

**Before
The Ohio Senate
Finance Committee
Finance Subcommittee on Workforce
Testimony on Amended Substitute House Bill 64 – Budget and Basic Telephone Service for
Ohioans**

**Presented By Bruce Weston
Ohio Consumers' Counsel
May 5, 2015**

Chairman Beagle, Ranking Minority Member Williams and Members of the Finance Subcommittee, I thank you for this opportunity to testify. I am Bruce Weston, the Ohio Consumers' Counsel. I am testifying on two matters – the budget for the Office of the Ohio Consumers' Counsel and the availability of affordable basic telephone service for Ohioans. My testimony also includes a matter related to the use of our budget, assisting Ohioans with their utility-related complaints. With me today are Deputy Consumers' Counsel Larry Sauer and our Chief of Staff Monica Hunyadi.

Overview

I thank the Administration for proposing the continuation of the Consumers' Counsel's current budget of \$5.6 million annually, for representing and educating Ohio residential utility consumers. Also, I thank the Ohio House of Representatives for preserving this funding level for Ohio consumers, in Amended Substitute House Bill 64 (HB 64). I support this funding level for our consumer services, in fiscal years 2016 and 2017. This funding is for our services to Ohioans regarding the affordability and reliability of their electric, natural gas, telephone, and

water utility services. I have been, and will continue to be committed to delivering value for Ohioans with our budget.

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

The Consumers' Counsel provides residential consumers with representation where they often would have little or none. Utility cases are complex and technical. Technical expertise is required to participate effectively in the process. Also, Ohioans are unlikely to have the time or resources to advocate on their own behalf in these cases where utilities and certain other parties are represented by lawyers and technical experts.

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

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

As we approach 40 years of service, the Consumers' Counsel has helped Ohioans save a lot of money on their utility bills. And those savings outweigh the cost of our budget.

Funding and Budget

The Consumers' Counsel's funding is not from Ohio's General Revenue Fund (taxes). Instead, the General Assembly decided the agency would be funded through a fee on the intrastate gross earnings of utilities and other entities regulated by the PUCO. That process is similar to how the PUCO is funded in part.

The regulated entities that pay for OCC's assessment can choose to absorb this cost or pass it on to their customers. If all regulated entities charged their customers for the cost of OCC's budget, this charge would cost consumers a few cents for every \$100 in utility bills. This amount is equivalent to less than a dollar a year for a typical residential consumer. We typically are able to save consumers much more money than this cost, either individually or by working with other stakeholders.

Continued Cost Reductions and Efficiencies

In Fiscal Year 2012 (beginning July 1, 2011), the agency's annual operating budget was reduced from \$8.5 million to the current level, \$5.6 million. The Consumers' Counsel has continued to serve Ohioans, consistent with this reduced budget. Cost reductions that were developed at that time are continuing, as are our efforts to capture greater efficiencies. The continuing cost reductions from the decreased budget include: the earlier workforce reductions (several dozen positions); closing the consumer call center; and reduced rent. I am grateful to the Consumers' Counsel's staff for their work ethic and productivity under the circumstances of the significant staff reductions of a few years ago.

In addition, there are new efficiencies through technology upgrades. An example is the

Administration's centralizing of IT functions. The agency also has endeavored to deploy contract services for technical expertise where effective in lieu of hiring salaried personal services. And we launched our Twitter account and YouTube videos to cost-effectively reach more Ohioans.

Office Structure

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

The agency's budget for delivering services is mainly payroll at about 75 percent. The Consumers' Counsel's staff is organized into four departments working together to achieve its mission and vision for Ohio consumers.

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

Legal Department: The Consumers' Counsel is the legal representative for Ohio's residential utility consumers in cases at the PUCO, Federal Energy Regulatory Commission, the Supreme

Court of Ohio and elsewhere. These cases can take months or sometimes even years to complete. The legal process can include written discovery, oral depositions, preparation and presentation of expert testimony, hearings with cross-examination of expert witnesses, and filing briefs and motions.

