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April 12, 2011

The Honorable Ron Amstutz, Chairman  
House Finance & Appropriations Committee  
Riffe Building, 13<sup>th</sup> Floor  
77 South High Street  
Columbus, OH 43215

Re: HB 153 – Office of the Ohio Consumers’ Counsel Budget

Dear Chairman Amstutz:

As you work to craft the House Biennium Budget recommendation, I write on behalf of AARP Ohio to ask that you take into account some very important issues regarding the proposed cuts to the budget for the Office of Ohio Consumers’ Counsel (OCC). AARP is a nonprofit, nonpartisan organization with a membership in Ohio that exceeds 1.5 million. AARP helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole.

AARP’s primary interest in the OCC budget is in protecting consumers from having to pay a disproportionate or excessive share of the cost of any utility service. Our members have come to rely on the OCC’s efforts, which ensure that consumers are able to rely on the availability of safe, affordable, and high-quality utility and communications services.<sup>1</sup> AARP believes that the restoration of OCC funding is essential because (a) Ohioans age 50+ are facing a convergence of threats to their economic security, notably utility costs; (b) Costs associated with intervening in Public Utility Commission (PUCO) proceedings are exorbitant and exceed the funding resources of most consumer advocacy organizations; and (c) The structure of the utility industry is changing at a rapid pace; and (d) The OCC has a distinguished record advocating for all consumer classes.

### **Economic Security Needs of Older Ohioans**

Utilities—including telecommunications, electricity, natural gas, and water services—are all crucial to health and personal welfare. The ability to contact police, fire, medical, and other responders in times of emergency; to access readily affordable safe water; and to have air-conditioning during the summer and heat during the winter at an affordable rate are absolutely critical. For older Ohioans there is an added dimension of necessity for these services. And for many older people, meeting the cost of utility services requires a significant portion of personal income. Telephone, energy, water, and sewer services account for about 7 percent of an average household’s monthly income. For older Ohioans with annual incomes of \$10,000 or less, this can be as much as 24 percent. On average, families spend a greater share of their income on utility costs than on other necessities such as health care or property taxes. This is the case for an increasing number of older people, as average utility expenditures for households headed by people age 65 and older increase at a rate faster than inflation (*see page 4 - Figure A* ).

Home energy costs make up a considerable portion of household budgets (*see page 4 - Figure B* ). Exceedingly volatile natural gas, electricity, and fuel oil prices in recent years have

significantly increased the energy burden facing many consumers. Older consumers are particularly vulnerable to rapid increases in energy prices. Although they consume approximately the same amount of energy as younger people do, older individuals devote a higher percentage of total spending to residential energy costs. This may be because older people spend a greater proportion of their income on home heating costs (even after adjusting for weather and home size). Low-income older households spend an average of 10 percent of their income on residential energy. However, about one of every four low-income older households spends 15 percent or more of their entire income on home energy bills. Too often low-income older people risk their health or comfort by choosing between cutting back on energy expenditures and reducing spending for other necessities.

Indeed, for too many older people who live in low and moderate-income households, high and volatile home energy prices jeopardize the use of home heating and cooling, and increase the prospect of exposure to temperatures that are too hot in summer and too cold in winter. The potential consequences of exposure to such temperatures includes a host of adverse health outcomes, ranging from chronic health conditions made worse and food insecurity to premature death. In fact the most recent reports indicate that exposure to heat and cold kills thousands of people prematurely in the US each year and causes many more adverse health outcomes that fall short of premature death.

### **Exorbitant Cost to Intervene in PUCO Proceedings**

Pursuant to federal law, state programs should be in place to pay for skilled, knowledgeable, and sustained representation for ratepayers in PUCO regulatory proceedings.<sup>1</sup> The law recognized that few customers could afford such representation without undue hardship, or in the case of a group, “the economic interest of the individual members of the group is small in comparison to the costs of effective participation.” PUCO proceedings regarding the rates, rules and regulations that govern the delivery of utility service are usually dominated by utility companies, their lawyers and consultants. By hearing from different perspectives, such as from the OCC, the PUCO is able to make well-informed decisions that fairly consider the impact of utility cost and service on all people of the State of Ohio.

