spoke at our public meetings in 2021. Guest speakers included former U.S. Attorney and Presidential appointee David DeVillers (formerly involved in the federal prosecutions related to the FirstEnergy scandals); Senate President Matt Huffman; Ohio Manufacturers' Association consultant John Seryak; Gina Wilt of the Coalition on Homelessness and Housing in Ohio; Representatives Laura Lanese and Daniel Troy; Peggy Lee of Southeastern Ohio Legal Services; Senators Mark Romanchuk and Hearcel Craig; and Dale Arnold of the Ohio Farm Bureau. We appreciate the information and insights that they shared.

On behalf of the OCC Governing Board, I thank the Governor for his continued leadership during the health pandemic and financial crises Ohio faced in 2021. We also thank the General Assembly Members for their consideration of issues affecting millions of residential utility consumers, especially legislation repealing part of House Bill 6. We also thank the Attorney General's Office for their services and support to the Board and Agency.

The OCC Governing Board and I commend the public service of our appointees, Consumers' Counsel Bruce Weston and Deputy Consumers' Counsel Larry Sauer, and their hardworking staff. I thank Bruce and Larry for their principled leadership of OCC and unwavering consumer advocacy. And I especially appreciate their dedication to the public in a year when many Ohioans are suffering from the pandemic and disillusioned by the crisis in government involving undue utility influence with tainted H.B. 6. The Office of the Ohio Consumers' Counsel rose to the challenges of these times in service to millions of Ohio consumers.



Photos: Consumers' Counsel Governing Board Members, Consumers' Counsel and Deputy discussing Board business at their public meeting.

Ohio Consumers' Counsel

A message from Bruce Weston

I echo the 2021 Annual Report message by the Ohio Consumers' Counsel's venerable Board Chair, Mike Watkins. He has served more than a decade on the OCC Governing Board, essentially as a volunteer. I am grateful for the Chair's leadership and for the Board members who have supported and protected the Agency's independence for consumer advocacy. Fundamentally, the Chair and his Board colleagues want us to do the right thing for Ohioans. And that's our goal every day.

An especially relevant example of OCC "doing the right thing" relates to tainted House Bill 6. OCC testified seven times against H.B. 6. OCC testified eleven times for repeal of H.B. 6. OCC also testified three times against the amendment slipped into the 2019 budget bill to protect FirstEnergy's too-high profits against refunds to consumers. Then, in 2021, FirstEnergy Corp. was charged with a federal crime relating to corruption, including with regard to its H.B. 6 activities.

In 2021, OCC has been active in cases for investigating whether FirstEnergy charged consumers for its political spending or harmed consumers in other ways through bad conduct. And we now know that there is more than one FirstEnergy scandal to investigate. There's the H.B. 6 scandal. There's also the scandal of FirstEnergy's relationship with the PUCO (involving the former Chair). In an early 2022, the Toledo Blade editorial board gave recognition to OCC's consumer advocacy by writing in an editorial that: "Pertinent questions about FirstEnergy are being asked by only the Office of the Ohio Consumers' Counsel and Judge Adams."

There also is unfinished business with H.B. 6. I thank the legislature for repealing parts of H.B. 6 and the budget bill's profits protection for FirstEnergy. But for consumer protection, it's time to repeal the H.B. 6 bailout of AEP, Duke and AES that gives them massive subsidies for two coal power plants, at public expense.

For public information, OCC is maintaining H.B. 6-related subsidy and pollution counters on its website. The counters show up-to-date information on the consumer cost of the coal plants and their pollution that the H.B. 6 bailout is supporting. As of the end of March, the H.B. 6 coal plant bailout has cost Ohioans about \$238 million.

OCC and others settled a major case with FirstEnergy for \$306 million in refunds over the next few years, related to its too-high profits. The refunds were enabled in part because the Ohio Supreme Court, in an OCC appeal, overturned a PUCO decision to protect FirstEnergy's profits against refunds. Elsewhere, OCC and others reached a settlement with Duke where, if approved, individual gas consumer benefits will include a \$100 bill credit to return tax overcollections.

Ohioans continue to need consumer-friendly regulatory reforms for their utility services. Reforms are especially needed for the selection of PUCO commissioners. In early 2022, the PUCO Nominating Council sent a list of four nominees to the Governor for his appointment of one. All of the four nominees had some connection, past or present, to utilities. Currently, two of the five PUCO Commissioners have worked for utilities.



Ohio Consumers' Counsel

I am proud of OCC staff's dedication to consumer protection. Consumer protection does not come easy where big, influential utilities are involved. And in 2021, OCC's 45th year, we continued OCC's longstanding advocacy for protection of at-risk Ohioans and OCC's personal outreach to consumers with information about utility services.

In this regard, we are fortunate to work with advocacy partners, such as NOPEC, OMA, legal aid agencies, and others, for consumer protection. We recognize a number of those partners on a page in this Annual Report.

I thank Governor DeWine for his concern for the health and safety of state workers and Ohioans. And thanks to the legislature for their consideration of our consumer recommendations. Thanks to the Attorney General's Office for their attorney services to OCC and the Board. And I am grateful for the guidance and support of the Consumers' Counsel Governing Board for principled consumer advocacy. Thanks again to OCC staff for their dedication and concern for those we serve.

In sum, this Annual Report provides an overview of OCC's advocacy for millions of Ohio consumers. The inside cover has a list of highlights. The OCC website provides more information at www.occ.ohio.gov.

At OCC we put consumers first. Thank you. Stay well.



Photo: Governing Board Chair and Consumers' Counsel

Governing Board

About the Governing Board

By law, the Ohio Attorney General appoints members to the Consumers' Counsel Governing Board. The Board consists of nine members, with three members appointed for each of three organized groups: residential consumers; labor; and family farmers. No more than five members of the Board may be from the same political party. Board members are confirmed by the Ohio Senate and serve three-year terms. The Board is responsible for appointing the Consumers' Counsel (the Agency's director) and the Deputy Consumers' Counsel.



Michael A. Watkins

Chair, 2017 – present

Vice-Chair, 2015 – 2017

Term(s): 2010 – 2023

Representing: Organized Labor

Hometown: Elida

Michael Watkins has been a member of the Fraternal Order of Police since 1976 when he began a career in law enforcement with the Lima, Ohio Police Department. He retired from active law enforcement in 1999. Following his retirement, he was employed by the Fraternal Order of Police, Ohio Labor Council from 2003 until retirement in 2020. Mr. Watkins served six terms as president of FOP Lima Lodge #21 and now serves as recording secretary. He served as the Sixth District Trustee for the Ohio Fraternal Order of Police from 1993-1995 and was again elected to that position in 2007 to the present. He was born and raised in rural Putnam County. He and his wife, Barb, reside in American Township, Allen County, Ohio.

of the Grove City Rotary Club and serves on the BIA Foundation Board and the Ohio Access to Justice Board. She is a lifelong resident of Grove City.



Stuart Young

Vice-Chair, 2017 – 2022

Term(s): 2012 – 2024

Representing: Family Farmers

Hometown: Springfield

Stuart Young is a third-generation dairy farmer in his hometown of Yellow Springs, Ohio. He is an owner and manager of Young's Jersey Dairy Inc. in Yellow Springs, where he is responsible for managing the farm operation, Jersey herd and cheese production. He has also served on the Hustead Volunteer Fire Department for 40 years. He previously served the Clark County Farm Bureau on the Board of Directors and as President. He has served on the Ohio Farm Bureau's State Policy Development committee as a delegate. He is a lifelong member of the American Jersey Cattle Association and the Ohio Cattlemen's Association.



Cheryl Grossman

Vice-Chair, 2022 – present

Term(s): 2019 – 2023

Representing:

Residential Consumers

Hometown: Grove City

Cheryl Grossman is the Executive Director of the Ohio Board of Embalmers and Funeral Directors. She is a former State Representative (23rd House District) and Mayor of Grove City. She was a member of the General Assembly from 2009-2017, where she served as Assistant Minority Whip, Assistant Majority Whip and Majority Whip. She has received more than 30 legislator awards, including the 2016 National Autism Speaks Legislator of the Year. Ms. Grossman chaired the Transportation Sub-Committee, Gas Tax Task Force and the Ohio Housing Study Committee, as well as served on several additional committees. She is a founding member



Timothy Callion

Term(s): 2019 – 2022

Representing: Organized Labor

Hometown: Warren

Timothy Callion was a long-time employee (now retired) of the Plumbers & Pipefitters Local #396. During his 30 years of employment with the union, Mr. Callion served as Vice-President, Executive Board member, Health and Welfare Trustee member, Negotiation Committee member, and State and National Convention Delegate. In addition to his role with Plumbers & Pipefitters Local #396, he served on economic development committees. Mr. Callion is a life-long resident of Warren and enjoys exploring new opportunities and projects to introduce middle and high school students to careers in the building and construction skill trades.

Governing Board



Dorsey Hager, Jr.

Term(s): 2020 – 2024

Representing: Organized Labor

Hometown: Marysville

Dorsey Hager has an extensive family background in organized labor.

Both his mother and father were

union members. His own career began in 1994 as an apprentice with the International Association of Heat and Frost Insulators Local 50. There, he served in the elected positions of Financial Secretary and then Business Manager. In 2014, he was elected to his current position of Executive Secretary-Treasurer of the Columbus/Central Ohio Building & Construction Trades Council. Mr. Hager resides in Marysville.



Kelly C. Moore

Term(s): 2015 – 2024

Representing:

Residential Consumers

Hometown: Newark

Kelly Moore is the corporate Vice

President of GKM Auto Parts, Inc., an

independent jobber of NAPA Auto Parts. A member of the National Federation of Independent Business/Ohio, Mrs. Moore serves as a member of the group's Ohio Leadership Council. She also serves on various committees, including the Workers Compensation committee and the legislative committee. She is a member of Congressman Balderson's Small Business Advisory Council and a member of Governor DeWine's Board of Economic Advisors. She is the former Chair and Vice Chair of the Zanesville NFIB Area Action Council. In addition, Mrs. Moore is the Chairperson of the NFIB/OH PAC.



Charles Newman

Term(s): 2019 – 2022

Representing: Family Farmers

Hometown: Peebles

Charles Newman owns and operates a 700-acre beef cattle and grain farm in Adams County, Ohio. The family

farm actively practices conservation and is GAP certified (good agricultural practices). He also served as the Scott Township Fiscal Officer for 20 years and has been a

member of the Adams Rural Electric Cooperative Board of Trustees for the past 16 years. He has received recognition for achieving a Director Gold Certificate, a Board Leadership Certificate and a Credentialed Cooperative Director Certificate from the NRECA. Additionally, Mr. Newman served for 10 years on the Board of Directors of the Adams County Regional Medical Center.



Jan Shannon

Term(s): 2019 – 2022

Representing:

Residential Consumers

Hometown: Orient

Jan Shannon is the Executive Director of the Pickaway County Community

Foundation, an organization led by a board of community leaders dedicated to strengthening the community through charitable giving. She is a farm owner and advocate for agriculture. Ms. Shannon serves as Vice Chair on the Pickaway County Chamber of Commerce Board and Secretary of the Muhlenberg Board of Zoning Appeals. She is a graduate of the AgriPower VIII program with the Ohio Farm Bureau and is very active in Circleville Sunrise Rotary. She enjoys volunteering her time for a number of initiatives promoting philanthropy.



Connie Skinner

Term(s): 2020 – 2023

Representing: Family Farmers

Hometown: Delaware

Connie Skinner and her family are sixth generation crop farmers with Hardscrabble Farms in Delaware

County, Ohio. She is a Brown Township Trustee and a strong community advocate. She currently serves on the Delaware County Farm Bureau board, the Delaware County District Library board, and serves on the Hunger Alliance Committee through the United Way of Delaware County. Other interests involve supporting the local FFA chapter through the advisory committee.

Senior Management



Bruce Weston

Ohio Consumers' Counsel

Bruce Weston has served Ohioans as the Consumers' Counsel (Agency Director), by appointment of the Consumers' Counsel Governing Board, since March 2012. Previously,

he served as the Deputy Consumers' Counsel and directed the Agency's Legal Department. His career spans more than 40 years in public utilities law, which he draws upon in his public service to the Agency and to Ohio residential consumers.

Bruce is committed to giving Ohioans a voice in their government's regulatory and legislative processes for regulation of essential utility services, among the powerful corporate interests and undue influence of public utilities. He seeks affordable rates and reliable utility services for millions of Ohio consumers. His consumer protection priorities include: reforming the process for selecting PUCO commissioners to provide balance and more transparency for consumers;

improving justice for consumers at the PUCO, such as giving consumers refunds when the Supreme Court overturns a PUCO rate order; repealing the ratemaking in Ohio's 2008 energy law that favors electric utilities over consumers; enabling competitive markets, instead of monopolies and subsidies, where competition can be effective for providing consumers with lower prices and greater innovation; protecting at-risk Ohioans regarding their utility services; and increasing consumer protections regarding services from energy marketers.

Prior to joining the Agency for a second time in October 2004, Bruce was in private law practice where he served as legal counsel for clients in cases involving utility rates, service quality, industry restructuring and competition. He received his bachelor's degree in business administration from the University of Cincinnati. He earned his law degree from The Ohio State University College of Law. He began his service to the Agency and consumers as a legal intern. He served as the Chair of the Public Utilities Law Committee of the Ohio State Bar Association for two years beginning in June 2010.



Larry Sauer

Deputy Consumers' Counsel

Larry Sauer was appointed as the Deputy Consumers' Counsel by the Consumers' Counsel Governing Board in September 2014. As Deputy, he performs the duties of the Consumers' Counsel during any times of the Consumers' Counsel's unavailability. Larry also serves

as the Director of the Legal Department. He joined the Agency in March 2003 as an Assistant Consumers' Counsel. He has served as counsel in electric and natural gas cases and has advised the Agency on consumer issues involving the transition to competitive markets for utility services. Prior to joining the Agency, he worked for 24 years as an accountant, analyst, and attorney for American Electric Power. Larry received his bachelor's degree in accounting from Indiana University. He earned his law degree from Capital University Law School.

Senior Management



Daniel Duann
Analytical Co-Director –
Traditional Regulation

Daniel Duann was named Ohio Consumers' Counsel Analytical Co-Director – Traditional Regulation in 2021. He has worked for the OCC since January 2008. He was previously Assistant Director, Principal Regulatory Analyst, and Senior Regulatory Analyst analyzing, reviewing, and preparing testimony on electric and natural gas cases and other regulatory proceedings and legislation in Ohio. Daniel was a senior research specialist for nine years at the National Regulatory Research Institute at The Ohio State University and was an economist with the Ohio Division of Energy (later transferred to the Public Utilities Commission of Ohio) for two years. He has a master's degree in economics from the University of Kansas and a master's degree in energy management and policy and a doctorate in public policy from the Wharton School, University of Pennsylvania.



Susan Loe
Operations Director

Susan Loe serves Ohioans as the Director of the Operations Department. The Operations Department manages information technology, budget and fiscal matters, and human resources for OCC. Susan joined the Agency in September 2021. Prior to joining OCC, Susan held positions in HR/Fiscal Management at the State Medical Board and the Ohio Ethics Commission. She also previously held Chief of Staff and administrative positions in private sector law firms for more than a decade. Susan earned a bachelor degree from Franklin University, with a dual major in Business Management and Human Resources Management. Susan also received her Ohio Certified Public Manager (OCPM) certification from Ohio State's John Glenn College of Public Affairs and is a graduate of the Ohio Fiscal Academy and the Office of Collective Bargaining Academy.



