



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

**Meeting of March 12, 2024**

The members present were:

Mr. Michael Watkins, Chair  
Ms. Cheryl Grossman, Vice-Chair  
Mr. Randy Brown  
Mr. David Fleetwood  
Mr. Dorsey Hager  
Ms. Kelly Moore  
Ms. Connie Skinner  
Mr. Josh Yoder

Member Absent: Ms. Jan Shannon

Assistant Attorney General Bryan Lee was also present at the meeting.

**CALL TO ORDER BY CHAIR:**

Chair Watkins called the meeting to order at approximately 10:06 A.M. Board Secretary Susan Loe called the roll. The members answering as present were as shown above, with the exception of Ms. Moore and Mr. Hager, who arrived a few minutes later.

Chair Watkins asked the guests to introduce themselves. Present at the meeting were: Gene Freeman, Mike Livingston of Gongwer, Robert Dove of Kegler, Brown, Hill & Ritter, several employees from the PUCO and several OCC staff members.

**APPROVAL OF THE MINUTES:**

Chair Watkins asked for a motion to approve the minutes of the January 16, 2024 Board meeting. A motion was made by Ms. Skinner to approve the minutes as written. Ms. Grossman seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present.

**RESOLUTION:**

Chair Watkins noted that a resolution had been drafted honoring Jeff Jacobson, OCC's long time lobbyist. He asked Ms. Loe to read the Resolution. After the reading of the Resolution, Chair Watkins noted that Mr. Jacobson had a wealth of historical knowledge that was going to be missed and asked for a motion to approve.

A motion was made by Mr. Fleetwood to approve the Resolution as written. Mr. Brown seconded the motion. Ms. Loe called the roll. The motion was approved unanimously by members present.

**CONSUMERS' COUNSEL'S REPORT:**

Consumers' Counsel Willis discussed some of the cases that the agency was involved in advocating for consumers. She first discussed a reversal by the PUCO on two cases where OCC had been denied intervention. She noted that one of the cases involved marketer Inspire, who was accused of deceptive marketing practices, including an introductory \$59 monthly charge that later increased to as much as \$699 per month. The second was a DP&L (AES) reliability case. She explained that due to PUCO's reversal, OCC can now intervene in these two cases and evidentiary hearings will be held.

Ms. Willis next updated the Board on FirstEnergy investigations that had been previously put on hold. She noted that now that the freeze had been lifted the schedule was very aggressive, with evidentiary hearings starting in June. She noted that in one case the discovery window had expired, and that OCC was expecting 720,000 pages of discovery that FirstEnergy Corp. was to provide. She added OCC and OMA had filed a motion seeking a fair process that would allow time for discovery. She explained that the motion asked for the discovery process to remain open pending resolution of the criminal state and federal proceedings.

Ms. Willis also discussed the recent criminal indictments against the former PUCO chair Randazzo and former FirstEnergy executives. Ms. Willis discussed the letter filed by Attorney General Yost expressing his concerns that the indicted defendants could potentially be immune from the federal and state charges if they were subpoenaed and testified in the PUCO cases. She added that OCC had filed subpoenas prior to the charges being brought, which OCC withdrew in response to the Attorney General's request.

Ms. Willis next discussed the FirstEnergy pilot program which allowed industrial customers to opt out of a transmission rider, which had resulted in cost shifting to residential consumers. She noted that the pilot program was allegedly part of an undisclosed side deal that was worked through former PUCO Chair Randazzo. She added that there were additional industrial customers now wanting to be part of the pilot, which will result in additional cost shifting.

Ms. Willis next discussed an AES Smart Grid 2 case where the company was asking for \$800 million to improve reliability. She noted OCC will be fully participating in that case as well.

Ms. Willis next discussed a Dominion rate case and merger. She noted that OCC had previously asked the Commission to consider the effects of the merger in conjunction with the rate case, which the PUCO declined to do. She explained that OCC will continue to raise the issue within the rate case itself, noting that the merger will bring in a host of changes, including new personnel, company objectives, etc.

