



## Office of the Ohio Consumers' Counsel

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

September 17, 2019

Members Present: Mr. Michael Watkins, Chair  
Mr. Stuart Young, Vice-Chair  
Mr. Mark Johnson  
Mr. Charles Newman  
Ms. Andra Troyer

Members Absent: Ms. Kelly Moore and Mr. David Wondolowski.

#### **CALL TO ORDER BY CHAIR:**

Chair Watkins called the meeting to order at approximately 10:00 A.M. Ms. Hunyadi called the roll. The following members answered as present: Chair Watkins, Vice-Chair Young, Mr. Johnson, Mr. Newman, and Ms. Troyer.

#### **RECOGNITION OF NEW MEMBERS:**

Chair Watkins welcomed two new Governing Board members. Mr. Johnson was appointed as a representative of organized labor (for the seat formerly held by Mr. Taylor). Mr. Newman was appointed as a representative of family farmers (for the seat formerly held by Mr. Cooke). Mr. Mingo, who had been appointed as a representative of consumers (for the seat formerly held by Ms. Johns), resigned prior to the meeting as a result of a conflict. Current Board members and staff in attendance at the meeting introduced themselves. Each of the new members shared information about themselves for their introductions. Consumers' Counsel Bruce Weston welcomed the new members and thanked them for volunteering their time for the public interest. Chair Watkins provided an overview of the Board and its responsibilities to Ohio consumers.

#### **MEETING MINUTES:**

Chair Watkins asked for a motion to approve the minutes of the August 28, 2019 Board meeting. A motion was made by Ms. Troyer to approve the minutes. The motion was seconded by Vice-Chair Young. Ms. Hunyadi called the roll. The August 28, 2019 Board meeting minutes were approved unanimously.

#### **RESOLUTIONS:**

Mr. Weston presented draft resolutions for the Board to consider for honoring the outgoing Board members for their service to the public. The Board reviewed the draft resolutions to honor Mr. Fred Cooke (representing family farmers), Ms. Beverlyn Johns (representing consumers) and Mr. Roland Taylor (representing organized labor), whose terms had expired, and Mr. Douglas Moormann

(representing consumers) who resigned due to a conflict. Vice-Chair Young made a motion to approve the resolutions. The motion was seconded by Mr. Johnson. Ms. Hunyadi called the roll. The resolutions were unanimously approved.

**RECOGNITION:**

Deputy Director Larry Sauer introduced Tracy Greene who joined the OCC in July 2019 as a Case Team Coordinator in the Legal Department. Tracy brings a wealth of experience as a paralegal, from her work at two different law firms where she supported the legal staff through court communications, case scheduling, filings, and more.

Mr. Weston recognized Ross Willis, Senior Regulatory Analyst, as the Employee of the Quarter for the 1st quarter of 2019. Mr. Willis is specifically being recognized for his outstanding work on cases to reduce utility rates to reflect the utilities' federal tax cuts.

Mr. Weston also honored Professor Harry Trebing who recently passed away. Prof. Trebing was considered a giant in the field of utility regulation. For many years he taught regulation to government officials (including Mr. Weston, among others in the early years of OCC) at a summer conference at Michigan State University. Prof. Trebing embraced consumer advocates as part of the regulatory process and appreciated their work.

**GUEST SPEAKERS – CHUCK KEIPER (EXECUTIVE DIRECTOR) AND LEIGH HERINGTON (EXECUTIVE SENIOR ASSOCIATE) OF THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC):**

Mr. Weston introduced Mr. Keiper and Mr. Herington to the Board. NOPEC is a local government aggregation for selling energy to consumers, in northeast Ohio and elsewhere. Mr. Weston advised that NOPEC has been a good consumer partner for OCC. In this regard, earlier this year NOPEC testified in the Ohio Senate in support of a budget increase for OCC during the recent state budget hearings.

Mr. Keiper noted that, in addition to serving energy to its customers, NOPEC also educates and advocates for consumers. And Mr. Keiper acknowledged that NOPEC could not do its job without the strong anchor in Columbus that they have in OCC. He added that Bruce Weston and Larry Sauer do a fantastic job.

Mr. Keiper told the Board about a study NOPEC commissioned a few years ago regarding electric competition in Ohio (which the study showed is very beneficial to Ohio consumers for lower electric bills). NOPEC then asked the same researchers, from The Ohio State University (John Glenn College of Public Affairs) and Cleveland State University (Maxine Goodman Levin College of Urban Affairs) to partner again for an update of that study. Mr. Keiper provided the Board with copies of the updated study and the executive summary to the Board. Mr. Keiper

continued by saying the good news from the study is that electric consumer choice is alive and well. He said the even better news is consumers have saved a lot of money. And he said the best news is consumers will continue to save money (if the state continues electric deregulation).

Mr. Keiper then talked about the creation of NOPEC and the work they do. He said under Ohio's 1999 deregulation law, there was a clause that allowed for governmental opt-out aggregation. This allows communities to put ballot measures before their voters to ask if they would like to buy natural gas or electricity collectively. If the ballot measure passes, then local governments have three choices of how they can manage that aggregation. They can manage it on their own, they can hire a broker, or they can join a group like NOPEC, which is a not-for-profit council of governments. NOPEC was created 20 years ago and is the largest aggregator in the country, representing 232 communities in Ohio. Mr. Herington later noted that NOPEC serves 900,000 customers.