Mike Haugh
Analytical Co-Director –
Markets and Competitive Services

Mike Haugh was named Analytical Co-Director – Markets and Competitive Services in 2021. He joined the OCC in June 2014 as the Assistant Director of the analytical department. He previously worked for OCC from 2004-2007 as a Regulatory Analyst. He provides leadership, support, and analysis concerning energy markets, regulatory policy, and strategic planning, among other projects. In addition, he is advocating on behalf of Ohioans in various proceedings before the Public Utilities Commission of Ohio and the Federal Energy Regulatory Commission. Mike has a long history working on utility issues. He has been an Energy Trader at Enron and AEP Energy, a Regulatory Analyst at Integrys Energy Services, and the Regulatory Affairs Manager at Just Energy. Previously, Mike was a Senior Fellow with the R Street Institute writing and researching issues in the competitive energy markets. Mike earned his bachelor's degree from The Ohio State University's Max M. Fisher College of Business.



J.P. Blackwood
Public Affairs Acting Manager

J.P. Blackwood serves Ohio consumers as the Acting Manager of the Public Affairs Department. The Public Affairs Department supports OCC's efforts in communications, outreach and education, and legislative services. J.P. joined the Agency as a Public and Legislative Affairs Specialist in 2018. He served the public for 20 years with the City of Columbus Department of Public Service where he led a communications program for road construction and was part of the Department's public relations team. J.P. earned a bachelor's degree in economics and public relations from the University of Oklahoma as well as master's degrees in Public Policy and Management and Political Science from the Ohio State University.



Legislation

The Office of the Ohio Consumers' Counsel represented Ohio consumers at the General Assembly in 2021. Throughout the year OCC testified 16 times on 10 separate pieces of legislation. Testimony included: the OCC budget; seeking repeal of the House Bill 6 bailout of two coal power plants owned by AEP, Duke and AES; opposing reduction of PUCO regulations; enabling refunds of utility charges; and opposing utility charges for energy efficiency programs.

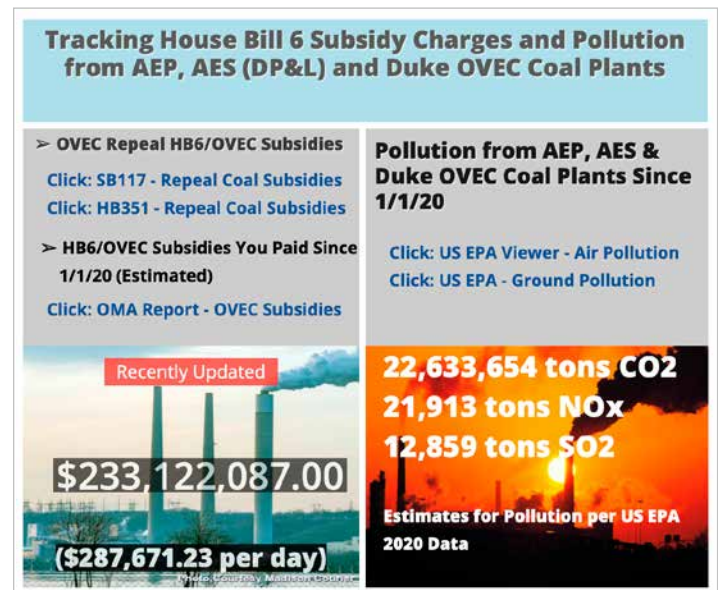
House Bill 6-Related Legislation

OCC continued in 2021 to seek repeal of House Bill 6. H.B. 6 (by Representatives Callender and Wilkin) was passed by the General Assembly and signed by the Governor in July of 2019. It has been at the center of Ohio's public utility policy and later became the epicenter of a political scandal.

House Bill 6 bailed out two nuclear power plants formerly owned by FirstEnergy Solutions (now Energy Harbor) for about one billion dollars in charges to consumers. The bill also bailed out two uneconomic Indiana and Ohio coal power plants owned by AEP, Duke and AES (among others) for what is now projected to be \$1.4 billion in charges to consumers (according to an OMA report). The bill also gave FirstEnergy a special provision (called “decoupling”) that its terminated CEO described as recession-proofing the company, at consumer expense. The bill also ended the green energy mandates for energy efficiency and renewables from the 2008 energy law (S.B. 221, 127th General Assembly). Further, the bill included some subsidies for renewable energy projects. In 2019, OCC testified seven times against House Bill 6. And three times against the FirstEnergy profits protection in the budget bill (H.B. 166). In 2020, OCC testified five times to repeal it. In 2021, OCC testified 6 times to repeal the bill's subsidy for coal power plants and other H.B. 6 provisions.

Among a number of repeal bills, H.B. 128 (by Representatives Jim Hoops and Dick Stein) became the vehicle for House Bill 6 repeals that the General Assembly could agree upon. H.B. 128 repealed the nuclear subsidies and the decoupling provision that aided FirstEnergy. It also repealed the language in the 133rd General Assembly's budget bill which would have shielded FirstEnergy from making profits refunds to consumers. (House Bill 166 – 133rd GA). Oddly, it became understood that Energy Harbor supported repeal of the nuclear bailout.

Another key consumer issue is ending the bailout of AEP, Duke and AES for the two coal plants. OCC supports Senate Bill 117 (by Senators Mark Romanchuk and Hearcel Craig) and House Bill 351 (by Representatives Laura Lanese and Reggie Stoltzfus) for repealing the House Bill 6 coal plant bailout.



From OCC's website: Subsidies and pollution counters related to H.B. 6 coal plant bailout.

Legislative Summaries

House Bill 260 – Enabling Refunds for Consumers

In House Bill 260 (by Representatives Laura Lanese and Daniel Troy) consumer protection was sought to overcome the denials of utility refunds that totaled \$1.5 billion just since 2009. The bill would require utility charges to be refunded if the Ohio Supreme Court or other authority declares the charges to be unlawful. This regulatory reform is a key issue for consumer protection.

House Bill 110 - Operating Budget

As is the case every two years, in 2021 OCC submitted and testified on its operating budget for the upcoming two fiscal years. In support of OCC's budget for consumer protection, Consumers' Counsel Bruce Weston submitted testimony twice in the House and twice in the Senate.

For the first time in many years, OCC asked the Administration and the General Assembly for a budget increase. OCC sought a \$700,000 budget increase, based mostly on the costs of state "parity" salary increases. The final budget for OCC included a \$100,000 increase. OCC's current budget is at the same level as in 2011.

"In conclusion, we are competing on behalf of consumers against lawyered-up utilities and others in ratemaking and policymaking forums. That does cost money. The \$60 million that FirstEnergy reportedly spent in connection with House Bill 6 is about eleven times OCC's budget for all our consumer advocacy in a year." – by Consumers' Counsel Weston, in testimony before the Senate Finance Committee.

"In conclusion, we are competing on behalf of consumers against lawyered-up utilities and others in ratemaking and policymaking forums. That does cost money. The \$60 million that FirstEnergy reportedly spent in connection with House Bill 6 is about eleven times OCC's budget for all our consumer advocacy in a year."

– Ohio Consumers' Counsel Bruce Weston

House Bill 273 – Restoring OCC's Budget and Call Center

House Bill 273 (by Representative Michael O'Brien) would remove the prohibition on OCC to operate a call center for Ohio consumers. The bill also would increase the

Agency's budget to restore funds slashed by the 2011 budget cut. No hearings have occurred on this bill.

House Bill 389 - Electric Energy Efficiency Programs and Charges to Consumers

House Bill 389 (by Representatives Bill Seitz and David Leland) would restore some components of Ohio's energy efficiency law, which were eliminated by H.B. 6.

This bill would allow electric utilities to create what are claimed to be "voluntary" energy efficiency programs. Residential consumers and smaller businesses would be given just one chance at the beginning of a program to opt out.

Energy efficiency is a good thing. It is also something that Ohioans can and do obtain in the competitive market from businesses without legislation, without the involvement of utilities and without the higher charges on their electric bills under House Bill 389.

OCC has testified twice in opposition to this bill, especially because of the charges the bill would allow utilities to collect from consumers. As of year-end, the bill had been passed by the Committee but not by the House.

24 NEWS

Tuesday, November 2nd 2021

FirstEnergy to refund \$306 million to Ohio consumers in overcharging dispute

Monday, the Ohio Consumers' Counsel and the Northeast Ohio Public Energy Council settled a series of cases with FirstEnergy at the Public Utilities Commission of Ohio.

GONGWER
SINCE 1906

Consumers' Counsel Seeks PUCO Intervention In HB6 Dispute

Monday, May 3, 2021

March 31, 2021

AP

AP NEWS

FirstEnergy refunds \$26M as nuclear bailout repeal is signed

By JULIE CARR SMYTH and JOHN SEEWER



Statehouse NEWS BUREAU

The Statehouse News Bureau | By **Andy Chow**
Published October 18, 2021 at 2:24 PM EDT

State consumer watchdog is calling for a shake-up at PUCO

OHIO CAPITAL JOURNAL

FirstEnergy paid \$4.3 mil to top energy regulator and reaped the benefits, court docs state

BY: JAKE ZUCKERMAN - JULY 23, 2021 1:00 AM

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Legislature fails to bail out Ohio ratepayers on hook for bailing out coal plants: Thomas Suddes

Published: Apr. 25, 2021, 5:28 a.m.

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November 8, 2021



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OCC Calls for Legislative Reform of PUCO Settlements, Quid Pro Quo Cash

June 25, 2021

The Statehouse News Bureau | By **Karen Kasler**
Published July 22, 2021 at 9:58 AM EDT

Statehouse NEWS BUREAU

FirstEnergy Charged In House Bill 6 Scandal, Agrees To \$230 Million Penalty

THE BLADE

Editorial: Reform Ohio's PUCO

THE BLADE EDITORIAL BOARD

OCT 21, 2021 12:00 AM

House Bill 6 Timeline

| | |
|---|--|
| 04/12/2019 – House Bill 6 (H.B. 6) introduced | |
| 05/21/2019 – OCC Governing Board adopts resolution against H.B. 6 | 04/24/2019 – OCC testifies against H.B. 6 |
| 05/29/2019 – House Committee passes Sub. H.B. 6 | 05/22/2019 – Amended H.B. 6 adds coal power plant bail out |
| 06/19/2019 – OCC testifies against H.B. 6 in Senate | 06/06/2019 – House passes H.B. 6 |
| 07/17/2019 – Senate passes H.B. 6 | 07/17/2019 – OCC and OMA ask Governor to veto H.B. 6 |
| 07/30/2019 – OACB tries to repeal H.B. 6 via a referendum | 07/23/2019 – Gov. DeWine signs H.B. 6 same day as receiving it |
| 11/16/2020 – FBI raids home of PUCO Chair Randazzo | 07/21/2020 – House Speaker and four others arrested on bribery charges connected to H.B. 6 |
| 02/16/2021 – H.B. 128 introduced to partially repeal H.B. 6 | 11/20/2020 – PUCO Chair resigns |
| 03/31/2021 – Gov. DeWine signs H.B. 128 | 03/02/2021 – OCC Testifies on H.B. 128 for repeal of H.B. 6 |
| 07/22/2021 – FirstEnergy charged with a federal crime; signs U.S. Deferred Prosecution Agreement; agrees to pay \$230 million fine | 06/16/2021 – Former Speaker Larry Householder expelled from Ohio House |
| | 11/02/2021 – FirstEnergy Advisors files shocking text messages showing FirstEnergy CEO and PUCO Chair Randazzo relationship |

OCC advocated for truth and justice for consumers amid the FirstEnergy bribery scandals

During 2021, OCC sought to protect consumers from any improper charges or other utility regulatory improprieties resulting from FirstEnergy's scandals involving tainted House Bill 6 and a former PUCO Chair. The two scandals are intertwined and at their intersection is the public interest.

The U.S. Attorney described the House Bill 6 scandal as: "likely the largest bribery, money laundering scheme ever perpetrated against the people of the state of Ohio." During 2021, FirstEnergy Corp. was charged with a federal corruption-related crime and signed a Deferred Prosecution Agreement (with the U.S. Attorney). FirstEnergy acknowledged in that Agreement that "if this case proceeded to trial, the United States would prove the facts set forth below beyond a reasonable doubt."

The other scandal is reflected in FirstEnergy's admission that it sought to bribe PUCO Chair Sam Randazzo, who resigned in November 2020. (Mr. Randazzo has not been charged with a crime.) In the Deferred Prosecution Agreement, FirstEnergy admitted that it "paid \$4.3 million dollars to Public Official B through his consulting company in return for Public Official B performing official action in his capacity as PUCO Chairman to further FirstEnergy Corp's interest relating to passage of nuclear legislation and other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose."

Getting to the truth has been a challenge in cases at the PUCO involving FirstEnergy and its actual or potential misdeeds. Progress has been slow. For example, access to some key FirstEnergy information through written discovery or depositions has been delayed and/or denied.

Of the four cases involving investigations of FirstEnergy, one of them (Case 20-1502, about political spending) has gone a year and a half without the PUCO hiring an independent auditor to investigate. It wasn't until OCC filed another motion in 2021 for an audit, that the PUCO in 2022 required its Staff to hire an auditor.

"Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman."

*By Louis Brandeis,
1913; U.S. Supreme
Court Justice,
1916 - 1939*

In another investigation case where an auditor was hired (Case 17-974, about corporate separation), OCC learned through a public records request that the PUCO Staff had informed bidders for the audit contract that House Bill 6 issues were not part of the audit.

When OCC and NOPEC sought a supplemental PUCO audit in 2021 to be conducted on the House Bill 6 issues, PUCO Attorney Examiner Gregory Price deferred ruling on the motion until after the future hearing. (In March 2022, Mr. Price withdrew from all the cases involving investigations of FirstEnergy.) OCC

wrote in comments: "It is difficult in this case for the PUCO to discover the facts about the FirstEnergy scandal while not looking for them." OCC also recommended that the PUCO impose forfeitures on FirstEnergy of \$55 to \$110 million.

In yet another of the investigatory cases (20-1629), the PUCO noted at year-end 2021 the possibility that FirstEnergy had denied information to OCC that FirstEnergy was required by law to provide. OCC had sought discovery from FirstEnergy about any undisclosed side deals related to the case (FirstEnergy's ESP IV case - 14-1297). But the PUCO indefinitely deferred consideration of the issue and deferred even allowing OCC to conduct discovery of FirstEnergy on the issue. The PUCO's stated reason was "it is of utmost importance that our investigations do not interfere with the criminal investigation by the United States Attorney or the action brought by the Ohio Attorney General."

FirstEnergy Scandals

The fourth investigation case (Case 17-2474) involves FirstEnergy's infamous Distribution Modernization Rider (which the Ohio Supreme Court ended as being unlawful). In that case, the OCC sought to subpoena the PUCO's original auditor (Oxford Advisors) to attend a deposition and produce documents. OCC sought the deposition and document production because FirstEnergy's former CEO Chuck Jones wrote in a text message about a "burning" of a final audit report (which in fact was not filed at the PUCO). See the text message below.

2022 Update: The PUCO ruled that it does not allow depositions and document requests of its Staff (including

"Pertinent questions about FirstEnergy are being asked by only the Office of the Ohio Consumers' Counsel and Judge Adams."

Editorial – Toledo Blade, March 11, 2022

an auditor) and it would not allow OCC's subpoena. The PUCO said that it would have someone from the auditing firm attend the hearing (but without allowing OCC to prepare through the common practice of a deposition). In any event, OCC already had the right under the Ohio Administrative Code to arrange for auditor testimony at the hearing. OCC wants the deposition for case preparation.

