



Office of the Ohio Consumers' Counsel

MINUTES OF THE THREE HUNDRED AND SEVENTY SEVENTH MEETING OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD November 21, 2017

Members Present: Mr. Michael Watkins, Chair
Mr. Fred Cooke
Ms. Kelly Moore
Mr. Douglas Moormann
Ms. Andra Troyer
Mr. David Wondolowski
Mr. Stuart Young, Vice-Chair

Members Absent: Mr. Roland "Butch" Taylor

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 9:05 A.M.

MEMBER RESIGNATION:

Chair Watkins informed that one of the new Governing Board members – Ms. Regina Mitchell – has resigned her position on the Board as part of beginning a new venture (to help people) that will require all of her attention. Halli Watson, Assistant Attorney General, stated she would inform the Attorney General of the vacancy.

APPROVAL OF MINUTES:

Chair Watkins asked for a motion to approve the minutes from the September 12, 2017 Board meeting. A motion was made by Mr. Cooke to approve the September 12, 2017 Board meeting minutes. The motion was seconded by Ms. Moore. Ms. Hunyadi called the roll. The minutes were approved unanimously.

ELECTION OF NEW VICE-CHAIR:

Due to the election of former Vice-Chair Watkins to Chair at the September meeting, a vote was held for a new Board Vice-Chair per the Governing Board bylaws. Mr. Moormann made a motion to nominate Mr. Stuart Young as Vice-Chair of the Board. Mr. Wondolowski seconded the motion. There were no other nominations. Ms. Hunyadi called the roll. The nomination of Mr. Stuart Young as Vice-Chair of the Board was approved unanimously with Mr. Young abstaining from the vote.

RECOGNITIONS:

Consumers' Counsel Bruce Weston announced to the Board that Jim Williams was selected as Employee of the Quarter for the third quarter.

Ms. Monica Hunyadi, Chief of Staff – Non-Case Services, introduced the interns who recently joined OCC: Ms. Allison Hose, Ms. Olivia Hey and Mr. Troy Tomasello.

PRESENTATION BY STATE REPRESENTATIVE ROBERT CUPP:

Chair Watkins introduced and welcomed Representative Cupp, who chairs the House Public Utilities Committee. Representative Cupp shared that during his first few months as the Committee chair he worked to gain a better understanding of utilities, as related to public policy, from several different viewpoints. He visited PJM headquarters in Pennsylvania; met with PUCO senior staff, user groups, various stakeholders, and OCC. He also visited a wind farm in Van Wert, a coal generating plant, a nuclear power plant (out of state), and a gas-powered power plant.

He said that the fracking revolution has turned many things upside down. He noted with change there is always a period of transition and a question of what will replace it, much of which the House Public Utilities Committee has had to consider in the bills that come before committee. Rep. Cupp stated he was a Senator when the deregulation bill was passed in 1999. He said a full transition to deregulation has not yet occurred.

Rep. Cupp said some issues being considered by the Committee include: a KWH tax bill to clarify the definition of an electric distribution company for the purpose of the KWH tax as applied to self-generators (Rep. Robert Sprague); H.B. 247 (Rep. Romanchuk) which would revise the way utility ratemaking occurs; H.B. 249 (Rep. Duffey) would authorize the PUCO to adopt rules governing residential utility sub-metering; and H.B. 235 - OVEC Bill (Reps. Rick Carfagna and Ryan Smith). H.B. 235 would allow Ohio utilities to recover losses from the generating plants which are owned by Ohio and non-Ohio utilities and originally set up to serve the uranium enrichment plant at Piketon. H.B. 178 and H.B. 381 have generated a lot of interest because they both deal with nuclear generating plants owned by FirstEnergy which directly affect consumers.

The Committee is interested in hearing from FERC on electrical generation as well as hearing from a Department of Energy representative who is currently in Puerto Rico.

Rep. Cupp said he was pleased to have had discussions with Consumers' Counsel Weston, having him as a resource and for his presentation to the Committee the previous week. Consumers' Counsel Weston thanked Rep. Cupp for his leadership on the Committee and for including OCC in his fact-gathering efforts.

PRESENTATION BY RAY LAWTON:

Dr. Lawton is a former director of the National Regulatory Research Institute (NRRI), formerly at Ohio State, and a former adjunct professor at the John Glenn College of Public Affairs at OSU. He spoke about deployment of utility infrastructure in urban, suburban and rural areas, based on income, cost and the development of competition.

Board Member Cooke asked Dr. Lawton if he thought that going to competition would decrease a utility company's ability to increase productivity and maintain its infrastructure. It seems that infrastructure is falling apart and we're not getting adequate service from the utilities.. Is this because, in going to this form of competition, utilities are trying to please their investors and stockholders?

Dr. Lawton replied that in the private sector investors look at depreciation rates and want a quick return on their investment. With a gas pipe line there can be a 20 – 50 year wait on a return which most private sector people wouldn't tolerate. The delay on seeing a return on investment is due to the length of time it takes for a gas pipe line to become full, which can take anywhere from 5 – 20 years. Dr. Lawton explained this is why service standards are important.

Consumers' Counsel Weston shared with the Board that OCC is a participant in the PUCO regulatory process, when it comes to natural monopolies, by providing experts who can determine what an appropriate amount of cost and profit is. The costs must be considered reasonable and necessary and only capital investments that are "used and useful" in serving the public and are prudently incurred can be passed on to consumers, under the law..

Chair Watkins thanked Dr. Lawton for his presentation.

The Chairman called for a brief break.

