Annual Report 2008




Office of the Ohio Consumers' Counsel

Your Residential Utility Consumer Advocate

The Office of the Ohio Consumers' Counsel

About OCC

The Office of the Ohio Consumers' Counsel (OCC), the residential utility consumer advocate, was created in 1976 by the Ohio General Assembly. The OCC represents the interests of the residential customers of Ohio's investor-owned electric, natural gas, telephone and water companies.

The primary role of the OCC is to participate in legal proceedings in both state and federal courts and administrative agencies, such as the Public Utilities Commission of Ohio, the Federal Energy Regulatory Commission, the Federal Communications Commission and the Supreme Court of Ohio.

The OCC also educates consumers, provides information about their utility services, and handles individual residential consumer complaints relating to public utilities - electric, natural gas, telephone and water.

Mission

The OCC advocates for Ohio's residential utility consumers through representation and education in a variety of forums.

Vision

Informed consumers able to choose among a variety of affordable, quality utility services with options to control and customize their utility usage.

Core Values

Justice

We will advocate for what is fair for Ohio's residential utility consumers.

Respect

We will treat each other, our partners and the public with consideration and appreciation.

Communications

We will share information and ideas to contribute to the making of optimal decisions by our colleagues and ourselves.

Excellence

We will produce work that is high quality and we will strive to continuously improve our services.

Integrity

We will conduct ourselves in a manner consistent with the highest ethical standards.

Contents

2 Message from the Consumers' Counsel

4 Message from the OCC Governing Board Chairman

6 Governing Board Members

8 OCC Directors

10 Government Relations

14 Electric

24 Natural Gas

30 Water

34 Telecommunications

38 Communicating with Consumers

44 Employee Recognition

45 2008 Fiscal Report

46 2008 Case Activity

Message from the Consumers' Counsel

Janine L. Migden-Ostrander
Ohio Consumers' Counsel

The rising economic challenges of 2008 have had a direct impact on Ohio's 4.5 million residential utility consumer households with filings for rate increases by all major investor-owned utility companies. A record-high number of households experienced disconnections, and the ushering in of new regulations promised substantial increases and less consumer safeguards on the horizon. On the positive side, the state legislature moved Ohio to the forefront by passing legislation on alternative energy that will provide customers with tools to manage their consumption.

Our work and accomplishments this year underscore the wisdom of the Ohio General Assembly when it established the Office of the Ohio Consumers' Counsel (OCC) more than 32 years ago and last year returned our ability to handle complaints on residential consumers' bills.

A steadily deteriorating economy has left thousands of Ohioans without jobs or struggling to make ends meet. While many have had their homes foreclosed altogether, more than 425,000 homes in Ohio – or close to one in 10 – experienced a disconnection of their utility service. This is a deeply troubling statistic and one which our office, particularly our customer service staff, is working each day to reduce. This also places a particularly high priority on the OCC's overall advocacy for reasonable rate-making by our utilities. Keeping Ohioans in their homes and able to pay their bills is critical to turning our state toward a healthier financial direction. In last year's Annual Report, we stated that, "In many ways, 2007 was the harbinger of changes in the wind that will continue through 2008." That statement certainly held true.

The year also brought great change in the electric industry with the passage and implementation of Amended Senate Bill 221. The new law changes the way state-regulated electric utilities are structuring their rates. Following the passage of Am. SB 221, the four major electric utilities, American Electric Power, FirstEnergy, Duke Energy Ohio, and Dayton Power & Light, filed three-year proposals to restructure their customers' rates with the Public Utilities Commission of Ohio (PUCO). Under compressed timelines, the OCC's Analytical and Legal teams worked tirelessly to produce savings for customers by identifying where customers were being overcharged and representing them in cases before the PUCO.

Am. SB 221 also mandates that new energy efficiency and renewable energy standards be achieved – the provision of which the OCC believes will be the keystone to Ohioans' energy future. The OCC and other stakeholders were active in negotiations that obtained these key provisions that make Ohio one of America's leading states in the transition to cleaner and more efficient uses of energy technology.

When I first took office in 2004, I put forth a demanding set of goals and established a plan of action for the OCC that included ensuring the use of the renewable power portion of Ohio's energy portfolio. On behalf of residential utility consumers, I am pleased that our state plans are moving in that direction.

The OCC also obtained consumer protections and safeguards in the legislation, including the requirement that a comparison between a regulated and a market-determined rate occur for each utility to ensure that customers receive the lower of the two pricing mechanisms; the removal of a provision that would have allowed utilities to recover a form of stranded costs in perpetuity at a very high cost to consumers; and the requirement of a prudence standard when reviewing the pass-through costs to consumers.

Completion of the new electric policy was just the beginning of the work undertaken by the OCC to protect consumers' interests. While the PUCO was given statutory authority to develop rules for implementation of the new law, the OCC helped create and lead Ohio Consumers and Environmental Advocates (OCEA), a group of advocacy organizations that made joint recommendations on the content of the rules.

The OCC Communications staff, in partnership with other OCEA member agencies, conducted forums throughout Ohio educating electric consumers about the new legislation and encouraging citizens to participate in local public hearings.

Not all of the activity in state-regulated utilities was limited to the electric industry in 2008. The natural gas industry was embroiled in debate over a major change in the PUCO-supported Straight Fixed Variable structure of distribution rates that with the support of other advocacy groups, the OCC, through careful analysis and dogged litigation, vigorously opposed. The OCC opposed the SFV because it increased the customer charge dramatically, thereby reducing the opportunity for customers to save money through conservation, among other reasons.

The OCC and other parties negotiated agreements in rate cases filed by all four of Ohio's natural gas utilities, Dominion East Ohio Gas, Columbia Gas of Ohio, Vectren Energy Delivery of Ohio, and Duke Energy. The agreements reduced the rate increase requests by nearly half and included increased stakeholder funding of the design and implementation of "demand-side management" programs. These initiatives are designed to help customers reduce their natural gas usage by using more energy-efficient appliances and weatherizing their homes. The OCC and its partners also achieved success in these cases by negotiating efforts to provide payment assistance to lower-income residents.

The OCC also advocated for consumer protections and comparably priced alternatives in the telecommunications industry and opposed efforts by the industry to dilute safeguards contained in Ohio's Minimum Telephone Service Standards. The agency vigorously opposed efforts in the telecommunications industry to achieve "alternative regulation," which would enable companies to raise rates on basic dial-tone service by claiming competition in areas where there was, according to OCC testimony, little to none. Our agency also continues to advocate for the expansion of reasonably priced broadband service throughout Ohio by participating on the Outreach Subcommittee of the Ohio Broadband Council and lobbying for funds to support the expansion of this technology.

In the water industry, service quality and billing issues continued to be the concern of the OCC as companies such as Aqua Ohio and Ohio American Water petitioned the PUCO to approve higher rates. The OCC worked with local neighborhood groups and held public forums to better understand consumers' water issues and advocate on their behalf before the PUCO.

As we look toward the challenges that await residential utility consumers in 2009, I would like to thank Gov. Ted Strickland and the General Assembly for their support of the OCC and our mission. I would also like to thank the staff of the OCC for its tireless dedication in advocating for and representing residential utility consumers in their daily work throughout Ohio and in state and federal proceedings. I also want to express my appreciation to the members of the OCC Governing Board, who dedicate themselves to leading and guiding the OCC in its vision. Finally, I want to thank the thousands of Ohio consumers who have attended public hearings, written letters, and have expressed their opinions to help shape our state regulations on utility pricing and policies. I am proud to work with and on behalf of each of you every day and look forward to the success that awaits us in the future.

Janine L. Migden-Ostrander
Ohio Consumers' Counsel

Message from the OCC Governing Board Chairman

Jerome G. Solove
Office of the Ohio Consumers' Counsel
Governing Board Chairman

In 2008, the Office of the Ohio Consumers' Counsel (OCC) exemplified its role as the residential utility consumer advocate. From its participation in the legislative process during debates over Ohio's new electric policy law to its work at the Public Utilities Commission of Ohio (PUCO) to protect consumers from higher rates and inadequate service, the OCC met many challenges over the past year.

At a time of economic hardships, home foreclosures and high unemployment, residential consumers needed the OCC to present their voices on electric, natural gas, telecommunications and water issues. Consumers' Counsel Janine Migden-Ostrander and her professional staff were faced with a large volume of cases in each industry, some of which were on fast-paced timelines. The agency worked quickly and diligently to represent the interests of Ohio's 4.5 million residential consumer households.

Of particular importance was the work involved in the passage of Amended Senate Bill 221, the electric policy law, and subsequent electric security plan cases for Ohio's investor-owned electric utilities. The OCC's hard work and collaboration with the environmental community paid off, as the legislation included renewable energy and energy efficiency standards that utilities must attain. Benchmarks to ensure utilities' continual progress toward meeting long-term goals in these areas, and penalties for noncompliance, were the result of the OCC's and other stakeholders' dedication to moving Ohio forward to diversify its energy portfolio.

The OCC's collaboration with other consumer organizations and environmental groups has brought a united voice to the PUCO on recent electric issues through the creation of Ohio Consumer and Environmental Advocates (OCEA). Such joint efforts send a strong message to state regulators and have the solid support of the Governing Board.

Beyond the regulatory filings produced by OCEA, the group also participated in educational forums throughout the state providing residential consumers with information about their utility's proposed rate plan and encouraging customer participation through testimony at the PUCO's local public hearings and letters to the state regulators.

The OCC's efforts in the area of energy efficiency also produced significant accomplishments within the natural gas industry. By the end of 2008, the four largest natural gas utilities were committed to energy efficiency efforts as a result of the OCC's negotiations with the utilities.

In the telecommunications industry, the OCC has consistently opposed efforts to dilute Ohio's Minimum Telephone Service Standards. The OCC also resisted efforts by several large local telephone companies to move to "alternative regulation" for basic telephone services. Alternative regulation enables eligible companies to raise basic rates each year in an exchange if the PUCO decides it is open to competition and that residential customers have reasonably available alternatives. The telecommunications experts at the OCC spent considerable time and effort analyzing companies' alternative regulation applications, asserting that many of the requests did not demonstrate that competitive choices existed for basic local telephone services.

The OCC and the Governing Board continue to advocate that broadband technology be available to all residential consumers across the state. Broadband connections have become increasingly required to use some applications over the Internet, including the Internet-based telephone service known as VoIP (Voice over Internet Protocol). Broadband access increases economic development and improves the quality of life in communities across Ohio. I look forward to following the OCC's work in 2009 as part of the Ohio Broadband Council.

Through its effective outreach and education efforts across Ohio, the OCC has maintained solid partnerships with consumers, stakeholders and community assistance agencies as it has strived to represent the consumer households for which it advocates. The agency also has presented its point of view on critical utility matters and energy efficiency efforts to print and broadcast media and has maintained a high public profile during weather emergencies as well as public debate over the future of Ohio's energy policy.

The OCC's Consumer Services Division continues to serve thousands of Ohioans on an individual basis, as we help them avoid utility service disconnections, answer their questions and provide them with needed information.

On behalf of the Governing Board, I extend our gratitude to Gov. Ted Strickland and the Ohio General Assembly, as well as to the Office of the Ohio Attorney General and the Ohio Department of Development, for their support of the mission of this agency and their commitment to residential consumers in Ohio.

The year 2008 kept Consumers' Counsel Janine Migden-Ostrander, Deputy Consumers' Counsel Bruce Weston and the hard-working staff at the OCC busy as they worked passionately to represent the interests of residential consumers. I wish to thank them for all of their efforts, congratulate them on their successes over the past year and look forward to 2009's accomplishments. The Governing Board has confidence the OCC will continue to excel in all of its endeavors.

Jerome G. Solove, Chairman
OCC Governing Board

OCC Governing Board Members

Jerome Solove, Chairman

Chairman, 1999 — present
Board Member, 1998 — present
Representing Residential Consumers
Hometown: Powell

Jerome Solove was appointed to the Governing Board in 1998 to represent residential consumers, and became chairman in 1999. He is the president and owner of the real estate development firm, Jerome Solove Development, Inc., headquartered in Columbus. Mr. Solove is a member of the International Council of Shopping Centers, as well as a former board member of the Columbus Area Apartment Association and the Rickenbacker Port Authority in Franklin County. Mr. Solove earned a bachelor of science degree in business administration with a dual major in real estate and finance from The Ohio State University, including a year of study at the London School of Economics.

John Moliterno, Vice Chairman

Board Member, 2003 — present
Representing Residential Consumers
Hometown: Girard

John Moliterno was appointed to the Governing Board in 2003 to represent residential consumers and became vice chairman in 2006. He lives in Girard, Ohio, and is president and CEO of Pegasus Printing Group which includes printing related companies in Ohio and Pennsylvania. In addition, he is the treasurer of the City of Girard. Previously, Mr. Moliterno served as president and CEO of the Youngstown/Warren Regional Chamber of Commerce. He is a board member of the Youngstown State University Penguin Club and Better Business Bureau of Mahoning Valley, and chairman of the Trumbull County Workforce Development Board.

Randy Beane

Board Member, 2005 — 2008
Representing Organized Labor
Hometown: Dayton

Randy Beane was appointed to the Governing Board in 2005 to represent organized labor. Mr. Beane is a lieutenant with the City of Dayton Police Department. During his more than 30 years with the department, Mr. Beane has served in many capacities including District Commander, SWAT Commander, Communications Bureau Commander and Drug Task Force Commander. He currently serves as president of the Dayton Fraternal Order of Police, Lodge No. 44 and as president of the Dayton Police Athletic League. Mr. Beane graduated from Wright State University with a bachelor's degree in urban affairs.