FirstEnergy's ex-CEO texted that "the combination of overruling Staff and other Commissioners on decoupling, getting rid of SEET and burning the DMR final report has a lot of talk going on in the halls of the PUCO about does he work there or for us?" See the text message below.

Messages in chronological order (times are shown in GMT -04:00)



NODISPLAY

DC

Dennis Chack

3/3/2020, 11:23 AM

Any luck on talking with Sam on energy license we just received request for additional comments

Messages in chronological order (times are shown in GMT -05:00)



NODISPLAY

CJ

Charles Jones

3/4/2020, 2:57 PM

He will get it done for us but cannot just jettison all process. Says the combination of over ruling Staff and other Commissioners on decoupling, getting rid of SEET and burning the DMR final report has a lot of talk going on in the halls of PUCO about does he work there or for us? He'll move it as fast as he can. Better come up with a short term work around.

FirstEnergy Scandals

OCC and NOPEC Appeals Lead to Supreme Court Reversal of PUCO Decision in FirstEnergy Advisors Case

In 2020, the PUCO authorized FirstEnergy's affiliate, FirstEnergy Advisors, to act as an energy broker. The PUCO entered that ruling despite consumer concerns from OCC and the Northeast Ohio Public Energy Council (NOPEC). See the FirstEnergy text message above.

OCC and NOPEC appealed to the Ohio Supreme Court the PUCO's approval of FirstEnergy Advisors' certificate to operate. The Court ruled that the PUCO did not fully vet FirstEnergy Advisors' application and improperly denied OCC and NOPEC their right to discovery and an evidentiary hearing.

After the Court's unanimous decision, FirstEnergy Advisors filed a motion to withdraw its original application. FirstEnergy Advisors' motion revealed shocking text messages about the case and other related matters between FirstEnergy and the PUCO's former Chair. Without awaiting a response from OCC and NOPEC (as allowed by the Ohio Administrative Code), the PUCO granted FirstEnergy Advisor's Motion and closed the case about seven business hours after FirstEnergy Advisors' filing.

OCC will continue advocating for truth and justice for FirstEnergy consumers. Consumers should be protected from any improper charges, through refunds and other remedies. And consumers should be protected from any regulatory improprieties related to the scandals.



Office of the Ohio Consumers' Counsel
@OCC4Consumers

...

"The people have one fairly small organization advocating for them in the utilities mess and corruption associated with House Bill 6. That's the Office of the Ohio Consumers' Counsel." – Toledo Blade Editorial

toledoblade.com/opinion/editor...

Alternative link: occ.ohio.gov/docs/Blade-Edi...



1:22 PM · Feb 23, 2022 · Twitter Web App


FirstEnergy Text Messages

The following texts were included in the November 2, 2021 FirstEnergy Advisors Motion to Withdraw their certification application (Case 20-103):

| | | |
|----|---|--------------------|
| DC | Dennis Chack | 3/3/2020, 11:23 AM |
| | Any luck on talking with Sam on energy license we just received request for additional comments | |

| | | |
|----|---|-------------------|
| CJ | Charles Jones | 3/4/2020, 2:57 PM |
| | He will get it done for us but cannot just jettison all process. Says the combination of over ruling Staff and other Commissioners on decoupling, getting rid of SEET and burning the DMR final report has a lot of talk going on in the halls of PUCO about does he work there or for us? He'll move it as fast as he can. Better come up with a short term work around. | |

The following text is documented in a November 29, 2021 OCC filing in the FirstEnergy Political and Charitable Spending case (20-1502):

| Messages in chronological order (times are shown in GMT -05:00) | | |
|---|--|---------------------|
| |  NODISPLAY | |
| SR | Sam Randazzo | 12/18/2018, 9:53 PM |
| | 2019 1,633,333 2020 600,000 2021 600,000 2022 600,000 2023 600,000 2024 300,000 Total 4,333,333 Thanks for the visit. Good to see both of you. | |
| MD | Michael Dowling | 9:55 PM |
| | Got it, Sam. Good seeing you as well. Thanks for the hospitality. Cool condo. | |
| CJ | Charles Jones Jr | 10:30 PM |
| | Sam, Do you send an invoice every year? | |
| SR | Sam Randazzo | 10:32 PM |
| | Yes - the current cycle has me sending an invoice for the scheduled annual payment in June or July. And there is an existing PO number associated with the invoice. | |
| CJ | Charles Jones Jr | 10:33 PM |
| | You send it to Brad Bingaman? | |
| SR | Sam Randazzo | 10:37 PM |
| | I believe Brad is the person who received and processed the invoice last year (2018). In the past, we actually split the payment into two invoices to stay, I think, within payment authorization limits. I don't know if there has been any change. Prior to that, Ebony received the invoices. | |

FirstEnergy Text Messages

Texts from July 22, 2021 U.S. Deferred Prosecution Agreement:

FirstEnergy Corp.'s plan was for Public Official B to be appointed to the open seat as PUCO Chair and another individual appointed to a second projected opening on PUCO.

On January 2, 2019, FirstEnergy Service wired the \$4,333,333 to Public Official B's Company 1 bank account. That same day, Executive 2 texted Executive 1:

[Executive 1] - this text came to me this morning from [Public Official B]. His mtg with Gov.-elect is this Friday and I suspect, absent any problem, things will go down as we've discussed, with [Individual E] getting [PUCO Official 1]'s seat as soon as [PUCO Official 1] leaves. In any event, pls see [Public Official B]'s mssg re: meeting with us soon in Akron.

On January 15, 2020, a few months later, it appeared that another commissioner would be appointed to PUCO in 2020. Public Official A texted Executive 1, "Who do you like for this PUCO board appointment." That evening, Executive 1 texted Public Official A's message to Executive 2: "Who do you like for this PUCO board appointment"; Executive 1 followed up, "Got this from [Public Official A] a little while ago." Executive 1 then texted, "But I think [Public Official B] wants the incumbent D re-upped because he's very cooperative with [Public Official B]." Executive 1 later told Executive 2, "Tell [Public Official B] [Public Official A] asked me I [sic] my response was whoever [Public Official B] wants."

Executive 1 then texted Public Official A back as follows: "[PUCO Official 2] is the commissioner who's up this April. [Public Official B] likes [PUCO Official 2]. [Public Official B] has been outstanding. Approved our decoupling filing today and got a 5-0 vote including [PUCO Official 2], even though Staff bureaucrats wanted to modify HB 6 language." Public Official A responded, "Very good." Public Official A then stated, "I need to have my appointee to make recommendation for Gov. I will take care of it tomorrow."

The following texts were reported by the Ohio Capital Journal on November 9, 2021:

”

Senate kept SEET in – thanks to ty and Sam Randazzo.

– FirstEnergy Senior Vice President of External Affairs Michael Dowling texted to the company's CEO Charles Jones on June 19, 2019, according to messages provided to The Ohio Capital Journal.

”

Their remedy will be remand it back to PUCO so hopefully Sam can fix it ... Sam should make AEP pay \$100M.

– Former FirstEnergy CEO Chuck Jones

Consumers' Counsel Partnerships

It's nice to have friends. We are grateful that, in 2021, OCC had the opportunity to work with other organizations (and their staffs) who were courageous in serving the public interest. Here is a listing of some of those organizations that we worked with to protect consumers. Our thanks go out to them for standing up for what's right!



OCC continued its call for consumer protection reforms of utility regulation in 2021

As OCC Governing Board Chair Watkins wrote in his annual message, one of the priorities for reform is to have consumer advocates appointed to the PUCO. In 2021, two of the five PUCO Commissioners had earlier worked for the utility industry, the industry that the PUCO regulates. Three of the five Commissioners would have had ties to the utility industry were it not for the resignation of the PUCO Chair in November 2020, after his ties to FirstEnergy were revealed. In a real lack of balance, none of the PUCO Commissioners has worked as a consumer advocate.

The four-decades history of the PUCO Nominating Council has only rarely resulted in appointment of a consumer advocate to the PUCO. 2021 was no exception.

In August 25, 2020, the Consumers' Counsel Governing Board adopted a Resolution to reform the commissioner selection process. The Board resolved that reform is needed "by enacting a law to select PUCO commissioners through

direct election by the public." The Board's Resolution also resolved that there is a need to "Deter undue utility influence...and promote transparency..."

An October 2021 *Toledo Blade* editorial asked for PUCO reform: "Now the Office of the Ohio Consumers' Counsel, which was a plaintiff in two of those cases, is arguing for systemic change at the state's utility oversight board so that consumers have a seat at the table -- literally. The OCC is arguing that at least one PUCO commissioner should be a ratepayer representative. . . Changing the PUCO into a consumer watchdog means undoing years of a culture where utilities simply rode roughshod over consumers and regulators."

History tells us that Ohioans need to keep a watchful eye for reform. The focus must be on results. And the results should be that people with backgrounds in bona fide consumer advocacy and the public interest are appointed to the PUCO. The public should not be fooled by anything less.

Are Your Energy Dollars Going Up in Smoke?

Let's begin with an acknowledgement that some residential consumers will save money sometimes with some energy marketers. If you're feeling confident about your skills for energy-price analysis, then go for it. But in the *aggregate*, consumers who contract with marketers are losing money big time as compared to the utilities' competitively-bid *standard offers* that consumers can choose.

That brings us to *shadow-billing*. It's not really for actual billing. But it's a way for utilities to compare what their consumers were billed by energy marketers for electricity or natural gas against what consumers would have been billed had they taken service from their utilities' standard offer. Columbia Gas has been doing shadow-billing since 1997. AEP and Duke Energy recently started. We have been asking in PUCO cases for a shadow-billing requirement from all Ohio utilities. Progress is slow.

Are you sitting down? Since 1997 residential consumers have paid *\$2 billion* dollars more to energy marketers than they would have paid had they been served by Columbia Gas. For AEP (electricity) and Duke (natural gas), the data only goes back to January 2019. But for that three-year period, AEP's data show consumers have paid *\$145 million* more to marketers than they would have paid to buy AEP's electricity. And Duke's data show consumers paid *\$59 million* more to marketers than they would have paid to buy natural gas through Duke's competitive auction. A recent anomaly caused by the February 2021 Texas weather event (that caused significant spikes in natural gas prices) has resulted in Duke's current gas cost recovery rate reflecting a \$20 million increase. That adjustment has caused Duke's GCR rates to be higher than most marketer rates. The temporary impact of this adjustment will be reflected in Duke's GCR rates between July 1, 2021 and June 30, 2022.

There's more on this subject. In March of 2021, The Wall Street Journal published a news article with the headline,



"Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn't." In the article, the Journal wrote that: "U.S. consumers who signed up with retail energy companies that emerged from deregulation paid \$19.2 billion more than they would have if they'd stuck with incumbent utilities from 2010 through 2019."

Also, there is an Ohio study on this topic, entitled "Update on Electricity Customer Choice in Ohio." It was prepared for NOPEC by researchers at Cleveland State University and The Ohio State University.¹ The study showed that consumers choosing the utilities' standard offers saved the most (\$19.5 billion). That's more than four times the savings (\$4.4 billion) of consumers who chose offers from marketers. The results are for 2011 through 2018.

Saving money on energy is so important to large industrial and commercial consumers that they employ energy managers to help minimize their energy costs. Residential consumers do not have the benefit of this expert advice nor the time to repeatedly research energy prices. (An exception is that many residential consumers have an option of buying energy through a government aggregator that can bring expertise to buying in bulk for consumers.) In any event, consumers' time for researching and analyzing marketer offers can be limited. Consumers are busy with raising families, working jobs,

¹ Thomas, Henning, Bowen, Hill and Kanter "Update on Electricity Customer Choice in Ohio: Competition Continues to Outperform Traditional Monopoly Regulation" August 9, 2019 at page 7.

Are Your Energy Dollars Going Up in Smoke?

carrying for elderly parents, and with many other activities that limit time for continually managing their electric and natural gas purchases.

The PUCO makes statistics available on consumers' energy choices. The most recent data available on the PUCO's website shows that about 63% of residential electric consumers and about 57% of residential natural gas consumers are served by energy marketers and government aggregators.

Consumers who shop for energy from marketers should be aware of some pitfalls. When comparing energy offers, beware of “teaser” rates. Some marketers initially offer low (teaser) rates that soon are replaced by higher rates. Also beware of “evergreen” contracts by marketers where the energy contract will automatically renew, sometimes at higher rates. And watch out for *early termination fees* that can make it expensive to end a marketer contract, such as to return to the utility's standard offer. Finally, we recommend that consumers avoid purchasing electricity or natural gas during a *door-to-door sale*.

(See OCC's story on the PALMco mismarketing case in the Natural Gas Consumer Protection section below.)

Consumers can perform an energy-bill check-up in three steps. Consumers should: 1) Check their utility bill to determine if they are taking service from a marketer; 2) If buying from a marketer, check the bill to see what the marketer is charging for electric and/or gas service; and 3) Determine what is their utility's standard offer rate. For electric consumers, that rate is the “price to compare” which appears on the utility bill.

Unfortunately, the PUCO has made it harder to find one's natural gas standard offer. Consumers can contact their utility or check online at this PUCO web page for the standard offer: <https://energychoice.ohio.gov/>. You can then compare your marketer's rate to your utility's rate. If the marketer's rate is higher (or significantly higher) you may want to consider contacting your utility to switch to your utility's standard offer rate. However, before doing so, you must determine if your retail marketer contract contains an *early termination charge*.



If you are contacted by a marketer in a door-to-door sale or by telephone, here are a couple of tips. First, *do not* share your utility account number or other personal information in such a setting. Second, *do not* make a decision (or sign a contract) on the spot. Good decision-making about energy offers requires homework, generally on a continuing basis even after a purchase.

Finally, you have the right to require your utility to remove your name from the customer lists that they share with marketers. Generally, you can exercise this right by calling your utility.

“Heartless” Disconnections and OCC’s Advocacy for Energy Justice

As the pandemic continued into 2021, many Ohioans faced health and financial challenges, including the human suffering involved with utility disconnections. OCC and its advocacy partners have been especially concerned about consumers’ loss of utility service during this time.

Indicators of Ohioans’ financial struggles included the risk of utility disconnections, poverty, food insecurity, joblessness, and loss of housing, among others. Feeding America projected Ohio’s level of food insecurity at 14.1%. The latest data from the State of Ohio Poverty Report in July of 2021 shows Ohio poverty at 12.6 percent. Some of the highest poverty rates are (approximately) in Athens (48%), Cincinnati (24%), Cleveland (32%), Dayton (30%), Oxford (45%), and Portsmouth (35%), Toledo (26%) and Youngstown (35%).

In July 2021, OCC, Advocates for Basic Legal Equality, Legal Aid Society of Southwest Ohio, Ohio Poverty Law Center, and Pro Seniors filed joint motions regarding Ohio utilities’ disconnection practices. Additionally, the motions addressed “energy justice” for at-risk Ohioans including low-income, minority communities, and the working poor.

AEP, with its high disconnections of consumers for the year ended May 31, 2021, was especially a focus. In joint filings, OCC and the consumer groups called for the Public Utilities Commission of Ohio (PUCO) to investigate AEP’s disconnection and credit and collections practices, along with suspending AEP’s service disconnections until the investigation was concluded.

