



**MINUTES OF THE  
THREE HUNDRED AND SIXTY FIRST MEETING  
OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD  
January 26, 2015**

Members Present: Gene Krebs, Chairman  
Jason Clark  
Fred Cooke  
Sally Hughes  
Mike Watkins  
Fred Yoder  
Stuart Young

Members Absent: Susheela Suguness, Vice Chair  
Roland Taylor

Guests: Jeff Clark, Attorney General's Office  
Michael Zimmer

**CALL TO ORDER**

Chairman Krebs called the meeting to order at 9:15 a.m.

**APPROVAL OF MINUTES**

Mr. Yoder made a motion to approve the November 12, 2014 meeting minutes. Mrs. Hughes seconded the motion and Mrs. Knight called the roll. The minutes were approved unanimously.

**RECOGNITION BY THE CONSUMERS' COUNSEL**

Deputy Consumers' Counsel Sauer stated OCC recently hired Michael Matthews, Legal Intern.

**UTILITY TRANSITIONS**

Consumers' Counsel Weston noted that there have been two executive transitions in Ohio utilities.

Mr. Alexander, CEO of FirstEnergy Corp., has stepped down and is succeeded by Mr. Charles Jones. Jack Partridge has stepped down as Columbia Gas of Ohio President, and he is succeeded by Mr. Daniel Creekmur. Mr. Weston noted he had worked with Mr. Creekmur to arrive at a settlement in a very challenging case. Mr. Creekmur contacted Mr. Weston and stated he expects to continue the approach of collaboration, transparency and candid dialogue with stakeholders.

### **ELECTIONS OF OFFICERS**

Chairman Krebs read the section of the bylaws pertaining to the election of officers and asked the Board for a motion. Mr. Watkins moved that no changes be made to the leadership of the Governing Board. Mr. Yoder seconded the motion and Mrs. Knight called the roll. The motion passed unanimously, with the result that Mr. Krebs was re-elected as Chair and Ms. Suguness was re-elected as Vice Chair.

Chairman Krebs mentioned that by statute he sits on the PUCO nominating council. The council submitted the following 4 finalists to the Governor for consideration:

- John W. Honabarger, Lancaster
- Steven D. Lesser, Bexley
- Andre T. Porter, Gahanna
- Tom Waniewski, Toledo

### **PRESENTATION BY STUART YOUNG**

Mr. Young showed the Board pictures he took of an electric meter on the island of St. Martins. He showed the Board these pictures with regard to electric safety standards

Mr. Weston congratulated Mr. Krebs and Mrs. Suguness on being re-elected Chair and Vice Chair. Chairman Krebs has asked the Board to focus on electric issues in 2015. Those issues include why Ohioans are not receiving the intended benefits of competition or deregulation.

Mr. Cooke arrived at 9:30 a.m.

Mr. Weston introduced Mr. Michael Zimmer. Mr. Zimmer since 2006 has been an Executive in Residence at the Ohio University Russ School of Engineering and Voinovich School of Leadership and Public Affairs.

### **ELECTRIC UTILITY OF THE FUTURE**

Mr. Zimmer stated today's presentation is a follow up to Scott Miller's earlier presentation to the Governing Board.

Mr. Zimmer stated that future short-term reliance on an old, inefficient and antiquated coal power generation system is not a strong foundation for the future nor will it keep the state competitive.

Distributed generation and storage is key to grid modernization. The building blocks for the 21<sup>st</sup> century include: modernization, efficiency, advanced technologies, distributed generation with smart grids, and waste heat recapture.

A customer-driven utility solution has become more personalized and market driven. The needs of stakeholders are critical. The utility business model and state fuels strategy must change to

capitalize on energy technologies, fuel diversity and innovations available from Ohio-based companies.

#### Electricity Transformation/Energy Resolution

Mr. Zimmer stated that the future will not be built on old technologies using 19<sup>th</sup> century fuels run through 20<sup>th</sup> century energy infrastructure provided by foreign fuel suppliers. The first energy revolution was shale energy; the next revolution is global energy efficiency and microgrids. After 2020, the driver will be electric smart grid and energy storage. Post 2030 will be driven by breakthroughs in materials science, modular nuclear and fusion.

