



**MINUTES OF THE
OFFICE OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD**

Meeting of January 21, 2025

The members present were:

Mr. Michael Watkins, Chair
Mr. Randy Brown
Mr. David Fleetwood
Mr. Bruce Lackey
Ms. Jan Shannon
Ms. Connie Skinner

Member Absent: Vice Chair Grossman, Mr. Hager, Mr. Yoder

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:00 A.M. Board Secretary Susan Loe called the roll. The members answering as present were as shown above.

Chair Watkins asked the guests, staff and Board members to introduce themselves. Present were representatives from Gongwer and Hannah, staff from the PUCO and OCC, as well as the Board Members, Deputy Consumers' Counsel and Consumers' Counsel.

APPROVAL OF THE MINUTES:

Chair Watkins asked for a motion to approve the minutes of the November 2024 Board meeting. A motion was made by Mr. Fleetwood to approve the minutes as written. Ms. Shannon seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present.

ELECTION OF OFFICERS:

Chair Watkins noted that since it was January, it was time to elect the officers for the coming year. He called for nominations for Chair of the Board. Mr. Fleetwood nominated Michael Watkins, seconded by Ms. Shannon. Chair Watkins asked if there were additional nominations. A motion was made by Ms. Shannon to close the nominations; seconded by Mr. Fleetwood. Board Secretary Susan Loe called

the roll. All members present voted yes, with the exception of Mr. Watkins, who abstained and the motion passed to elect Mr. Watkins for another term as Chair. Chair Watkins thanked the members for their vote of confidence. Chair Watkins next called for nominations for Vice-Chair of the Board. Mr. Fleetwood nominated Cheryl Grossman, seconded by Mr. Brown. Chair Watkins asked if there were additional nominations; there were none. Board Secretary Susan Loe called the roll. All members present voted yes, and the motion passed to elect Ms. Grossman for another term as Vice-Chair.

CONSUMERS' COUNSEL'S REPORT:

Consumers' Counsel Willis updated the Board on PUCO activities. Ms. Willis noted that there were several utilities requesting rate increases, and noted that affordability of utility rates is a real an issue, especially for electric consumers. She stated that the requested increases were significant, particularly noting that AEs's request could result in a 15% increase to consumers.

Ms. Willis next discussed gas rate cases, including Centerpoint, which was also seeking a 30% increase, as well as Enbridge. She noted that 30% is higher than what has been seen historically. She added that Enbridge originally asked for a \$212 million increase, and both PUCO staff and OCC recommended decreases of over \$200 million. She explained that after several hearings and testimony, as well as multiple communities filing resolutions against the increase, Enbridge placed a full-page ad in the Columbus Dispatch reducing their request to a \$60 million increase. Ms. Willis noted that it was curious because Enbridge consumers are not in the Columbus area. Ms. Shannon asked what area of the state was served by Enbridge, and Ms. Willis and Ms. O'Brien responded that it was northeastern Ohio. Mr. Lackey asked how the OCC \$294 million decrease was derived. Ms. Willis responded that there were a number of factors, including pension benefits and the amount of profits. She said she would need to consult with the experts, both internally and externally, to fully respond.

Ms. Willis next discussed the ESP 5 that was filed by FirstEnergy and noted that FirstEnergy withdrew from its electric security plan after modifications by the PUCO. She explained that the law states, and OCC argued, that the utility must revert back to the most recent approved standard service offer. However, the PUCO unfortunately allowed FirstEnergy to revert to a prior approved electric security plan with all of its add on riders.

Ms. Willis updated the Board on submetered customers and the recent PUCO finding that AEP did not qualify for an abandonment based on the circumstances. Ms. Willis noted that the next steps would be to seek a legislative remedy to protect consumers. Mr. Lackey asked about the process for seeking legislative change. Ms. Willis and Mr. Stallard explained the steps involved. Chair Watkins asked

about AEP's reason for wanting the abandonment. Ms. Willis explained that AEP was attempting to force the PUCO to address whether the abandonment was beneficial for consumers. She noted that although the same issue is pending in the court, she believes that legislation will ultimately be needed to protect consumers.

Ms. Willis next discussed the AEP data center hearing and played an audio clip regarding the plan to require data centers to pay the costs of the infrastructure and OCC's questioning of a witness. She noted that this is an issue of making sure that the power-hungry data centers pay their fair share. She explained that AEP's plan would require this, as well as long term commitments for these centers. Chair Watkins asked about the number of data centers involved. Ms. Willis explained that if all the companies that have expressed interest actually do come to Ohio, it would require four times the power now used to support New York City. She noted that the data centers shop around and try to get the most favorable conditions before they commit.

Ms. Willis next discussed a Duke Energy settlement, that included lowering the transmission costs allocated to consumers. She added that there were additional consumer protections so that OCC was comfortable signing onto this settlement.

Ms. Willis next discussed independent PUCO audits of utilities and the utilities' ability to revise/interfere with the findings of the report. She noted that PUCO shares a draft audit with the utility, supposedly for the purpose of checking for accuracy or protecting confidential material. She explained that in reality, utilities have been able to propose substantive edits to audit findings. She noted that the independence of the auditor is in question. Mr. Lackey asked how the independent auditor is chosen. Ms. Willis explained that the auditor is chosen by the PUCO through the RFP process.