### **Changing Structure of the Utility Industry**

The need to protect seniors and low-income households through advocacy before the PUCO has increased, rather than lessened. Today utility industries are structured much differently; however, the programs and policies needed to adequately protect consumers have not kept pace. Deregulation or restructuring of utilities has placed new emphasis on the theory that market forces and competition can more efficiently and effectively provide low prices and consumer benefit than traditional regulation of monopoly production and delivery of utility services. Despite the contention among regulators that competition inherently protects the interests of consumers, utility restructuring has placed consumers at risk for financial insecurity. Our experience with utility restructuring in Ohio and elsewhere has been that of increasing price volatility and general price increases. And for utilities focused on their bottom line, programs and policies that have protected seniors have ended up on the chopping block (e.g. closure of local customer service centers and a 51 percent reduction to the OCC budget).

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<sup>1</sup> See Public Utility Regulatory Policies Act of 1978 (PURPA), Public Law 95-617, 16 USC 2601, Subtitle C §121-123. PURPA was created to advance clean energy alternatives.

## **The OCC Remains an Effective Voice for Consumers<sup>4</sup>**

The history of state utility consumer advocacy began in the 1970's, when state agencies were created by state legislatures after natural gas and electric prices were driven up by the energy crises of the 1970's. Since the 1970's and early 1980's, the role of the state advocates was to challenge proposed rate increases by the electric, natural gas, telephone and water monopolies. This role was carried out largely by intervening in formal, economic regulatory cases before public utility commissions. In the 1990's and into the 21<sup>st</sup> century, the state advocates have been at the forefront of protecting consumers during the ongoing transition from monopolies to less regulated markets in which utilities and other firms increasingly compete with one another.<sup>2</sup> Today, as the trend for competition and industry deregulation continues, the OCC has effectively shifted its focus to consumer protection issues, such as service quality, reliability, and price stability.

Chairman Amstutz, AARP looks forward to working with you and your colleagues to help restore sufficient non-GRF funding to the OCC. We appreciate your consideration of our comments on this matter. Please call me in Columbus at (614) 222-1503, if I can be helpful in any way.

Sincerely,

*Ron Bridges*

Ron Bridges, Director  
Policy & Government Affairs  
AARP Ohio

cc: Honorable William Batchelder, Speaker  
Honorable Armond Budish, Minority Leader  
Honorable Vernon Sykes, Ranking Member  
House Finance & Appropriations Committee

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### <sup>1</sup> **AARP POLICY POSITION**

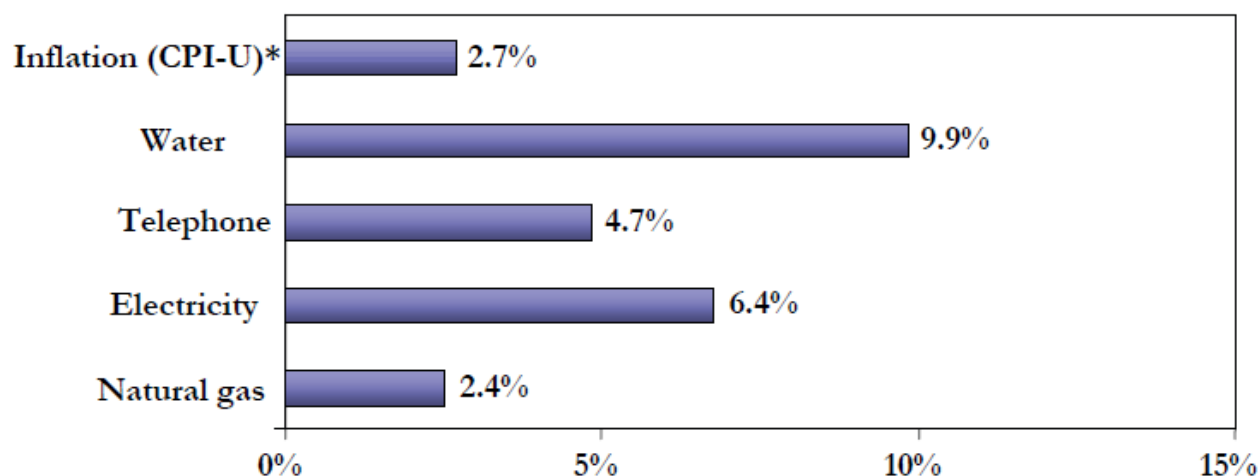
- AARP believes that state policymakers should establish and sufficiently fund independent state utility consumer advocate offices to represent the interests of residential utility consumers before regulatory agencies and in the courts.
- AARP believes that state policymakers should formally adopt and fully fund the Office of Ohio Consumers' Counsel to ensure that community-based organizations and advocacy groups that speak for underrepresented parties will have an informed and effective presence throughout regulatory processes.
- AARP believes that state policymakers should make regulatory proceedings more accessible to non-attorneys, consumer groups without attorneys, and those with limited funding and reduce the complexity and cost of consumer input procedures.