Gene Krebs

Board Member, 2005 — present
Representing Residential Consumers
Hometown: Camden

Gene Krebs was appointed to the Governing Board in 2005 to represent residential consumers. Mr. Krebs is co-director of Greater Ohio, a campaign that is working to revitalize Ohio communities through land use reforms. He served as state representative for House District 60 from 1993 - 2000. Mr. Krebs serves as a board member of the Ohio Mathematics and Science Coalition. Additionally, he is a member of the Camden Chamber of Commerce and the Preble County Farm Bureau. Mr. Krebs graduated from Bowling Green State University with a bachelor's degree in biology, and has published articles in both scientific publications and the general press, such as *The Wall Street Journal*.

Dorothy L. Leslie

Board Member, 2001 — present
Representing Family Farmers
Hometown: Upper Sandusky

Dorothy L. Leslie was appointed to the Governing Board in 2001 to represent family farmers. Mrs. Leslie resides in Upper Sandusky where she and her husband have operated a family farm since 1951. Mrs. Leslie served as state executive director of the Agricultural Stabilization and Conservation Service from 1989-1993. She served as chairperson of the state committee of that agency from 2001-2009 and has received multiple awards from the U.S. Secretary of Agriculture for her service to the farmers of Ohio. As a registered nurse she served as a medical research associate working with farmers for The Ohio State University. She is an active member of a number of farm organizations, community projects and her church.

Joe Logan

Board Member, 2007 — present
Representing Family Farmers
Hometown: Kinsman

Joe Logan was appointed to the Governing Board in 2007 to represent family farmers. In addition to being an active farmer, Mr. Logan serves as director of agricultural programs for the Ohio Environmental Council. He is the past president of the Ohio Farmers Union and sat on the Board of Directors of the National Farmers Union, where he served as chairman of the Budget and Audit Committee and vice chair of the Legislative Committee. He previously served as president of the National Association of Farmer Elected Committees (NAFEC) representing the interests of the locally elected committees in the 2,500 Farm Service Agency offices nationwide.

David McCall

Board Member, 2007 — present
Representing Organized Labor
Hometown: Reynoldsburg

David McCall was appointed to the Governing Board in 2007 to represent organized labor. Mr. McCall is director of District 1 (Ohio) of the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (United Steelworkers). He also serves as secretary of the union's Constitution Committee and chairs the union's Negotiating Committees for several of the member companies. Mr. McCall attended the labor studies program at Indiana University – Northwest and graduated from the Harvard University Trade Union Program.

Michael Murphy

Board Member, 2003 — present
Representing Organized Labor
Hometown: Cleveland

Michael Murphy was appointed to the Governing Board in 2003 to represent organized labor. He lives in North Olmsted where he currently serves as president-emeritus of the Service Employees International Union (SEIU) Local 47. He is also president of the SEIU Ohio State Council, is on the executive board of the Ohio AFL-CIO and is vice president of the Cleveland AFL-CIO. In 2006, he was assigned to be administrative assistant to the North Shore Federation of Labor.

Roger Wise

Board Member, 2006 — present
Representing Family Farmers
Hometown: Fremont

Roger Wise was appointed to the Governing Board in 2006 to represent family farmers. Mr. Wise is president of the Ohio Farmers Union and a trustee for Jackson Township in Sandusky County.

OCC Directors

Consumers' Counsel

As Ohio's Consumers' Counsel, Janine L. Migden-Ostrander oversees the state agency that represents the interests of Ohio's 4.5 million residential households in matters concerning their investor-owned electric, natural gas, telephone and water companies.

Ms. Migden-Ostrander was sworn into office on April 5, 2004, by the Ohio attorney general. Prior to her appointment by the Ohio Consumers' Counsel's Governing Board, Ms. Migden-Ostrander was a partner in the law firm of Hahn Loeser & Parks and served as co-chair of the firm's Utility and Regulatory Practice Group.

In her role as Consumers' Counsel, Ms. Migden-Ostrander has championed a variety of energy and telecommunications policies including integrated portfolio management, alternative sources of energy, energy efficiency programs and innovative rate designs in the energy industry as well as the delivery of broadband services and other technologies to rural and urban customers. Ms. Migden-Ostrander also has made it an agency priority to find solutions for the increasing number of customers who struggle to keep pace with rising utility prices. She is intent on addressing ways to improve traditional avenues of advocacy and outreach and education programming, as well as raising the standards for advocacy to increase the effectiveness of the Consumers' Counsel in regulatory proceedings.

With more than 25 years of experience, Ms. Migden-Ostrander is well-known within the utility and environmental industries as a strong consumer advocate. She began her career in public utilities at the Office of the Ohio Consumers' Counsel, where she served as an administrative assistant before earning a law degree from Capital University. She then was promoted to assistant consumers' counsel for the agency and litigated a variety of cases that involved state-regulated electric, natural gas, telephone and water utilities.

Ms. Migden-Ostrander's previous experience also includes serving as senior director of government affairs for Enron Corp. and as special prosecutor for Montgomery County. She has been involved in proceedings before numerous state utility commissions, and has monitored activities and worked on policy issues involving state and federal energy and telecommunications matters. In addition, she has worked on legislation in numerous states involving a variety of issues including natural gas and electric competition.

Ms. Migden-Ostrander is a past board member of Green Energy Ohio, Ohio Partners for Affordable Energy, the Ohio Environmental Council and the National Low Income Energy Consortium. She currently serves on the National Coal Council, a federal advisory committee to the U.S. Secretary of Energy, as well as the Executive Committee of the National Association of State Utility Consumer Advocates and on the Board of the Midwest Energy Efficiency Alliance. She earned a bachelor of arts from the State University of New York, and earned a Certificat de la Langue et Civilisation Francaise from the Universite de la Sorbonne in Paris, France.

Deputy Consumers' Counsel

As Deputy Consumers' Counsel, Bruce J. Weston oversees the Legal Department and contributes to the formulation of policy for the Office of the Ohio Consumers' Counsel (OCC) and its Governing Board. In addition, he fulfills Janine Migden-Ostrander's role as Consumers' Counsel in her absence.

The Legal Department works with the agency's staff to represent the interests of residential consumers in complex utility proceedings before the courts and regulatory commissions at both the state and federal levels. Mr. Weston manages a staff of attorneys that has extensive experience in negotiation and litigation of utility proceedings. His responsibilities also include overseeing legal work involving the preparation of proposed changes to state laws and administrative rules and review of legislation to assist residential consumers.

Mr. Weston brings more than 25 years of experience in public utilities law to the OCC. He is committed to protecting the interests of Ohio's 4.5 million residential utility households. His priorities for the OCC include advocating for reasonable rates, competitive choices, new technologies, and maintaining good service quality for residential utility consumers throughout Ohio.

Prior to joining the OCC in October 2004, Mr. Weston was in the private practice of law. He served as legal counsel for clients in cases involving utility rates, service quality, industry restructuring and competition.

Mr. Weston began his career at the OCC in 1978 as a law clerk. After earning his Juris Doctor degree from The Ohio State University College of Law in 1980, he began a 12-year tenure as counsel for the agency.

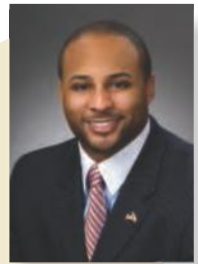
Analytical Services

Aster Rutibabaliara Adams joined the OCC in November 2005 as the Director of Analytical Services. He is responsible for overseeing the review of the accounting, economic and financial analysis associated with utility rate filings and other regulatory proceedings and providing advice and recommendations concerning technical and policy issues related to utility regulation. Prior to joining the OCC, Dr. Adams was chief of the Economic Analysis Division/Competitive Markets and Policy Division of the Tennessee Regulatory Authority. Prior to moving to the United States in 1990 from Rwanda, he was an assistant professor at the National University of Rwanda where he taught econometrics, macroeconomics, microeconomics, statistics, monetary theory and industrial organization theory. He holds a bachelor's degree and a licentiate degree in economics from the National University of Rwanda and a master's degree in economics from Vanderbilt University. He completed a doctorate program in economics from Vanderbilt University in September 2008.

Communications

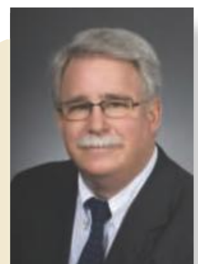
Beth Gianforcaro re-joined the OCC as the Director of Communications in October 2007. She held a similar communications position at the OCC from 1986-1992. She manages a staff of communications experts in the planning and implementation of public and media relations activities, outreach and education efforts, the development of printed materials and the OCC Web site. Ms. Gianforcaro has more than two decades of experience managing award-winning communications programs for several State of Ohio government agencies including the Ohio Environmental Protection Agency, the Public Utilities Commission of Ohio, the Ohio Rehabilitation Services Commission and the Office of the State Treasurer. She is active in professional communications organizations including the Central Ohio chapter of the International Association of Business Communicators and serves on the board of directors for the Central Ohio Chapter of the Society of Professional Journalists. She holds bachelor's degrees in English-journalism and speech communications from Miami University, Oxford, and is completing a master's of science degree in journalism from Ohio University's E.W. Scripps School of Journalism.

Government Affairs



Oyango A. Snell joined the OCC as Director of Legislative and Governmental Affairs in November 2008. He serves as the relationship manager and legislative policy advocate between state and federal government and the OCC. Prior to joining the OCC, Mr. Snell was in private law practice. He served as legislative counsel for clients representing the insurance and construction industries. He also represented small businesses and individuals in civil litigation and transactional matters. Mr. Snell began his career in state government in 1998 as a legislative intern for the Ohio Legislative Service Commission. He holds a bachelor's degree in political science from Central State University, a master's degree in business administration from Franklin University, and a law degree from The Ohio State University Michael E. Moritz College of Law.

Operations



Charles Repuzynsky joined the OCC as Director of Operations in July 2005. He oversees the Operations Department, which encompasses the Administration and Consumer Services Divisions. His areas of responsibilities include finance, budgeting, strategic planning, human resources, information technology and the Consumer Services Division. Prior to joining the OCC, Mr. Repuzynsky served as the chief financial officer for the Ohio Historical Society, a non-profit quasi-government organization. He is also a member of the Institute of Management Accountants, the American Payroll Association, the Association of Government Accountants and the Society for Human Resource Management. He holds a bachelor's degree in business administration with a major in accounting from The Ohio State University.

Government Relations

The Office of the Ohio Consumers' Counsel (OCC) played a significant role in the drafting and passing of Amended Substitute Senate Bill 221, one of the important pieces of legislation signed into law during the past year.

Gov. Ted Strickland signed Am. SB 221 into law May 1, 2008. This law will change the way electric utilities establish rates for their customers and create the framework for the introduction and development of new environmentally-friendly technologies in Ohio for the foreseeable future.

The OCC has been deeply involved in outreach efforts to state and federal lawmakers as it has advocated for the interests of residential consumers since its establishment by the General Assembly in 1976. In 2008, more than ever, the OCC's presence was felt at the Statehouse as the landmark energy legislation worked its way through the negotiations process.

Janine L. Migden-Ostrander, Consumers' Counsel, monitored the progress of Am. SB 221 by attending many of the hearings and by testifying about critical components of the measure favorable to the interests of consumers and in keeping with the OCC's goal of promoting energy efficiency efforts and increasing reliance on renewable sources of energy.

While the enactment of alternative energy standards was a significant achievement for Ohioans, many aspects of the final product, such as the potential for the utilities to request large rate increases to residential consumers, are of concern to the OCC. This is especially true given the troubled nature of Ohio's economy at the current time.

Under Am. SB 221, electric utilities can file for rate increases outside normal ratemaking procedures. The cost to consumers could reach into the hundreds of millions or billions of dollars without a requirement for audits or hearings. The timeline for completion of rate cases also was a concern for the OCC. The Public Utilities Commission of Ohio (PUCO), under Am. SB 221, will have 150 days to complete its review of a utility's first rate proposal. The OCC's position is that this timeline was restrictive and that a proper review and analysis of a proposal would be inhibited.

Some of the key provisions of Am. SB 221 are as follows:

Energy efficiency

- A 22 percent reduction in energy demand by 2025; and
- Benchmarks and penalties for failure to meet the standards.

The OCC welcomed legislative approval of energy initiatives it had advocated during the past two years. Am. SB 221 included the adoption of the OCC's recommended level of energy efficiency as well as other related provisions.

Alternative energy

- By 2025, 25 percent of electricity sold in Ohio must come from alternative energy sources;
- 12.5 percent of this standard must come from renewable resources, such as wind energy or solar; and
- 12.5 percent of the standard must also come from alternative energy services in Ohio, thereby promoting growth and energy independence for this state.

The OCC considered the renewable energy mandate a prime objective during its participation in the negotiations and found the benchmarks and penalties for non-compliance to be in the public interest.