The annual disconnection reports filed by the natural gas and electric utilities revealed that AEP disconnected significantly more Ohio residential consumers than FirstEnergy, Duke and AES combined. This was during a time when COVID cases were rising throughout Ohio and many consumers were facing health and financial troubles. The advocates had concerns that AEP’s high disconnection numbers might be attributable to AEP deploying smart meters over the past few years. Smart meters enable remote

disconnections by flipping a switch at a main office. When the PUCO allows it, the utility can avoid the need to visit consumers’ residences on the day of disconnection, which denies consumers a last chance to pay the utility their bill to prevent disconnection.

In response to AEP’s high number of reported disconnections and energy disconnections in general, the consumer coalition called on the PUCO to:

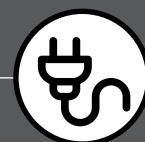
- ▶ Investigate AEP’s practices for consumer disconnection, credit, collections, and use of smart meters;
- ▶ Suspend AEP’s disconnections of consumers during the investigation or, as a secondary alternative, suspend the use of smart meters for disconnection;
- ▶ Suspend all electric and natural gas disconnections during the upcoming winter heating season, or, as a secondary alternative, continue PIPP protections similar to last year and expand the Winter Reconnect Order to ban remote electric disconnections;
- ▶ Require electric and natural gas utilities to assess and report impacts of disconnections in their service areas, especially any disproportionate impact on diverse segments of the population.

Regrettably, the PUCO denied the motions for protection of at-risk Ohioans. In an application for rehearing, OCC and its partners argued that the PUCO has a legal obligation to ensure utility charges and service are just and reasonable, and that the policy of the state obligates the PUCO to protect at-risk populations in Ohio. The consumer coalition described the PUCO’s decision as “heartless” in its denial of the motions for protection of at-risk consumers. The application for rehearing also was denied by the PUCO.

PUCO Case No. 21-0548-GE-UNC



Electric Consumer Protection



The OCC advocated for millions of Ohio residential electric consumers in 2021. OCC made consumer recommendations for lower rates, pandemic-related protections, reliable service, refunds, infrastructure improvements, and smart grid services.

Two decades after Ohio's 1999 deregulation law, electric utilities continued to seek subsidies from their monopoly consumers. OCC's "Subsidy Scorecard," at the end of this Annual Report, shows \$15 billion in above-market subsidies charged to Ohio consumers by their electric utilities since 2000.

In 2021, utility consumers still needed additional protections as the pandemic continued to impact them financially. Some of OCC's activities on behalf of electric consumers are spotlighted below. A full listing of the Agency's case activities can be found at the back of this Annual Report.

Electric Consumer Protection

Rate Case Settlement is Favorable for AEP Consumers

AEP filed a case to increase rates by over \$36 million. But good news for AEP consumers came in March 2021. After weeks of hotly debated negotiations between the Consumers' Counsel, AEP, PUCO Staff and others, a consumer-friendly settlement was reached in the rate case that AEP filed in 2020. The settlement eliminated any rate increase for residential consumers, and even provided a slight rate decrease.

AEP filed this case under Ohio's longstanding traditional regulation law. This form of regulation is much more fair to consumers than what could be considered as the pro-utility junk science under Ohio's 2008 energy law. That law allows for so-called "electric security plans" that mainly provide security to the utilities, not consumers. This settlement minimized pay-to-play deals, where utilities use cash or cash equivalents to induce parties to sign settlements. And the settlement avoided making consumers subsidize businesses that should operate on their own in a competitive market. The PUCO approved the settlement in November 2021.

Highlights of Consumer protections in the Approved Settlement:

- ▶ The Settlement will save customers \$110 million per year compared with AEP's original request.
- ▶ The negotiation produced a lower allocation of costs to residential customers than what the PUCO Staff originally proposed in its Staff Report, saving consumers \$20 million per year in distribution base rates.
- ▶ AEP's so-called "decoupling" rider, that for years cost consumers money, will come to an end.
- ▶ AEP withdrew its proposal for consumers to pay \$40 million in subsidies for energy efficiency programs and electric vehicles.

"Today's rate settlement is a good result for a million residential consumers of AEP, after weeks of hotly debated negotiations between the Consumers' Counsel, AEP, PUCO Staff and others."

– Ohio Consumers' Counsel Bruce Weston

- ▶ Charges to consumers under AEP's "Distribution Investment Rider" will be capped at an amount that is \$100 million less than AEP proposed in its application.
- ▶ Residential customers will pay a fixed monthly "customer charge" of \$10 (the amount they pay before using any electricity), which is about 30% lower than AEP's original proposed monthly charge of \$14.
- ▶ The Settlement rejects a proposal by electricity marketers to artificially increase the rate that AEP's "standard service offer" customers pay for electricity, which would have reduced the value of AEP's standard offer relative to marketers' offers for consumers. AEP's standard service offer is an important conservative way for consumers to purchase electricity economically and benefit from competition.
- ▶ AEP will provide "shadow billing" data to OCC going forward. The shadow billing data to date showed that, between January 2019 and November 2021, AEP consumers who chose a marketer offer paid \$145 million more in total than consumers who chose AEP's Standard Service Offer. This shadow-billing information underscores the value of the standard service offer as an option for consumers to purchase electricity.

PUCO Case Nos. 20-585-EL-AIR, 20-586-EL-ATA, 20-587-EL-AAM

OCC Advocates for Lower DP&L Rates for Dayton-Area Consumers

On Oct. 30, 2020, DP&L (AES) filed an application to increase rates by \$120 million for Dayton-area consumers. Then, on Aug. 5, 2021, the Office of the Ohio Consumers' Counsel (OCC) filed a motion asking the PUCO to dismiss DP&L's case. That month OCC also filed testimony against a rate increase.

Electric Consumer Protection

In its motion, OCC pointed out that years earlier DP&L made a settlement with OCC and others in which it agreed to “freeze” its rates. And OCC asked the PUCO to make DP&L honor its commitment to its consumers. DP&L disagreed.

Separately, OCC filed an appeal in the Supreme Court of Ohio, on Sept. 29, 2021. In this pending appeal, OCC asked the Court to enforce the rate freeze, among other things.

On Oct. 20, 2021, the PUCO ruled on OCC’s motion. The PUCO denied the motion; however, the PUCO clarified that “the arguments raised in the motion to dismiss...should be adjudicated...” That was some good news for consumers.

Update: As of the writing of this summary, the PUCO Staff and some other parties filed in support of the rate freeze that OCC has sought.

PUCO Case No. 20-1651-EL-AIR
OSC Case No. 2021-1068

The Road to Refunds for FirstEnergy Consumers

OCC’s persistence to obtain refunds of too-high utility profits paid off in 2021 when the Agency, along with NOPEC, OMA, OEG, and others, achieved a \$306 million settlement for FirstEnergy consumers.

The road to achieving refunds of too-high profits was not easily traveled considering FirstEnergy’s presence (and influence). That is despite the 2008 energy law that is intended to protect electric consumers from paying for utility profits that are “significantly excessive.” In any event, the settlement for \$306 million in refunds may not have occurred at all but for two events involving OCC’s consumer advocacy.

First, an OCC appeal (that it alone took) resulted in an Ohio Supreme Court reversal of a PUCO order. The PUCO’s order required an (unlawful) change in the math

for calculating FirstEnergy’s profits, which just happened to protect FirstEnergy from making refunds of its high profits. In OCC’s appeal, the Ohio Supreme Court rejected the arguments of the PUCO and FirstEnergy, and protected consumers by overturning the PUCO’s order.

Second, OCC apparently was the first stakeholder to raise alarm about a surprising amendment that was slipped into the 2019 state budget bill (H.B. 166) for FirstEnergy. Using a different change in math than in the PUCO’s unlawful order, the legislation protected FirstEnergy from making refunds of its significantly excessive profits. Consumers’ Counsel Bruce Weston testified against the

FirstEnergy amendment in the budget bill. But it passed and was signed by the Governor. After the indictment of the Speaker of the House and others, this budget bill amendment was repealed in 2021 along with the partial repeal of House Bill 6 in House Bill 128.

Unfortunately for consumers, profits refunds have been rare under the pro-utility 2008 law. In other words, the law and the PUCO’s implementation of the law have favored electric utilities. Indeed, prior to this settlement, FirstEnergy has not had to refund any profits to consumers under that law. In fact, the most any electric utility was previously required to refund to consumers for significantly excessive profits was \$43 million by AEP about a decade ago.

Through case discovery on the H.B. 6 scandal, a June 19, 2019 FirstEnergy text message was found on this issue. Former FirstEnergy Senior Vice President Michael Dowling texted about the profits issue: “Senate kept SEET in thanks to Ty and Sam Randazzo. Story later.” (Note, “SEET” means significantly excessive earnings test.)

PUCO Case No. 18-857-EL-UNC, et al.
OSC Case No. 19-961

*“Today’s approval
of the \$306 million
settlement for refunds
of FirstEnergy’s high
profits is a hard-fought
consumer victory over
FirstEnergy’s influence
in recent years . . .”*

*– Ohio Consumers’
Counsel Bruce Weston*



Natural Gas Consumer Protection



The OCC advocates for millions of Ohio natural gas consumers in a number of cases affecting their monthly natural gas bills. In 2021, after a lengthy negotiation, a major settlement was reached with Duke that will return more than \$71 million in refunds to consumers.

This section describes some of the other significant consumer issues that OCC addressed during the year on behalf of natural gas consumers. These efforts were particularly important as the pandemic's financial impact continued to be felt by consumers. A full listing of the Agency's case activities can be found at the back of this Annual Report.

Natural Gas Consumer Protection

State cases affecting natural gas consumers

OCC opposes settlement in Duke's capital expenditure rider case

Duke Energy asked the PUCO to add a new charge to its customers' bills. The charge is for Duke's capital investments made from 2013 to 2018 through the Capital Expenditure Program Rider. Duke would use the charge to collect \$387 million in capital investments from its consumers.

Normally these assets would not be included in the rates that consumers pay until Duke filed its next (traditional) rate case. OCC objected to Duke's request to increase rates, especially in the middle of the coronavirus pandemic and financial emergency. OCC asked the PUCO to postpone any rate increase until the pandemic had ended.

The PUCO Staff and Duke reached a settlement. OCC opposed it.

First, OCC opposed implementation of the Capital Expenditure Program charge. The Settlement called for an initial charge on customer bills of \$3.69 a month in April 2021 with an increase to \$9.31 a month in November 2021.

Second, the settlement allowed Duke to use an outdated and inflated rate of return on the Capital Expenditure Program investments. That will cost consumers \$7.9 million over a 4-year period. The PUCO's continued use of outdated information that favors utilities with higher rates has been frustrating for OCC.

Third, the settlement failed to address OCC's concern that the cost to maintain the infrastructure should decline as old infrastructure is replaced. The PUCO did not require an operation and maintenance offset despite requiring a similar offset in other infrastructure replacement programs.

The PUCO delayed implementation of the full CEP Rider increase to \$9.31 per month until May 2022 but otherwise approved the settlement in April 2021, without accepting OCC's consumer protection points.

PUCO Case No. 19-791-GA-ALT

A Lengthy Negotiation by OCC, Duke and Others Results in Settlement for Duke's Return of \$71 million Owed to Natural Gas Consumers

The Ohio Consumers' Counsel and others reached a Settlement with Duke and the PUCO Staff. The Settlement, if approved, will return more than \$71 million to about 400,000 Cincinnati-area natural gas consumers for Duke's overcollection of federal taxes in its utility rates. The situation resulted from the Tax Reduction and Jobs Act of 2017. The return of the money will, on average, mean a return of \$100 as a credit on consumers' gas bills.

Also, the Settlement mostly resolves charges for Duke's cleanup of long defunct Manufactured Gas Plant (MGP) sites and related pollution. Years ago OCC had hoped to prevent such charges. But the Ohio Supreme Court allowed the charges in an appeal.

Under the settlement, Duke is required to use part of the MGP-related insurance proceeds to create a \$3.8 million bill-payment assistance program. The program will serve at-risk consumers and seniors.

The Settlement also addresses additional Ohio river cleanup that may be needed. According to the Settlement, Duke can request no later than in the next five years (and OCC can oppose) authority from the PUCO to collect charges from consumers for a river clean-up of MGP pollution.

"A complicated year-long negotiation has resulted in a settlement where consumers and Duke Energy would both benefit. The settlement includes an average \$100 tax reduction credit on consumers' gas bills . . ."

– Ohio Consumers' Counsel Bruce Weston

Natural Gas Consumer Protection

Also, Duke has agreed to replace its old-style “gas cost recovery rate” with a new rate for selling natural gas to consumers who choose to get their gas supply through Duke. The new rate is for a “standard service offer” that will be based on a competitive auction process. The auction process has been used by Ohio’s other regulated natural gas utilities and has a good track record of providing lower prices for consumers.

Duke also agreed to provide OCC with shadow-billing information upon request. Duke recently provided the latest shadow billing information report. The data show consumers paid a lot more in the aggregate to marketers, \$59 million more, compared to what Duke would have charged between Jan. 1, 2019 and December 31, 2021.

The Settlement is still awaiting PUCO approval.

PUCO Case Nos.: 14-0375-GA-RDR, et al, Duke Manufactured Gas Plants; 18-1830-GA-UNC, et al, Duke Tax Cuts and Jobs Act of 2017

OCC reaches settlement with energy marketer PALMco and PUCO Staff over deceptive marketing

The Ohio Consumers’ Counsel reached a settlement with the PUCO Staff and the marketer PALMco, in September 2021, regarding an investigation into PALMco’s bad marketing practices. PALMco, an energy marketer of electricity and natural gas in Ohio, engaged in misleading and deceptive marketing tactics to acquire new consumers. PALMco also was found to have overcharged consumers. This was the second PUCO investigation of PALMco in 2019.

In October 2021, the PUCO approved the settlement. As part of the settlement, PALMco agreed to:

- ▶ Provide refunds to consumers whose contract price increased by 50% or more compared to their initial contract price offer. These refunds totaled up to \$215,365.
- ▶ Exit the Ohio competitive electric and natural gas markets for at least 7 years.

- ▶ Resolve pending PUCO consumer complaints, along with refunds.
- ▶ Provide any leftover proceeds from liquidation of its Ohio businesses to a charity designated by OCC.
- ▶ Cease collection activities and forego collecting approximately \$832,000 in outstanding accounts receivable from Ohio consumers.

The settlement is a win for consumers who were a victim of PALMco’s bad acts.

PUCO Case No. 19-2153-GE-COI

Ohio Supreme Court case affecting natural gas consumers

Consumers gain protection at the Supreme Court after losing at the PUCO

In 2018, Suburban Natural Gas filed for a rate increase at the Public Utilities Commission of Ohio (PUCO).

A large component of Suburban’s rate increase request concerned charges for a new 4.9-mile gas pipeline. OCC argued that 2.9 miles of the pipeline were not “used and useful” for consumers under the law, and thus consumers could not legally be charged for that portion of the pipe.

Over OCC’s objections, the PUCO approved the entire 4.9-mile pipeline, ultimately for charges to consumers. OCC appealed the PUCO’s decision to the Ohio Supreme Court. The Court ruled in OCC’s favor, finding that the PUCO wrongly applied the “used and useful” legal standard when it approved the charges to consumers.

2022 Update: Following the Supreme Court’s decision, the PUCO ruled that Suburban’s 4.9-mile pipeline is not useful for existing customers and can only be billed to them at 41% of its completed length. The PUCO required disputed charges to be refunded to consumers (for the period after the Court’s overturning of the PUCO’ order).

