

# Ohio Partners for Affordable Energy

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## TESTIMONY Interested Party

*HB 153*

by

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Chairman Balderson and members of the Subcommittee, on behalf of the nonprofit organizations that make up Ohio Partners for Affordable Energy (OPAE), I want to thank you for the opportunity to testify today regarding Governor Kasich's budget proposal, HB 153.

OPAE's is made up of more than 60 community-based nonprofit organizations which provide weatherization services to income-eligible families and also administer bill payments assistance programs. The agencies function as customers service centers for utility customers having difficulty paying their bills, and are paid by the utilities for the services provided. During the 2009-2010 Winter heating season the agencies served over 400,000 households under the Emergency-Home Energy Assistance Program (known as "E-HEAP" or the "Winter Crisis Program", and another 35,000 families in the Summer Crisis Program. Agencies also assisted more than 200,000 household participating in the Percentage Income Payment Plan ("PIPP"), which is overseen by the Department of Development and the regulated natural gas utilities in the state. OPAE is responsible for the operation, in partnership with the Ohio Department of Development, of additional bill payment assistance programs known as fuel funds. The dollars for these funds come from utility ratepayers and pipeline refunds, among other sources.

OPAE members also deliver services under the federally-funded Home Weatherization Assistance Program ("HWAP") and utility-funded energy efficiency programs. In the past year, American Electric Power and The Dayton Power & Light Company join Duke, FirstEnergy, Columbia Gas, and Vectren in contracting with the network of agencies that make up OPAE to reduce the energy use in low-income households. Ohio is a national leader in the field of weatherization, hiring over 1,000

new employees and hundreds of contractors while weatherizing over 33,000 home in the past 18 months.

Ohio Partners for Affordable Energy assists member agencies in provide essential energy services, including bill payment assistance, weatherization, energy efficiency, and housing services, by conducting education and training programs for nonprofit agencies; managing energy efficiency and bill payment assistance programs; and serving as an advocate for our low-income clients.

It is our latter role which brings me here today. The budget reduction contemplated for the Office of the Ohio Consumers' Counsel will be harmful to the customers of Ohio utilities. The cost of the Office, which is paid through the regulated rates of utilities, is modest compared to the dollars at stake in a typical case before the Public Utilities Commission of Ohio. All customers, including commercial and industrial customers, benefit from the presence of an adequately-funded and competent people's advocate.

Utilities are primarily monopolies from both a legal and practical perspective. For the last century, state regulatory commissions have sought to balance the interests of customers and the monopoly utilities. Over the past twenty years, market forces have been substituted for regulatory procedures where appropriate, and sometime inappropriate. Frankly, neither the market nor regulations are perfect tools to ensure customers – ratepayers – receive essential utility service at an affordable price. The Ohio hybrid of market and regulation, developed by this General Assembly, is a complicated and complex web of statutes and rules. To work effectively in this world of economic regulation, a thorough knowledge of energy markets; fuel supply; environmental regulations; and, new or old technologies is critical.

Utilities have several built-in advantages over the other participants in the business of setting prices for natural gas and electricity service. They have all the information; the Commission can only function by reviewing financial data provided by the utilities. Ratepayers pay for utility company lawyers. I remember one case where the utility had enough lawyers, experts, and staff to make up an entire football team – offense and defense. Customers don't pay for the utility lobbyists directly, but that doesn't stop the utilities from investing in numerous lobbyists because, frankly, the stakes are too high.

Corporations are constantly seeking to improve their profitability. They invest in improved technologies that are more efficient. They shed hundreds of employees. All Ohio utilities have had large layoffs and buyouts, most recently American Electric Power which eliminated 900 jobs. And, most importantly for companies that do not compete in the market in any meaningful way, utilities work to push for the adoption of legal and regulatory policies that will allow electric and natural gas companies to make more money.

To a great degree, this legislature and the Public Utilities Commission of Ohio determine what the profitability of Ohio's regulated utilities will be. Various customer groups are arrayed against the efforts by the utilities to expand their profitability because those profits come out of our pockets. There are small public interest groups like OPAE that focus on the need of low-income customers to have access to affordable energy. Our annual budget for regulatory activities is around \$180,000, less than 15% of what a utility will spend on one case – and recover from its customers. Various commercial chain stores and local governments are involved, some more regularly than others. Industrial customers have traditionally been well represented, both at the General

Assembly and at the Commission. Their lawyers and lobbyists also focus on making money for their clients by negotiating special arrangements or keeping rates low across the board. Still, the resources available to these organizations pale in comparison to those of the utilities.

An adequately funded Consumers' Counsel helps provide balance to the process. The Office has experienced accountants; specialists in wholesale markets, transmission or transportation; energy efficiency and renewable energy analysts; engineers experienced in reliability issues. And, of course, a solid stable of lawyers.

We have a passionate and tenacious Consumers' Counsel. I know Ms. Migden-Ostrander has ruffled some feathers, but she has a real dedication to ensuring customers get high quality and reasonably priced utility service. Ratepayers have a real advocate holding this office.

Two years ago, the Commission handled rate cases for the four largest natural gas utilities, cases implementing SB 221 involving all four major electric companies, and, a host of water, telephone, and transportation cases. I recall hustling between three different settlement conferences and hearings all being held at the same time. The utilities had plenty of staff. The Commission was keeping up. On the ratepayer side, only the Consumers' Counsel had staff adequate to cover it all. None of the rest of us had the resources. We were spread too thin.

The outcome of the cases was mixed, but was in some cases remarkable. In natural gas, the utility rate increases approved were far lower than those requested by the utilities. Electric rates have actually gone down in two service territories; not by much, but any reductions are rare. In the two other electric service territories, the rates have gone up by between 40 and 56 percent, not particularly positive outcomes. Let's

face it – consumers don't win all that often, but when they do the Consumers' Counsel has had a strong hand in it. And when consumers win, utilities lose. Still, Ohio's utilities are all profitable, paying their CEO's multimillion dollar salaries. Sometimes one feels like the little Dutchman with his finger in the dike.

I'm no Pollyanna. I've been doing this type of work for almost thirty years and I know how the system works. Given the legal and regulatory system that has been created to determine the size of utility bills, residential customers need an adequately funded Consumers' Counsel to be able to compete with the private interests. It's a good investment. OPAE will never be able to muster the resources required to replace the experienced, high-quality staff at the Counsel's Office. The Commission and its staff are charged with balancing the interests of customers and utilities. They are the judge. Small customers need a competent organization that has adequate resources to make their case. OPAE recommends level funding for the Office of the Ohio Consumers' Counsel. It is a voice for customers/ratepayers/taxpayers that should not be silenced.