Regulated vs. market rates

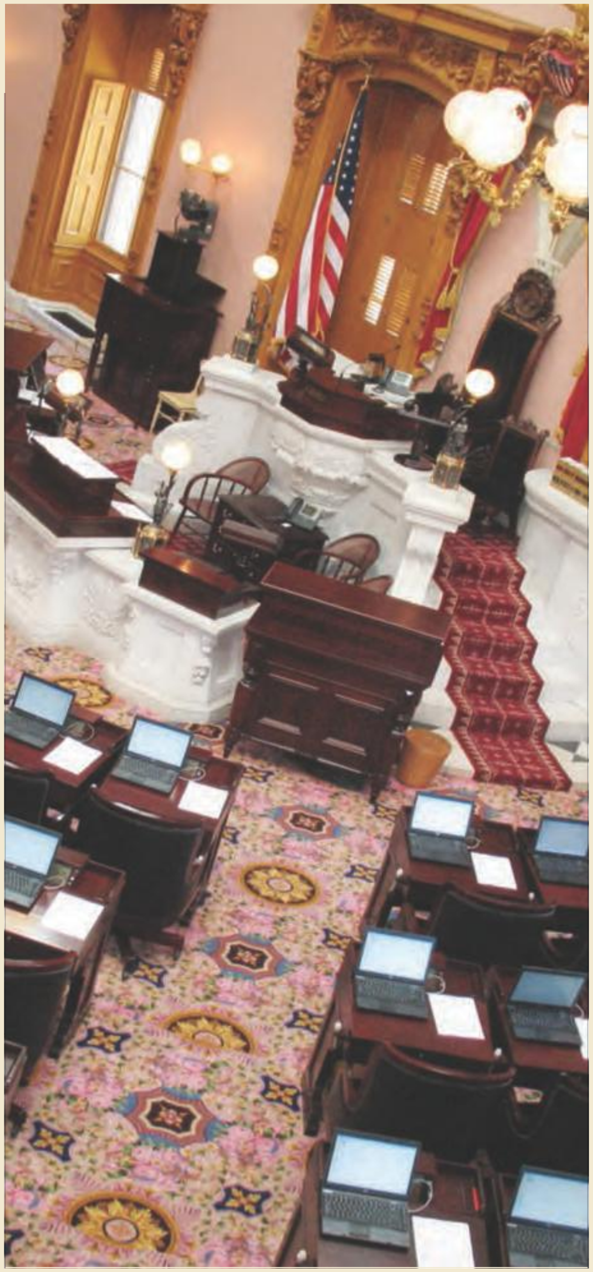
- By Jan. 1, 2009, each electric utility must file an Electric Security Plan (ESP) with the PUCO. (Dayton Power & Light may continue its current rate plan through 2009);
- Electric utilities may propose charging a Market Rate Option (MRO), which would include a competitive bidding process for generation service;
- FirstEnergy, which has separated its generating assets into a separate affiliate, owns power plants and may transition to a full Market Rate Option;
- If AEP, DP&L or Duke propose charging market rates, they must do so on a phase-in basis, with 90 percent of its rates determined under the Electric Security Plan in the first year; and
- A comparison between the ESP rate and MRO must result in the option that is more favorable to consumers in the aggregate.

The OCC was successful in gaining a comparison between the Electric Security Plan and Market rates; however, the agency continues to take the position that Am. SB 221 should maintain the flexibility to ensure that each utility offers the lowest cost option to its customers.

The OCC also was concerned that Electric Security Plan rates will not be established using the traditional ratemaking process, which requires that rates be set based on cost. Our office maintains that generation and distribution rates must be subject to this process so that costs can be verified as just, reasonable and prudent.

Excess earnings

- The PUCO must consider annually whether a rate determined under an Electric Security Plan resulted in excess earnings for the utility; and
- If the term of the Electric Security Plan exceeds three years, this consideration will occur every four years.



The OCC supports the concept of monitoring excess earnings and holding utilities accountable if customers are overcharged.

Elimination of regulatory transition charges

- Regulatory Transition Charges (RTCs), which reflect costs incurred by the utilities prior to deregulation and most of which will have been fully recovered by 2008, are eliminated.

Removal of RTCs is an important victory for the OCC. In FirstEnergy's territory, this provision in Am. SB 221 resulted in a savings to customers of $590 million and more modest savings in other utility service territories.

Potential rate increases

- Electric utilities can file for automatic increases outside the normal ratemaking process to recover generation costs such as environmental, fuel, operation and maintenance, and providing standby and default service;
- Costs of new power plants may be recovered prior to customers receiving benefits from their construction. The utility must demonstrate a proven need for the plant and competitive sourcing for construction; and
- Distribution costs may be included in the utility's Electric Security Plan, thereby sidestepping the ratemaking process and avoiding examination of their necessity.

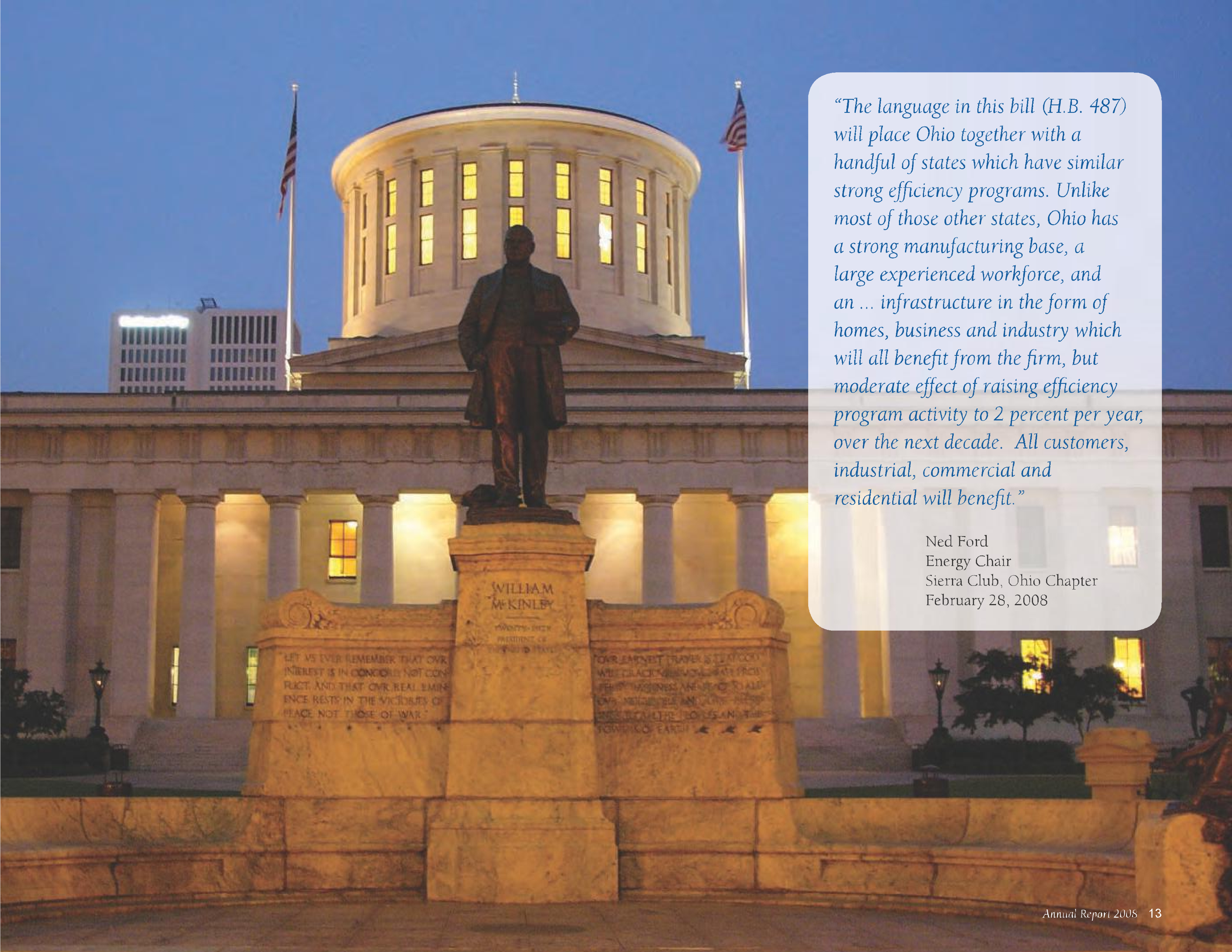
The OCC was concerned about the long-term potential for significant rate increases to customers and took the position that cost recovery should take place in a manner allowing the OCC to present a sufficient case on their behalf. The OCC will continue presenting its recommendations to the PUCO and advocating to protect consumers from prohibitive cost increases during a time of recession.

Additional utility initiatives introduced in 2008 included:

HB 487- Introduced by Rep. Jim McGregor (R-Gahanna) on Feb. 21, 2008, HB 487 would have established alternative energy benchmarks for electric distribution utilities and electric service companies, provided for renewable energy credits and required gas emission and carbon control planning for generating facilities. Janine Migden-Ostrander testified before the House Public Utilities Committee on behalf of this legislation on Feb. 28, 2008. While HB 487 failed to leave the committee, many of the renewable/ advanced energy standards and energy benchmarks supported by the OCC were incorporated into Am. SB 221.

HB 72- Introduced earlier in the session, Rep. Clyde Evans' (R-Rio Grande) bill would have created a task force to study broadband and wireless communication. With the end of the legislative term in 2008, this bill died in the Public Utilities Committee.

HB 250- Introduced earlier in the session by Rep. Shannon Jones (R-Springboro), this bill would have created revenue decoupling mechanisms for natural gas companies. This bill was incorporated into Am SB 221.



"The language in this bill (H.B. 487) will place Ohio together with a handful of states which have similar strong efficiency programs. Unlike most of those other states, Ohio has a strong manufacturing base, a large experienced workforce, and an ... infrastructure in the form of homes, business and industry which will all benefit from the firm, but moderate effect of raising efficiency program activity to 2 percent per year, over the next decade. All customers, industrial, commercial and residential will benefit."

Ned Ford
Energy Chair
Sierra Club, Ohio Chapter
February 28, 2008

Electric

The development and signing into law of Amended Senate Bill 221 (Am. SB 221), Ohio's new electric energy policy, was a major issue for consumers and the Office of the Ohio Consumers' Counsel (OCC) during the first half of 2008. The contents of this legislation are discussed at length in the "Governmental Relations" section of this report.

During the consideration of Am. SB 221 by the General Assembly, the OCC advocated for the interests of residential customers to ensure they would receive the lowest cost option in utility rate setting proceedings and supported a statewide sustainable energy policy that would provide consumers with opportunities to reduce their electric bills.

These efforts included active participation in legislative discussions and comments on the proposed Public Utilities Commission of Ohio (PUCO) rules regarding proceedings to determine standard service offers (i.e. rates for generation service) for Ohio's electric utilities. The standard service offers could be market-based or set through a regulated process to establish an Electric Security Plan.

The OCC and its partner stakeholders successfully completed a two-year effort to have renewable and energy efficiency standards included in the language of Am. SB 221. The OCC also succeeded in obtaining important consumer protections, including a comparison of a regulated rate against a market rate to ensure the lowest-cost option is adopted; a prudence standard of review for utility costs; and a requirement that regulatory transition charges expire as scheduled.

As a result of Am. SB 221, the PUCO drafted rules setting guidelines for implementing the new policy, including the filing of Electric Security Plans by each utility and the meeting of energy efficiency and renewable energy requirements.

The OCC initiated the formation of Ohio Consumer and Environmental Advocates (OCEA), consisting of more than 15 organizations from across the state. Spearheaded by the OCC, OCEA provided comments on draft rules written by the PUCO staff. As part of the rulemaking, the PUCO also included a review of the Electric Service and Safety Standards. OCEA sought to strengthen the reliability rules and hold electric utilities accountable for properly maintained distribution systems. Unfortunately, the PUCO failed to adopt the majority of OCEA's recommendations.

As each electric utility filed its Electric Security Plan, the OCC reviewed thousands of pages of filings and work papers and provided opinions to the PUCO in expert testimony. The OCC consistently expressed concerns over the amounts of proposed rate increases during a period when households were struggling in a weak economy. The timeline for completing this work was compressed into less than five months as the result of a provision in the new law reducing the time allotted for the PUCO to decide on rate proposals from the utilities.

While the impact of Am. SB 221 dominated the OCC's electric industry work, other significant activities also took place during 2008. In mid-2007, FirstEnergy filed with the PUCO to collect $340 million more in annual distribution revenue from all customers beginning in 2009. The case was heard and briefed and a decision from the PUCO was still pending at the end of 2008.

The OCC, with others, won a victory at the Supreme Court of Ohio, which reversed a PUCO order authorizing American Electric Power (AEP) to start collecting for the development of an Integrated Gasification Combined Cycle (IGCC) plant in Meigs County. In addition, the OCC filed and argued a case at the Court involving Duke Energy's rate stabilization plan.

The reliability of Ohio's electric utilities continued to concern the OCC in the wake of widespread statewide outages caused by Hurricane Ike in September 2008. The OCC questioned whether their breadth and depth could have been limited through better year-round efforts by the utilities to trim trees, replace poles and maintain all the elements of their distribution systems.

AEP additional generation rate increases

(Case Nos. 07-1132-EL-UNC, 07-1191-EL-UNC, 07-1278-EL-UNC, 07-1156-EL-UNC)

Ratepayers avoided paying $10 million in generation costs through the end of 2008 as a result of an agreement among the Office of the Ohio Consumers' Counsel (OCC), American Electric Power (AEP), Public Utilities Commission of Ohio (PUCO) staff and others. The agreement also provided customers $18 million in credits associated with net congestion costs.

In addition, AEP agreed not to file for any additional cost recovery associated with major federal environmental rules, such as the Clean Air Interstate Rule and the Clean Air Mercury Rule.

The agreement, approved by the PUCO in January 2008, was reached after a series of AEP filings followed the PUCO's 2007 approval of generation cost recovery riders. The riders had enabled AEP to request recovery of increases in costs permitted under its rate stabilization plan.

AEP's rate plan allowed the utility to apply for generation rate increases up to an average of 4 percent per year from 2006 through 2008 for environmental and security expenses over and above automatic annual generation rate increases of 3 percent (Columbus Southern Power) and 7 percent (Ohio Power).

In its review, the OCC concluded that AEP was attempting to collect more environmental and transmission costs than necessary, that some costs were to provide electric service to customers outside of Ohio, while other costs were requested for work that AEP should have performed during the 1990s to meet federal regulations.

FirstEnergy fuel costs

(Case Nos. 07-1003-EL-ATA, 07-1004-EL-ATA, 08-124-EL- TA, 08-125-EL-AAM)

The Office of the Ohio Consumers' Counsel succeeded in its argument to persuade the Public Utilities Commission of Ohio (PUCO) to subject FirstEnergy's purchasing practices to an independent audit, potentially resulting in savings to customers of the utility.