#### Ohio Utilities

The utility scene in Ohio is changing and not for the better. Dayton Power & Light has changed hands. Duke Generation has been sold, as is AEP Generation likely under consideration, so that leaves FirstEnergy. Retail rates have been increasing already and wholesale rates are slated to rise. Transmission and distribution costs have been postponed, and will be the real driver in the next decade. Mr. Zimmer stated that Senate Bill 310 will set the state back in respect to energy efficiency, renewables and demand side management.

#### Challenges Ahead

Utilities are changing their business model. Natural gas costs, renewables costs are changing; distributed generation avoids transmission and distribution costs, and has value for load pockets and resilience. Natural gas reliance is fragile. Due to gas/electric coordination.

#### Technology

A technology-driven future changes the economics, drives customer choice and is more market driven relying on among other things: energy efficiency; solar and other distributed generation; and demand side management; smart grids and advanced metering; energy storage and batteries.

#### Regulation will need to change

Energy retail gas and power marketing will decline with distributed generation and smarter options unless the marketers adopt third-party energy service models that require more capital. Utilities will joint venture with tech and IT companies. Regulation can no longer balance supply availability, reliability or resilience with affordability and environmental impacts. Sound energy policy needs more funding, enforcement, better data and a better quality result for the complexities of the future. Greater deregulation to foster innovation for lower costs and increased services.

Chairman Krebs asked what is the impact to the ordinary Ohioan. Mr. Zimmer responded that the impact on Ohioans will be that customers will have more choices. He referenced the Power Purchase Arrangement (PPA) to recover costs of historical coal and nuclear assets (protecting them from retirement) for a period of 15 years. The PPA will have cost consequences to Ohio's consumers. OCC testimony estimated the cost at \$3 billion while collectively around the state Mr. Zimmer has seen estimates of \$7 billion.

Mr. Young mentioned it was stated that in 2008 the utility will look like the telecom industry. Does that mean there will be fewer players on the fuel and energy side? Mr. Zimmer agreed there will be less players on the fuel and utility side. But they will be forced because of the market (fewer players) to have a diverse set of offerings for services but will have better control over prices.

Mr. Yoder asked why are we are hesitant to allow small businesses to provide energy, contrasting the manner energy services are provided in other countries? Mr. Zimmer replied the problem is that statutory decisions made in the 30s and 40s regarding franchises and service territories are rigorous and constraining; There is a challenge of managing 19<sup>th</sup> century fuels with 20th century physical and regulatory infrastructure. It is no wonder why it doesn't add up to meet the needs of the new market and new customers in the 21<sup>st</sup> century. The focus on bigness comes from Wall Street because Wall Street wants deals and companies with assets of \$100 million and above in order to maximize fees. 8 of 10 new jobs come from small businesses. And local regional financing is critical to fill the void in the region because you can't go to Wall Street to meet those needs. Only one electric utility in the state is in the top 40 of the energy companies in America, based on nine variables evaluated by an assessment in Public Utility Fortnightly. That is a challenge that is a problem.

Will there ever be a price on carbon that will be a part of future energy/infrastructure decisions? Mr. Zimmer responded the Federal Government has estimated the cost of carbon to be \$43 a metric ton integrated into their rulemaking and appliance energy efficiency planning for the future. Depending on industry and company Mr. Zimmer stated he has seen internal estimates for the future cost of carbon to be between \$20 and \$50 per metric ton. However politicians and regulators do not have the resourcefulness or political will to integrate that externality; he submits it is coming from Wall Street. That is why you can't finance a new coal plant using advanced technology today. Companies and states that ignore this issue ignore it at their peril.

Chairman Krebs asked about the death spiral of electric utilities. Are the investor-owned utilities facing a death spiral as outlined in the Wall Street Journal? Mr. Zimmer responded that is a challenge that the electric utilities face. They will act proactively to head off the death spiral. The PPA cases are an example of this proactive effort. There are other examples in other states where utilities are attempting to put rooftop solar in rate base. Some utility may get out of the generation business or focus only on transmission business. The responses will vary by utility and vary by region. The telecom and natural gas companies that faced these same challenges in the 80s and 90s and fought them are no longer with us today. The ones that adapted were agile and took input from regulation, customers and from Wall Street on a capital basis and they either created a better value proposition or they merged in order to survive.