Mr. Herington is a former state Senator in Ohio and NOPEC's first executive director. Noting in a separate capacity he has been a member of the PUCO Nominating Council (for commissioner appointments), he stated his appreciation to the OCC Board representatives who have served with him on the Nominating Council. Mr. Herington emphasized how much he appreciates OCC and Consumers' Counsel Weston, including for the strong working relationship between NOPEC and OCC. Mr. Herington said that Mr. Weston worked to form a "team concept" among consumer groups to work for consumer protection when he was named the interim Consumers' Counsel and then appointed as the Consumers' Counsel. Mr. Herington wanted the Board to know that Mr. Weston is "easy to work with," "the legislature likes him," and he has "done a fabulous job."

Mr. Herington stated that NOPEC's 2016 study on consumer choice for electricity in Ohio revealed that, between 2011 and 2015, consumers were saving \$3 billion per year. Mr. Herington said that due to concerns about industry discussions that seem headed toward re-regulation (instead of for continued electric competition), NOPEC decided an update to the study was needed. He provided a synopsis of the recent study results. He began by saying that between 2011 and 2018 consumers have saved \$24 billion. However, researchers have warned that should investor-owned utilities be successful in increasing the number of riders and re-regulating the generation of electricity, it would cause significant harm to Ohio's electric customers and the economy. Mr. Herington noted some key findings of the updated study. The first key finding is the savings to consumers, which include \$19.5 billion in savings from competitive auction for utility standard offers and \$4.4 billion in savings to consumers who contracted with competitive retail electric service providers. The second key finding is that competition has driven down average electricity prices for consumers in de-regulated midwestern states including Ohio, while regulated peers have seen a steady increase in prices of generated electricity. The third key finding is that savings in the range of \$3 billion per year are anticipated to continue unless deregulated energy markets are undermined by cross-subsidies in the form of investor-owned

utility riders and surcharges or legislatively mandated above-market power purchase agreements (subsidies).

Mr. Herington continued by saying the threat to consumers is two-fold. The first threat is if the legislature and the PUCO continue to add additional non-bypassable charges (known as so-called “riders”), we will see decreased savings and increased costs for consumers. He said the second threat is if the legislature is convinced to completely eliminate electric deregulation, then utilities will be using the government process to get more money from consumers. Mr. Herington said it is clear that deregulation is good for Ohio and we need to be “vigilant” to continue fighting against re-regulation and for deregulation (competition).

Mr. Keiper added that the reason behind deregulation in Ohio in 1999 was that Ohio had the second highest electricity rates in the nation behind California. We are now paying about 1/3 of what we paid 20 years ago, which is a direct benefit of competition in a market-driven economy in the state.

**PRESENTATION BY CONSUMERS’ COUNSEL BRUCE WESTON:**

Mr. Weston shared with the new Board members an overview of the history and purpose of the OCC. And he talked about the ways the OCC has helped consumers. Mr. Weston reviewed the agency mission, vision and core values. Next, he presented an overview of the agency’s departments and staffing. He then invited each department director to talk about what their respective department is responsible for.

Ms. Hunyadi reported on the fiscal summary for the agency, noting that at the beginning of September OCC had committed approximately \$1.2 million or 22% of its \$5.5 million budget.

Mr. Weston discussed the National Association of State Utility Consumer Advocates (NASUCA) and how the first Consumers’ Counsel (Bill Spratley) was one of the founders (and the first president) of our national consumer association. Being a part of this national association is beneficial for Ohio as we work with colleagues across the country dealing with similar consumer issues.

Mr. Weston discussed how the Ohio energy law passed in 2008 favors utilities to the detriment of consumers in the ratemaking process. He showed a chart published in a fiscal note by the Legislative Service Commission (related to H.B. 247 in the previous legislative session). The chart graphed how power plant competition is producing lower electric rates in the regional wholesale market, yet retail electric prices are increasing for consumers in Ohio.

Mr. Weston then talked about the OCC Subsidy Scorecard. The Subsidy Scorecard shows the above-market charges (subsidies) that Ohioans have been made to pay to utilities even though Ohio is supposed to be a deregulated (competitive) electricity state under the 1999 law. OCC



continues to work for consumers to reap the benefits of power plant competition under the 1999 law, which should include lower prices and greater innovation.

**PRESENTATION BY DEPUTY CONSUMERS' COUNSEL SAUER:**

Mr. Sauer referenced OCC's advocacy for utility consumers in the FirstEnergy Solutions' bankruptcy case, and he expressed appreciation to the Attorney General for providing OCC with the bankruptcy expertise of special counsel. Mr. Sauer also referenced the ruling by the Ohio Supreme Court that said FirstEnergy's so-called distribution modernization rider (DMR) is unlawful. That ruling is a win for consumers by OCC and others. However, in the same ruling, the Court denied consumers the ability to receive refunds of the \$456 million that FirstEnergy collected prior to the Court's ruling. In other words, charges would be reduced going forward but making refunds of past charges consumers paid would not be required of FirstEnergy

Ms. Hunyadi provided an update on public affairs activity at over 30 different county fairs, the Ohio state fair and the Farm Science Review this year. OCC staff made over 3,600 contacts and distributed over 2,300 pieces of materials. In addition, for the months of July and August, OCC also attended 104 other events and made 64 site visits.

The Board was reminded that its 2020 meeting schedule will be set at the next meeting on November 19.

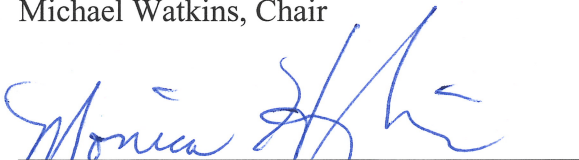
Mr. Johnson made a motion to adjourn the meeting. It was seconded by Ms. Troyer. Ms. Hunyadi called the roll. The motion was unanimously approved.

The meeting adjourned at approximately 12:25 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on November 19, 2019.



Michael Watkins, Chair



Monica Hunyadi, Interim Secretary  
Ohio Consumers' Counsel Governing Board