



Office of the Ohio Consumers' Counsel

MINUTES OF THE THREE HUNDRED AND SEVENTY EIGHTH MEETING OFFICE OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD March 20, 2018

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

Members Absent: Mr. Fred Cooke

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:03 A.M.

RECOGNITION OF NEW MEMBER:

Chair Watkins welcomed Beverlyn Johns, the newly appointed Board member representing residential consumers. Consumers' Counsel Weston welcomed her to the Board and thanked her for volunteering her time for the public interest.

EMPLOYEE RECOGNITIONS:

Larry Sauer, Deputy Consumers' Counsel, introduced two new attorneys, Bryce McKenney and Amy Botschner-O'Brien. Bryce formerly worked for the PUCO and Tennessee Valley Authority. Amy formerly worked for the Illinois Commerce Commission.

Deputy Sauer introduced the new legal intern, Jalila Dado. Jalila attends Capital University Law School.

Monica Hunyadi, Chief of Staff – Non-Case Services, introduced the newest Public Affairs staff member, J.P. Blackwood. J.P. brings many years of experience in managing communications programs for the City of Columbus.

Ms. Hunyadi recognized Ray Foeller as the Employee of the Quarter for the 3rd quarter in 2017. Mr. Foeller has served the public interest since joining the OCC in 1997. He is a Public Education and Outreach Specialist and travels the northern half of the state educating consumers about utility issues and the work of the OCC.

MEETING MINUTES

Chair Watkins asked for a motion to approve the minutes from the January 16, 2018 Board meeting. A motion was made by Ms. Troyer to approve the minutes. The motion was seconded

by Mr. Moormann. Ms. Hunyadi called the roll. The January 16, 2018 Board meeting minutes were approved unanimously.

PRESENTATION BY STATE REPRESENTATIVE MARK ROMANCHUK:

Consumers' Counsel Bruce Weston introduced and welcomed Representative Mark Romanchuk who represents the 2nd district, Richland County, and is currently serving his third term.

Representative Romanchuk expressed his appreciation to Consumers' Counsel Weston and his staff for assistance in helping the Representative understand the complicated utility issues in legislation that comes before the House Public Utilities Committee. And he appreciates the balance provided by OCC with other voices in the room. He then offered remarks regarding electric consumers.

He said that, as intended, the 1999 legislation (S.B. 3) brought deregulation of the electric utility industry. As a result, consumers have seen innovation with more energy efficient power plants. However, consumers have not seen a lower electric bill. The Representative attributed this in large part to riders that appear on monthly bills. He noted both AEP and FirstEnergy have more than 20 riders.

Representative Romanchuk discussed legislation he sponsored (H.B. 247) which is intended to eliminate the ratemaking law that the PUCO uses to grant riders (in Electric Security Plans). The Bill also allows utility consumers to be paid refunds of improper charges and prohibits utilities from owning generation. Representative Romanchuk noted that refunds that should have gone to electric consumers are hundreds of millions of dollars. So far, there have been six or so legislative hearings with many witnesses on the bill. OCC has testified. There are many in support of the bill and a few opposed. Those opposed include the big electric utilities.

Mr. Moormann asked about the tax issue and what can Board members do to help ensure the savings from the lower corporate income tax rate are returned to consumers. Representative Romanchuk stated that numerous states and utilities have agreed to refunds and eventually he hopes to see that happen in Ohio. He encouraged Board members to reach out to legislators and legislative leadership.

PRESENTATION BY TERRY ETTER:

Mr. Etter is an Assistant Consumers' Counsel for the OCC. He presented to the Board on H.B. 402, deregulation telephone legislation affecting consumers.

Mr. Etter discussed several deregulation efforts by the industry since the 1980s and three major industry efforts in the past eight years beginning with a 2010 law (H.B. 162). That law provided for a monthly rate increase of \$1.25 per year, retaining some service quality standards for basic service. This law also allowed deregulation of service bundles with no pricing restrictions and no service quality standards for consumer protection.

In 2015 a law was passed (H.B. 64) that permitted phone companies to withdraw consumers' basic service after FCC action. Customers and PUCO would receive a 120-day notice and customers have 30 days to seek help from the PUCO in finding another provider. If another provider cannot be found the phone company can be required to continue serving the customer.

H.B. 402, introduced in October 2017, is under consideration with the legislature. There are harmful consumer impacts in the bill which include: an increase up to 20% per year for basic service rates, a reduction in service quality standards, elimination of the allowance for treble damages for violations of laws that protect consumers, removal of state policy provisions regarding adequate service, withdrawing the PUCO's jurisdiction over mergers, and limiting the PUCO's authority to inspect phone company facilities to only situations where there is a complaint. The bill has had five hearings since January 2018. Consumer testimony has been provided by OCC, AARP, Southeastern Ohio Legal Services, Ohio Poverty Law Center, and Pro Seniors. The bill was revised in February 2018. An interested party meeting has been held.

PRESENTATION BY MARY ELLEN NOSE:

Ms. Nose is a paralegal with Southeastern Ohio Legal Services in Athens, Ohio. She has testified on behalf of consumers before various Ohio House and Senate committees. Her testimony on H.B. 402 focused on the importance of retaining basic landline telephone services for fixed and low-income consumers. To underscore the significant negative impact H.B. 402 would have on consumers in Vinton County specifically, and Appalachia in general, Ms. Nose provided demographic information for the area.

Vinton County and Appalachia do have, for now at least, somewhat reliable basic local landline telephone service. Reliable phone service is extremely important as many people in the 30-county area of Appalachian Ohio depend on it for Federal Lifeline program services. Landline telephone is the only service available in some areas and is the only affordable service in other areas. Landline service may be the only way these people can contact medical providers, home health care providers, schools, employers, county departments of job and family services, as well as family and friends. She stressed the importance of maintaining the affordability of landline service.