The PUCO decision in January 2008 followed an August 2007 decision by the Supreme Court of Ohio requiring the PUCO to reconsider a 2005 ruling allowing the deferral of FirstEnergy's fuel costs. The Court found error with the PUCO's decision to allow the deferral of fuel costs to be recovered through distribution rates, rather than generation rates, as they are two different services, distinctly itemized on customers' bills since 2001. Generation service relates to the production of electricity at power plants, while distribution service covers local poles, wires and facilities.

In response to the Court's decision, FirstEnergy filed a proposal to establish two generation-related riders. One would raise fuel costs from the beginning of the deferral period (2006) though September 2007, using the utility's 2002 fuel costs as a baseline of comparison. A second rider would recover fuel costs from October 2007 through December 2008.

In its response, the OCC asked that FirstEnergy be required to spread out collections from customers over time to lessen the immediate impact and not collect all the deferred costs in one year.

In January 2008, the PUCO concluded that FirstEnergy's request to recover 2006 and 2007 costs in 2008 was unreasonable and required the utility to file an alternative method.

FirstEnergy then filed to collect the deferred costs over a period of between five and 25 years. The alternative proposal is pending at the PUCO.

A report by the PUCO staff reviewing the prudence of FirstEnergy's purchasing practices was issued in June 2008. The evidentiary hearing on the report was continued indefinitely by the PUCO.

American Electric Power IGCC power plant cost recovery

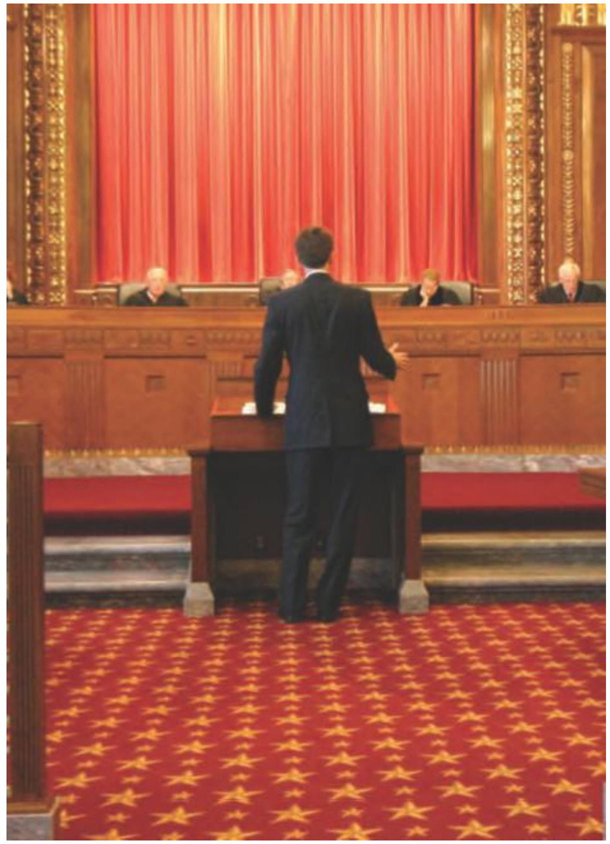
(Supreme Court of Ohio Case No. 2006-1594)

The Supreme Court of Ohio upheld an appeal by the Office of the Ohio Consumers' Counsel (OCC) and three other parties in March 2008. The decision reversed a Public Utilities Commission of Ohio (PUCO) decision authorizing American Electric Power (AEP) to begin collecting costs for the development of an Integrated Gasification Combined Cycle plant in Meigs County prior to the start of construction.

The OCC appealed the PUCO's decision, maintaining that it lacked the authority to grant AEP's request. The PUCO had ruled that the plant was a distribution, rather than a generation asset. The OCC argued that under this rationale, regulators acted outside the statutory ratemaking procedures for distribution rates when they allowed rates to increase. The state legislature had passed a law deregulating generation-related costs in 1999.

The Court reversed the PUCO's decision, finding that "additional legislative authority is necessary" to support generating projects and that all of the evidence in the record defined the IGCC power plant as a generation asset. Existing statutes require a distribution rate case to be filed in order to approve an increase in such rates, including a test of whether the power plant is "used and useful."

The case was remanded to the PUCO to correct its errors and a decision was still pending at the end of 2008.



Duke rate plan argued at Supreme Court of Ohio

(Supreme Court Case No. 08-36)

For the second time, the Office of the Ohio Consumers' Counsel (OCC) in 2008 presented oral arguments to the Supreme Court of Ohio in opposition to Duke Energy's rate plan.

The case was originally appealed to the Court by the OCC in 2005. In 2006, the Court returned the case to the Public Utilities Commission of Ohio (PUCO), finding that the PUCO lacked sufficient evidentiary justification for accepting Duke's proposal to assess new charges.

In addition, the Court found that the PUCO should have allowed the OCC access to any side deals offered to large volume users of energy to gain support for Duke's rate plan.

In 2007, the PUCO reheard the Duke rate plan case. Side deals were presented by the OCC to the PUCO as evidence. Those side deals allowed large volume users to avoid certain surcharges that residential customers had to pay. However, the PUCO declined to consider the OCC's arguments and made no significant changes to the generation rates that customers paid under the PUCO's previous decision.

The OCC's second appeal was pending a decision by the Court at the end of 2008.

Rules written to implement Ohio's new electric policy

(Case Nos. 08-777-EL-ORD, 06-653-EL-ORD, 08-888-EL-ORD)

During 2008, the Public Utilities Commission of Ohio (PUCO) drafted rules governing the implementation of the new state energy policy established by Am. SB 221. The rules were divided into three sets and defined the responsibilites of electric utilities in developing new Electric Security Plans as the new law took effect.

The Office of the Ohio Consumers' Counsel (OCC), in partnership with Ohio Consumer and Environmental Advocates (OCEA), presented the PUCO with joint comments on each set of rules, providing a united front to advocate for residential consumer and environmental benefits.

The first set of rules established procedures and information requirements for setting standard service generation rates. Beginning in 2009, an electric utility's standard service rate, or offer, could be developed through a regulated Electric Security Plan or through a Market Rate Offer. Each procedure for setting standard service offers required details to be developed through the PUCO rulemaking process.

OCEA recommended that the rules be modified to ensure that customers receive proper protections. Their recommendations included:

- Acceptance of the lowest possible price for electricity;
- Elimination of non-bypassable generation charges that hurt efforts for government aggregation and deferral costs that include interest charges and saddle consumers with debt;
- Additional criteria for special contracts between a utility and large users of energy, such as factories, to ensure accountablity when rate payers are asked to subsidize their bills; and
- Independent evaluations of the economic development benefits from special contracts to ensure that discounted rates can be justified.

The second set of rules dealt with proposed changes to the Electric Service and Safety Standards. OCEA recommended that:

- All electric utilities prioritize service reliability;
- Statewide rules be adopted establishing a four-year tree trimming cycle to improve maintenance policies and practices;
- Stricter reporting standards be required for utilities;
- New measurements be implemented related to momentary outages;
- Comprehensive rules be set for net metering, making the process streamlined, transparent, affordable and accessible to residential customers; and
- Consumers receive better opportunities, through government aggregation, to receive bulk rates for electric service.

In the third set of rules, which covered energy efficiency and renewable energy, OCEA sought to ensure that:

- All electric utilities be required to include energy efficiency and renewable energy in their electric service proposals;
- A PUCO staff recommendation requiring utilities to annually report their plans to meet electricity demand is included; and
- Independent evaluations of the utilities' energy efficiency programs are conducted to ensure that benchmarks are met and necessary adjustments are made.

The outcomes of the rulemakings will be finalized in 2009.

Agreement reached on Duke Energy's electric security plan

(Case Nos. 08-920-EL-SSO, 08-921-EL-AAM, 08-922-EL-UNC, 08-923-EL-ATA)

Proposed rate increases for residential customers of Duke Energy were limited to 2 percent in 2009 and 2010 and eliminated in 2011 following an agreement in October 2008 by members of the Ohio Consumer and Environmental Advocates, which included the Office of the Ohio Consumers' Counsel (OCC), and other advocates, with staff of the Public Utilities Commission of Ohio (PUCO), Duke Energy Ohio and other parties.

Duke's original plan would have increased the average total electric bill for residential consumers by at least 5.7 percent from 2009-2011. Under the agreement and Duke's original plan, riders on customers' bills will be used to account for the rise and fall of certain costs such as fuel and environmental compliance.

OCEA also achieved an agreement with Duke to invest $1.75 million per year in low-income assistance which will be distributed by local nonprofit organizations.

At the OCC's urging, Duke also will develop, by June 30, 2009, a standard renewable energy certificate purchase program to promote the development of customer-sited renewable energy. Under this program, customers who invest in a renewable energy project would receive payment from Duke for the project's positive environmental and social attributes. This would help Duke meet its renewable energy requirements under Ohio's electric policy law.

Duke agreed with OCEA to lower caps on what it can earn through energy efficiency programs while providing significant incentives for the utility to exceed Ohio's new standards. Duke will not be able to earn a rate of return profit for meeting the state's mandatory requirements but can earn limited profits for reducing its energy load above the standards.

The parties also negotiated guidelines for Duke's SmartGrid and automated metering proposals, including annual cost caps. Duke's original proposal would have placed all of the risk of emerging technology on its customers.

The OCC continued to advocate for the opportunity for local communities to aggregate, or create buying pools, to purchase electricity from alternative suppliers on behalf of residential customers. The agency sought to ensure that aggregating communities are provided the same benefits as businesses that chose an alternative supplier.

American Electric Power proposes more than 50 percent rate increase over three years

(Case Nos. 08-917-EL-SSO, 08-918-EL-SSO)

In accordance with Am. SB 221, American Electric Power (AEP) filed an Electric Security Plan in July 2008. In its proposal, AEP sought to increase residential customers' rates by approximately 15 percent annually from 2009 through 2011. The utility requested increases in rates for fuel costs, purchased power and environmental compliance. Rate increases of more than 15 percent over the next three years would be deferred, with interest, and recovered from customers over seven years beginning in 2012.

The Office of the Ohio Consumers' Counsel (OCC) intervened in the case and provided extensive expert testimony to the Public Utilities Commission of Ohio (PUCO). In its response to the proposal, the OCC argued that AEP had not proven it needed more than $600 million in increases to its non-fuel generation charges and $200 million in increases to its distribution rates, which were substantially less than the over $3 billion AEP was requesting.

AEP also asked to recover costs from customers for distribution system reliability improvements, estimated financial risk associated with remaining the provider of last resort, economic development discounts and compliance with energy efficiency requirements.

According to AEP, its proposal would meet the required renewable energy standard established under Ohio's new energy law. The plan included the purchase of up to 300 megawatts of renewable energy. The company also would provide shareholder funds of $75 million over three years to support programs for low-income customers, economic development, energy efficiency and the installation of renewable energy systems.

The OCC sought to eliminate AEP's proposal to charge customers a provider of last resort fee of approximately $500 million as compensation for an estimated financial risk to provide electricity to customers who shop for alternative suppliers and then return to AEP. AEP had not shown any specific costs it would incur related to this provider of last resort obligation.

The OCC also testified that AEP's proposal to defer any costs above a 15 percent annual rate increase was not necessary and unreasonable. In addition, the OCC argued that the utility's proposed interest rate at approximately 14 percent on the deferred charges was too high.

Finally, the OCC maintained that AEP's proposed increased fuel costs were unreasonable, providing testimony that the utility submitted its electric security plan with an inappropriate starting point for calculating fuel costs. The OCC argued that the fuel cost baseline should be actual 2008 costs and that using such a baseline would reduce the additional fuel costs recovered from customers. The OCC concluded, in its testimony, that there were significant changes in the energy markets necessitating a recalculation of fuel cost estimates to reflect the current market value.

Discussing electric case work, left to right, Anthony Rodriguez, Communications Department public information specialist, Sarah Schaible, executive secretary, Analytical Services, and Assistant Legal Director Jeff Small.

Because a decision was not reached on AEP's plan, the PUCO allowed AEP to continue its current rates as it continued working in 2009 to arrive at a decision on the utility's Electric Security Plan.

FirstEnergy's Electric Security Plan contested

(Case Nos. 08-935-EL-SSO, 08-936-EL-SSO)

In 2008, FirstEnergy filed two proposals related to Ohio's energy policy law. One would give the utility the ability to price electricity based on market rates, while the other would establish an Electric Security Plan to price electricity over the next three years.

The Office of the Ohio Consumers' Counsel (OCC) intervened in both cases, arguing that FirstEnergy's cost estimates were excessive and would overcharge consumers by $4.3 billion.

In its expert testimony, OCC presented evidence that the utility used high market prices for its comparison with the utility's proposed Electric Security Plan rates and included inappropriate adders to provide for its generation needs over the next three years.

FirstEnergy touted minimal increases, but was only able to do so by deferring 10 percent of the electricity costs over 10 years. The OCC contended that no deferrals should be included past the plan's three-year term.

FirstEnergy's proposed Electric Security Plan would have increased total average rates for all of its customers. Over three years (2009-2011) rates for residential consumers would have increased 11.7 percent for Cleveland Electric Illuminating, 12.1 percent for Ohio Edison and 14.75 percent for Toledo Edison, before adding the impact of nearly $2 billion in deferred costs. The Electric Security Plan reflected increases in generation, distribution and transmission costs and included a proposal to resolve a distribution rate case that was awaiting a decision by the Public Utilities Commission of Ohio (PUCO).

The OCC advocated that FirstEnergy's proposed distribution-related increases should be resolved in a pending distribution rate case. These increases had been fully litigated, and the OCC recommended substantially lower distribution rates than the utility proposed in that separate rate case.

A provision in FirstEnergy's Electric Security Plan would have allowed the PUCO to choose market rates in the third year of its plan if those rates proved to be more favorable. Under Ohio's new energy policy law, if FirstEnergy was allowed to competitively price electricity from the market, it could not return to an Electric Security Plan.