Ms. Willis next discussed OCC's recent participation at the National Association of State Utility Consumer Advocates (NASUCA) and noted that it was an opportunity for OCC to learn from other states. She added that the mid-year meeting was going to be held in Columbus which would enable OCC to involve more staff to attend without the cost of travel. She added that this was an excellent opportunity for networking and to partner with other states on common efforts.

Ms. Willis next discussed additional indictments at the federal level against former FirstEnergy officials.

DEPUTY CONSUMERS' COUNSEL'S REPORT:

Deputy Consumers' Counsel O'Brien discussed matters that the OCC is involved in before the Federal Energy Regulatory Commission (FERC) and OCC appellate work. She first discussed a very positive outcome in the RTO adder appeal at the 6th Circuit. She explained the history of the case and noted that Ohio law requires Ohio utilities to participate in a regional transmission organization (PJM), and

therefore the RTO adder was an unnecessary incentive. She explained that the adder is a 50 basis point increase on the return on equity and involves millions of dollars. She further explained that OCC had excellent outside counsel, Denise Goulet, who argued OCC's case. She noted that the savings for consumers was depicted cumulatively on graphs shared with the Board. Ms. Willis explained that the "adder" is added profits to the utilities for investment, which is paid for by consumers. She also noted consumers should receive part of the savings as refunds to rates already paid. She also explained that the win also enables consumer to avoid future costs in perpetuity.

Ms. O'Brien next discussed a partnership with other state consumer advocate offices in filings at FERC. This includes a complaint regarding capacity market reform, regarding the base residual auction discussed at the last Board meeting. She noted that PJM has been filing different requests at FERC and that OCC has joined with other state advocates to protest these reforms as being insufficient to protect consumers. She noted that these are geared toward ensuring reasonable prices and reliability for consumers. Ms. Willis added that the next auction had been delayed while reforms to the rules are being considered.

Ms. O'Brien next discussed efforts at the Ohio Supreme Court in an AES case. She noted OCC had survived two motions to dismiss and oral arguments would be forthcoming. She explained the issues included a rate stability charge as well as a \$60 million significantly excessive earnings issue. She noted that in this case the earnings were not refunded to consumers as required by law. She noted that there was also a case involving AES's electric security plan, particularly involving AES's reinstatement of a prior plan, as Ms. Willis had discussed earlier. Mr. Lackey asked how "excessive earnings" is defined. Ms. Willis and Ms. O'Brien explained that there was a formula that presents a range, and that the law requires a refund if the excessive earnings are deemed significantly excessive by that formula. She noted that the generally accepted formula/test was enacted in 2009.

She next discussed a pending appeal with the AEP OVEC case and the independent auditor findings that were revised in the final report and a marketer appeal case where OCC would soon be filing briefs.

LEGISLATIVE UPDATE:

Nick Stallard, Legislative Liaison, gave a brief overview of OCC's legislative activities for the 136th General Assembly and noted that it started with the budget hearings currently underway. He noted there was going to be a massive energy reform bill, but it was too early to report on any of the details. He added that the coal subsidy repeal and submetering would hopefully gain more traction this year. He shared some statistics regarding OCC's recent legislative efforts. He noted that OCC had several favorable outcomes in the bills opposed in the past year.

EMPLOYEE INFORMATION:

Ms. Loe, Operations Director, gave a brief update on employee information. She stated that Ray Foeller, a long time OCC Public Affairs employee, had retired in December. She also discussed a new hire, Keegan Fay, who had been serving as an intern in Public Affairs over the past year and had recently graduated from The Ohio State University. She explained that Keegan would be assuming some of Ray's former duties, as well as focusing on OCC's social media efforts.

PUBLIC AFFAIRS REPORT:

Merrilee Embs, Public Affairs Director, gave the Board a brief update on public outreach and website activities. She shared some statistical information in the increase in outreach activities over the past year, including expanded media coverage. She highlighted a couple of articles and interviews regarding the data centers and increased media coverage due to that issue.

She stated that Outreach & Education staff had interacted with 2,400 consumers at 109 events (virtual and in-person) in the past two months. She noted there had been an expanded effort, including the Consumers' Counsel and Deputy Consumers' Counsel, in communities that are affected by the rate case filings. She stated that there were over 23,000 views on the OCC social media post on the public hearing regarding data centers. Ms. Willis noted that comments from the public are important to show the effect on individuals and become part of the public record in the case and can have a positive impact. Ms. Willis also informed the Board that OCC recently had an open house meeting Q&A session with the media to establish relationships. Chair Watkins commented that the Chief of Police in Marion had recently commented that he was impressed with Ms. O'Brien's recent presentation. Chair Watkins suggested that regularly scheduled meetings in communities would help refresh the public on OCC's efforts.

Mr. Lackey asked if Board members shared their involvement on OCC within their community. Various Board members shared their outreach efforts within their communities. There was discussion about efforts toward an OCC newsletter. Mr. Brown noted that the agriculture community is a large consumer of energy and would be a good area for increased outreach.

Ms. Loe advised the Board members that their travel and stipend information was included in their folders to help with their 2024 Financial Disclosure filing.

Mr. Fleetwood made a motion to adjourn the meeting. It was seconded by Mr. Brown. Ms. Loe called the roll. The motion was approved unanimously by the members present.

The meeting was adjourned at approximately 11:16 A.M.

Governing Board Minutes

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I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on March 18, 2025.



Michael Watkins, Governing Board Chair



Susan Loe, Board Secretary
Ohio Consumers' Counsel Governing Board