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**Testimony of Ellis Jacobs
On Behalf of the Edgemont Neighborhood Coalition of Dayton
Before the Ohio Senate Finance Committee
Re: Amended Sub. H. B. 153**

May 19, 2011

Introduction

My name is Ellis Jacobs. I'm the attorney for the Edgemont Neighborhood Coalition of Dayton. Edgemont is a community organization in one of the oldest African American neighborhoods in Dayton. It operates after-school programs, a neighborhood garden and greenhouse, and takes an interest in matters that impact the fragile economic condition of its members.

Edgemont contacted me in 1991 to represent them in a Dayton Power and Light (DP&L) PUCO case that would have raised electric rates. I was interested in utility cases but did not know much about them. The place I turned to for information was the Ohio Consumers' Counsel (OCC). OCC has been working in this area since it was founded in 1976. Its attorneys and other experts are nationally recognized as the best when it comes to representing the interests of residential utility customers.

I worked on that DP&L case as part of a coalition which OCC led. DP&L wanted a significant rate increase. The case settled with DP&L getting a much smaller increase. Rate payers saved a lot of money. DP&L thrived.

In 1996, when the Federal Telecommunications Act was passed, Edgemont developed a strong interest in making sure that low-income people could access telecommunications and the internet. In the wake of that Act there were many cases initiated at the PUCO by telecommunication companies. Edgemont intervened in some of them.

OCC is Essential

In each of those cases, OCC was a critical ally. In fact, had OCC not been a party in those cases, it is unlikely that Edgemont would have gotten involved. Let me explain.

Utility cases are not like standard court cases. Lawyers will not take a utility case without first getting special training and there are very few lawyers in Ohio with that training. The PUCO has its own process and procedures. Its own rules of evidence. In a typical court case the initial pleading might be 5, 10 or 25 pages. It arrives in your office in an envelope, or small PDF. In utility cases it is not unusual for the initial filing to fill several bankers' boxes, thousands of pages. It arrives in your office on a dolly. To analyze these documents requires staff specifically trained in utility finance. It requires technical experts. It requires economists. Only OCC has that kind of expertise.



Each case is a mountain. And the companies tend to file them in groups. Some statutes mandate that certain types of cases must be filed on a set schedule. So, it's not one electric company filing a particular kind of case on a certain date. It's four of them. It's not one telephone company filing a particular case. It's five of them. OCC is the only organization working for rate payers in Ohio which has the resources to handle this volume of cases. OCC's present staff is, right now, working to capacity just to keep up.

So, let me be clear. My client, Edgemont, gets involved in only a few of the cases which impact Montgomery County. On the cases we do get involved in, we do not have the resources or expertise to take on all of the issues. We focus only on a few issues of particular significance to low income rate payers. We can do that because we know that OCC is focusing on the big issues of concern to all residential rate payers. If OCC is hobbled and unable to represent customers in important cases, Edgemont will not be able to fill that gap. No one will fill that gap.

Remember, our system, as it is set up, is an adversarial one. The utility companies advocate for their position. The PUCO is the judge. Rate payers need an advocate. OCC is the rate payer's advocate. OCC works on behalf of residential rate payers to check utility company overreaching.

Indeed, OCC is a critical part of the system that has evolved in Ohio over the past 35 years. The result for Ohio has been good. Utility companies are profitable while utility customers have been protected from some of the worst practices and outcomes that have been seen in other states. Our utility system, I should also mention, contains elements of monopoly and elements of competition. That's the reality. Regulation needs to be carefully tuned to fit that reality. That's why the proposed gag rule, limiting the positions OCC can take in cases, is so misguided.

Conclusion

This budget proposal to cut OCC's budget by more than 50% and to put a gag on OCC will gut representation of Ohio's residential rate payers. It will leave the system grossly out of balance, to the benefit of utility companies. It will cost Ohio citizens hundreds of millions of dollars.

I urge you not to cut OCC's funding and to remove the misguided gag rule.

Thank you.