



Office of the Ohio Consumers' Counsel

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

November 19, 2019

Members Present: Mr. Michael Watkins, Chair
Mr. Tim Callion
Ms. Kelly Moore
Mr. Charles Newman
Ms. Jan Shannon
Ms. Andra Troyer

Members Absent: Vice-Chair Stuart Young, Ms. Cheryl Grossman 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.

RECOGNITION OF NEW MEMBERS:

Chair Watkins welcomed two new Governing Board members. Mr. Callion was appointed as a representative of organized labor (for the seat formerly held by Mr. Johnson). Ms. Shannon was appointed as a representative of consumers (for the seat formerly held by Mr. Mingo, as preceded by Ms. Johns). The third new member, Ms. Cheryl Grossman, was appointed as a representative of consumers (for the seat formerly held by Mr. Moormann). 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.

MEETING MINUTES:

Chair Watkins asked for a motion to approve the minutes of the September 17, 2019 Board meeting. A motion was made by Ms. Troyer to approve the minutes. The motion was seconded by Mr. Newman. Ms. Hunyadi called the roll. The September 17, 2019 Board meeting minutes were approved unanimously.

BOARD MEETING DATES FOR 2020:

The Board meeting schedule for 2020 was proposed as follows:

January 14, 2020

March 17, 2020

May 12, 2020

July 21, 2020

September 15, 2020

November 17, 2020

A motion to approve the schedule was made by Ms. Shannon. The motion was seconded by Ms. Moore. Ms. Hunyadi called the roll and the 2020 Board meeting schedule was approved unanimously.

STATE ETHICS TRAINING:

Chair Watkins reminded the Board that the ethics training, as required by Executive Order, must be completed by December 31, 2019. He encouraged members to contact Deputy Larry Sauer with any questions.

RECOGNITION:

Deputy Larry Sauer introduced Connor Semple who joined the OCC in November 2019 as a Legal Intern. Connor attends The Ohio State University Moritz College of Law. Connor graduated from The Ohio State University in 2018 with a bachelor's degree in Strategic Communication and a minor in Professional Writing. He plans to graduate with a Juris Doctor degree in May 2021. Mr. Sauer described the Agency's long-standing commitment to offering a legal intern program for students to work in the public interest. He noted that two of the Agency's legal interns (Ms. Migden-Ostrander and Mr. Weston) went on to be appointed as the Consumers' Counsel (Agency Director).

OCC FISCAL REPORT:

Monica Hunyadi (Chief of Staff – Non-Case Services) presented the fiscal report. She informed that OCC has committed approximately \$2 million, or 36%, of its \$5.54 million annual budget.

GUEST SPEAKER – REPRESENTATIVE NINO VITALE, CHAIR OF THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE:

Mr. Weston introduced Rep. Vitale to the Board members. Mr. Weston noted his appreciation that he was able to meet with Rep. Vitale three times this year. Mr. Weston said the meetings were constructive and noted that Rep. Vitale was gracious with his time. Rep. Vitale and the Board members exchanged introductions.

Rep. Vitale began by noting that he is the Chair of the House Energy and Natural Resources Committee, as well as the Chair of the Sunset Review Committee (which is a government oversight committee). Rep. Vitale said the legislature and PUCO must balance two sides of a coin: (1) making sure rates don't get too low for a healthy grid and energy production, and (2) making sure our rates are where they're supposed to be -- that they don't get too high. He acknowledged the key role OCC has in ensuring consumers are represented and their voices are heard amid the voice of utility lobbyists.

Rep. Vitale talked about HB 246, a bill he introduced, to modernize and reform the PUCO and OCC. He said his intention with the bill is not to do away with PUCO or OCC or diminish the role either agency has, but rather to help them work and fulfill their missions as best as they can, while being judicious with taxpayer dollars. He added that he and Consumers' Counsel Weston have had some very good conversations including a review of really good suggestions from OCC. He indicated he is willing to take up the fight on some of these issues.

Chair Watkins explained the Board and agency's concern over the funds paid to utilities by Ohioans that are lost as unrefunded when the PUCO-approved utility charges are declared unlawful by the Supreme Court. Rep. Vitale conceded that those charges are a real problem. He said the solution for fixing the problem rests with the PUCO, which is the regulatory agency that approves utility riders (charges) in the first place. He explained the difficulty in modifying rate plans approved by PUCO and said it would be unfair to penalize somebody for something that today is not a problem but tomorrow might be a problem. He said it would scare businesses to know that at any given time, they could be held accountable for a law they didn't know about. He stated the refund question is part of the larger debate over distribution charges in Ohio compared to other states. He said riders very rarely get rejected and he has told the PUCO chairman this should be at the top of their minds when considering utility applications for riders. Rep. Vitale also said that add-on distribution riders create a significant gap between low wholesale commodity prices for electricity and higher overall utility bills, which Ohio consumers are paying. This affects the bills of 11.5 million Ohioans.

