



# *Resolution*

## ***Governing Board of the Office of the Ohio Consumers' Counsel***

### **In Support of Legislation for Regulatory Reform to Protect Consumers by Enabling Refunds of Improper Utility Charges**

- WHEREAS,** Electricity, natural gas, telephone, and water services are essential for Ohioans; and
- WHEREAS,** Ohio consumers should have utility services that are adequate, reliable, safe, and reasonably priced; and
- WHEREAS,** In 1999, the Ohio General Assembly enacted Senate Bill 3, the electric deregulation law, to give Ohioans the benefits of power plant competition, among other things; and
- WHEREAS,** In 2008, the Ohio General Assembly enacted Senate Bill 221, which created new ratemaking processes (including so-called "electric security plans") that favor electric utilities and disfavor residential consumers with a result of electric consumers paying above-market subsidies and other charges; and
- WHEREAS,** Under a 60-year old Ohio Supreme Court precedent, consumers are denied refunds of utility charges even if the charges to consumers are later determined by the Ohio Supreme Court or other authorities to be improper; and
- WHEREAS,** On June 19, 2019, the Ohio Supreme Court ruled that FirstEnergy's PUCO-approved charge for its so-called "distribution modernization rider" is unlawful;

**WHEREAS,** In its ruling that the charges FirstEnergy collected from consumers are unlawful, the Supreme Court denied refunds (about \$456 million) to consumers because the PUCO originally declined to make the charges subject to refund (despite the Ohio Consumers' Counsel and the Ohio Manufacturers' Association jointly asking the PUCO to make the charges refundable); and

**WHEREAS,** Since 2009 (the year after the 2008 electric deregulation law), Ohio consumers of electric utilities have been denied about \$1.2 billion in PUCO-approved utility charges that the Supreme Court has found to be improper.

**THEREFORE, BE IT RESOLVED,** that the Governing Board of the Office of the Ohio Consumers' Counsel urges the Ohio General Assembly to enact consumer protection legislation to enable refunds of improper utility charges.

**AND, BE IT FURTHER RESOLVED,** that the Governing Board of the Office of the Ohio Consumers' Counsel urges the Public Utilities Commission of Ohio to make utility charges subject to refund in the event the Ohio Supreme Court or other authorities find the charges to be improper.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 16th day of July 2019.



Michael Watkins, Chairman  
Governing Board of the Office of the Ohio Consumers' Counsel