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

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

Consumer Rate Information

Consumers' Counsel Board Chairman Gene Krebs has asked me to provide you with two charts in attachments to my testimony. The charts are based on data from the U.S. Energy Information Administration.

The first chart reflects the need for continuing efforts by the Board and the agency to reduce Ohioans' electric bills, given that 32 states are identified with lower average residential electric rates than Ohio. The second chart shows that, since 2008, Ohioans have experienced the greatest increase in their electric rates compared to their counterparts in other restructured states (some of whom are seeing rate decreases). In this regard, Chairman Krebs announced last year that, in 2015, the Consumers' Counsel Governing Board will be studying why Ohioans' electric bills are not lower. He further noted that "assumptions about the cost tend to founder on the

rocks of facts.”

Consumer Issue in House Bill 64 (Basic Telephone Service)

In addition to containing the Consumers’ Counsel’s budget, HB 64 includes legislation that affects basic telephone service for Ohioans. This consumer issue appears in the Bill on lines 57224 to 57499, lines 93447 to 93494, and lines 97783 to 97824. This proposal is similar to the one that appeared in HB 490 at the end of 2014. This proposal does contain some improvements over HB 490. Those improvements include requiring that alternative services for Ohioans basic service be reasonably and comparatively priced. And the new language eliminates the prior allowance that, after merely two years, incumbent telephone companies could stop providing service to customers who have no alternatives to basic service. I thank the Governor and the House of Representatives for that.

I do have some concerns about the legislation. First, the legislation is premature because it anticipates an action of the Federal Communications Commission (FCC) that might not happen until years from now. Second, the legislation would allow telephone companies to take basic service away from customers only with a notice, instead of the application process that is typical for proposals to the PUCO. Third, customers who cannot find a replacement carrier can file a petition at the PUCO to get help in finding a carrier. But this petition involves a process that most residential consumers would not be familiar with and shifts the burden to customers to find a carrier. Fourth, consumers must file the petition at the PUCO no later than thirty days after they receive notice that their carrier is abandoning their basic service. Thirty days is too little time for customers to determine whether an alternative service is available. I will discuss these and other issues.

I tend to favor competitive markets over regulation. But the mere act of deregulating does not mean that a market has or will have effective competition for consumers. That point is applicable to this deregulatory legislation. For example, consumers and business users can carry a cellphone. But the lack of signal on that cellphone in many rural areas of Ohio means that the wireless service is not adequate as an alternative to the local phone company's service for those consumers and businesses. This circumstance is an example of why the need for consumer protection is so important on this issue.

As stated, my first concern about the Bill is timing. The telephone companies seek this legislation to, among other things, allow for state consistency with the potential future policy of the FCC, per lines 57355 through 57384. There is not a need to rush. The FCC is engaged in an historic transition of the public switched telephone network to an Internet-based network. That transition will take time to implement, potentially years. Yet the law requires the PUCO to adopt rules consistent with the FCC's rules (lines 93483 to 93503), on a timeline that is potentially before the FCC even acts. More needs to be known about the FCC's plans. In this regard, the FCC is still receiving comments on its proposal. This FCC approach does not require establishing now an Ohio timeline for allowing telephone companies to withdraw basic service.

My second concern is about the process for telephone companies to take customers' basic service away. The Bill would allow telephone companies to give consumers and the PUCO a notice of intent to abandon basic phone service with only 120 days before the abandonment date. (Lines 57416 to 57431.) There should be more than 120 days. And an abandonment of service should be presented to the PUCO as a request, not as a mere notice of the telephone company's future action. The PUCO should retain the right to exercise its judgment to protect consumers, if

needed, regarding a telephone company's request.

New Section 4927.10 (lines 57416 to 57483) would permit the telephone companies to abandon basic service (if the FCC adopts an order allowing telephone companies to withdraw the interstate access component of basic service). There already is a law that allows for a telephone utility to withdraw service. That law is R.C. 4927.11(C). And that law requires the telephone company to prove its proposal to the satisfaction of the PUCO. It makes sense to require that proof in this legislation, for Ohioans who depend upon the PUCO to ensure affordable and reliable telephone service.