The OCC also testified that FirstEnergy should provide more reliable electric service and that the under-performance of the utility in meeting its reliability targets should result in lower profits. The OCC argued that the PUCO should use its authority to further investigate FirstEnergy's service quality.

As a requirement of Ohio's new energy law, all utilities must include energy efficiency as part of their Electric Security Plan. FirstEnergy's proposal would have provided up to $25 million in energy efficiency programs and $25 million for economic development programs through 2013.

With a direct appointment from the U.S. Secretary of Energy, the Office of the Ohio Consumers' Counsel participates on the National Coal Council. The OCC participates on the policy committee critiquing the reports to the Secretary of Energy from a consumer perspective and has worked on an issue paper about underground coal gasification.

The OCC is also involved in other activities relating to developing clean coal technologies.

The OCC argued that FirstEnergy's Electric Security Plan lacked the details needed to determine that it was in compliance with Am. SB 221 and that the $25 million proposed for energy efficiency does not meet the requirements of the law.

In November 2008, the PUCO rejected FirstEnergy's Market Rate Offer proposal because it failed to meet a number of fundamental requirements under Ohio's new energy law. The PUCO also modified and approved FirstEnergy's Electric Security Plan proposal in December 2008. In its order, the PUCO agreed with many of the OCC's arguments and adjusted the proposed generation rates downward, refused to allow the utility to defer costs into the future and decided to rule separately on distribution rates in the pending rate case.

Following the PUCO's December decision, FirstEnergy withdrew its Electric Security Plan as allowed under a provision in the state's energy law. In early 2009, the issues involving FirstEnergy's future rates remained unresolved.

Service reliability a priority for the OCC

(Case No. 08-1299-EL-UNC)

The issue of service reliability became a major concern for consumers and the Office of the Ohio Consumers' Counsel (OCC) in 2008 after winds from Hurricane Ike caused outages that left 2.6 million Ohioans without power for as long as two weeks. On Dec. 15, 2008, the OCC, with many consumer groups listed in the pleading as the Consumers for Reliable Electricity in Ohio, requested that the Public Utilities Commission of Ohio (PUCO) conduct an investigation into the reliability of Ohio's electric utilities.

The call for the investigation came after lengthy outages in the service territories of all four major electric utilities plunged nearly all regions of Ohio into the dark. The OCC received a 21 percent increase in calls to its consumer hotline as a direct result of the outages.

In the request, the consumer groups asked the PUCO to investigate whether American Electric Power, Dayton Power & Light, Duke Energy Ohio and FirstEnergy are doing enough to limit the breadth and depth of power outages in their service territories. The groups argued that electric utilities should not be allowed to increase rates to pay for the costs related to the September windstorm until an investigation is conducted to determine whether some of the outages were preventable.

Ohio law requires that residential electric customers receive adequate service. This adequacy has come into question by consumers and consumer advocates alike. Consumers for Reliable Electricity in Ohio requested several specific actions be taken in the investigation including:

- A review of each utility's compliance with Ohio's Electric Service and Safety Standards and other applicable safety and reliability standards;
- An evaluation of the effectiveness of the current standards, including setting performance targets for momentary power interruptions;
- Providing significant financial penalties for a utility's failure to meet reliability standards;
- Reviewing all reliability complaints filed at the PUCO and with the OCC;
- Reviewing of the protocols used to determine a priority list for service restoration; and
- An audit of the actual utility expenditures since January 1995 as compared to the amount customers paid in rates for adequate and reliable service.

By the end of 2008, the PUCO had not acted on the group's request. It did, however, allow American Electric Power to defer an undetermined amount of money, with interest, for the costs it incurred during the windstorm.

Windstorm service restoration costs contested

(Case Nos. 08-1301-EL-AAM, 08-1332-EL-AAM, 08-709-EL-AAM)

In December 2008, three of Ohio's investor-owned electric utilities, American Electric Power (AEP), Dayton Power and Light and Duke Energy, filed requests with the Public Utilities Commission of Ohio (PUCO) to defer operation and maintenance expenses related to Hurricane Ike. The deferral of expenses associated with storm damage was one of the subjects of the distribution rate case pending for FirstEnergy during 2008.

The Office of the Ohio Consumers' Counsel (OCC) filed to intervene in the AEP case as 2008 drew to a close and planned to intervene in the Dayton Power & Light and Duke Energy cases as 2009 began.

In the AEP case, the OCC asserted that the utility's application contained no detail and should not be approved unless the utility could prove the expenses were lawful, reasonable and prudently incurred. The OCC also objected to the interest rate proposed by AEP.

> *"The storm exposed certain deficiencies in the infrastructure of our utility company. Communications were not at the level they needed to be. Duke lacked the capacity to be able to tell people reliably and accurately when power would be restored or even why power was out in some communities in the first place."*
>
> Hamilton County Commissioner
> Todd Portune
> Duke local public hearing
> Cincinnati
> October 7, 2008

FirstEnergy distribution rates at issue

(Case Nos. 07-551-EL-AIR, 07-552-EL-ALT, 07-553-EL-AAM, 07-554-EL-AAM)

The Office of the Ohio Consumers' Counsel (OCC) asserted that a proposed distribution rate increase filed by FirstEnergy should be cut by more than $300 million and that a new investigation is needed to address the utility's service reliability. The distribution rate case was filed well before the Electric Security Plan and a decision was pending when the new proposals were accepted by the Public Utilities Commission of Ohio (PUCO).

In a post-hearing brief submitted to the PUCO in March 2008, the OCC testified that millions of dollars in FirstEnergy's rate hike request should not be collected from consumers. In addition, 12 public hearings were attended by more than 600 consumers throughout FirstEnergy's Cleveland Electric Illuminating, Ohio Edison and Toledo Edison service areas. The public testimony plus an additional three weeks of evidentiary hearings at the PUCO produced reports, some from FirstEnergy's own testimony, of poor service quality being provided by the utility to some of its customers.

In response, the OCC recommended a PUCO-ordered investigation and penalties for instances of noncompliance with the PUCO's rules and the failure to meet performance targets. A decision from the PUCO was still pending at the end of 2008.

Federal electric issues

The Office of the Ohio Consumers' Counsel (OCC), as part of its advocacy on behalf of residential customers, has continued its activities in a number of federal issues because the Federal Energy Regulatory Commission (FERC) authorizes electricity charges that Ohio residential utility consumers must pay. The FERC's jurisdiction includes wholesale markets, transmission, sales of electricity for resale, and Regional Transmission Organizations (RTOs). The RTOs were created less than 10 years ago to independently administer the nation's electric transmission systems that are owned by the utility industry. These transmission lines carry the electricity from the generating source to the local distribution systems that serve consumers. Maintaining and improving this transmission system raises issues involving reasonable rates and reliability of service, with corresponding opportunities for OCC to advocate on behalf of Ohio consumers.

Regional Transmission Organizations

Ohio is served by RTOs from two regions. PJM Interconnection LLC (PJM) operates in 13 states and the District of Columbia. Its membership includes American Electric Power's two Ohio utilities and Dayton Power & Light. The Midwest ISO, Inc. (MISO) is comprised of 15 states and the Province of Manitoba. Its membership includes FirstEnergy's three Ohio utilities and Duke Energy. PJM and MISO administer wholesale electric markets and market-related services. Because of this geographic split of the markets, the RTOs must closely coordinate operations in order to effectively and efficiently operate the transmission grid in and around Ohio. The geographic split also requires the OCC to learn about and monitor two separate transmission operators in order to advocate effectively for consumers.

The RTOs' decisions can affect consumers' rates through transmission charges, market costs for electricity and delivery costs. In general, the RTOs cannot levy charges for consumers to pay in retail rates unless the charges are authorized by FERC. The OCC participates in cases at FERC and in the stakeholder processes at the RTOs to advocate on behalf of Ohio's residential consumers for reasonable rates and reliable electric service. The OCC also has advocated at the federal level to promote the use of energy efficiency and demand response, preventing abuses of wholesale market power, and removing obstacles to wholesale competition.

In wholesale electric markets, utilities (and others) buy and sell power to supply their customers. The OCC's efforts to reduce the wholesale cost of electricity by encouraging energy efficiency and demand response are first presented to the RTOs through the stakeholder process, which includes committees and working groups. The voices and interests of consumers must be heard in this process, not just the voices and interests of transmission owners and power generators.

The OCC actively participated in PJM's policy discussions and implementation procedures for incorporating energy efficiency and demand response in both capacity and energy markets. The OCC is involved in similar discussions at MISO.

Federal Energy Regulatory Commission

The Federal Energy Regulatory Commission (FERC) regulates transmission and the wholesale markets. These issues may be agreed upon in the RTO stakeholder process, which can avoid litigation at FERC. In these cases, it is important that the OCC participate by representing the residential customers' interests in having reasonable rates and reliable service. In some cases, however, a settlement is not possible and the cases proceed to litigation. The OCC participated at FERC on matters that will impact costs and reliability for Ohio's residential consumers.

Transmission Cost Allocation

The OCC participated in several cases concerning FERC's allocation of transmission costs to PJM members. Much of the proposed new transmission is for construction east of Ohio, where new transmission and generation are needed. In the past, new transmission costs were allocated on a "beneficiary pays" method. This minimizes costs to Ohio. Last year, FERC changed the cost allocation from "beneficiary pays" to one where everyone in the RTO region must pay for new transmission systems 500 kV and above in size. Ohio now pays for all its existing transmission as well as for a portion of all new transmission, even if it serves areas other than Ohio, and the service does not benefit Ohio. This significantly increases the cost to Ohio customers from PJM. The OCC intervened in several FERC cases where costs of new transmission are requested, and opposed portions of the new transmission cost increases.

MISO Ancillary Services Market

The MISO market for electricity began in 2004. This year, MISO made great strides in making the regional market more efficient by expanding its responsibilities and by taking certain grid operations over from local utilities' Ancillary Services Market (ASM). The MISO regionally consolidated the dispatch of generating units and the monitoring and balancing of the electric grid to maintain the correct level of load and voltage. The MISO also determines which generating units must stand ready to produce electricity in times of operational emergencies.

The ASM is a major development in MISO's new regional market and should provide consumers with more efficient systems and enhance grid reliability. As part of the ASM, the MISO will encourage demand response and propose a method for measuring it. The OCC agrees these issues are essential for MISO to operate properly. MISO is complying with FERC's requirements. The ASM launched Jan. 6, 2009.

PJM Demand Response

The OCC also has been active at PJM in demand response issues. Demand response is the reduction in the use of (or demand for) electricity by customers when prices are high during peak usage. Demand response can reduce prices for all customers by reducing the demand for electricity. On a positive note, the OCC was part of the PJM advisory group that convened high-level policy meetings to encourage greater demand response and to address the coordination of state and federal programs. The OCC actively participated in proceedings to implement energy efficiency in the PJM capacity market by using a Reliability Pricing Model (RPM). The OCC is encouraged by the progress to reduce wholesale electricity costs.

PJM Capacity Market

The OCC has been involved in PJM's capacity market since it was contested at FERC in 2006. In Spring 2008, the OCC was one of several parties to file a complaint at FERC challenging the RPM as unjust and unreasonable. As a result, the OCC has been active in proposing modifications to the RPM that will reduce the costs of the capacity market in PJM, thereby reducing the costs Ohio residential customers pay in retail rates. There has been success in making modifications to the RPM to more accurately reflect capacity costs, reducing these costs to customers. This involvement by the OCC will be an ongoing process to continually refine the market to reflect more accurate, and lower, costs to customers.

PJM Market Power Test

There was an effort by certain PJM members to change the market power test to be more lenient. The OCC opposed this change at FERC. The new test would allow an unacceptable level of market power to prevail in PJM. The existing standard, the Three Pivotal Supplier Test (TPS) is designed to prevent market power on a prospective basis. This issue is pending before FERC.

FERC Generic Proceedings

The OCC also worked to protect the interests of Ohio consumers by participating in several proceedings at FERC that involved nationwide issues affecting Ohio and other states. The proceedings included advanced rulemaking on competition in the electric wholesale markets.

"....electricity is not an extravagance; it is a necessity for survival. It is our right. Now, when you consider this and other utility increases, think not of those who can afford it, those for which this will be an inconvenience, think instead of the least among us, those who cannot sustain the very minimum of living conditions to which all Americans should be entitled."

Jacqueline Thompson, Whitehall
American Electric Power ESP
public hearing
October 21, 2008

Natural Gas

Natural gas costs and issues were at the forefront of Ohio's headlines in 2008. The Office of the Ohio Consumer's Counsel (OCC) intervened on behalf of the state's residential natural gas customers in base rate distribution cases filed by the four largest investor-owned natural gas utilities. In these distribution cases, a new concept for Ohioans regarding how bills are paid, known as the "straight-fixed variable," was advanced by the staff of the Public Utilities Commission of Ohio (PUCO) and vigorously opposed by the OCC. The PUCO has, unfortunately, supported the straight-fixed variable rate.

This concept involves moving most of a natural gas utility's distribution costs into a fixed customer charge, as opposed to a cost based on a customer's monthly usage. In each case before the PUCO, the OCC provided expert witnesses who showed that such a change would result in low-usage, low-income customers paying the same flat rate as residents with much bigger homes. Their percentage of the proposed increase would be disproportionately higher than their counterparts who were financially better off. The OCC also maintained that going to a flat rate would hamper efforts to conserve energy because ratepayers would have less incentive to control their natural gas usage to save money. The savings on a customer's bill for consuming less gas would range from minimal to non-existent depending on each utility and the two-year phase-in of the straight fixed variable rate. It also extends the payback period for energy efficiency investments.

The OCC also succeeded in negotiating a cap to cost-recovery proposals for each of the natural gas utilities, enabling them to move forward with long-range programs to replace their existing pipelines and install meter-reading equipment at less financial impact to the ratepayers of Ohio. The OCC's goal was to ensure accountability for the expenditure of customers' hard-earned money. In addition, the negotiated agreements provided additional funds for energy efficiency programs and conservation measures.