*PUCO Case No. 18-1205-GA-AIR
Supreme Court of Ohio Case No. 21-781*



Telephone Consumer Protection



The telephone industry has obtained regulatory changes that significantly reduce the PUCO's oversight of wireline telephone service. However, many Ohioans still rely on traditional service – including in some rural areas of Ohio where a cellphone signal is not available. The OCC seeks to protect consumers' access to basic telephone service that is reasonably priced and of adequate quality, as the telephone industry transitions from traditional wireline service to wireless and internet services.

In 2021, utility consumers needed additional protections as the financial impact of the pandemic continued. Spotlighted in this section are OCC's efforts to maintain wireline telephone services like Lifeline and 9-1-1. A full listing of the Agency's case activities can be found at the back of this Annual Report.

Telephone Consumer Protection

Greater consumer protections needed when landline telephone providers abandon service

OCC and other consumer parties provided comments as part of the PUCO's five-year review of Chapter 4901:1-6 of the Ohio Adm. Code, which in part determines what happens when a telephone company files to abandon basic local telephone service, including access to 9-1-1 service.

OCC's comments stressed that Ohioans' access to basic telephone service and 9-1-1 emergency services is in the public interest and is protected by Ohio law and federal rules. OCC and consumer parties expressed support for the PUCO's proposals but recommended additional consumer protections.

After the PUCO adopted the rules with changes that included OCC's recommendations, the Commission granted a request for re-hearing by representatives of the telecommunications industry. OCC argued that the telecom parties' comments would weaken or eliminate important consumer protections.

This case was awaiting rehearing at the time of this report.

PUCO Case No. 14-1554-TP-ORD

OCC and consumer groups fight to preserve Lifeline benefits for AT&T Ohio customers

The OCC along with other consumer groups advocated to protect consumers from AT&T Ohio's application to relinquish its Eligible Telecommunications Carrier (ETC) designation in all of the remaining areas of its Ohio service territory. In doing so, AT&T Ohio seeks to withdraw entirely from providing Lifeline services to all of its Ohio customers.

In 2019, in another case (17-1948) the PUCO granted AT&T Ohio's petition to relinquish its ETC designation for the large majority of its Ohio service territory. Now AT&T wishes to completely withdraw from providing Lifeline services in the state.

The FCC previously ordered that support for Lifeline be phased out by December 2021. In light of continuing hardships on low-income consumers and others impacted by the Covid-19 pandemic, the FCC has delayed the phase-out of the Lifeline program until Dec. 1, 2022.

Even so, AT&T Ohio is still seeking to eliminate its Lifeline services to the low-income consumers it still serves in the state. OCC and the other consumer advocates have pointed out that even though there are other Lifeline providers that serve the areas where these consumers live, those alternative providers offer only cellular service. And, as the PUCO Staff's own report indicates, these households may not have access to the providers' cellular signals because of "variations in obstructions between the households and the available infrastructure."

The advocates recommended that AT&T shouldn't be permitted to abandon the Lifeline service discount program until the PUCO has conducted an independent study of the impact this would have on consumers. At a minimum, the PUCO should delay granting the Petition until after the FCC has further considered the federal voice service Lifeline discount phase-out.

Public comment was sought in this case at the time of this report.

PUCO Case No. 21-917-TP-UNC



Water Consumer Protection



Under Ohio law, the PUCO regulates price and service quality for the investor-owned water and wastewater companies that provide utility service to consumers. Many water utilities in Ohio are operated by local governments, which the PUCO does not regulate.

Aqua Ohio is the major water utility regulated by the PUCO. The company serves approximately 151,000 water customers and 6,900 wastewater customers. The PUCO also regulates seven smaller water and eight wastewater companies, each serving fewer than 2,500 customers. The rates for water and wastewater services are regulated by the PUCO under traditional ratemaking standards. However, there is a concerning trend allowing water rate increases through single-issue riders ("system improvement charges") instead of a general rate case that is more fair for consumers.

In 2021, utility consumers needed additional protections as the pandemic continued to impact daily life. OCC's efforts related to the special needs for consumer protections are described in sections of this report. What follows spotlights OCC's activities on behalf of water consumers. A full listing of the Agency's case activities can be found at the back of this Annual Report.

Water Consumer Protection

OCC seeks fair rates in Aqua rate increase cases; OCC wants Aqua to publicly report its disconnections of water consumers

Aqua Ohio has two cases pending at the PUCO to increase consumers' monthly utility bills. One case is for a monthly increase of 12% (\$5.80 to \$10 depending on location) for water service. The other case is for a monthly increase of 12.8% percent for wastewater service. Aqua has 153,000 residential consumers in Ohio. Including Aqua's three system improvement charges, Aqua water consumers are already paying a 10.9 percent add-on charge.

We are especially concerned for at-risk Ohioans during the pandemic. For consumer protection and transparency, OCC filed a motion on July 2, 2021 to require Aqua to publicly file quarterly

reports on its disconnections of consumers. The PUCO denied OCC's motion on September 30, 2021. Energy utilities are required by law to annually file their disconnection statistics.

“Ohio should lead with its heart and keep Ohioans connected to utility services during this time of health and financial crisis for many . . .”

– Ohio Consumers' Counsel Bruce Weston

As of year end 2021, the rate increase cases are pending at the PUCO. OCC is prepared to call expert witnesses to testify on behalf of consumers when there is a hearing.

Aqua Ohio has added to its system in 2018 and 2019 by purchasing two municipal systems, one in Ashland County and one in Summit County. They also purchased the water system of City of Campbell (Mahoning County) in 2020.

PUCO Case Nos. 21-595-WW-AIR, 21-596-ST-AIR

Consumer Education

The Office of the Ohio Consumers' Counsel remains committed to providing Ohioans with a reliable source for objective information about their utility and competitive choices. Our consumer education is provided through OCC's website, fact sheets, social media, outreach presentations to consumers, and direct communication with consumers.

Ohio Consumers' Counsel helps Ohioans make informed decisions for saving money

OCC has Outreach and Education Specialists that help Ohioans make informed decisions regarding their utility services. OCC specialists increased the number of events attended by more than 20 percent from the previous year. OCC specialists informed the public and public-interest organizations on how to keep utility services connected, manage utility bills, choose an energy service, and save money by making homes more energy efficient.

The Public Affairs Department is available to assist Ohioans with inquiries. On OCC's website (www.occ.ohio.gov), consumers can view fact sheets and other information. Consumers may also follow OCC on Twitter @OCC4Consumers to keep up to date on utility news and other OCC activities. Videos pertaining to choosing an energy supplier and other consumer topics can also be found on OCC's website and YouTube.

At OCC we put consumers first.

2021 Fiscal Report

This fiscal report is for fiscal year 2021, ended June 30, 2021. The Agency is funded through an assessment on the intrastate gross receipts of entities regulated by the PUCO, based on Section 4911.18 of the Ohio Revised Code. The Agency assessed more than 1,000 regulated entities for operating funds for fiscal year 2021.

Operating budget expenditures

| | |
|-------------------------------------|-----------------------|
| Payroll and benefits | \$ 3,702,805.10 |
| Purchased personal services..... | \$ 632,728.37 |
| Supplies and maintenance..... | \$ 407,119.66 |
| Equipment..... | \$ 10,469.52 |
| Other refunds..... | \$ 2,760.46 |
| Total | \$4,758,883.11 |

Employee Recognition

Exceptional employees are recognized as Employee of the Quarter by the Consumers' Counsel, the Deputy Consumers' Counsel, and the Agency's directors. Employees are acknowledged for their outstanding work on behalf of Ohio's residential utility consumers and for exemplifying OCC's mission, vision and values.



Daniel Duann

Daniel Duann was named OCC's Employee of the First Quarter in 2021. Dr. Duann is the Ohio Consumers' Counsel Analytical Co-Director – Traditional Regulation. He has worked for the OCC since January 2008. He provided analysis and testimony for electric and natural gas cases and other regulatory proceedings and legislation in Ohio. Daniel was a senior research specialist for nine years at the National Regulatory Research Institute at The Ohio State University. He has a master's degree in economics from the University of Kansas and a master's degree in energy management and policy and a doctorate in public policy from the Wharton School, University of Pennsylvania.



Merrilee Embs

Merrilee Embs was named OCC's Employee of the Second Quarter in 2021. Merrilee joined the OCC as a Public Affairs Liaison in March, 2019. She has more than 24 years of experience in editorial publishing and public relations. She was involved with managing business operations of multiple daily and weekly publications in Greene County and coordinating specialty publications for businesses and organizations. Merrilee has a BA in Mass Communications from Wright State University.



Lisa Lyman

Lisa Lyman was named OCC's Employee of the Third Quarter in 2021. Lisa Lyman joined the OCC as the fiscal manager in February 2015. Prior to joining OCC, Lisa held positions in fiscal and contract management with the Ohio Department of Rehabilitation and Correction and worked for the Department of Administrative Services in its Real Estate Division. Lisa received her Bachelor of Science in Human Services from Ohio University.



Maureen Willis

Maureen Willis was named OCC's Employee of the Fourth Quarter in 2021. Maureen has been an assistant consumers' counsel with the OCC since 2004 and during earlier stints at the Agency. She specializes in the litigation of complex electric cases, but has diverse legal experience and has served on cases across all utility industries. Maureen began her career at the OCC in 1982 as a legal intern and was hired as a staff attorney upon receiving her juris doctor degree from Capital University Law School. After leaving Columbus and later returning, she joined the OCC once again in 1988. Along with her JD, Maureen graduated from the University of Dayton with a bachelor's degree in criminal justice.

2021 Case Activity

| <i>Case Number</i> | <i>Utility</i> | <i>Issue</i> | <i>Consumer Impact</i> |
|--|-------------------------------|-------------------------------------|--|
| Electric Cases at the Public Utilities Commission of Ohio | | | |
| 21-1234-EL-WVR | Dayton Power & Light | Rules Waiver | Impacts the reliability of consumers' essential electric service. |
| 21-1225-EL-RDR | FirstEnergy | Non-Market Based Rider | FirstEnergy filed its annual update to its Non-Market Based Rider (Rider NMB), which FirstEnergy is required to file. Residential consumers received a slight decrease to their monthly charge. |
| 21-1220-EL-UNC | Dayton Power & Light | Compliance | Impacts the reliability of consumers' essential electric service and the sanctions for DP&L's past failures in meeting reliability standards. |
| 21-1209-EL-WVR | AEP | Waiver of Rules | AEP seeks a waiver (request not to comply) with certain consumer protections in the O.A.C. such that it not "... discriminate or unduly restrict a customer's CRES provider from including nonjurisdictional charges on a consolidated electric bill." AEP also seeks a waiver of the rule permitting an electric utility to release detailed granular consumer energy usage data to marketers with consumer consent. |
| 21-1205-EL-AEC | FirstEnergy - Toshi CMC LLC | Unique Arrangement | OCC is advocating to ensure there is no cost shifting from this unique arrangement that could increase residential consumers' bills. |
| 21-1150-EL-UNC | Ohio Power | Supplier Consolidated Billing Pilot | The PUCO reviewed AEP's Supplier Consolidated Billing Pilot Program, which provides marketers the opportunity to issue bills to consumers. The PUCO Staff issued a Staff Report highlighting low participation rates by both suppliers and consumers. |
| 21-1125-EL-WVR | FirstEnergy | Waiver of Rules | The FirstEnergy Utilities seek a six-month delay to implement the new online bill calculator. Additionally, the FirstEnergy Utilities seek a delay in providing granular consumer energy usage data to marketers pending resolution of on-going data sharing discussions in the Grid Mod I collaborative. And the Utilities seek a limited waiver to discontinue billing consumers for non-jurisdictional charges (e.g., home warranties, light bulbs, etc.) on their consolidated electric bills effective May 1, 2022. |
| 21-1110-EL-RDR | Dayton Power & Light | Infrastructure Development | Estimated \$.55 increase to the residential customers' monthly charges for utility service. |
| 21-1100-EL-WVR | Duke Energy | Duke Energy | Duke requests to not implement (waive) the online bill calculator requirements for residential consumers using time of day and space heating rates. The online bill calculator is a resource for all residential rate options so that consumers can better understand the charges on their bill. Duke also asks for more time to remove its affiliate non-jurisdictional charges from consumers' bills. Duke also seeks a waiver of certain system reliability standards. |
| 21-1047-EL-AEC | Toledo Edison - Campbell Soup | Reasonable Arrangement | Campbell Soup Supply Co. seeks an exemption from paying for transmission service through its utility, Toledo Edison, which could result in higher transmission charges for other consumers, including residential consumers. |
| 21-1038-EL-RDR | FirstEnergy | 2021 Annual DCR Audit | FirstEnergy's Utilities spent over \$300 million on distribution investment. A PUCO Audit will determine if the investments were reasonable and prudently incurred. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|-----------------------------------|---|---|
| 21-0990-EL-CSS | AEP v. Nationwide Energy Partners | Submetering Issues | AEP filed a complaint against Nationwide Energy Partners ("NEP") related to NEP's construction requests that would allow NEP to resell or redistribute (submeter) electric utility service to over 1,000 AEP consumers living in apartment complexes. OCC seeks to protect residential consumers who may lose important protections if forced to take NEP's service. However, the Attorney Examiner denied OCC's motion to intervene and OCC filed an interlocutory appeal with the PUCO. |
| 21-0956-EL-ESS | Dayton Power & Light | Reliability Standards | Impacts the reliability of consumers' essential electric service. |
| 21-0887-EL-AIR; 21-0888-EL-ATA; 21-0889-EL-AAM | Duke Energy | Rate Case | Estimated \$4.54 increase to the residential customers' monthly charges for utility service. |
| 21-0796-EL-UNC | Ohio Power Siting Board | Report to the General Assembly Regarding Power Transmission Systems | The OPSB requested comments regarding its report to the General Assembly required by R.C. 4906.105. The OPSB solicited comments as to whether the current requirements for the planning of transmission systems and facilities investment in Ohio are cost effective and in the best interest of consumers. OCC advocated for OPSB oversight of supplemental transmission projects in excess of 69 kV. |
| 21-0763-EL-POR | Duke Energy | Energy Efficiency Low-Income Program | As required by law, Duke continued its low-income energy efficiency programs through the end of 2021, thus providing consumers in need an opportunity to lower their energy bills. |
| 21-0659-EL-USF | Ohio Development Service Agency | Universal Service Fund Rider | The yearly Universal Service Fund (USF) case sets the rates that Ohio's electric distribution utilities use to charge consumers to support the PIPP program and the Electric Partnership Program. The USF helps low income customers avoid disconnection of their vital utility service. The USF rider rate collects the PIPP program costs via a monthly charge on consumers' electric bills. |
| 21-0588-EL-UNC | Dayton Power & Light | 2020 Significantly Excessive Earnings Test | As required by law, DP&L is required to report the profits it earned under its electric security plan. The PUCO must examine whether DP&L earned too much profits or "significantly excessive earnings." Refunds are owed to consumers if DP&L's profits were too high. |
| 21-0586-EL-UNC | FirstEnergy | 2020 Significantly Excessive Earnings Test | As required by law, FirstEnergy is required to report the profits its earned under its electric security plan on an annual basis. The PUCO must examine whether the FirstEnergy utilities earned too much profits or "significantly excessive earnings." Refunds are owed to consumers if FirstEnergy utilities' profits were too high. A Settlement resolved this case in 2021. |
| 21-0573-EL-RDR | Duke Energy | Distribution Capital Investment rider | Duke has spent hundreds of millions of dollars on distribution capital investment. The PUCO will review the investments for prudence and reasonableness. |
| 21-0560-EL-RDR | Dayton Power & Light | Update Energy Efficiency | DP&L seeks approval of its final reconciliation of its energy efficiency and "shared savings" (profits to AES Ohio) charge to consumers. Consumers are expected to receive a credit of approximately 37 cents. |
| 21-519-GA-IDR | Dominion | Infrastructure Development | Dominion seeks approval for its infrastructure development rider to collect costs for economic development projects. OCC challenged one project where Dominion seeks to collect costs for moving its own facilities. |