My third concern is about the burden on customers who are not identified by the new collaborative process. As in HB 490, there is a collaborative process involving the PUCO, the Consumers' Counsel, telephone companies, and possibly others. The collaborative process would, among other things, attempt to identify customers who would have no telephone service available should their telephone company withdraw basic service. I appreciate the opportunity for the Consumers' Counsel to serve consumers on this collaborative. However, if a customer would lose service and also not be identified by the collaborative, the legislation would require *the customer* to take action. That action is the filing of a petition at the PUCO within 30 days after receiving the abandonment notice from the telephone company. The PUCO would have 90 days to act on the petition. (Lines 57445 to 57447.)

This procedure, where the customer would have to petition the PUCO, is outside the experience of most Ohioans. Plus it shifts the burden to customers to determine whether another service, that is reasonable and comparatively priced, is available to them. Providing in the law that telephone companies wanting to abandon service must apply for PUCO approval, as

recommended above, is a better system for consumers than the approach of mere notice to consumers. And a request process is better than the process involving Ohioans' filing of petitions.

My fourth concern is that customers who aren't identified by the collaborative will only have thirty days after receiving notice from the telephone company to determine whether they should file a petition with the PUCO. The telephone company may give notice 120 days before abandoning service, and customers must file a petition no later than 90 days before service is abandoned. Thirty days is not a lot of time for customers to receive the notice, understand what they must do (for a filing they have never made before), and try to locate an alternative provider that has a reasonable and comparatively priced service.

As I mentioned earlier, HB 64 has some improvements over previous attempts at legislation. For one, HB 64 requires that the replacement for basic service will be a "reasonable and comparatively priced voice service." (Lines 57448 to 57453.) That standard will be determined for consumers by the PUCO, within the parameters set in the Bill (Lines 57477 to 57483). Requiring that the replacement service be "reasonable and comparatively priced" is another of the Administration's and the House of Representatives' improvements over HB 490. I appreciate that.

Another improvement from HB 490 is that the proposed law allows the PUCO to require that phone service be made available to consumers for an indefinite period. (Lines 57470 to 57476.) I appreciate that the Administration has improved the proposal with this approach.

The Bill directs the PUCO to study the transition to an Internet-based phone network. (Lines

93469 to 93482.) The study could be beneficial if it were focused on protecting Ohio consumers during the transition to a future network. In this regard, the Bill language should be amended to require the PUCO's study to include recommendations to the Ohio General Assembly for protecting consumers in any such transition.

On June 4, 2013, the Governing Board of the Office of the Ohio Consumers' Counsel adopted a Resolution for consumer protection. The Board voiced its support for "maintaining the most basic telephone service with price and quality protections for consumers...." The Resolution is attached to this testimony.

Finally, these matters prompt me to recommend a clarification to Ohio Revised Code 4911.021, adopted in 2011. This statute limits the Consumers' Counsel's ability to help Ohioans with their utility-related complaints. ORC 4911.021 states as follows:

The consumers' counsel shall not operate a telephone call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

ORC 4911.021 should be clarified to allow the Consumers' Counsel to assist Ohioans with their complaints about utility-related services. This change would be consistent with providing services that the public would reasonably expect from a government agency that assists consumers. The clarification that I am proposing would not change the limitation in ORC 4911.021 against the Consumers' Counsel operating a telephone call center. And, in requesting this statutory change, I am not proposing any budget increase for assisting consumers with their complaints.

In conclusion, I appreciate the Administration and House budget proposal for this agency and for our services to 4.5 million Ohio households. Also, I look forward to working with Members of the Subcommittee and the General Assembly on telephone policy in HB 64 for consumers who use basic local telephone service. Thank you.