Mr. Yoder asked how vulnerable we are to cyber security. Mr. Zimmer responded that the investment in the cyber security and IT knowledge in the utility industry is not as advanced as it should be. The threat is real and the costs are unknown. New standards are coming out on cyber security issues from the Department of Defense.

Mr. Weston confirmed, by asking, that Mr. Zimmer was not endorsing Power Purchase Agreements as good for consumers. Mr. Zimmer was only aware of approval of Power Purchase Agreement if used for an individual asset where the utility was part of a joint venture, but not for a fleet of utility generating units. A consumer should never accept the PPA proposition without conditions affixed to assure better consumer benefits and ensure better tools to manage price volatility, like a true-up review, to assure forecast and modeling is truly achieved in order to strike a better balance than what is proposed today.

Chairman Krebs stated that leadership is ignoring the issue of what was discussed today. Mr. Zimmer responded that opportunities to raise these issues become available when there is collaboration with trade organizations that have similar alignment of interests. Realize strength in numbers. Join with others (hospital association, retail commercial, small business administration) with alignment of interests in jobs, economy that would allow for a leveraging of interests.

The Board recessed at 10:42am and reconvened at 10:50am.

#### **UPDATE: CONSUMER COSTS/POWER PLANTS**

##### **Re-regulation vs. Competition**

Mr. Shields reported on the utilities' plans to guarantee profits on their deregulated uneconomic generation at customers' expense, also known as the purchase power agreement (PPA). OCC continues to recommend competition as re-regulation would be costly for customers.

On December 20, 2013, AEP filed its re-regulatory/PPA proposal. Oral argument was held at the PUCO on December 17, 2014. During the oral argument, the OCC stated that AEP's re-regulatory proposal is a bad deal for customers. The staff of the PUCO recommended that AEP's proposal be rejected. On October 3, 2014, AEP filed a separate application to re-regulate additional generation facilities (to include nine generation units/2,671 MW). A case schedule has not been set.

On May 29, 2014, Duke Energy Ohio filed its re-regulatory/PPA proposal. The PUCO has heard the evidence. The PUCO staff recommended that Duke's proposal be rejected by the PUCO.

FirstEnergy filed its re-regulatory/PPA proposal on August 4, 2014. OCC's testimony in opposition to the plan was filed on December 22, 2014. On December 22, 2014, FirstEnergy filed a settlement with the PUCO.

OCC continues to support the advancement of competitive wholesale and retail markets in Ohio for service to Ohio electric customers.

Mr. Young inquired about the parties that signed the settlement, and Mr. Shields provided the list of settlement signatories.

Mr. Weston mentioned a guest column by Andrew Thomas in Crain's Cleveland Business last week (January 23, 2015) where he stated "I discussed FirstEnergy's strategy with Ned Hill, noted economist and dean of Cleveland State's College of Urban Affairs. He described it as building a "redistributive coalition," which is comprised of a relatively small group of beneficiaries from a collective action who join forces to advocate a self-interested public policy because they can."

#### **PUBLIC UTILITY EASEMENT ISSUES**

Mr. Sauer reported to the Board on public utility easement issues, per an earlier request by Mr. Yoder. An easement is an interest in land owned by another person, consisting in the right to use or control the land or an area above or below it for a specific limited purpose.

The executed easement document is recorded with the corresponding county recorder's office or courthouse. Under Ohio law, at least three ways exist for a property owner to overcome an easement: adverse possession, waiver, and abandonment.

It was noted that in Duke's 2012 Gas and Electric rate cases, the Utility had attempted to modify its tariff provisions to allow Duke to require the customer to "furnish, without cost to the Company, all necessary rights of way upon or across customer's property necessary or incidental to the supplying of service to other customers who are adjacent to or extend beyond the customer's property." Mr. Weston noted that many utility issues the office confronts are complex, highly technical, and take a good deal of analysis in order to navigate a position for consumers. However, the agency knew upon seeing this proposal that it was bad for Ohio consumers, and we could not agree to it.