2021 Case Activity

| <i>Case Number</i> | <i>Utility</i> | <i>Issue</i> | <i>Consumer Impact</i> |
|--|---|--|--|
| 21-0541-EL-UNC; 20-1006-EL-UNC; 20-1166-EL-UNC | Ohio Power | Quadrennial Review & Significantly Excessive Earnings Test | AEP is required to file annual profits review for 2019 and 2020 and also a quadrennial review about its current ESP. These cases were resolved by a Settlement that was filed in late February 2022. |
| 21-0497-EL-RDR | Ohio Power | Update Reconciliation Rider (Energy Efficiency) | AEP charged residential consumers more than \$20 million for energy efficiency programs in 2020, plus nearly \$12 million for utility profits. |
| 21-0484-EL-ATA | FirstEnergy | Decoupling | Following the House Bill 6 scandal, FirstEnergy agreed to refund more than \$27 million (plus interest) in so-called "decoupling" charges that consumers had previously paid. |
| 21-0482-EL-RDR | Duke Energy | Energy Efficiency | A final reconciliation of Duke's energy efficiency rider includes adjustments from several previous rider update filings, where OCC has advocated for disallowance of employee incentive pay, personal cell phone bills and other non-energy efficiency expenses. Duke is requesting to charge consumers \$8 million in after -tax shared savings (utility profits). |
| 21-0478-EL-ORD | Commission Rules Review | Market Monitoring | The PUCO is reviewing the rules governing utilities' reporting obligations regarding the electric wholesale market. Consumers rely on the competitive wholesale market to reduce costs and increase innovation. |
| 21-0477-EL-RDR | Duke Energy Dayton Power & Light AEP Ohio | OVEC Generation Purchase Rider Audits | The PUCO is doing a prudence review of subsidy charges collected by Duke, DP&L and AEP in 2020 for the dirty, uneconomic OVEC coal plants . This rider was established under H.B. 6 and has been the subject of repeal efforts. |
| 21-0447-EL-UNC | Commission Review | Establishing a Solar Generation Fund Rider | Estimated \$.85 increase to the residential customers' monthly charges for utility service. |
| 21-0224-EL-RDR | Dayton Power & Light | Transmission Cost Recovery Rider | The annual DP&L update, required by law, to its non-market based rider for transmission costs charged to consumers. |
| 21-0146-EL-UNC | Dayton Power & Light | Bill Format Change | DP&L filed to change its bill format to reflect its new name and logo for AES Ohio. OCC filed a motion to suspend the automatic approval of this case because DP&L had not provided sample bill formats that complied with the PUCO rules. Subsequently, DP&L filed corrected exhibits that addressed OCC's concerns. |
| 21-0101-EL-ATA | FirstEnergy | Decoupling Repeal | FirstEnergy filed this case to set to zero its H.B. 6 "decoupling" tariffs that it used to collect more than \$2 million weekly from consumers. Initially, FirstEnergy did not make any provision for refunding the decoupling revenues collected to date. Later FirstEnergy agreed to a consumer refund, in Case No. 21-484-EL-ATA. |
| 21-0092-EL-RDR | Dayton Power & Light | Storm Damage Costs | Estimated \$1.12 increase to the residential customers' monthly charges for utility service. |
| 21-0016-EL-RDR | Ohio Power | Distribution Investment Rider | AEP spent over \$250 million on distribution investment. In this PUCO audit, the reasonableness and prudence of the investment will be reviewed. |
| 21-0012-EL-RDR | Duke Energy | Power Future Rider | Duke wants to charge residential customers more than \$4.7 million through the utility's PowerFuture Rider for its capital investments and expenses of grid modernization. |

2021 Case Activity

| <i>Case Number</i> | <i>Utility</i> | <i>Issue</i> | <i>Consumer Impact</i> |
|--|-------------------------|---|---|
| 20-1903-EL-RDR | FirstEnergy | Annual Update – Audit of Rider AMI | This is the annual review of FirstEnergy's Advanced Metering Infrastructure/ Grid modernization Rider. Consumers are charged for grid modernization through this rider. |
| 20-1800-EL-ORD | Commission Rules Review | Metering Options | By law, consumers whose residences are primarily heated by electricity are entitled to demand, load or time differentiated meter pricing offered by their electric utility. Consumers have paid significant costs to enable the utilities to install the meters throughout the state and thus consumers should have access to the benefits the meters can provide. |
| 20-1745-EL-RDR | AEP Ohio | AER/ACRR Rate/Rider Charges | AEP proposed to change the methodology that it uses to calculate the Alternative Energy Rider and Auction Cost Recovery Rider. The residential consumer rate will increase from 0.3037 cents per kWh to 0.444 cents per kWh (capped at 0.50 cents per kWh)—an increase of more than 46%. AEP also proposed to change the process for managing the total balance of the estimated renewable energy credit inventory. AEP claimed it is making these changes in response to the passage of H.B. 6 last year, which sunsets the collection of renewable energy credits in five years. Consumer protection is compromised by AEP's proposal which provides for less regulatory oversight and less transparency. |
| 20-1673-EL-RDR; 20-1748-EL-ATA | FirstEnergy | Energy efficiency-demand side management | This case was resolved as part of a Global Settlement between OCC, FirstEnergy, the PUCO Staff, and others, which will result in more than \$300 million in refunds and credits to customers between 2022 and 2025. |
| 20-1651-EL-AIR; 20-1652-EL-AAM; 20-1653-EL-ATA | Dayton Power & Light | Rate increase | DP&L has filed to increase rates consumers pay by an additional \$121 million per year for distribution service. OCC has challenged DP&L's request, asking the PUCO to enforce a "rate freeze" that DP&L agreed to, meaning there should be no rate increase while DP&L is collecting rates from consumer under its first electric security plan.. |
| 20-1629-EL-RDR | FirstEnergy | Delivery Capital Recovery Rider | FirstEnergy Utilities spent hundreds of millions on distribution investment. A PUCO audit will determine if the investments were reasonable and prudent. tainted H.B. 6. The auditor has found that approximately \$24.4 million was spent on H.B. 6 activities and not distribution investment. |
| 20-1502-EL-UNC | FirstEnergy | House Bill 6 | In response to OCC's September 8, 2020 motions regarding H.B. 6 spending by the FirstEnergy utilities, the PUCO opened this case. OCC will be exploring whether FirstEnergy used money collected from consumers to fund the illegal H.B. 6 activities. |
| 20-1476-EL-UNC | FirstEnergy | Electric security plan quadrennial review | This case was resolved as part of a Global Settlement between OCC, FirstEnergy, the PUCO Staff, and others, which will result in more than \$300 million in refunds and credits to customers' bills between 2022 and 2025. |
| 20-1205-EL-RDR | Duke Energy | Distribution Capital Investment rider | Duke charges customers for the replacement of aging infrastructure through the Rider DCI. In January 2022, OCC signed a Settlement that adopted our reductions in monthly charges to consumers and OCC's recommended reporting and work plan improvements to protect consumers from being overcharged. |
| 20-1195-EL-ORD | Commission Rules Review | Green Pricing | The PUCO conducted its 5 year review of the green pricing rules. In 2021, the PUCO adopted the current rules with no changes. |

2021 Case Activity

| <i>Case Number</i> | <i>Utility</i> | <i>Issue</i> | <i>Consumer Impact</i> |
|--|----------------------|--|---|
| 20-1041-EL-UNC | Dayton Power & Light | Electric security plan profits | The PUCO conducted an annual review of DP&L's profits earned under their electric security plan. This is a 2019 profits review. OCC has estimated that consumers are entitled to a refund of \$150 million because of the significantly excessive level of profits DP&L earned. This case was settled along with other DP&L cases. OCC opposed the Settlement, and is appealing the PUCO's approval of the Settlement to the Ohio Supreme Court. |
| 20-1034-EL-UNC | FirstEnergy | Electric security plan profits | The PUCO conducted an annual review of FirstEnergy's profits earned under their electric security plan. This is a 2019 profits review. This case was included in the Global Settlement with FirstEnergy that provided over \$300 million in refunds to consumers. |
| 20-0939-EL-RDR | Ohio Power | Update gridSMART Phase 2 Rider Rates | The reasonableness and prudence of AEP's \$48 million gridSMART investment will be audited by the PUCO. |
| 20-0680-EL-UNC | Dayton Power & Light | 3-year review of ESP I | Over OCC's objections, the PUCO approved a Settlement that (i) allows DP&L to continue charging customers \$79 million per year in unlawful "stabilization" charges, (ii) denies customers more than \$61 million in refunds for DP&L's significantly excessive profits, and (iii) will result in customers paying more than \$100 million for DP&L's "smart grid" investments with no promise of any customer benefits for those investments. OCC filed an appeal of the PUCO order at the Ohio Supreme Court. |
| 20-0666-EL-RDR | Duke Energy | Power Forward Rider | Duke wants to charge residential customers more than \$4.5 million through the utility's PowerForward Rider for its capital investments and expenses of grid modernization. Under the Settlement OCC negotiated a lower allocation of costs to residential consumers, and supplier fees will not be passed on to consumers. |
| 20-0585-EL-AIR; 20-0586-EL-ATA; 20-0587-EL-AAM | AEP Ohio | Rate increase | AEP is asking the PUCO to increase distribution rates that it charges customers for distribution service by \$36.2 million. The OCC subsequently joined a Settlement with AEP, the PUCO Staff and numerous other parties that provides substantial benefits to residential consumers. |
| 20-0553-EL-RDR | Dayton Power & Light | Alternative Energy (Energy Efficiency and Peak Demand Reduction) | The PUCO is conducting an annual performance and management audit of DP&L's Alternative Energy Rider. |
| 20-0167-EL-RDR | Duke Energy | Price Stabilization Rider (OVEC) | Duke has collected from Ohio customers \$ 23.6 million in charges to subsidize Duke's interest in two dirty old, unprofitable power plants owned by OVEC, one of which is in Indiana. The PUCO is auditing this charge that Duke's customers paid during 2019. |
| 20-0165-EL-RDR | Dayton Power & Light | Reconciliation Rider | DP&L has collected from Ohio customers \$18.7 million in charges to subsidize DP&L's interest in two dirty old, unprofitable power plants owned by OVEC, one of which is in Indiana. The PUCO is auditing this charge that DP&L's customers paid during 2019. |
| 20-0140-EL-AAM | Dayton Power & Light | Defer distribution decoupling cost | DP&L is seeking to defer nearly \$16 million for later collection from customers for decoupling-related charges. (with interest). "Decoupling" charges, are charges collected from consumers to make DP&L whole for the revenues it allegedly lost from reduced sales due to consumers engaging in energy efficiency efforts. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|---|--|--|
| 20-0103-EL-AGG | Power Brokers Suvon d/b/a FirstEnergy Advisors | Certification for electric aggregators | The PUCO reviewed FirstEnergy Advisors' application (an affiliate of the FirstEnergy utilities) to provide competitive power broker and aggregator services in Ohio. The application raises concerns regarding corporate separation, which protects captive utility consumers against (among other things) subsidizing the unregulated activities of a utility affiliate. OCC appealed the PUCO's decision approving FirstEnergy Advisors' application to the Ohio Supreme Court. The Ohio Supreme Court reversed and remanded the PUCO's order. |
| 19-1903-EL-RDR | FirstEnergy | AMI Update | The PUCO conducted an annual review of FirstEnergy's Advanced Metering Infrastructure/ Modern Grid Rider charges paid by consumers for grid modernization investments. |
| 19-1475-EL-RDR | AEP Ohio | gridSMART Phase III | AEP filed an application with the PUCO to seek authority to spend more than \$1 billion on Phase 3 of its gridSMART project. |
| 19-1338-EL-UNC | FirstEnergy | 2018 Electric security plan profits | FirstEnergy requested the Significantly Excessive Earnings Test for 2018 be reviewed by the PUCO with \$134.7 million Distribution Modernization charge revenues excluded from the profits review. That exclusion was appealed by OCC. The Ohio Supreme Court ruled such revenues should be included in the profits test and remanded the case to the PUCO. This case was subsequently resolved when OCC and other reached a settlement with FirstEnergy providing for over \$300 million in refunds to consumers. |
| 19-1121-EL-UNC | Dayton Power & Light | Electric security plan profits | Over OCC's objections, the PUCO approved a Settlement that (i) allows DP&L to continue charge customers \$79 million per year in unlawful "stabilization" charges, (ii) denies customers more than \$61 million in refunds for DP&L's significantly excessive profits, and (iii) will result in customers paying more than \$100 million for DP&L's "smart grid" investments with no promise of any customer benefits for those investments. OCC filed an appeal with the Ohio Supreme Court of the PUCO's decision. |
| 19-1029-EL-RDR | Ohio Power | 4th quarter update to gridSMART program | The PUCO will conduct an annual audit of AEP's \$27 million gridSMART charges to consumers to determine if these charges were reasonable and prudent. |
| 18-1875-EL-GRD; 18-1876-EL-WVR; 18-1877-EL-AAM | Dayton Power & Light | Grid modernization and advance metering charges to customers | DP&L sought to settle this and various other cases. OCC opposed the proposed Global Settlement for numerous issues that harm consumers. The PUCO approved the Global Settlement and OCC has appealed the PUCO's Order to the Ohio Supreme Court. |
| 18-1647-EL-RDR | FirstEnergy | Revision of AMI | OCC asked the PUCO to lower FirstEnergy's smart grid charges to consumers by nearly \$2 million. |
| 18-1004-EL-RDR; 18-1759-EL-RDR | AEP Ohio | OVEC coal plant subsidy | The PUCO is conducting a prudence review of OVEC costs collected by AEP Ohio from its consumers for 2018 and 2019. |
| 18-1003-EL-RDR | AEP Ohio | OVEC coal plant subsidy | The PUCO is conducting a prudence review of OVEC costs collected by AEP Ohio from its consumers for 2016 and 2017. |
| 17-2474-EL-RDR | FirstEnergy | Audit of Distribution Modernization Rider | The PUCO had undertaken an audit of FirstEnergy's Distribution Modernization Rider. The audit was to determine if FirstEnergy was using the funds collected to support grid modernization. The PUCO recently reopened the proceeding and expanded the audit scope to cover the period of H.B. 6 activities. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|---|---|--|
| 17-1843-EL-ORD | Commission Review | Marketers' Rules Review | The PUCO is conducting a review of rules that govern competitive retail electric suppliers. OCC filed comments recommending numerous amendments to the rules for consumer protection. |
| 17-0974-EL-UNC | FirstEnergy | Corporate separation | In this case the PUCO will be auditing FirstEnergy's compliance with its obligations to keep its monopoly distribution utility business separate from its competitive electric generation business. In response to OCC's September 8, 2020 motions, the PUCO will be expanding the audit to include the time period associated with H.B. 6. |
| 16-0574-EL-POR; 16-0576-EL-POR; 16-0743-EL-POR; 17-1398-EL-POR | Electric | Utilities' energy efficiency plans | Ohio's electric utilities were required to stop charging consumers for energy efficiency programs after December 31, 2020, with the exception of low income programs, which continued through December 31, 2021. |
| 13-2173-EL-RDR; 14-1947-EL-RDR; 15-1843-EL-RDR; 16-2167-EL-RDR; 17-2277-EL-RDR | FirstEnergy | Demand side management | These cases were resolved as part of a Global Settlement between OCC, FirstEnergy, the PUCO Staff, and others, which will result in more than \$300 million in refunds and bill credits for consumers.. |
| 11-5886-EL-CRS | Verde | Renewal of CRES | The PUCO allowed Verde Energy to continue serving Ohio consumers despite numerous allegations of misconduct and dozens of rule violations. |
| 11-5201-EL-RDR | FirstEnergy | | Following a favorable ruling from the Supreme Court of Ohio, OCC was allowed to disclose important information regarding FirstEnergy's charges to consumers for renewable energy--information that was improperly withheld from the public for years. |
| 08-1094-EL-SSO; 08-1095-EL-ATA; 08-1096-EL-AAM; 08-1097-EL-UNC | Dayton Power & Light | Electric security plan charges to customers | In early 2020 the PUCO issued an Entry on Rehearing that gave itself more time to consider rehearing requests. In April 2021, OCC filed a Writ of Procedendo asking the Court to require the PUCO to issue a final appealed order. The PUCO did that in June 2021 (after 16 months had elapsed). OCC challenged that Entry for approving a \$79 million per year stability charge (as a replacement for the so-called distribution modernization rider) and for excusing DP&L from its rate freeze commitment. An appeal of the PUCO order was filed at the Ohio Supreme Court. |
| Electric Cases at the Court of Common Pleas Franklin County, Ohio | | | |
| 20CV07386 | State of Ohio v. Energy Harbor Corp., et al | Power plant subsidy for nuclear plants — H.B. 6 | <p>"This case was originally filed by the Ohio Attorney General to obtain a stay against the PUCO from implementing the H.B. 6 Clean Air Fund Rider. The stay was granted and the PUCO vacated its Entry establishing the Clean Air Fund Rider. The OAG also sought relief against FirstEnergy Corp. and various other defendants arising out of H.B. 6 but that part of the litigation has been stayed.</p> <p>The common pleas court enjoined Energy Harbor from collecting the \$150 million annual nuclear generation payout under H.B. 6, due to the alleged criminal acts that led to the bill's enactment. The Court has not yet ruled to permanently stop the collection of the decoupling subsidy. (The General Assembly repealed the nuclear bailout and the decoupling provision.)"</p> |