2014 RESIDENTIAL ELECTRIC RATES BY STATE

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

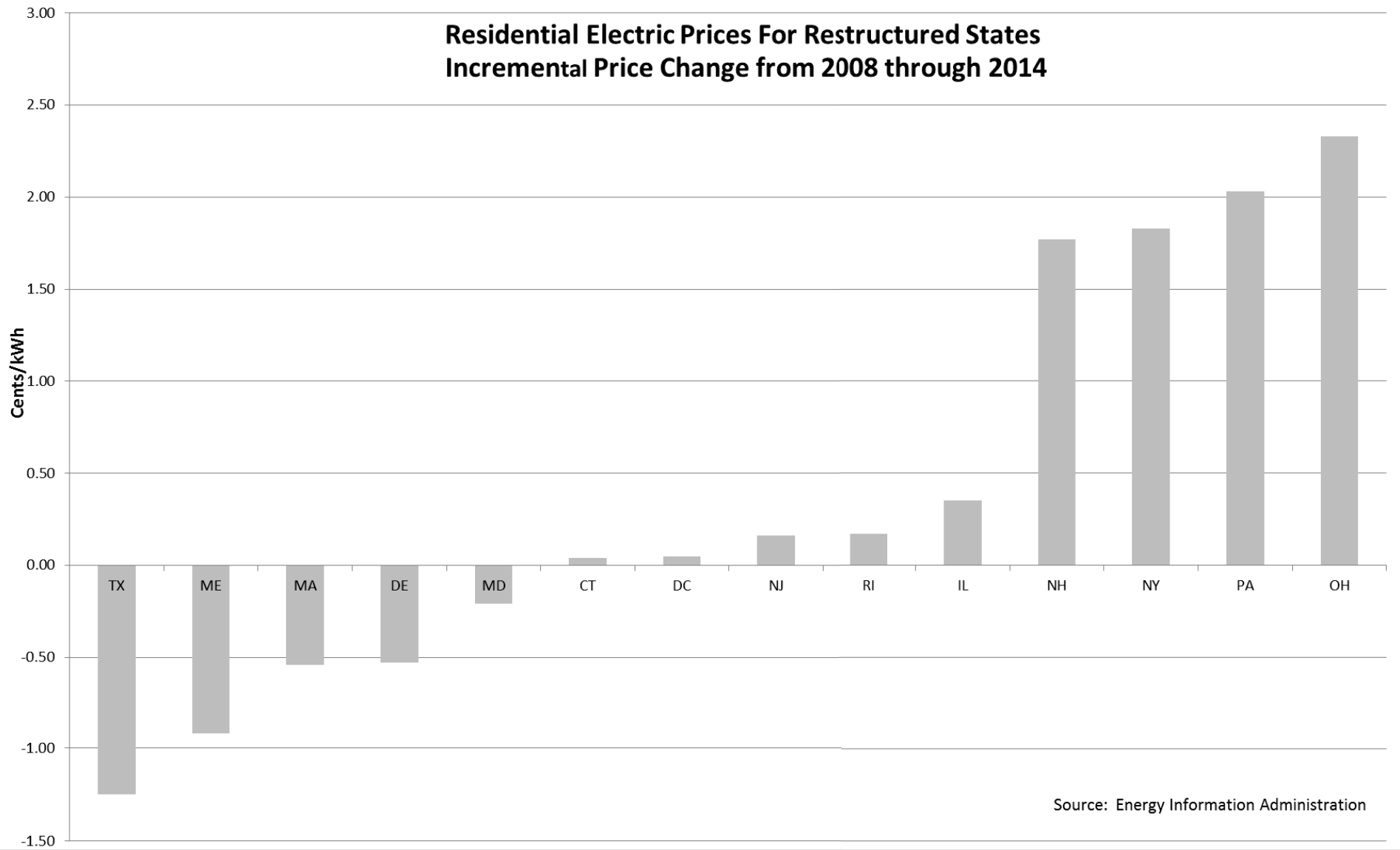
Source: U.S. Energy Information Administration EIA Table 5.6.B. Average Retail Price of Electricity to Ultimate Customers by End-Use Sector, by State, Year-to-Date through December 2014 (Cents per Kilowatthour)

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

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

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

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



Source: Energy Information Administration

Resolution

Governing Board of the Office of the Ohio Consumers' Counsel

In Support of Basic Local Telephone Service for Ohio Consumers

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

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

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



Gene Krebs, Chairman

Governing Board of the Office of the Ohio Consumers' Counsel