As the condition of Ohio's economy deteriorated in 2008, the OCC also achieved commitments from the natural gas utilities to provide pilot programs to assist customers who had difficulty keeping up with their bills. In addition, the OCC suggested reforms to the Percentage of Income Payment Plan (PIPP) which will go into effect during the 2009-2010 winter heating season. The OCC also was successful in negotiating a waiver with the PUCO, which enabled Columbia Gas to apply a $2.1 million federal refund to customers between 175 and 200 percent of the federal poverty level who are having trouble paying their natural gas bills.

The price of natural gas fluctuated dramatically during 2008, as the perception of an impending supply shortage pushed prices over $13.50 per MMbtu (million British thermal units) in July, according to the New York Mercantile Exchange (NYMEX). A cooler-than-average summer reduced the demand for natural gas at peak periods of electric usage, which combined with the economic downtown to reduce the price to a level in November of $6.31 per MMbtu.

OCC challenges 300-percent customer charge increase at Ohio's highest court

(Cases 07-589-GA-AIR, 07-580-GA-ALT, 07-591-GA-AAM)

The Office of the Ohio Consumers' Counsel (OCC) filed an appeal in September with the Supreme Court of Ohio contesting a May 2008 decision by the Public Utilities Commission of Ohio (PUCO) that resulted in a more than 300 percent increase to Duke Energy's flat-rate customer charge but decrease the volumetric charge. A decision in the case is still pending.

Duke proposed a $34.1 million per year rate increase in July 2007, which would have raised its delivery rates by as much as 33 percent. In addition, Duke sought to restructure its rates which would have increased the monthly flat-rate portion of its delivery charge from $6 to $15, while lowering the volumetric portion of the delivery charge.

In January 2008, the OCC filed testimony opposing the proposed rate increase. The OCC took the position that Duke's proposed rate increase was unreasonable and that customers should not have to pay for many of the increased costs cited by the utility. For example, Duke included expenses allocated to it from its parent company that were related to electric service and should not be recovered from natural gas customers.

All parties in the case, including the OCC, were able to reach agreement in February to resolve several issues. The compromise reduced Duke's proposed annual revenue increase by approximately 50 percent, lowering it from $34.1 million to $18.2 million and also reduced costs for a nine-year continuation of Duke's accelerated main replacement program by capping increases, reducing the projected investment and shifting some costs away from residential consumers while spreading them out over more time. This will save residential consumers more than $100 million throughout the duration of the plan. The agreement also included a proposed pilot low income program to provide a $4 monthly discount for up to 5,000 customers.

The February agreement did not resolve the issue of the rate restructure. In February and March, evidentiary hearings were held at the PUCO. The PUCO held several local public hearings at which customers in Cincinnati and Mason provided public testimony opposing the proposed increase.

> *"I support the position of the Ohio Consumers' Counsel particularly in the area of the flat-rate customer charge. It (the straight-fixed variable rate) negatively impacts consumers who try to conserve, and subsidizes people who are high users."*
>
> David Brightbill
> Washington-Morgan Counties
> Community Action
> Dominion East Ohio Gas
> public hearing
> August 5, 2008

In May, the PUCO approved the agreement among the parties but also adopted the Duke and PUCO staff proposal concerning the rate design. As a result, Duke's flat-rate portion of the delivery charge increased from $6 to $15 through September 2008. Beginning in October 2008, the flat-rate increased again to $20.25 per month for the remainder of the first year. During the 2009-2010 heating season, the monthly customer charge will increase to $25.33 per month. The PUCO also expanded Duke's proposed pilot low income program, from 5,000 to 10,000 customers.

Dominion customer charge increases 250 percent

Case 07-0829-GA-AIR)

Residential customers of Dominion East Ohio Gas saw a higher flat-rate charge as part of increased distribution rates after the Public Utilities Commission of Ohio (PUCO) approved a proposal recommended by its own staff that was higher than utility's initial rate increase request. At the same time, the PUCO reduced the volumetric rate.

As a result of the ruling, which the Office of the Ohio Consumers' Counsel (OCC) opposed, the fixed customer charge rose by approximately 250 percent from its current level. Dominion's current customer charge was $5.70 per month in the eastern service area and $4.38 per month in the western service area. As a result of the PUCO's action, the customer charge was increased to $12.50 per month during 2008-2009 and $15.40 per month during the following year with volumetric rates based on customers' natural gas usage decreasing proportionately. The PUCO also ordered a review of the low-income pilot program to be conducted after two years to evaluate the effect on low-income users, who may pay a higher total bill as a result of the new rate design.

The decision marked a conclusion to a contentious public debate, which nearly 700 customers attended. Two hundred citizens gave testimony at 10 public hearings held by the PUCO and attended by the OCC. In addition, almost 300 letters from customers were submitted into the record.

Originally, seven public hearings were scheduled by the PUCO during late July and early August. After the initial hearing in Youngstown, at which 57 citizens and some elected officials gave public testimony, the OCC and other consumer advocacy groups filed a request, which the PUCO approved, for additional evening sessions to give customers a better chance to air their concerns.

The OCC, through its Outreach and Education staff, issued letters to consumers and consumer groups alerting them to the issues in the case and encouraging them to either testify at the hearings or write letters to the PUCO. In its Opinion and Order, the PUCO acknowledged that the public participation in the case had contributed to its final decision to lower the final amount of the annual revenue increase.

In August, the OCC signed an agreement with Dominion, the PUCO staff, and additional parties in the case that resulted in a decrease to Dominion's original increase request of $75 million annually to $40.5 million per year, which the PUCO further reduced to $37.5 million in its final decision. This agreement included an increase of $6 million annually in the funding of the utility's energy efficiency programs, which will be monitored and evaluated by the OCC, the PUCO staff, Dominion and others to ensure that the goals of energy conservation are met.

The PUCO staff also capped annual rate increases to customers for the utility's initial five-year implementation of a pipeline infrastructure replacement program. Dominion had originally proposed a 25-year, $2.6 billion replacement program and the PUCO had initially recommended implementation for an eight-year period.

Members of OCC's Gas Team, left to right, Bruce Hayes, Joe Serio and Larry Sauer.

Vectren proposal decreased by half but customer charge increases more than 100 percent

(Case No. 07-1080-GA-AIR)

In September 2008, the Office of the Ohio Consumers' Counsel (OCC) negotiated an agreement with the Public Utilities Commission of Ohio (PUCO) staff and Vectren Energy Delivery of Ohio and other parties to reduce the amount of the utility's increase request from $27 million annually to approximately $15 million.

The important issue not resolved in 2008 was the structure of Vectren's distribution rates. The utility asked that its fixed $7 customer charge be increased, with corresponding decreases in the rate based on a customer's gas usage, as follows:

- Winter 2008-09 (Nov. 1, 2008 to Apr. 30, 2009): $16.75 per month;
- Summer 2009 (May 1 to Oct. 31, 2009): $10 per month;
- Winter 2009-10 (Nov. 1, 2009 to Apr. 30, 2010): $20.04 per month; and
- Summer 2010 (May 1 to Oct. 31, 2010): $11.96 per month

Consistent with its opposition to higher fixed charges in other natural gas rate cases in 2008, the OCC opposed Vectren's proposed rate structure. Through its testimony, the OCC showed that loading charges into a fee that stays constant regardless of the amount of natural gas used would have a disproportionate effect on low-income customers and reduce their incentive to conserve energy.

A total of $2.1 million of the annual increase was set aside for low-income customers to weatherize their homes, and another $2.9 million per year will be used to fund energy efficiency programs.

In addition, the OCC successfully negotiated a cap on increases to customers for Vectren's proposed 20-year, $330 million plan to upgrade and replace its pipeline system and repair or replace defective risers. A riser is the vertical portion of the service line that connects the primary distribution pipeline to a customer's meter (see diagram, page 28). Based on the cap, customers will see an annual increase of no more than $1 to their monthly bills up to a maximum of $5 per month in 2013.

Several improvements in customer service proposed by the OCC also were agreed to by the parties in the case, such as the elimination of several charges to customers seeking to reestablish service after disconnection.

A decision by the PUCO on Vectren's rate increase request and the negotiated agreement was pending at the end of 2008.

Auctions set natural gas prices for Dominion, Vectren

(Cases: 07-1224-GA-EXM and 07-1285-GA-EXM)

With a goal of lowering the burden of higher natural gas bills on Ohio citizens, the Office of the Ohio Consumers' Counsel (OCC) participated in proceedings to establish wholesale auctions held to permit suppliers to compete to provide natural gas to Dominion East Ohio Gas and Vectren Energy Delivery of Ohio.

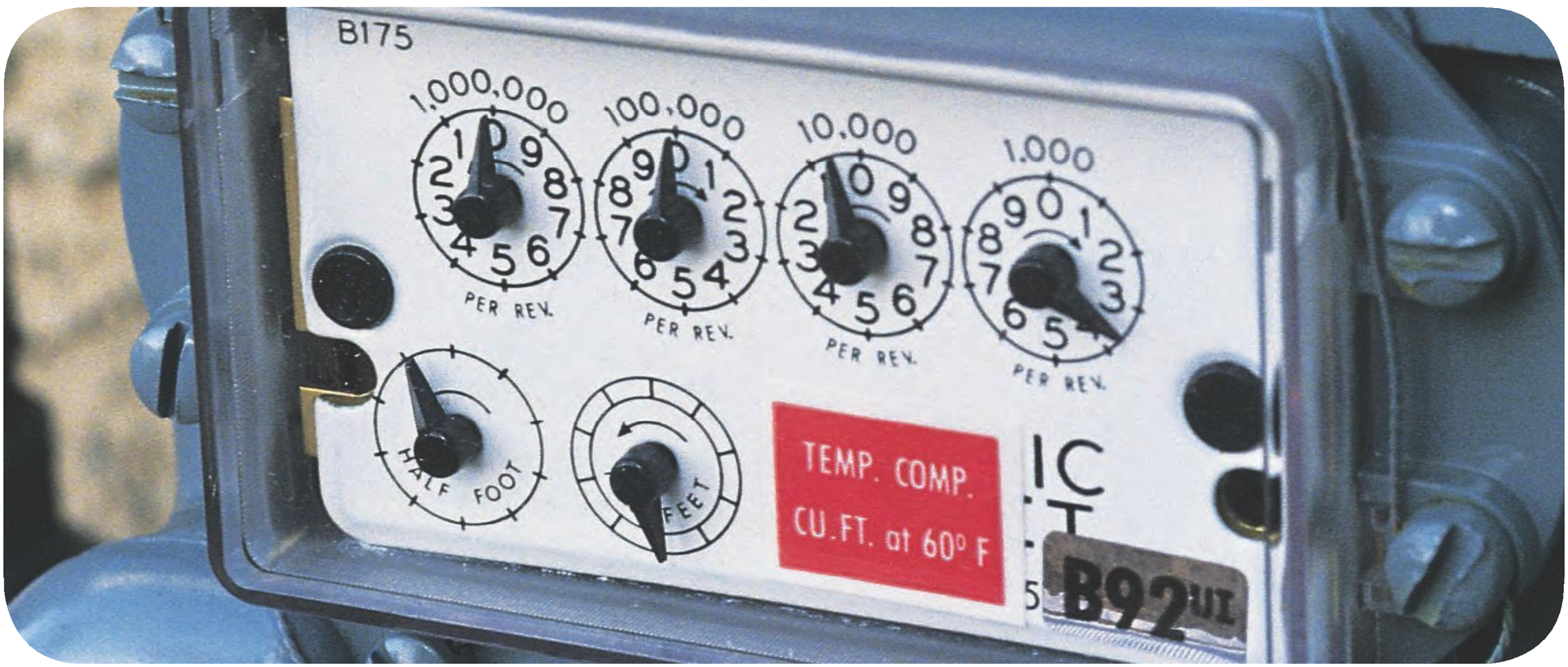
The new Standard Service Offer (SSO) was established to replace the Gas Cost Recovery system (GCR) as a means of delivering natural gas to retail customers. This new SSO was determined by the monthly wholesale price of natural gas plus an adder, which was the subject of the auctions.

The SSO is available to customers of Dominion and Vectren who did not opt to participate in energy choice by choosing an alternative supplier. A summary of each auction follows:

Dominion East Ohio Gas

Dominion's auction was held in July 2008 by World Energy Systems Inc., which also conducted the Vectren auction. A total of 14 natural gas suppliers were given the opportunity to bid on up to one-third of 12 portions, called tranches, of natural gas. The final bid accepted was $2.33 per thousand cubic feet (Mcf) above the New York Mercantile Exchange price that would be added together to determine the monthly SSO price. The OCC and the Public Utilities Commission of Ohio (PUCO) concluded that the auction was conducted fairly and that the results were consistent with the current market-determined price.

The adder went into effect in September 2008 and will be in effect until March 2009. At that point, two additional auctions will be held: one to determine a new Standard Choice Offer (SCO) for choice-eligible customers who have not chosen an alternative supplier, the other to set a Standard Service Offer



(SSO) for choice-ineligible customers including those on the Percentage of Income Payment Plan (PIPP) and those who have not adhered to a payment arrangement within the previous 12 months.

Vectren Energy Delivery of Ohio

Vectren's auction was similar to the Dominion proceedings and was held in August 2008. The final bid for the adder was $2.35 per Mcf. Unlike Dominion, the adder will be in effect through March 2010. As in the Dominion auction, the OCC and PUCO found that the results were fair and reflected a market rate. The results will affect Vectren customers who receive their natural gas from the utility and not from an alternative supplier.

The OCC supported both auction processes and believes that going to a market-oriented approach should result in lower prices for Ohio consumers.