2021 Case Activity

| <i>Case Number</i> | <i>Utility</i> | <i>Issue</i> | <i>Consumer Impact</i> |
|---|------------------------------|--|--|
| Telephone Cases at the Public Utilities Commission of Ohio | | | |
| 21-0917-TP-UNC | AT&T | Relinquishing Eligible Telecommunication Carrier | This case concerns AT&T Ohio's request to relinquish its Eligible Telecommunications Carrier ("ETC") status for the remainder of its service territory where it is still an ETC. Relinquishment of ETC status would allow AT&T Ohio to stop providing the Lifeline discount for voice service to at-risk consumers. The PUCO previously granted AT&T Ohio's request to relinquish ETC status for 95% of its service territory. |
| 14-1554-TP-ORD | Commission Rules Review | Lifeline Services | The PUCO conducted its 5 year rule review for the lifeline service telephone rules. The PUCO sought comment on proposed changes to rules that determines what happens when a telephone company files to abandon basic local telephone service, including access to emergency 9-1-1 service. The PUCO adopted the rules (with changes based on comments from OCC and others). A rehearing request is pending in 2022. |
| Natural Gas Cases at the Public Utilities Commission of Ohio | | | |
| 21-1109-GA-ALT | Dominion East Ohio | Expanded Energy Efficiency Program | Dominion seeks to increase spending on its demand side management and energy efficiency programs by more than 100% over a five-year period. |
| 21-1029-GA-ATA | North Coast Transmission LLC | Application to become Natural Gas Company | North Coast is an intrastate pipeline seeking to become a natural gas company to serve all consumers, including residential consumers. OCC opposes the application because the company's proposal lacks adequate consumer protections. The company wants to serve consumers based on individually negotiated contracts instead of through just and reasonable tariffed rates. |
| 21-0943-GA-RDR | Ohio Gas | Right of Way Rider | Estimated \$1.88 increase to the residential consumers' monthly charges for utility service. |
| 21-0637-GA-AIR; 21-0638-GA-ALT; 21-0639-GA-UNC; 21-0640-GA-AAM | Columbia Gas | Rate Increase | Columbia Gas filed an application for an increase in gas distribution rates of \$221.4 million. Columbia Gas also seeks approval of an alternative rate plan. |
| 21-0619-GA-RDR | Dominion East Ohio | Capital Expenditure Program | Estimated \$5.52 increase to the residential consumers' monthly charges for utility service. |
| 21-0618-GA-RDR | Duke Energy | Capital Expenditure Program | Estimated \$6.62 increase to the residential consumers' monthly charges for utility service. |
| 21-0519-GA-IDR | Dominion East Ohio | Infrastructure Development Rider | Impacts the types of capital projects allowed and the costs to be collected from consumers for Dominion's investments in those projects. |
| 21-0180-GA-RDR; 21-0188-GA-ATA | Duke Energy | FBS/EFBS | OCC is monitoring to ensure there is no impact on residential consumers' bills. |
| 21-0093-GA-UNC | Northeast Natural Gas | Merger | Northeast Ohio Natural Gas (NEO) filed an application to become a subsidiary of a holding company (Ullico Infrastructure Hearthstone Holdco, LLC). OCC proposed a number of consumer protections in that Settlement. For example cost savings resulting from the Transaction should flow back to NEO consumers. The Settlement was approved by the PUCO. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|-------------------------|--|--|
| 21-0010-GA-ORD | Commission Rules Review | Gas utility infrastructure development | OCC recommended compliance with the Rule requiring a natural gas utility seeking approval of an economic development project to provide the estimated state and local taxable base increase for the project. Such compliance is important for consumer protection. However, the PUCO Staff and all of the gas utilities opposed this rule on the ground that this information is not available. The PUCO rejected OCC's recommendation. |
| 20-1634-GA-ALT | Dominion East Ohio | Pipeline infrastructure replacement renewal | Dominion sought to charge consumers its pipeline infrastructure replacement (PIR) program costs using an outdated 13-year-old rate of return. The stale rate of return results in consumers overpaying and Dominion earning profits that are too high for current financial market conditions. The Settlement (which OCC did not sign) did reflect some consumer benefits such as removal of all of the utility's financial incentives from the program. The PUCO rejected OCC's recommendation but modified the Settlement to require Dominion to file a distribution rate case in 2023 rather than 2024. |
| 20-1427-GA-ALT | Northeast Natural Gas | Alternative regulation | Northeast Ohio Gas' seeks approval from the PUCO to collect nearly \$9M in net costs associated with the purchase of the Orwell-Trumbell Pipeline. In the Settlement, OCC negotiated a number of consumer benefits including a 5-year rate case commitment and a delay in the implementation of the monthly charge to consumers due to the pandemic. |
| 20-0053-GA-RDR | Duke Energy | Collecting costs from customers for manufactured gas plant cleanup | As part of a Global Settlement between OCC, Duke, the PUCO Staff, and others, the following consumer benefits were achieved: (i) a \$107 credit per residential consumer, (ii) \$3.8 million for bill payment assistance funding for low-income customers and seniors, (iii) Duke's agreement to provide important "shadow billing" information to OCC for public transparency, and (iv) Duke agreeing to seek approval of a market-based "standard service offer" to replace the gas cost recovery process for its consumers to obtain natural gas. |
| 19-1429-GA-ORD | Gas | Commission review of minimum gas service standards | The PUCO is conducting its five-year review of the minimum gas service standards. The PUCO issued a Finding and Order on 2/24/2021 adopting PUCO Staff's proposed amendments. OCC filed for rehearing for further consumer protections in the rules, which was denied by the PUCO. |
| 19-0791-GA-ALT | Duke Energy | Distribution charges to customers | Duke Energy is seeking to charge consumers approximately \$387 million for its capital expenditure program spending on infrastructure expansion. |
| 19-0468-GA-ALT | Dominion Energy Ohio | Distribution charges to customers | The PUCO approved a Settlement that allows Dominion to charge consumers \$400 million or more under a new "capital expenditure program". This program will permit Dominion to charge consumers for the following investments in infrastructure: a training facility building, compressor station improvements and replacements, consumer line extensions, and fleet vehicles. |
| 14-0375-GA-RDR; 15-0452-GA-RDR; 16-0542-GA-RDR; 17-0452-GA-RDR; 18-0283-GA-RDR; 19-0174-GA-RDR; 19-0175-GA-ATA | Duke Energy | Collecting costs from customers for manufactured gas plant cleanup | As part of a Global Settlement between OCC, Duke, the PUCO Staff, and others, the following consumer benefits were achieved: (i) a \$107 credit per residential consumer, (ii) \$3.8 million for bill payment assistance funding for low-income consumers and seniors, (iii) Duke's agreement to provide important "shadow billing" information to OCC for public transparency, and (iv) Duke agreeing to seek approval of a market-based "standard service offer" for its consumers to obtain natural gas. |

