



Office of the Ohio Consumers' Counsel

MINUTES OF THE THREE HUNDRED AND SEVENTY SEVENTH MEETING OFFICE OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD January 16, 2018

Members Present: Mr. Michael Watkins, Chair
Mr. Stuart Young, Vice-Chair
Mr. Fred Cooke
Ms. Kelly Moore
Mr. Douglas Moormann
Mr. Roland "Butch" Taylor
Ms. Andra Troyer

Members Absent: Mr. David Wondolowski

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:05 A.M.

EMPLOYEE RECOGNITION:

Consumers' Counsel Bruce Weston thanked Monica Hunyadi and the rest of the staff, along with the Department of Administrative Services, for the efficient office relocation that allowed for continuity of services to consumers with minimal disruption of Agency operations.

Deputy Counsel Larry Sauer congratulated Zachary Woltz on having passed the Ohio Bar Examination. Zak started with the agency as a legal intern in August 2016, and then became a legal research analyst in August 2017.

Dan Shields, Analytical Services Director, introduced Jeff Hecker who recently joined the OCC as a contract employee in Analytical Services. Jeff formerly worked for the PUCO.

Monica Hunyadi, Director of Operations, congratulated interns Troy Tomasello and Jacob Weber on their recent graduations from Ohio State University. They both have been accepted to law schools.

APPROVAL OF MINUTES:

Chair Watkins asked for a motion to approve the minutes from the November 21, 2017 Board meeting. A motion was made by Ms. Troyer to approve the November 21, 2017 Board meeting minutes. The motion was seconded by Ms. Moore. Ms. Hunyadi called the roll. The minutes were unanimously approved.

ELECTION OF GOVERNIG BOARD CHAIR AND VICE-CHAIR:

Mr. Taylor nominated current chair, Mr. Watkins, to continue as Chair of the OCC Governing Board. The nomination was seconded by Mr. Young. By roll call vote Mr. Watkins was elected Chair unanimously with Mr. Watkins abstaining from the vote.

Ms. Troyer nominated current vice-chair, Mr. Young, to continue as Vice-Chair of the OCC Governing Board. The nomination was seconded by Ms. Moore. By roll call vote Mr. Young was elected Vice-Chair unanimously, with Mr. Young abstaining from the vote.

PRESENTATION BY STATE REPRESENTATIVE MIKE DUFFEY:

Consumers' Counsel Bruce Weston introduced and welcomed Representative Mike Duffey who represents the 21st district, northwest Franklin County, and is currently serving his fourth term.

Representative Duffey became interested in utilities early in his legislative career. During his first term he co-sponsored HB364 which established standards for securitization of costs for electric distribution utilities. Provisions in the bill acted to decrease the utilities' weighted cost of capital which should lead to reduced electricity prices paid by consumers.

Representative Duffey provided an overview of a "new model" of submetering (reselling) of utility services. He shared that this issue for consumers came to light when the Columbus Dispatch conducted an investigation into the reselling of utility services. This new-model version of submetering included charging consumers more than the otherwise applicable charges from public utilities. He added that the PUCO determined it would have oversight over those resellers who charge more than the local utility. Also, the PUCO did not require submeterers to provide Ohio consumers with the same service protections that utility consumers have, such as protections against, shut-off, termination, fraud, etc.

Representative Duffey introduced HB249 which he previously introduced last session. Sponsor and proponent testimony have been heard and the next hearing will be accepting opponent testimony. Representative Duffey would like for OCC and other consumer advocacy organizations to work together to support this bill.

Consumers' Counsel Weston added that the OCC Governing Board passed a resolution in 2015 supporting legislation and PUCO action to protect submetering consumers. OCC has a consumer-protection complaint pending at the PUCO against AEP, to seek a tariff change that would prevent the re-selling of AEP's services.

Mr. Weston noted that OCC supports Representative Duffey's, bill HB249. And OCC opposes SB157 because it lacks adequate consumer protections.

Board member Moormann asked if submetering occurs in commercial office buildings, to which Representative Duffey replied yes.