Ms. Willis next discussed \$105 million in subsidies that consumers paid in 2020 for the coal plants and Duke's Managing Director's response to that -- "Holy Mackerel!" She explained that these subsidies were a remnant of House Bill 6 and OCC would like to see the coal subsidies repealed. She noted that there were several bills sitting in legislative limbo that were trying to get rid of these subsidies and is hopeful with upcoming legislative changes there will be a fresh look at this issue.

Ms. Willis next explained some in-person events where OCC has been discussing the 30% Dominion rate increase proposal, including television/video interviews. She stressed that the Agency is encouraging consumers to make their voices heard on the increase.

Ms. Willis next discussed the continuing issue of submetering and the OCC appeal of the PUCO ruling that found that submeterers are not public utilities. She noted OCC was also appealing the denial of its right to intervene on behalf of residential consumers in the PUCO submetering case.

Ms. Willis gave a quick overview of several other cases that OCC is currently involved in on behalf of consumers, including the Electric Security Plans for AEP and First Energy, the Dominion rate case, and the First Energy Grid Mod 2. She emphasized that the utilities are asking for a lot of money from consumers.

#### **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). She first discussed PJM's report on resources and risks. She noted that PJM predicted what OCC believes is an unlikely worst-case scenario, with a peak capacity shortage after 2027. She explained that in February the Ohio & Pennsylvania Joint Legislative Committee on Energy had a meeting where PJM representatives, PUCO representatives and others discussed the report. She explained that OCC and OMA held a joint press event ahead of that meeting to discuss concerns with the report and the negative impact it could have on competition and pricing.

She next discussed PJM capacity cases at FERC that involve restructuring how power plant owners participate in the capacity market. She noted that OCC had protested these cases and explained how FERC ruled on OCC's protests (one was denied and one was accepted.)

Deputy O'Brien next discussed the Energy Harbor and Vistra merger, which was approved by FERC. She noted that as part of the merger the companies agreed to divest 400 megawatts of fuel generation, to allay concerns about competition. She noted that FERC did not fully investigate the effect of the merger on retail markets in Ohio. Consumers' Counsel Willis added that FERC noted that the request for that needed to come from PUCO, not from an advocate. Ms. Willis stated that PUCO needed to step in and ask that FERC examine the effects of the merger on the retail market that Ohioans are served under.

#### **LEGISLATIVE UPDATE:**

Ms. Willis noted that in Legislative Liaison Nick Stallard's absence, she would report on legislation. She first discussed OCC's continued advocacy for complete refunds to consumers when the Supreme Court finds charges to be unlawful or unreasonable. She noted that, since 2009 the Court has reversed \$1.5 billion in charges to consumers but consumers have gotten zero refunds for the unlawful charges, which is displayed as a pie chart on OCC's website. She also noted that the refunds would supposedly be granted if the PUCO would add the words "subject to refund" when approving tariffs. She discussed HB 393 and SB 228, introduced in the legislature to allow for consumer refunds. Currently, these bills are not moving. She added that much attention

is currently focused on the primaries and is hopeful for more legislative action following the elections. She commented that both bills were offered by the minority party.

Ms. Willis next discussed a community solar bill that would require subsidies from people that may not wish to participate in solar. Ms. Willis testified against the bill and offered amendments on behalf of OCC. She added that solar projects can be a good option but should not be subsidized by non-participants.

Ms. Willis next discussed Sen. Romanchuk's SB 143, which would eliminate electric security plans, but does not remove rate case protections and maintains the standard service offer for consumers. Ms. Willis informed the board that she had testified in support in January and SB 143 is now before the Energy and Public Utilities Committee.

She next discussed additional minority bills calling for PUCO selection reform and noted that OCC was very much in support of these bills.

Ms. Willis also discussed HB 226, which she supported through live testimony. The bill allows for water pipeline replacement costs to be socialized over all customers. She stated that this is a health and safety need, and that it had been referred to committee in February.

She gave a brief review of several other bills that OCC had been involved in as either a proponent or opponent.