Ms. Moore asked how support for energy subsidies in HB6 (Callender-Wilkin) has balanced the coin for consumers. She suggested the new law will only create uncertainty over future rates and even more utility subsidies. Rep. Vitale said there are three features of HB6 including the 6-year not-to-exceed \$0.85 rate that will go to the clean air fund, the repeal of the mandates for renewable energy and energy efficiency. He said his approach as committee chair to HB6, and other energy policy, is technical rather than hyper-partisan. He said that the not-to-exceed \$0.85 monthly residential charge paid by all Ohio households in support of nuclear energy actually will create price predictability, compared to former renewable energy credit (REC) subsidies that were slated to increase to an estimated \$10 per month. He explained that, while the grid administrator (PJM) for the eastern U.S. region (including Ohio) does not favor one technology over another, federal subsidies skew the wholesale price of certain forms of generation, which HB6 seeks to correct. He also noted that the Federal Energy Regulatory Commission (FERC) ruled that the capacity market is not operating properly, and PJM has since filed proposed changes.

Chair Watkins and Consumers' Counsel Weston thanked Rep. Vitale for his time. Rep. Vitale recognized Mr. Weston for taking the time to work through some very difficult issues. And he offered to return to meet with the Board.

COURTESY RECOGNITION:

Mr. Weston recognized PUCO representative Terry Bell on his upcoming retirement and wished him well. Mr. Bell has been a regular attendee at OCC Board meetings.

REMARKS BY CONSUMERS' COUNSEL BRUCE WESTON:

Mr. Weston expressed his appreciation for Rep. Vitale attending today's meeting, and offered follow up on a couple of related matters.

Mr. Weston clarified that a rider is a charge that is added to consumer utility bills (especially under Ohio's 2008 energy law). He emphasized that riders are a significant issue and OCC has a lot of consumer protection work related to riders.

Mr. Weston briefly discussed the PJM Capacity Market. In essence, the capacity market is the power plant market. He said that sometimes when a utility complains that the capacity market isn't working, the utility really is claiming that the PJM pricing is too low (which likely is not something consumers would complain about).

GUEST SPEAKER – JEFF JACOBSON, STRATEGIC INSIGHT GROUP:

Mr. Jacobson provided an update on legislative activity beginning with H.B. 246 (by Rep. Vitale). The bill has the stated intention to reform and modernize the PUCO and the OCC. Mr. Jacobson says this is an aspirational bill which announces that this is a topic the sponsor wants to pursue. H.B. 247 (by Rep. Stein) would allow monopoly utilities to enter a competitive market and serve electric consumers on other business lines (that are not presently utility services) for a profit. The language in this bill is fluid and may address some issues yet to be decided. Mr. Jacobson noted the driving force behind these bills seems to be more from the House than the Senate, which is different from several years ago.

Mr. Jacobson said there are two things that affect decision-making now. The first is PUCO used to be in charge and the General Assembly was hands off. Those roles are somewhat reversed now. The second is term limits for legislators, which has impacted utility matters and the effects of deregulation, both of which occurred at the same time. Mr. Jacobson said one of the challenges with term limits is if a utility makes repetitive requests of legislators over time but the current legislator wasn't in office when the utility made an earlier request, the current legislator likely has no knowledge of the prior request and how the legislator handled it. The timing of deregulation and term limits has made it more difficult to maneuver through the issues.

PRESENTATION BY CONSUMERS' COUNSEL BRUCE WESTON:

Mr. Weston provided an overview of the history and purpose of the OCC for the new Board members. He 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 reviewed the agency mission, vision and core values for our consumer advocacy. Next, he presented an overview of the agency's departments and invited each department director to talk about their respective department's responsibilities for consumer protection.

Mr. Weston said there is a resolution pending in the House to protect consumers from robo-calling and spoofing of Caller ID on calls to consumers. Verde Energy is an energy marketer and has charged more than three times the market rate for natural gas. The PUCO Staff has documented that Verde spoofed calls to deceive consumers. Verde recently applied for a renewal of their operating certificate with PUCO. OCC objects to granting Verde an operating certificate. OCC's position is that once an energy marketer has been documented as spoofing calls to deceive Ohioans, the marketer should not be allowed to continue its operations here. OCC will likely submit testimony in support of these consumer protections.

PRESENTATION BY DEPUTY CONSUMERS' COUNSEL SAUER:

Mr. Sauer provided an update on the consumer impact of federal tax cuts. Recently there was a settlement in a Dominion case, that called for Dominion to share its tax savings with its consumers. Dominion customers will be receiving lower rates as a result of the federal tax cuts. Consumers will receive \$416 million back over 38 years from over-collection of taxes related to plant assets, another \$181.5 million over six years for deferred assets not related to plant, \$36.3 million in a one-time payment for deferred tax over-collection since 2017 when the tax act was passed, and another \$18.9 million each year to reflect federal income tax reductions from 35% to 21%, until the next base distribution rate case. Customers will receive a \$5.80 per month credit the first year, \$3.15 per month credit for years two through six, and an estimated \$1.55 in year seven and beyond. Mr. Weston commented that the tax law requires the timing of the refunds based on useful life of the assets, which explains why some of the timelines for reducing rates will be long.

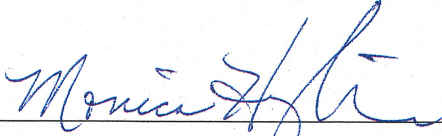
Ms. Moore made a motion to adjourn the meeting. It was seconded by Mr. Newman. Ms. Hunyadi called the roll. The motion was unanimously approved.

The meeting adjourned at 12:15 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on January 14, 2020.



Stuart Young, Acting Chair (Vice-Chair)



Monica Hunyadi, Interim Secretary
Ohio Consumers' Counsel Governing Board