Representative Duffey submitted a letter to the PUCO, to discuss having the PUCO's outcome reflected in rules through the state's rule-making process.

Vice-Chair Young asked why submetering is not banned altogether given the utilities are opposed. Representative Duffey replied that broadly speaking there is support for reform. He also noted that submetering for natural gas is not permitted.

PRESENTATION BY DR. JOSEPH BOWRING:

Consumers' Counsel Weston introduced Dr. Bowring of Marketing Analytics. He is the independent market monitor for PJM. Dr. Bowring provided a brief introduction of the market monitor's role and background concerning past consumer advocacy roles. The PJM Market Monitor team (Marketing Analytics) works to ensure that PJM's markets for various energy products and services are competitive.

Dr. Bowring gave a short summary of the U.S. Department of Energy's proposal to subsidize coal and nuclear generation units. Dr. Bowring explained how Ohio consumers and others would be affected (pay more) under the proposal. He also briefly discussed Marketing Analytics' comments to FERC regarding the DOE's own proposal to FERC, and how that relates to consumers. He stated that there is no consumer problem with market resilience and reliability. He said it is unnecessary for consumers to support (subsidize) uneconomic power plants.

The Market Monitor explained he supports free markets. Dr. Bowring noted that FERC rejected DOE's proposal to promote grid resiliency through subsidies for coal and nuclear generation units.

Dr. Bowring talked about PJM's current efforts to find funding for coal and nuclear generation units and how that could affect consumers. He stated that he continues to oppose subsidies for uneconomic generation units. He added that coal and nuclear power plants are reliable. Dr. Bowring believes that competitive markets in PJM provide consumers benefits. In recent years consumers have enjoyed the lowest prices since 1999.

Chair Watkins asked if the FERC ruling would prompt legislation at the Federal level. Dr. Bowring indicated that he has only seen activity at the state level. Consumers' Counsel Weston asked how the wholesale power costs are passed through to consumers in Ohio. Dr. Bowring replied that lower wholesale costs should result in lower customer bills. But ultimately, the exact impact of lower wholesale costs on consumer bills is determined by the PUCO.

The Chairman called for a brief break.

PRESENTATION BY DEPUTY CONSUMERS' COUNSEL SAUER:

Mr. Sauer discussed the FERC ruling on power plant subsidies and the effect on consumers. OCC and many others filed comments against the proposal and were successful. FERC has ruled against it. The OCC is pro-market, anti-subsidy and opposed to consumers paying above-market charges to subsidize uneconomic power plants. The OCC is pleased with the FERC ruling.

The Supreme Court of Ohio heard an appeal on behalf of Dayton-area consumers regarding Dayton Power and Light's service stability rider. During the oral argument OCC's counsel asked the court to rule quickly to stop the potential collection of \$80 million more from consumers. The Supreme Court of Ohio, as OCC requested, found those subsidies to be unlawful and remanded the case back to the PUCO. The unlawful stability charge was \$10 per month for consumers. Rather than stopping the unlawful charge, Dayton Power and Light withdrew the electric security plan and reverted back to rates in effect during the prior rate plan which included a rate stabilization surcharge of \$6 per month. While this did provide consumers a small amount of savings, the Agency's view was that consumers should have received the entire \$10 in savings.

The PUCO's approval of DP&L's rate plan withdrawal and approval of the reversion to the \$6.00 charge was again appealed by OCC to the Court. Maureen Willis, OCC Senior Counsel, argued before the Supreme Court of Ohio and referred to this outcome as a "regulatory sleight of hand." The Court heard the appeal in December. [At this point a video clip of Ms. Willis's Court presentation was shown to the Board.] We are now awaiting the Court's ruling. Mr. Moorman asked if there was a remedy. Deputy Sauer replied that we don't support subsidies. Consumers' Counsel Weston shared the subsidy scorecard, which shows subsidies electric consumers have paid to utilities. He added the agency advocates for a change in the 2008 law to eliminate subsidies.