Defective natural gas risers to be repaired, replaced

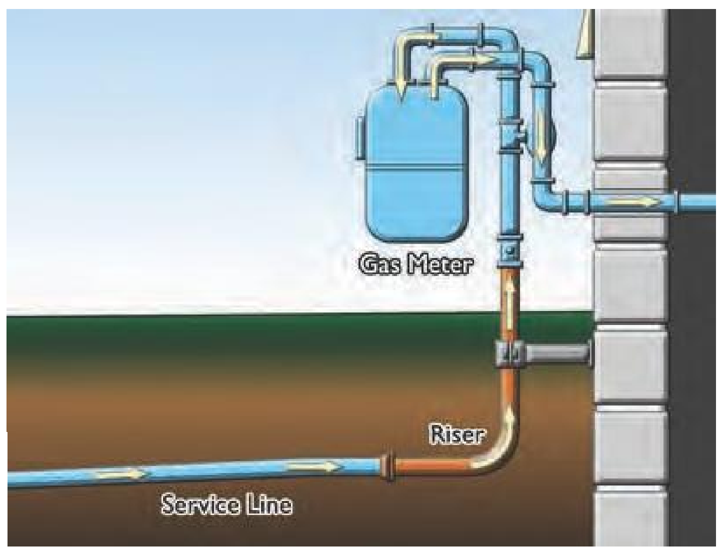
(Cases 07-237-GA-AAM, 07-0831-GA-AAM, and 08-0632-GA-AAM)

During 2008, the replacement of potentially defective natural gas risers was a key component of distribution rate cases filed with the Public Utilities Commission of Ohio (PUCO) by each of Ohio's four major investor-owned natural gas utilities. A natural gas riser is the vertical portion of a customer's service line connecting the primary distribution line to the customer's meter.

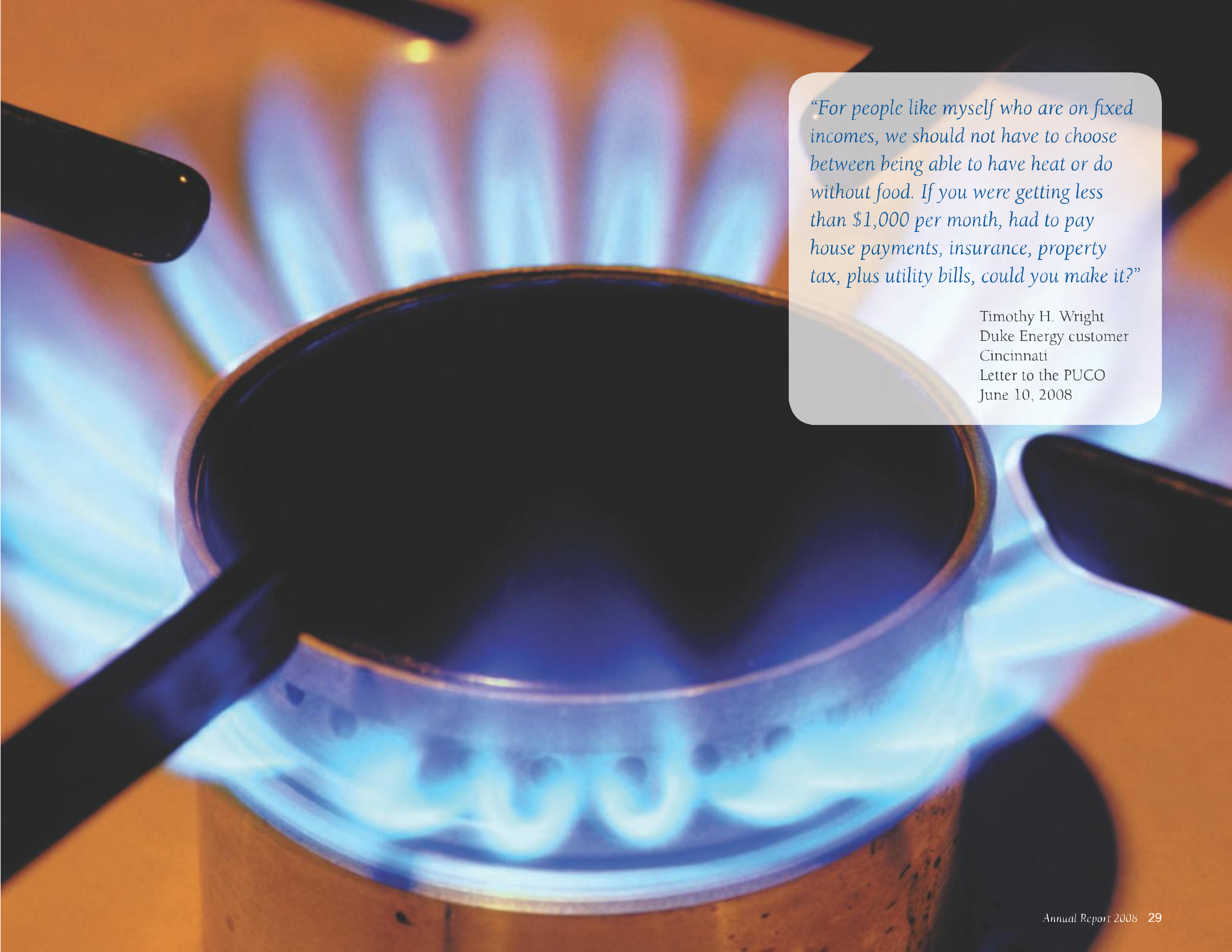
In the wake of a November 2006 PUCO staff report that found 34 percent of all plastic gas risers in Ohio to be prone to leaks and failures if improperly installed, Columbia Gas of Ohio, Dominion East Ohio Gas and Vectren Energy Delivery of Ohio filed requests with the PUCO in 2007 to collect costs incurred during investigation and replacement of faulty risers as part of future rate cases. The Office of the Ohio Consumers' Counsel (OCC) argued against these proposals, because these costs had already been included in base rates.

In April 2008, the PUCO approved an agreement among the OCC, the PUCO staff, Columbia Gas of Ohio and other concerned parties that created a resolution of riser safety issues at a substantially reduced cost to customers. The OCC had determined that Duke Energy, another Ohio natural gas utility addressing gas riser concerns in its own distribution rate case, was able to resolve its riser issues using different equipment, which resulted in labor cost savings that Columbia Gas had not originally proposed.

Based on revised cost estimates and the more cost-effective solution, the OCC was able to save customers an additional $10 to $15 million. As part of the agreement, Columbia Gas became responsible for the customer service line from the curb to the meter, would reimburse customers who replaced or repaired their natural gas risers on or after Nov. 24, 2006, and would replace all prone to leak risers by 2012.



After signing the agreement with Columbia, the OCC determined that it would not contest cost recovery for riser replacement submitted by either Dominion or Vectren as part of their respective distribution rate cases. However, in both cases, the OCC was able to negotiate caps on how much the utilities would be able to charge their customers. The riser repairs were included as part of Dominion's and Vectren's pipeline replacement plans.



"For people like myself who are on fixed incomes, we should not have to choose between being able to have heat or do without food. If you were getting less than $1,000 per month, had to pay house payments, insurance, property tax, plus utility bills, could you make it?"

Timothy H. Wright
Duke Energy customer
Cincinnati
Letter to the PUCO
June 10, 2008

Water

The cost to deliver clean and safe water has been rising across the United States and Ohio is no exception. The rising cost of this essential service worried water customers in 2008 as several investor-owned water companies, Aqua Ohio, Ohio American Water (OAW) and Mohawk Utilities, filed proposals with the Public Utilities Commission of Ohio (PUCO) seeking to increase water and sewer rates. The Office of the Ohio Consumers' Counsel (OCC) intervened in these cases, succeeding in achieving benefits to consumers and reducing the level of increase to rates that was originally sought.

In addition to efforts to keep rates reasonable and improve customer service and water quality, the OCC conducted outreach projects in Mohawk's territory and as a result of consumer complaints, held public forums for OAW customers. The OCC encouraged customers to testify about the proposed increases to the PUCO. More than 500 people attended local public hearings and the PUCO received nearly 300 letters and petitions opposing the rate increases.

OCC helps improve service, reduce rate increases for Aqua Ohio customers

(Case No. 07-564-WW-AIR)

In April 2008, the Office of the Ohio Consumers' Counsel (OCC) negotiated an agreement with the staff of the Public Utilities Commission of Ohio (PUCO) and Aqua Ohio resulting in a commitment by Aqua to improve customer service and resolve billing issues.

In its testimony to the PUCO, the OCC demonstrated that Aqua's request for cost recovery from its customers was excessive. As a result, the amount of the originally proposed increase was reduced and only a portion of Aqua Ohio's water customers were affected.

Rates increased by $7.45 per month for the average customer in the Lake Erie service territory and the flat-rate charges for the newly acquired Seneca and Norlick service territories in Williams County increased approximately $10 per month. These amounts represented a more than 10 percent decrease from what Aqua had originally requested. The OCC also was successful in demonstrating to the PUCO that customers in Aqua's Lake Erie East territory should not receive a rate increase.

Some of the billing issues brought to light during the rate case were as follows:

- No meter readings had been taken from some customers for more than a year;
- Some customers were improperly assessed late payment fees;
- Some customers never received their bills; and
- Some customers received estimated bills for extended periods of time.

As a condition of the agreement, Aqua committed to a resolution of these issues by July 2008, but was not able to do so.

In a December 2008 PUCO staff report, the OCC concurred with a recommendation to penalize Aqua for its inability to resolve its customer billing issues. Aqua acknowledged fault and agreed to pay a $25,000 penalty distributed equally among its three service territories. If approved by the PUCO, the fine will be contributed to three community action agencies to assist low-income customers who need help paying their bills. The matter is still pending before the PUCO.

In addition, Aqua agreed to address the water quality concerns of its customers in the Norlick and Seneca service territories. The OCC successfully argued to reduce several of the charges proposed by Aqua and helped customers in the villages of Jefferson and Roaming Shores avoid $4.7 million in transmission payments which resulted from a previous sale of water assets to Ashtabula County.

OAW customers to get service, quality benefits

(Case No. 07-1112-WS-AIR)

In late 2007, Ohio American Water (OAW) filed a request with the Public Utilities Commission of Ohio (PUCO) to increase rates for water and sewer service for all of its Ohio customers. The request came less than seven months after the company received its last rate increase in March 2007. This latest rate increase proposal took more than a year to resolve.

Concerned about the frequency of rate increase requests for OAW customers, the Office of the Ohio Consumers' Counsel (OCC) advocated keeping the increase as low as possible. The OCC argued that OAW had violated its agreement in Case No. 06-433-WS-AIR because it had not provided satisfactory water quality for 12 consecutive months. The PUCO denied the OCC's request to dismiss the case.

During the course of the rate case, the OCC discovered illegitimate costs in OAW's request and had them removed. Further investigation of the rate increase request by the PUCO staff found additional justified costs. The OCC attempted to find ways to reduce the amounts of the PUCO staff recommendations but reached an agreement with OAW and other parties in order to achieve customer service and water quality benefits and keep rate case costs down.

The agreement allowed OAW to increase rates by 11.18 percent for customers in portions of Ashtabula, Lawrence, Marion, Morrow, Pike, Preble, Richland and Seneca counties while rates for customers in Franklin and Portage counties increased by 30.37 percent. Wastewater rates also

increased by 36.94 percent. The monthly customer charge increased to $9.51.

Customers received the following benefits in customer service and water quality as a result of the agreement reached between the OCC, the company and others:

- No disconnections unless a customer owes more than $75;
- More frequent communication about water, conservation and other issues;
- Recognizable disconnection notices; and
- A study to determine the reasons for water loss within the system.

As part of the agreement, OAW made improvements in individual communities. The Lake Darby community will have an automated system installed to analyze water hardness every two hours. Marion customers will see property restored in a timely fashion. Huber Ridge customers will continue to have treatment done to water for improved quality. Penalties will be assessed to OAW for failure to meet the agreed upon standards.

Rate increase for Mohawk customers cut in half

(Case No. 07-981-WW-AIR)

Mohawk Utilities sought to raise water rates for approximately 1,500 customers by 55.5 percent in late 2007. The OCC successfully intervened, and the concerted efforts of customers to object to the company's requests resulted in a reduced increase of 26.55 percent. The OCC, along with the Lake Mohawk Water Rate Committee, the PUCO staff and Mohawk Utilities reached an agreement in August.

The OCC was able to help Lake Mohawk customers avoid a proposed rate hike of 300 percent in its $5 monthly customer charge. The company also agreed to contact all customers who experienced water quality issues and to attempt to address their concerns. Several customers with seasonal homes who are served by Mohawk Utilities received rate relief. The company agreed to only charge a flat-rate of $11.81 per month to customers who use less than 500 gallons of water.

The impact of the reduced increase affected the average residential customer who used 3,551 gallons of water by $6.68 for a total bill of $38.66 per month.

OCC garners additional protections for water consumers

(Case No. 07-292-WS-ORD)

A five-year review of the rules for public water companies by the Public Utilities Commission of Ohio (PUCO) was opened in 2007 and completed in 2008. During this process, the OCC intervened with several recommendations to improve protections for residential water consumers. The PUCO accepted some, but not all, of the OCC's recommendations when it adopted the new rules in March 2008.

The OCC successfully advocated for giving residents 48 hours notice for planned outages and flushing of pipes; regular meter readings for consumers with meters outside their homes at least once every three months, and at least once per year for consumers with meters inside their homes; including OCC's contact information on disconnection notices; formal rules for system improvements; and water companies will provide consumers medical certifications allowing a consumer with a medical condition to avoid disconnection.

"I think the consumers should be entitled to quality water without the burden of expensive past corporate mistakes. Merely bringing the infrastructure to an acceptable and modern level should be part of long-term planning and a corporate investment system, not a burden on the consumer, not due to shortsightedness on the part of management."