2021 Case Activity

| <i>Case Number</i> | <i>Utility</i> | <i>Issue</i> | <i>Consumer Impact</i> |
|--|----------------------------|--|--|
| 18-1205-GA-AIR; 18-1206-GA-ATA; 18-1207-GA-AAM | Suburban Natural Gas | Increased rates to customers | OCC successfully appealed this case to the Supreme Court of Ohio, which ruled that the PUCO misapplied the "used and useful" standard under Ohio law. On remand, the PUCO determined that only two miles of the pipeline was used and useful. |
| 18-0857-EL-UNC | FirstEnergy | 2017 Significantly Excessive Earnings | We successfully appealed this case to the Ohio Supreme Court. We persuaded the Court that the PUCO had misapplied the "significantly excessive earnings" test. While the case was at the PUCO on remand, a Settlement was reached (of this case and other SEET cases impacted by the Court's ruling). Under the Settlement consumers will receive a refund of over \$300 million dollars through 2025. |
| 17-0847-GA-ORD | Commission Rules Review | Competitive Retail Natural Gas Supplier Rules Review | The PUCO conducted a review of the rules governing competitive retail natural gas suppliers. OCC filed comments recommending numerous amendments to the rules for consumer protection. |
| 13-2164-GA-CRS | Verde | Marketer request to continue to serve Ohioans | The PUCO allowed Verde Energy to continue serving Ohio consumers despite numerous allegations of misconduct and dozens of rule violations. |
| Gas & Electric Cases at the Public Utilities Commission of Ohio | | | |
| 21-1014-GE-WVR | Duke Energy | Waiver of Percentage of Income Payment Plan Rules | Duke seeks to delay complying with rules regarding consumer participation in the Percentage of Income Payment Plan (PIPP) program while the utility is transitioning to a new billing system. OCC is participating to ensure compliance with consumer protections. |
| 21-0967-GE-WVR | Duke Energy | Waiver of Consumer Protection Rules | Duke seeks a waiver of important consumer protection rules regarding electric and gas utility consumer billing, payments, and communications with consumers. |
| 21-0750-GE-UNC | PUCO Review | Winter Reconnection Procedures | The Winter Reconnect Order is intended to protect consumers by requiring utilities to reconnect the services of those consumers who have had their service disconnected for nonpayment, or to prevent disconnection. The Reconnect Order permits Ohio utility consumers to get their essential service(s) reconnected or to prevent disconnection with a minimum payment of \$175, along with a reconnection charge of \$36 or less. |
| 21-0548-GE-UNC | PUCO Review | Annual Report of Disconnections for Nonpayment | OCC is monitoring to ensure there is no impact on residential consumers' bills. |
| 21-0157-GE-WVR | RPA Energy, Inc. | Waiver of Third Party Verification | RPA Energy is a marketer seeking to offer digital (online) verification of energy enrollment in door-to-door solicitation. OCC opposes RPA's request. The PUCO's rules require telephonic live third-party verification of an energy sale enrollment. The live back and forth exchange can verify that consumers understand the terms and conditions in the contracts that they were sold by energy marketers. |
| 20-1216-GE-COI | SFE Energy | Commission investigation into SFE compliance with ORC | The PUCO Staff is investigating a pattern of misleading and deceptive marketing practices, disputed enrollments, and alleged violations of the PUCO's Entry allowing marketers to resume door-to-door marketing following suspension during the pandemic. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|---|-------------------------|---|--|
| 19-2153-GE-COI | PALMco | Customer complaints regarding energy marketing | The PUCO Staff requested the PUCO to open a second investigation regarding the “unconscionable” rates PALMco changed to its Ohio electric and gas consumers. PALMco, the PUCO Staff and OCC subsequently entered into a settlement which required to PALMco to issue refunds to consumers and prohibits PALMco from serving residential consumers in Ohio for 7 years following the settlement's approval by the PUCO. The PUCO approved the settlement without modification. |
| Water Cases at the Public Utilities Commission of Ohio | | | |
| 21-0596-ST-AIR | Aqua Ohio Wastewater | Rate increase | Aqua Ohio Wastewater's rate increase application requests a 10.5 % increase to its existing base rates. |
| 21-0595-WW-AIR | Aqua Ohio | Rate increase | Aqua Ohio Water has three (3) 3% System Improvement Charges that its water consumers are currently paying. Aqua's water rate case filing would roll those charges into base rates. Consumers would pay an additional 3% above the charges currently in effect. Aqua Ohio also purchased two municipal systems (one in Ashland County and one in Summit County). Both of these systems would also be subject the 12% rate increase proposed by Aqua. |
| Other Cases at the Public Utilities Commission of Ohio | | | |
| 20-0591-AU-UNC | All Utilities | State of Emergency – COVID-19 | OCC and other advocates joined for consumer protection and energy justice seeking PUCO suspension of utility service disconnections because of health and financial challenges consumers are facing due to the pandemic. |
| 19-2103-AU-ORD | Commission Rules Review | Standard Filing Requirements | This is the 5 year rule review of the PUCO's Standard Filings Requirements which dictate what must be included with traditional utility rate case filings, including filings for rate increases. |
| Cases at the Ohio Supreme Court | | | |
| OSC 2021-1473 | Dayton Power & Light | Global Settlement | OCC appealed a PUCO ruling that harmed consumers in two ways. First, it ruled that DP&L's "rate stabilization charge" was lawful despite Ohio Supreme Court precedent that substantially similar charges were unlawful. Second, it denied more than \$61 million in refunds to customers, despite finding that DP&L had charged customers that amount for "significantly excessive" profits. |
| OSC 2021-1068 | Dayton Power & Light | DP&L's return to ESP I rates | OCC appealed a PUCO ruling that harmed consumers in three ways. First, it ruled that DP&L's "rate stabilization charge" was lawful despite Ohio Supreme Court precedent that substantially similar charges were unlawful. Second, the PUCO did not enforce DP&L's commitment to freeze rates under ESP I. Third, the PUCO restricted refunds to consumers by misreading court precedent. |
| OSC 2021-0456 | Complaint | Public Utilities Commission of Ohio Misuse of Ruling on Rehearing | In April 2021, OCC filed a Writ of Procedendo asking the Court to require the PUCO to issue a final appealed order. The PUCO In early 2020 issued an Entry on Rehearing that gave themselves more time to consider the consumer-related issues involved with DP&L's return to its ESP I, following the PUCO stopping DP&L from collecting its so-called Distribution Modernization Rider from consumers. In June 2021 (after 16 months had elapsed) the PUCO finally issued the Entry on Rehearing, enabling OCC to take an appeal of the PUCO ruling. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|---------------------------------------|---|---|
| OSC 2020-1488 | FirstEnergy | House Bill 6 charges | The Ohio Manufacturers' Association Energy Group originally filed this case to obtain a stay against the PUCO to prevent it from implementing the H.B. 6 Clean Air Fund Rider. The Supreme Court granted a temporary stay. The PUCO vacated the Entry establishing the Clean Air Fund Rider so this case became moot and it was subsequently dismissed. |
| OSC 20-1009 | Suvon, LLC d/b/a FirstEnergy Advisors | Energy markets | NOPEC and OCC appealed the PUCO's order approving FirstEnergy Advisors' Application to provide competitive retail power broker and aggregator services in Ohio. The Ohio Supreme Court reversed and remanded the PUCO's decision because it was not supported by the record evidence. |
| OSC 20-0781 | Suburban Natural Gas | Unjust, unreasonable and unlawful rates | OCC successfully appealed this case to the Supreme Court of Ohio, which ruled that the PUCO misapplied the "used and useful" standard under Ohio law. The PUCO unlawfully approved charges to consumers for 4.9 miles of a pipeline. On remand, the PUCO ruled that consumers should only pay for 2 miles of the pipeline. |
| Cases at the Federal Energy Regulatory Commission | | | |
| ER21-2582 | PJM | Pricing rules for PJM auctions | FERC's decision enables state subsidies, which could, over the long-term, negatively impact competitive generation resources in Ohio by keeping economic generation resources (unsubsidized) out of the market. |
| ER21-2282 | PJM | Earn return on costs of upgrades for power plant connections to grid | FERC's proposal would result in Transmission Owners charging consumers, including Ohio's consumers, for network upgrades for power plant connections to the grid. OCC argued that generation owners should pay for interconnection to the grid not consumers. FERC's final decision is pending. |
| ER21-1635 | PJM/Black Start | Proposed tariff amendment regarding repowering after a generator's outage | PJM Interconnection, L.L.C. submitted its proposed Black Start tariff revisions. At FERC's direction, consistent with the Market Monitor's recommendations, PJM amended its tariff to reflect that capital recovery values should be calculated for a recovery period based on the age of the Black Start Unit. The impact on future rates is not quantifiable. |
| ER21-1450 | Duke | Materials & Supplies inventory | FERC approved Duke Energy Companies to revise tariff provisions regarding the treatment of certain Materials & Supplies (M&S) inventory costs. |
| RP21-351 | Columbia Gas | Annual Cost Recovery Mechanism | See ER20-1060 below. |
| EL21-91 | PJM | Tax Cuts & Jobs Act | FERC's August 2021 Order set for investigation "whether the existing rates for generating units providing Black Start Service (Black Start Units), which are based on a federal corporate income tax rate that pre-dates the Tax Cuts and Jobs Act of 2017 (TCJA), remain just and reasonable. FERC's final decision is pending. |
| AD21-9 | Office of Public Participation | Administrative Proceeding | FERC established the Office of Public Participation (OPP) to assist the public with its proceedings. FERC issued a public report to guide the development of the office. |
| EL21-78 | PJM | Open Access Transmission | FERC found that PJM Interconnection, Open Access Transmission Tariff and the Amended and Restated Operating Agreement appear to be unjust and unreasonable. FERC based its decision on the ability of market sellers exert market power under certain circumstances. If market sellers are able to exert market power, consumers could be overcharged. |
| RM21-17 | PJM | Electric Regional Transmission Planning | If FERC's proposal is approved consumers in Ohio could end up paying billions of dollars for transmission built elsewhere from which they will receive no benefit. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|---|--|--|
| RM21-15 | | Accounting for political and charitable expenses in customers' rates | "In response to this complaint, FERC opened a Notice of Inquiry inviting comments on how certain civil, political, advertising, charitable and trade association expenses should be accounted for in rates charged to consumers. (New docket No. RM22-5-000). That decision is pending. |
| RM21-3 | FERC Rulemaking | Cyber Security | FERC's proposal in this case could incent transmission system gold-plating by allowing utilities to over-charge consumers. FERC's decision is pending. |
| RP20-1060 | Columbia Gas Transmission | Pipeline rate increase | The FERC-approved Settlement, among other things, retains Columbia Transmission's existing postage-stamp rate design (which is more economical for Ohio consumers compared to the zonal rate design originally proposed). Includes a substantial rate reduction compared to the original Columbia Gas Rate Case Filing. Phases in the rate increase to consumers over two periods, reducing rate shock. Provides interim consumer rate relief by implementing the Settlement rates, lower than the now effective rates, on the first day of the month following the closing of the Settlement's comment period. Establishes a fifty-month rate moratorium that provides rate certainty for consumers from February 1, 2021, until at least April 1, 2025. Requires Columbia to have its rates reviewed again after the moratorium expires. Establishes a Capital Cost Recovery Mechanism ("CCRM") that allows Columbia Gas Transmission to continue to fund capital improvements investments in its pipeline to enhance, safety, reliability, and integrity—but at a cost that is more affordable for consumers. |
| RM20-10 | FERC Rulemaking | Electric Transmission Incentive Policy | FERC proposes to allow transmission utilities that join a regional transmission organization ("RTO") to collect an extra 50 basis points in profits (the RTO Incentive Adder) for a three-year period. OCC argued that the 50 basis point adder should not be allowed because Ohio transmission owners are required to be members of RTOs. Currently there is no time limit for this charge. FERC also proposes to disallow the charge for transmission utilities that required to join an RTO. FERC's decision is pending. |
| EL19-63 | Office of Peoples' Counsel v. PJM | Complaint — PJM Tariff | On March 18, 2021, FERC granted two complaints alleging that the default offer cap in the capacity auction was no longer just and reasonable. FERC agreed with the complaints that the default offer cap described in PJM's Tariff may unjustly and unreasonably prevent the appropriate review of certain offers and could result in the exercise of market power. PJM's tariff was amended accordingly. FERC's decision should prevent the exercise of market power in capacity auctions. |
| EL19-47 | PJM | Market Seller | See EL-19-63. |
| Case at the U.S. Court of Appeals for the Sixth Circuit | | | |
| 21-4072 | Dayton Power & Light v Federal Energy Regulatory Commission | Transmission incentives | In this federal appeals court case Ohio's transmission owners are challenging FERC's decision, in case RM20-10, to disallow Dayton Power and Lights' 50 basis point RTO incentive adder charge to consumers because the utility is already required by Ohio law to join and interstate transmission organization. |

2021 Case Activity

| Case Number | Utility | Issue | Consumer Impact |
|--|---|---|--|
| Case at the U.S. Court of Appeals for the Third Circuit | | | |
| 21-3205 | PJM v. Federal Energy Regulatory Commission | Petition for Review of PJM auction pricing rule | In this federal appeals court case parties are challenging FERC's revised minimum offer price rule for PJM's capacity auctions, which allows subsidized power plants to participate in such auctions. OCC has argued that subsidized power plants participating in PJM's capacity auctions could result in uneconomic prices for consumers. |
| Case at the Bankruptcy Court of Northern District of Ohio | | | |
| 18-50757 | FirstEnergy Solutions | Bankruptcy - power plant subsidy | FirstEnergy Solutions (FES), a marketer and affiliate of FirstEnergy, filed for bankruptcy in 2018. In 2021, OCC objected to FES's request to continue the deadline to provide the additional lobbying expenditure disclosures. FES attributed (on the record) the continuance was needed because of the pending government investigations of FirstEnergy. |

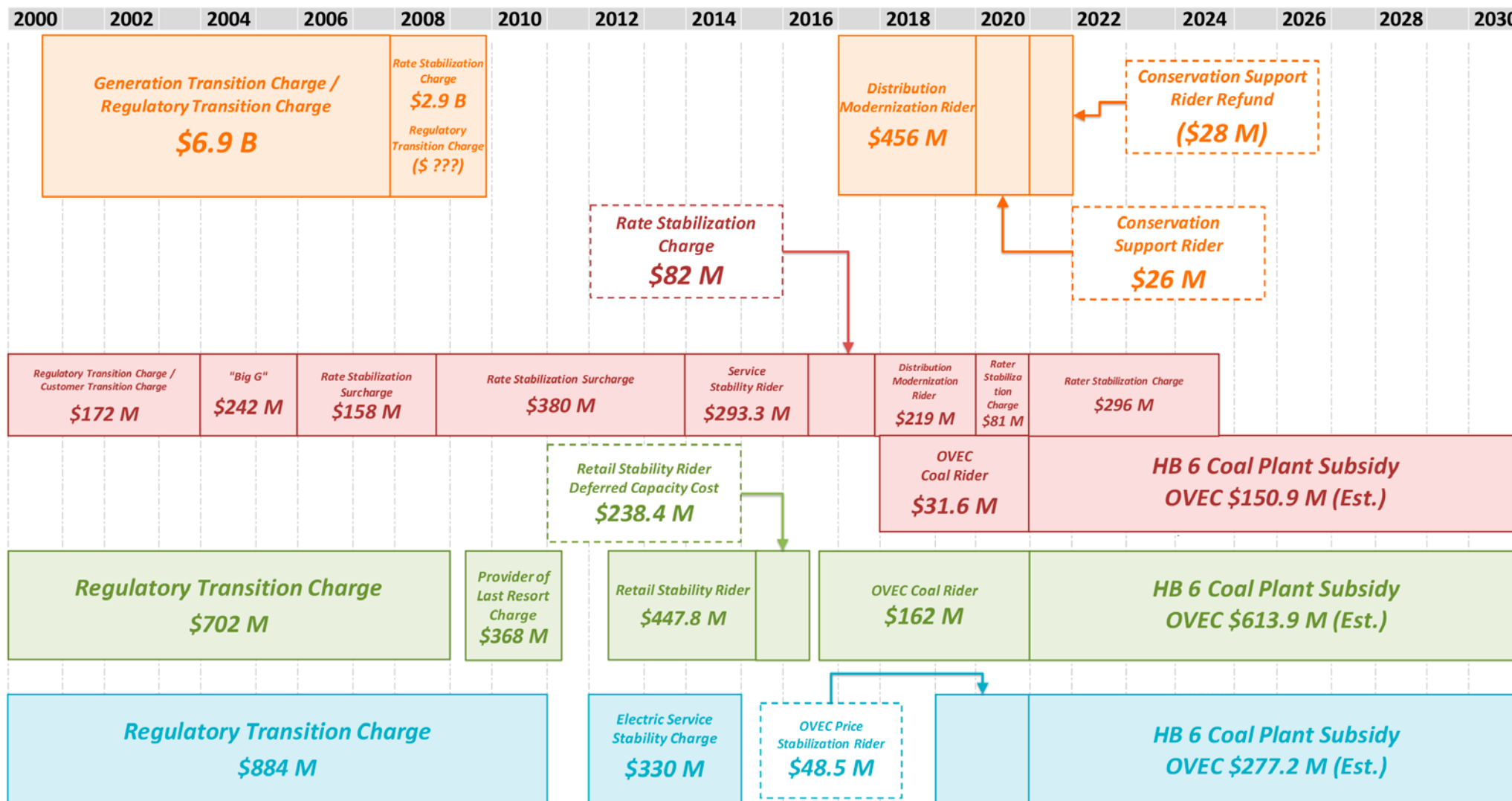


\$15.12 Billion
Charged to Customers
(2000 - 2020)

SUBSIDY SCORECARD

- ELECTRICITY CHARGES TO OHIOANS -

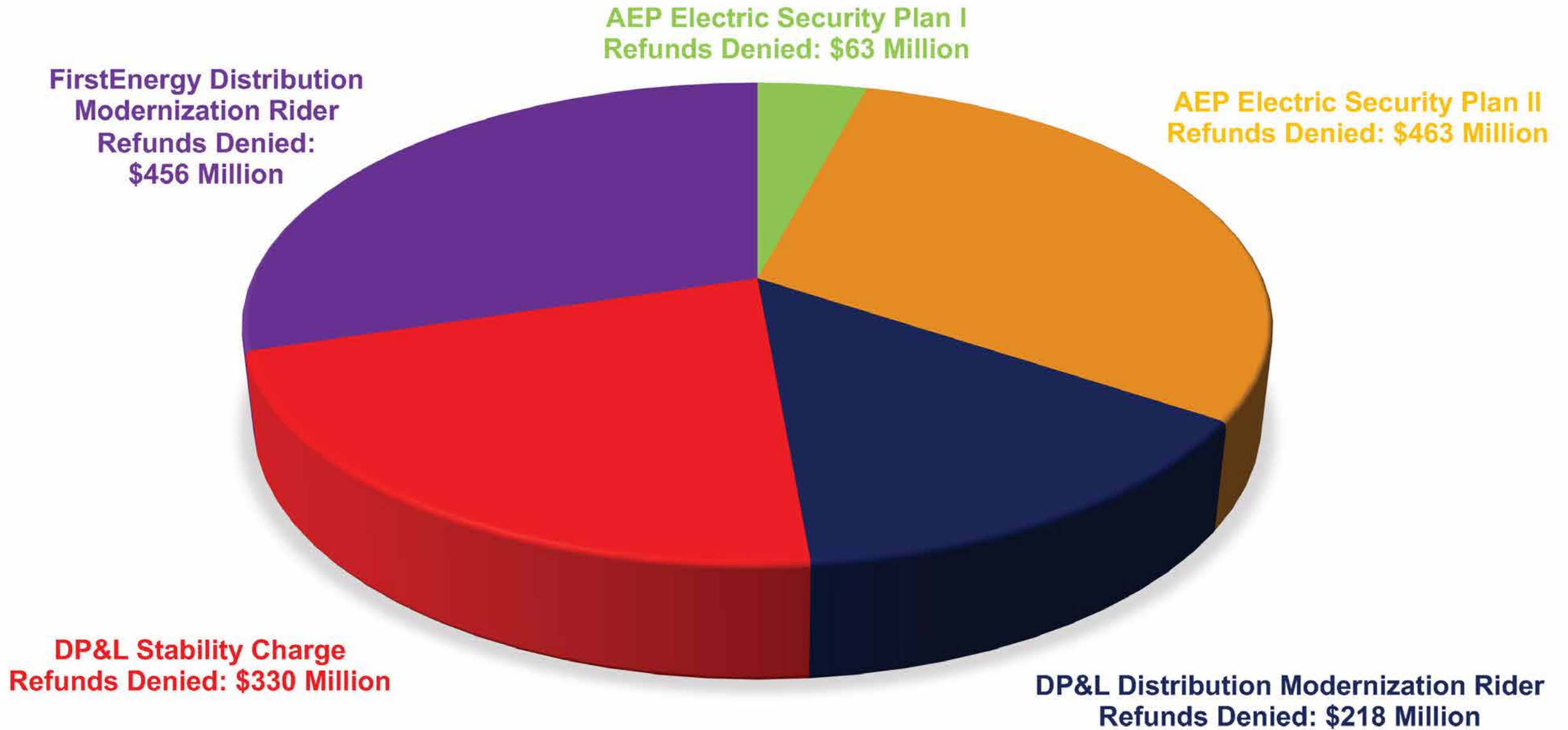
\$1.31 Billion Projected
Charges to Customers
(2021 - 2030)



B=Billions; M=Millions

Rev. 03/10/2022

OHIOANS DENIED \$1.5 BILLION IN ELECTRIC REFUNDS SINCE 2009





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