Mr. Yoder stated FirstEnergy accessed an easement that had been in place for 50 years. A title search was prepared and the easement did not show up.

Mr. Yoder stated that he knows a FirstEnergy customer who signed a 4-year contract with a competitive supplier thinking that he would get a lower rate. It has been eight months and he has not seen any savings. Mr. Clark suggested that he contact the Attorney General's Consumer Protection Section.

#### **REPORT OF THE CONSUMERS' COUNSEL**

Mr. Weston reported on the post-election legislative session, at the end of 2014. Post-election session activity included: Sub. HB 490, which was related to telephone company support for a bill to deregulate the most basic landline service; Sub HB 662, which was related to reselling of public utility service; and Sub. HB 319, which was related to natural gas economic development projects.

#### **Sub. House Bill 490**

This bill contained many issues including one that could have allowed telephone companies to withdraw basic telephone service from customers. Chairman Krebs provided testimony on this issue, as did Mr. Weston. Chairman Krebs suggested that the Consumers' Counsel assist the

Board with drafting a thank you letter to the Governor for his strong message against this bill. The Senate Agriculture Committee halted work on the bill in December 2014.

#### Sub. House Bill 662

This issue involves the reselling of public utility service by some combination of landlord or a third-party hired by the landlord. Reselling of utility service lacks consumer protections under the law. There were four bills pending. Of those bills the House Public Utilities Committee approved Sub HB 662, sponsored by Representative Duffey. OCC hopes the Committee approval will lead to a new bill and law in 2015 that will limit how much these consumers can be charged for their utility services. Mr. Weston testified on reselling three times in 2014 to recommend consumer protections to the General Assembly.

#### Sub House Bill 319

This bill was intended to provide funds to natural gas utilities for economic development projects. OCC participated in interested-party meetings in the House, and Representative Grossman afforded OCC the opportunity to work with stakeholders on a compromise that was reached that limited how much subsidy customers would have to pay. The compromise enabled OCC to change our position from opposition to neutral. Mr. Weston noted that Representative Grossman kindly invited OCC to the Bill's signing by the Governor.

Looking ahead at the 131<sup>st</sup> General Assembly: In this new legislative session OCC would like to see legislation on refunds to consumers, reselling of utility services, and OCC's pending budget.

Insight on OCC's consumer advocacy: The witness lists for the ESP cases illustrate the amount of work that OCC performs for consumer advocacy. There are 6 OCC witnesses involved in this AEP ESP case; there are 6 OCC witnesses involved in the Duke ESP; there are 8 OCC witnesses involved in the FirstEnergy ESP.

The PUCO allowed for three local hearings that provided opportunities for public testimony in the FirstEnergy case.

Mr. Weston informed the Board that the public can follow OCC on twitter.

Chairman Krebs mentioned that the OCC turns 40 in 2016. Mrs. Hughes stated that some form of recognition is in order. Mr. Weston stated that the Board's input is helpful. Chairman Krebs' suggested the Athletic Club as a location, recognition of past and present board members, and taking advantage of news outlet opportunities.


The next annual photo will be taken in March, and the January meeting will start at 10:00 to allow for weather.

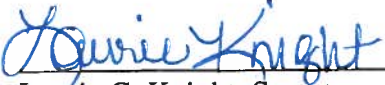
Chairman Krebs asked for a motion to enter executive session to discuss employment and evaluation processes for personnel. Mr. Young made the motion and Mr. Clark seconded the motion.

Executive Session began at 11:45 a.m., and concluded at 12:15 p.m.

With no further business, the meeting adjourned at 12:17 p.m.

I verify that the above meeting minutes have been approved and ratified by the OCC Governing Board on this 17th day of March, 2015.

  
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Gene Krebs, Chairman  
Ohio Consumers' Counsel Governing Board

  
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Laurie C. Knight, Secretary  
Ohio Consumers' Counsel Governing Board