PRESENTATION BY DAN SHIELDS:

Dan Shields joined the OCC as Director of the Analytical Department in March 2014. He is responsible for administering the accounting, economic, and financial analyses associated with utility rate filings and other regulatory proceedings that affect Ohio's residential utility consumers. He provides advice and recommendations for OCC's consumer advocacy on technical and policy issues related to utility regulation and legislation.

Mr. Shields' presentation to the Board was in regard to the U.S. Department of Energy Proposal to the Federal Energy Regulatory Commission on grid resiliency. DOE Secretary Rick Perry's proposal to FERC included statements claiming that the resiliency of the electric grid, and our national

security, is in jeopardy, and that regulated wholesale power markets are not adequately pricing resiliency attributes of baseload power plants.

Mr. Shields provided details of the proposed rule which include that certain eligible power plants would be allowed full recovery of costs. Power plants must be able to provide essential generation services with a 90-day fuel supply on site (which is only possible with coal and nuclear power). These power plants must be compliant with all applicable environmental regulations and not subject to cost-of-service rate regulation by any state or local authority.

FERC issued an invitation for public comment on October 2, 2017. To date over 1,600 filings have been made in the proceedings. OCC commented to protect consumers. OCC's comments reflect that, if the DOE proposal is adopted, it will harm power plant competition and result in excessive rates for consumers – potentially costing them billions of dollars. OCC also pointed out that it is the intent of the involved utilities to socialize losses for uneconomic old generation (to the detriment of captive customers) and to privatize all other profits to the benefit of shareholders.

PRESENTATION BY MIKE HAUGH:

Mike Haugh joined the OCC in June 2014 as the Assistant Director of the Analytical Department. He previously worked for OCC from 2004-2007 as a Regulatory Analyst. He provides leadership, support, and analysis concerning energy markets, regulatory policy, and strategic planning, among other projects affecting consumers. In addition, he advocates OCC's position on behalf of Ohioans in various proceedings before the Public Utilities Commission of Ohio.

Mr. Haugh's presentation to the Board was in regard to the DP&L Electric Security Plan (ESP) and what consumers gained and what they lost. The DP&L ESP provides for new subsidies totaling \$375 - \$585 million. It also has a distribution modernization charge which costs consumers \$105 million per year for three years with the possibility of an extension of the charge for two more years. And DP&L has a reconciliation rider which is estimated to cost consumers \$10 million per year in subsidies for the OVEC power plants.

PRESENTATION BY DEPUTY CONSUMERS' COUNSEL SAUER:

Deputy Counsel Sauer's presentation pertained to Case No. 15-1588-GE-CSS which was filed September 15, 2015, after two of Duke's customers died when their electricity was disconnected for non-payment. The lengthy procedural schedule and delay in PUCO action in this case was shared with the Board. The PUCO issued its Entry in this case on October 11, 2017, over two years after the Complaint was filed.

The OCC is seeking a change to the law to implement time limits on the PUCO for considering a complaint.

PRESENTATION BY CONSUMERS' COUNSEL WESTON:

Consumers' Counsel Weston reported that he was invited to present to the House Public Utilities Committee on the role of the OCC in energy matters and to discuss the part of the 2008 law related to ratemaking. He indicated he shared with the committee that the law is not exclusively about energy mandates such as renewable energy and energy efficiency. And there have been a number of bills over the years to change the 2008 law to diminish or eliminate the mandates; H.B. 114 is pending now. The most important and challenging part of the 2008 law is the ratemaking part of the law. Consumers' Counsel Weston shared his thought with the Committee that the market rate approach is more like capitalism and the electric security plan is more like crony-capitalism. He then explained to the Committee the OCC concerns about electric security plans and the subsidies that consumers are paying. The agency is supporting H.B. 247 which, if enacted, would eliminate electric security plans.

Counsel Weston reviewed the Operations Department report included in the meeting packet. After nearly five months into Fiscal Year 2018, the agency has committed approximately \$ 2.44 million or approximately 44% of the total annual budget of \$5.54 million. This committed amount includes both actual expenditures and also encumbrances (for pending invoices/expenditures). Encumbrances are obligated for the remainder of the fiscal year, but paid throughout the year.

Consumers' Counsel Weston gave an update on the office move. He expressed appreciation to DAS for their assistance in the move and thanked Monica Hunyadi and her team for the preparation and management of the move. At the next meeting the Board will be able to tour the new office space.

BOARD MEETING DATES FOR 2018:

The Board meeting schedule for 2018 was proposed as follows:

January 16, 2018

March 20, 2018

May 15, 2018

July 17, 2018

September 11, 2018

November 20, 2018

It was discussed that all of the 2018 Board meetings should begin at 10:00 a.m. A motion to approve was made by Ms. Moore. The motion was seconded by Mr. Wondolowski. Ms. Hunyadi called the roll and the schedule, with time change, was approved unanimously.

BOARD MEMBER TRAVEL EXPENSES

Chair Watkins reported on a recent inquiry into the possibility of Board members staying at a hotel the night before board meetings, per an inquiry by Mr. Cooke. The staff did some research and found that the agency director can authorize those overnight stays as long as OBM/DAS rules are followed.

If a member decides to stay in a hotel the night before a Board meeting, receipts for the room, parking and meals must be provided in order to be reimbursed.

Mr. Wondolowski made a motion to adjourn the meeting. The motion was seconded by Ms. Troyer. Ms. Hunyadi called the roll.

The meeting adjourned at approximately 11:45 AM.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on November 21, 2017.



Michael Watkins, Chair
Ohio Consumers' Counsel Governing Board



Monica Hunyadi, Interim Secretary
Ohio Consumers' Counsel Governing Board