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<sup>2</sup> National Association of State Utility Consumer Advocates. <http://www.nasuca.org/archive/about/index.php> Accessed April 11, 2011.

<sup>2</sup> **Figure A**

### Average Annual Percentage Change in Inflation and Utility Costs for Households Age 65 and Older, 2004–2009



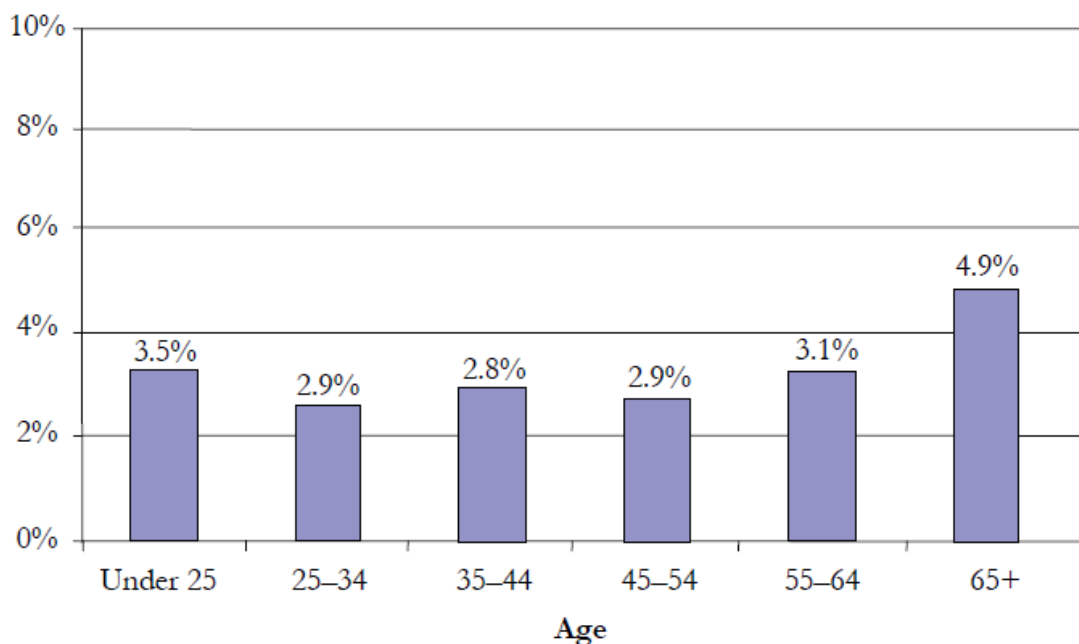
\*CPI-U: Consumer Price Index for All Urban Consumers.

Source: Bureau of Labor Statistics, *Consumer Expenditure Survey*, 2004–2009.

Prepared by AARP Public Policy Institute.

<sup>3</sup> **Figure B**

### Energy Expenditures as a Percentage of Income by Age, 2009



Source: Bureau of Labor Statistics, *Average Annual Expenditures and Characteristics, Consumer Expenditure Survey*, 2009.

Prepared by AARP Public Policy Institute.

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## AARP PRINCIPLES - UTILITIES

All consumers must be able to rely on the availability of safe, affordable, and high-quality utility and communications services. In order to uphold this principle, the following standards must underlie the development, evaluation, and comparison of utility policies and proposals at the federal, state, and local levels.

**Universal service**—essential utility services that are affordable and available to all households

**Quality of service**—reliable, safe, and high-quality utility services

**Consumer welfare**—efficient, transparent, and fair markets for consumers of utility and communications services, with established rights and protections that promote and safeguard the health, safety, and economic interests of consumers

**Customer information**—clearly stated and understandable terms and conditions on all bills, marketing literature, and other relevant communications to enable consumers to make informed decisions about utility providers and products

**Consumer representation**—independent, fully funded, and adequately staffed consumer advocacy organizations empowered to initiate investigations and authorized to represent residential ratepayers before state and federal regulators and in the courts

**Consumer education**—adequately funded education programs to help consumers select utility services wisely and protect themselves against fraud

**Service termination**—established rights and protections for consumers facing service termination

**Regulatory authority**—independent, fully funded, and adequately staffed commissions that are focused on protecting residential ratepayers and empowered to initiate investigations and enforce laws and regulations

**Public participation**—broadly publicized hearings on proposed changes in public-utility services, policies, and rates that are conducted in the service area to be affected and allow consumers and their advocates to express their views