The AEP electric security plan proposal had public hearings for consumers and an evidentiary hearing. But AEP had neglected to provide the public with notice of the hearings. AEP requested the PUCO waive the requirement of public notice; however, notice is a statutory requirement which the PUCO cannot waive. OCC opposed AEP's request.

PRESENTATION BY CHRISTOPHER HEALEY:

Mr. Healey is the Energy Resource Planning Counsel for the OCC. He presented to the Board on the topics of distributed generation and net metering.

Mr. Healey defined net metering as a method of paying consumers for generating their own electricity. For consumers generating less than they use, they will be billed for the "net" energy which is the difference between total energy used minus the total energy generated from solar panels.

For consumers generating more than they use, they are billed fixed charges and receive a credit for the monetary value of the excess.

Mr. Healey explained that distributed generation is intended primarily to offset some or all of a consumers' usage. In November 2017, the PUCO ruled that consumers can install systems that generate up to 120% of their energy needs.

Duke Energy wants to own and operate distributed generation on its customers' property. The OCC recommends against allowing monopoly utilities to own distributed generation (on a consumer's premises). Instead, OCC recommends policies that encourage development of a competitive market for distributed generation which should result in technological innovation and lower prices for consumers.

PRESENTATION BY CONSUMERS' COUNSEL WESTON:

Consumers' Counsel Weston reported on the fiscal summary for the agency, providing information for the first 7 months of the current fiscal year. Thus far the agency has used approximately 60% or \$3.3 million of the \$5.5 million budget. Some of this amount has been encumbered (under state processes) for items not yet purchased.

Mr. Moorman asked Mr. Weston to bring to the attention of the Board current news regarding the federal corporate tax reduction. There are monopoly utility companies in the state that have rates based on cost of service which include taxes. Consumers paying utility bills rightfully may think that they should see a reduction in their utility rates due to the significant reduction in what utility companies pay in taxes. The PUCO has opened a docket, with comments due in mid-February, to consider the issue of reducing what Ohioans pay for monopoly utility services given the tax reduction. The OCC will offer comments in the docket to recommend rate reductions for consumers.

The General Assembly is considering a bill on submetering, which Representative Duffey talked about earlier. The bill sponsor, Senator Bacon, has been actively inviting stakeholders including OCC to share their views. OCC will have testimony on the Senate bill. Some improvements are needed in the bill to protect consumers. One of the issues for consumers is that when their utility services are provided through a submeterer, they lack the various service protections of the PUCO rules regarding such issues as inappropriate disconnections, service quality, or use of government call centers. One of the objectives for improving the bill is to give these consumers the same protections that are provided to consumers of the local utility.

OCC submitted written testimony on HB114, which is the House effort to revisit renewables and energy efficiency mandates under the 2008 law. The Governor vetoed the last legislation by the General Assembly on this subject. HB114 has passed the House and is now pending in the Senate. It

has been heard that HB114 might become a more comprehensive bill with other issues added to it. If that happens, OCC would request another opportunity to testify.

OCC has submitted testimony for the third time on SB155, also known as the OVEC bill, which would subsidize certain old and inefficient coal power plants. There is also a regulated water system bill (HB422) pending in the House. That bill addresses ratemaking when an investor-owned water company acquires a municipal or other system. The OCC is concerned that this legislation would lead to acquisitions of water systems where the traditional consumer protection of ratemaking based on the original cost of plants would be weakened or eliminated. There is also telephone legislation pending (HB402) that would reduce protections for the rates and service quality of basic local phone service customers.

Chairman Watkins asked the Board if they would like to meet quarterly since it is statutorily permissible. There was no change to the schedule.

Mr. Cooke made a motion to adjourn the meeting. It was seconded by Ms. Troyer. The motion was unanimously approved.

The meeting adjourned at approximately 12:52 PM.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on March 20, 2018.



Michael Watkins, Chair
Ohio Consumers' Counsel Governing Board



Monica Hunyadi, Interim Secretary
Ohio Consumers' Counsel Governing Board