Ms. Nose indicated that an increase in charges for basic landline service of 20% per year could force those on fixed or low incomes to choose between paying for phone service and providing essentials such as food, clothing, and rent. This could potentially endanger the lives of rural Ohio residents. H.B. 402 eliminates service quality standards for "adequate" basic service, which is all that many on fixed or low incomes can afford. Ms. Nose stated that currently it can take 2 to 3 weeks to have basic service restored when there is an outage. If H.B. 402 passes, there is no guarantee of basic service ever being restored. This bill negatively affects more than 30 counties that have limited phone service.

Ms. Nose closed her presentation by saying that it is more important than ever before for rural Ohio residents to have adequate, affordable basic landline telephone service for their health and safety.

Chair Watkins called for a 5-minute break, beginning at 11:25 AM.

TV INTERVIEWS ON CONSUMER PROTECTION:

OCC was invited to participate in the NBC-4 TV news segment "Better Call Jackson" (with Mike Jackson) regarding consumer protections. Video clips of the interviews with Mike Haugh,

OCC Assistant Director of Analytical Services, and Andy Tinkham, OCC Senior Outreach and Education Specialist, were played for the Board.

PRESENTATION BY DEPUTY CONSUMERS' COUNSEL SAUER:

Deputy Sauer discussed some consumer issues. He noted that OCC filed a motion with the PUCO to protect Dominion-area consumers from marketer price-gouging under the "Monthly Variable Rate." And he discussed FirstEnergy's appeal to the Supreme Court to deny refunds of \$43 million to consumers.

Deputy Sauer explained that the monthly variable rate is a result of a settlement in 2007. The rate was established as the default rate for consumers whose aggregation or marketer contract expires without the consumer asking to be enrolled in the standard service offer. In OCC's recent motion, OCC asked the PUCO to make the standard service offer (not the monthly variable rate) the default rate when an aggregation program or marketer contract ends.

Deputy Sauer discussed the FirstEnergy appeal to the Supreme Court of Ohio. FirstEnergy asked the Court to reverse the PUCO's decision which ordered refunds to customers totaling \$43 million for FirstEnergy's overcharging of consumers for renewable energy. Chris Healey, OCC Energy Resource Planning Counsel, presented the oral argument for OCC at the Court. The Supreme Court of Ohio reversed the PUCO's decision, finding the law does not allow refunds for utility consumers.

Deputy Sauer reminded the Board that financial disclosure reports are due May 15th.

PRESENTATION BY DAN SHIELDS:

Mr. Shields is the Director of Analytical Services for the OCC. He discussed the presentation he made for OCC at the PUCO's PowerForward event.

Mr. Shields said his PowerForward presentation outlined the consumer principles for electric service which include affordable, reliable and safe service for consumers, markets (not monopolies) drive innovation and lower prices for consumer benefit, and electric grid charges for utility investments should be based on longstanding ratemaking standards for consumer protection. Mr. Shields noted there are existing opportunities to enhance the consumer experience such as obtaining consumer benefits through competition, creating policies which promote a level playing field for competitors, and protecting customers of monopoly distribution from subsidizing competitive services.

Mr. Shields then discussed behind-the-meter services, which should be competitive. Behind-the-meter services include electric generating facilities (wind and solar) and electric storage. While the utility grids serve as the conduit for enabling behind-the-meter services, those services are best provided to consumers through the competitive market not subsidized by the distribution utility (monopoly).

Mr. Shields continued with discussion of time-of-use rates for consumers saying that market-based time-of-use rates should be optional for consumers and that all customers can benefit from some customers' use of time-of-use rates. He said that understandability is a key issue. And he said consumers should be protected by prohibiting door-to-door sales and telemarketing.

In conclusion Mr. Shields said that markets, not monopolies, should drive innovation and lower prices for consumer benefits.

PRESENTATION BY CONSUMERS' COUNSEL WESTON:

Consumers' Counsel Weston reported on the fiscal summary for the agency, providing information for the first 9 months of the current fiscal year. Thus far the agency has used approximately 70% or \$3.9 million of the \$5.5 million budget. Some of this amount has been encumbered (under state processes) for items not yet purchased.

Consumers' Counsel Weston reported that he visited NOPEC in response to their inviting him to present to their board earlier in March. He noted that NOPEC had previously been invited to make a presentation to the OCC Board.

Consumers' Counsel Weston reported that there is interest throughout United States in giving utility consumers the benefit of federal corporate tax cuts. The federal corporate tax cuts should benefit Ohio consumers through lower utility bills soon. Recommendations have been made to the PUCO by utilities and consumer advocates (including OCC), and the PUCO now has several different perspectives to consider. Several newspaper headlines were shared with the Board about some specific utilities and their views on the tax cuts. Not all utilities share OCC's view about how and when (soon) consumers' utility bills should be reduced to reflect the new lower tax rate.

Consumers' Counsel Weston reported that the state of Ohio's routine biennial audit has begun. The OCC Annual Report is due by midnight on April 2nd. The agency staff is working diligently on compiling the report.

Chair Watkins asked Ms. Hunyadi about OCC's participation during the upcoming fair season. She replied that the schedule is being compiled and will be provided at the next Board meeting.

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

The meeting adjourned at approximately 12:16 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on May 15, 2018.



Michael Watkins, Chair
Ohio Consumers' Counsel Governing Board



Monica Hunyadi, Interim Secretary
Ohio Consumers' Counsel Governing Board