**Low-income discounts**—fully funded and well-promoted low-income assistance programs that include self-certification and automatic enrollment provisions for all low-income consumers with residential utility burdens that exceed the median percentage of household income spent on utility services statewide

**Privacy**—strong protections against the unauthorized use or disclosure of personal information and records

**Regulation and rate structures**—utility rate structures that fairly distribute costs among customer classes and are easy to understand and nondiscriminatory, periodic review of alternative forms of regulation, and mandatory and rigorous audits of unregulated affiliates, parent holding companies, and regulated utilities to ensure the fair allocation of costs and profits

**Terms and conditions for competitive markets**—true and effective competition in markets for residential users before residential utility service is deregulated, with appropriate consumer protections to address ineffective or insufficient competition and continuing regulatory authority and oversight to ensure markets remain competitive

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**Mergers**—strong prohibitions against company mergers that would compromise regulatory protections for residential ratepayers, hinder competition, or fail to increase economic efficiency, and specific safeguards to ensure that residential ratepayers receive at least 50 percent of the short-term and long-term forecasted economic benefits, as determined by regulators, of any proposed merger or acquisition

**Anticompetitive safeguards**—measures that monitor, regulate, and penalize harmful, anticompetitive activity

**Fair prices**—just and reasonable rates that compensate utilities only for prudent investments that will be providing service, or will be capable of providing service, to the utilities’ customers in the foreseeable future.

#### <sup>4</sup> **OCC ACCOMPLISHMENTS 2004 - PRESENT**

Since 2004, the Office of the Ohio Consumers' Counsel (OCC) continues to advocate on behalf of the state's residential utility customers. As a result of the OCC's efforts, consumers will benefit from:

- An agreement among the OCC, the staff of the Public Utilities Commission of Ohio (PUCO) and nine other parties with Cincinnati Gas & Electric to reduce a proposed distribution rate increase by \$26 million.
- \$8 million to be credited to customers after a management performance audit was conducted of Vectren Energy Delivery of Ohio's purchasing practices and the rates it charged consumers. The OCC supported the PUCO auditor's recommendations for \$5 million to be credited, and through its own review found that an additional \$4.5 million also was due to consumers. A rehearing of the audit resulted in the PUCO reducing the credits to \$8 million.
- Secured \$25 million in 2005 for FirstEnergy customers over the period 2006-2008 for energy efficiency programs. Another \$3 million will be used for residential customer energy efficiency programs in which the OCC will help determine the best benefits for consumers.
- Sponsored, along with many organizations throughout the Midwest, the 2005 study by the American Council for an Energy-Efficient Economy. It showed residential consumers could save approximately \$1.2 billion on their energy bills through 2010 - with projections to 2020 - if Ohio's major natural gas and electric companies implement energy efficient programs that include more energy efficient new home construction and rebates on the purchase of more efficient furnaces. The report also showed a significant boost in the economy in terms of jobs when the programs are utilized.
- Protected consumers from paying more than \$235,000 in transmission costs that Cincinnati Gas & Electric attempted to collect without proper authority. In addition, CG&E was ordered to apply a federally-mandated refund to its transmission rates. As the OCC suggested, a review process was also established to guarantee that future transmission costs are scrutinized at the PUCO.
- Advocated for increased income guidelines for the working poor that may not have otherwise qualified for the state's energy assistance programs. The OCC also has focused its efforts toward assisting other groups, including the visually impaired, advocating for large print and Braille utility bill formats. Ongoing dialogue with other consumer groups and agencies has been established to address these issues.
- Increased outreach to minority groups, including the Spanish-speaking and Somali populations, who have significant and growing communities in Ohio.

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- Developed the Action Alerts Network so consumers will be aware of utility issues and how they will be able to voice their opinions to create positive change.
  - Increased participation from the OCC on decisions made at the national level that can affect rates and services for Ohio's residential utility consumers.
  - Research the OCC has engaged in to realize the opportunities of energy efficiency and renewable energy in Ohio. The efforts of the OCC have led to more funding to help low-income customers of Northeast Ohio Natural Gas make energy-efficient improvements to their homes.
  - Prevented the telephone industry from the potential to increase basic local telephone service rates up to 20 percent per year. The OCC's advocacy efforts helped to scale back the maximum monthly increase for basic telephone service to \$1.25 per year. For most customers, the increase would be less than half of what was originally proposed.

Source:

[Office of the Ohio Consumers' Counsel](#) - Your Residential Utility Consumer Advocate