#### **EMPLOYEE UPDATES:**

Ms. Loe, Operations Director, updated the Board on promotions and a new hire since the last meeting. She stated that Joseph Perez had recently been promoted to Assistant Director of Analytical Services. She noted that since Dr. Duann's and Mr. Sauer's retirement, Ms. O'Brien had been serving as Acting Director of Analytical Services, along with her other duties as Legal Director and Deputy Consumers' Counsel. She gave a brief overview of Mr. Perez's education and experience and noted that he would now be assisting Ms. O'Brien in the management of the Analytical Department.

She next discussed the promotion of Colleen Shutrump to Senior Regulatory Analyst and discussed her recent work on several cases including the HB 6 investigations and serving as lead or co-lead on other projects. She briefly discussed Ms. Shutrump's education and experience both prior to and since joining OCC in 2015.

Ms. Loe next discussed the hire of John Varanese as a litigation attorney for OCC. She explained that Mr. Varanese had been working as a temporary contract attorney for several months supporting the Legal Department with research and drafting of pleadings. She gave an overview of Mr. Varanese's qualifications and stated that he would begin as a full-time staff member on March 25.

#### **PUBLIC AFFAIRS REPORT:**

Merrilee Embs, Public Affairs Director, gave the Board a tour of the agency website, including new features and recent updates. She described the enhancements made to make the site more user-friendly and to better reach the public and demonstrated several hyperlinks. She highlighted some of the most popular pages, including helping people through the assistance programs, such as HEAP and PIPP.

Vice-Chair Grossman noted that this was a huge improvement over what it used to be. Ms. Skinner noted that she had recently viewed the website and was very impressed. Ms. Moore also noted that she had recently searched the website and was very impressed with the updates. Consumers' Counsel Willis noted that the website was constantly being updated. Ms. Grossman asked if there was something that could be handed to the media from time to time to provide direct links to features on the website. Ms. Willis responded that staff always points to the website and that our business cards include the website prominently and now also contain a QR code that creates the contact through electronic means. Ms. Embs noted that the website work was all done internally by OCC staff. Ms. Embs also provided the Board with statistics on website traffic and the most popular pages.

Ms. Embs also noted that the Public Affairs staff were currently finalizing the annual report, which is due April 1. She also updated the Board on outreach and education activities since the last meeting and noted that staff had interacted personally with more than 3,100 consumers. She described National Consumer Protection Week activities and noted that it will be a very busy month. Ms. Embs also discussed the outreach related to the rate increase cases and the efforts to get the word out to consumers, including events where the Consumers' Counsel and Deputy Consumers' Counsel attended personally.

Chair Watkins thanked the staff for their work on the preparation for the Board meeting. He asked the Board Members if there were any items for an executive session and there were none. He asked if any of the members had other business.

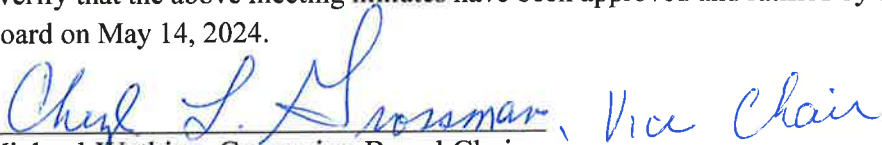
Ms. Grossman praised the Consumers' Counsel Willis for the work that she and staff were doing. She noted that news reports have stated that the current General Assembly has enacted the fewest number of bills since the 1990's. She noted that this was regrettable because it makes it difficult to move forward on important issues.


Chair Watkins complimented Public Affairs on their efforts to keep the website current and fresh. Mr. Yoder commented that the electric utility industry as a whole has always lent itself to asymmetric information where utilities have better information. He noted that with inflation and increasing demand, it would be hard to make the argument that the mistakes of the past aren't going to get worse in the future, because the stakes are growing substantially. He added that consumers and advocates are getting more and more skeptical about the information that they are receiving. He encouraged the need for transparency. Ms. Willis thanked Mr. Yoder for his comments.

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

The meeting was adjourned at approximately 11:07 A.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on May 14, 2024.

  
Michael Watkins, Governing Board Chair

  
Susan Loe, Board Secretary  
Ohio Consumers' Counsel Governing Board