Phillip Bouton, Westerville
Ohio American Water Co.
Public hearing,
Aug. 20, 2008

Telecommunications

The Office of the Ohio Consumers' Counsel (OCC) opposed several important regulatory decisions by the Public Utilities Commission of Ohio (PUCO) in 2008 as the OCC sought to maintain reasonable telephone rates for Ohio's consumers.

Ohio's largest telephone companies continued to raise the prices of features such as call waiting and call forwarding in 2008. The PUCO permitted these increases without review based on elective alternative regulation plan guidelines it had approved in recent years.

Elective alternative regulation enables local telephone companies to raise their rates for commonly used features while agreeing to cap the rates of basic local service and basic Caller ID. With the deregulation of basic services, however, the telephone companies may apply to the PUCO to increase both.

The OCC vigorously opposed requests for rate flexibility allowed under elective alternative regulation and continued to alert consumers to the resulting rate increases.

In addition, AT&T Ohio, Cincinnati Bell, Embarq and Verizon requested that some of their exchanges be subject to basic local service alternative regulation, which enables telephone companies to raise basic rates if a competitive test is met determining whether an exchange is open to competition and that residential customers have reasonably available alternatives.

Under basic local service alternative regulation, a telephone company may increase its monthly basic local rate by $1.25 and monthly price of basic Caller ID by 50 cents each year. Lifeline customers are exempt from such increases.

The OCC continued to oppose basic local service alternative regulation for the large telephone companies, each of which submitted applications for multiple exchanges. For the second consecutive year, Cincinnati Bell increased its basic local service rates for its two largest exchanges, Cincinnati and Hamilton, by the maximum allowable amount.

The Supreme Court of Ohio denied the OCC's appeal of PUCO decisions favoring AT&T Ohio and Cincinnati Bell and upheld the PUCO's basic local service alternative regulation rules.

The OCC also won a victory when a penalty was assessed against Verizon for failing to adhere to previously agreed upon standards of service reliability for its customers.

Companies granted pricing flexibility for more local telephone exchanges *(Case Nos. 07-1312-TP-BLS, 08-107-TP-BLS, 08-594-TP-BLS, 08-912-TP-BLS, 08-1281-TP-BLS (AT&T Ohio applications); 08-1007-TP-BLS (Cincinnati Bell application); 08-1041-TP-BLS (Embarq application); 08-989-TP-BLS (Verizon application)*

Over the objections of the Office of the Ohio Consumers' Counsel (OCC), the Public Utilities Commission of Ohio (PUCO) approved most of AT&T Ohio's requests for basic local service alternative regulation in 2008 while similar requests were filed by Cincinnati Bell, Embarq and Verizon.

The OCC testified that AT&T Ohio failed to pass a competitive test for exchanges and that the company failed to show that viable, competitive and reasonably available alternatives exist. The OCC also asserted that residential consumers who want only basic dial tone service could pay higher bills while having few, if any, comparable choices.

In 2008, the PUCO decided AT&T Ohio requests covering 22 of its 192 Ohio exchanges. All but eight were approved for alternative regulation. In addition, Cincinnati Bell and Embarq received alternative regulation for basic service for four and 25 additional exchanges, respectively. The PUCO denied 19 exchanges in the Embarq case.

Currently, the PUCO has approved 166 of AT&T Ohio's exchanges for alternative regulation. Cincinnati Bell has received approval for six of its 12 exchanges, while Embarq has received approval for 29 of its 165 exchanges. Requests by Verizon for 24 of its 244 exchanges and AT&T Ohio for four additional exchanges are pending at the PUCO.

Ohio Telecom Association's request for MTSS waiver

(Case Nos. 00-1265-TP-ORD, 05-1102-TP-ORD)

In May 2008, the Public Utilities Commission of Ohio (PUCO) denied a request by the Ohio Telecom Association (OTA) to allow all of OTA's member companies to receive a permanent waiver from the service termination rule within the Minimum Telephone Service Standards (MTSS).

The regulation prohibits disconnection of a customer's basic local service for nonpayment of past due charges if the customer makes a payment sufficient to cover the company's tariffed rate for stand-alone dial tone, including all taxes and mandated surcharges. Telephone companies have the ability to disconnect other bundled services, such as cable TV and Internet.

The Office of the Ohio Consumers' Counsel (OCC) opposed the waiver request, asserting that granting a waiver for all of OTA's members without company-specific documentation of harm would undermine the consumer protections in the MTSS. The OCC also argued that telephone companies should continue to provide basic service to customers who pay that portion of their bill.

In its decision, the PUCO ruled that the OTA had not submitted documentation showing any telephone company faced a hardship in meeting the MTSS rule and denied the blanket waiver.

> *"I am retired and on a fixed income and cannot afford all the price increases that are happening in our state. However, I make too much for the special telephone reduced price. There is no competition in Marion County; therefore, the individual telephone subscribers must depend on the PUCO to regulate and keep the telephone company and other utilities in check."*
>
> Gary D. Murray
> Letter to Public Utilities Commission Docket
> Case #08-989-TP-BLS
> August 30, 2008

Supreme Court of Ohio grants AT&T Ohio and Cincinnati Bell alternative regulation for basic local services

(Supreme Court of Ohio Case Nos. 2007-0570, 2007-0659)

The Supreme Court of Ohio issued opinions upholding decisions by the Public Utilities Commission of Ohio (PUCO) approving alternative regulation for basic services in certain AT&T Ohio and Cincinnati Bell telephone exchanges.

The Office of the Ohio Consumers' Counsel (OCC) had appealed the two PUCO decisions, arguing that the PUCO unlawfully granted alternative regulation to AT&T Ohio and Cincinnati Bell by failing to require either company to demonstrate that competition existed for stand-alone basic services (dial tone and local calling without voicemail and call waiting), or that customers who only wanted basic dial-tone service had alternatives. The PUCO also allowed the companies to use the availability of more expensive telephone bundles to show alternatives to basic local service.

The Court decided that the PUCO properly found that competitors' bundles (which included call waiting and call forwarding) were in competition for AT&T Ohio and Cincinnati Bell's stand-alone basic service. In addition, the Court ruled that Ohio's alternative regulation law did not require a competitor to serve throughout an exchange.

As a result of the decisions, Cincinnati Bell increased the monthly price of basic local services and basic Caller ID by $1.25 and 50 cents, respectively, each year for certain exchanges while AT&T Ohio has yet to officially raise its rates.

The Cincinnati Bell case involved the company's two largest exchanges, Cincinnati and Hamilton. The AT&T Ohio case involved 136 of the company's exchanges.

Verizon held accountable for missing service benchmarks

(Case Nos. 00-1265-TP-ORD, 07-511-TP-UNC)

The Office of the Ohio Consumers' Counsel (OCC) won a victory in March 2008 when the Public Utilities Commission of Ohio (PUCO) imposed a $250,000 penalty on Verizon for failing to meet service benchmarks that the company had previously agreed to.

The OCC requested that the penalty be assessed after Verizon failed to meet its monthly obligation to restore customers' service outages within 24 hours at least 85 percent of the time in each of its four Ohio districts.

The PUCO directed Verizon to apply the funds to expanding broadband initiatives in Ohio. Verizon, in conjunction with Connect Ohio and the Ohio Broadband Council, deployed broadband service in the Lake Waynoka community in Brown County.

Customers with telephone bundles run increased risk of disconnection

(Case Nos. 00-1265-TP-ORD, 05-1102-TP-ORD)

In November 2008, the Public Utilities Commission of Ohio (PUCO) issued a ruling enabling certain competitive telephone service providers to disconnect a customer's local service for nonpayment of any charge on the customers' bill. The decision creates an increased risk of disconnection for customers who are able to pay for the basic local dial tone service that they receive, but not for the complete package of bundled services for which they are charged.

In opposing the change, the Office of the Ohio Consumers' Counsel (OCC) and other consumer groups argued that such a decision would contravene long-standing state policy by taking away from customers the option to maintain basic service through partial payments.

"We are retired and on a fixed income. We have done everything we can to keep our phone bill to a minimum. We don't have extras like caller ID and have even eliminated our ability to make long distance calls. Our next step is to eliminate phone service altogether. This would also eliminate our Internet, which we have the minimum plan of $9.95 a month, and is how we keep in touch with friends and family across the nation."

Michael and Linda
Powell, Oho
Letter to the PUCO
Case #08-989-TP-BLS
Oct. 17, 2008

Communicating With Consumers

The Office of the Ohio Consumers' Counsel (OCC) worked hard in 2008 to connect with Ohio's 4.5 million residential consumer households on utility issues. Whether it was through the news media, the Internet or hands-on presentations, the OCC communications staff was very active and kept residential utility customers informed about rate increases and other utility issues, educating them on how to exercise better control of the amount of energy they use.

Media relations

The OCC's connection with consumers through the news media yielded 90 press releases containing key information about residential utility issues. The communications staff also responded to more than 1,200 media inquiries, prepared guest columns, letters to the editors of newspapers as well as providing online content. In addition, the media staff supported the work of the agency during 2008 and developed additional printed materials for Ohio consumers.

OCC Web site and online presence

The OCC Web site continued to receive praise in 2008 from visitors for its information and ease of use and served as a key link of information for Ohio's residential consumers. The OCC webmaster improved the Web site's accessibility for people with visual impairments. This year, the site also featured a section dedicated to the new electric legislation and a page highlighting the Consumers' Counsel's testimony. There were nearly 87,000 visitors to the OCC Web site with 76 percent as new visitors.

Outreach and education

The OCC's Outreach and Education staff met with more than 43,000 Ohio consumers at more than 1,200 outreach events in 2008. Staff members conducted educational public outreach on a variety of utility-related topics including energy efficiency, renewable energy and utility assistance. The O&E staff presented speeches for senior and service groups; staffed booths at shows, conferences, and health and energy fairs; participated in local public hearings and provided train-the-trainer programs to social service agencies about energy assistance programs. The O&E staff's most important role is providing consumers with current utility information and educating and assisting them with making wise utility decisions – from choosing a natural gas supplier to increasing the energy efficiency of their homes.

As their utility bills continued to increase, consumers remained interested in learning about ways to control costs. More than 5,000 consumers participated in more than 200 workshops to learn about energy efficiency and weatherization.

Rate cases also proved to be a significant educational opportunity for the O&E staff as record numbers of consumers attended local public hearings to voice their opinions about potential increases to their electric, natural gas and water rates. Prior to each set of public hearings in the respective utility rate cases, the O&E staff informed consumers about potential increases and their effect, and encouraged them to attend the hearings in person or write letters to the Public Utilities Commission of Ohio (PUCO).

Low-Income Dialogue Group drafts revamped PIPP rules

The Low Income Dialogue Group (LIDG), a working group of consumer advocates from many organizations and agencies in Ohio, met monthly during 2008 to identify and resolve utility-related concerns affecting low-income Ohioans. The OCC and its advocate partners in the LIDG worked to affect significant reform to Ohio's Percentage of Income Payment Plan (PIPP) as well as the credit and disconnection rules that impact consumers' ability to establish and maintain essential utility services.

The PUCO's five-year review of its credit and disconnection rules, which includes the natural gas PIPP rules, began in 2007 and was completed during 2008. The Ohio Department of Development (ODOD), which has statutory authority over the electric PIPP program, issued its initial rules on that program this year as well. The LIDG met with staff from both agencies throughout the year and provided input prior to the release of draft natural gas rules, and the resulting rules contained many of its recommendations. The OCC and others from the LIDG agencies filed comments and reply comments with the PUCO addressing areas of concern about the proposed rules. The PUCO issued final rules Dec. 17, 2008. As 2009 began, the OCC along with its LIDG partners was planning to file an application for re-hearing in a further effort to address its concerns with some of the proposed rules.

The proposed electric PIPP rules were submitted by the ODOD to the Ohio Joint Committee on Rules Review (JCARR) for approval Nov. 26, 2008. As part of that process, the ODOD scheduled a public hearing for January 2009. At that hearing, the OCC and other members of the LIDG will offer testimony to explain concerns with key issues in the ODOD's proposed electric PIPP rules.

Both sets of rules were pending at the end of 2008. Any changes will be implemented in time for the 2009-2010 winter heating season. Some significant reform to the PIPP program and other rules is anticipated as a result of the efforts of all the parties. The OCC and the LIDG will continue to advocate for programs and policies that help vulnerable Ohioans who are financially at risk stay connected to their utility services.

Ohio Anti-Poverty Task Force

On May 28, 2008, Gov. Ted Strickland signed an executive order creating the Ohio Anti-Poverty Task Force. The task force, which includes Ohio Consumers' Counsel Janine Migden-Ostrander and is comprised of leaders from government, private non-profit agencies and the private sector, was developed after the Ohio Association of Community Action Agencies sponsored a public forum to address the growing problem of poverty in Ohio.

The OCC staff participated in the Task Force Interagency Work Group, which provided recommendations to reduce barriers, expand access to services and increase efficiency by eliminating duplicated programs.

A set of short-term recommendations was submitted to Gov. Strickland on Sept. 8, 2008. A set of long-term goals will be forthcoming in the spring of 2009.

Hispanic outreach

In an effort to educate and resolve utility issues for the Hispanic/Latino community, the OCC continued to work with many agencies and coalition groups that serve the Spanish-speaking community. Hispanic/Latino events like the Hispanic Festival in Columbus and Cinci-Cinco Festival in Cincinnati provided an opportunity for the OCC to educate and reach out to large numbers of Hispanic consumers. Regular attendance at boards and coalitions allowed the OCC to stay in close contact with the Hispanic community. Redesigning El Informador, the Spanish-version of the Consumers' Corner newsletter, and increasing its distribution were key initiatives during 2008.

Community Advisory Panels learn about the status of current utility issues

Community Advisory Panels continued to serve as a link to consumer organizations and agencies in Ohio. The OCC conducted meetings in the spring and fall of 2008 during which CAP members learned about the proposed electric service plans (ESP), proposed natural gas rate increases and new minimum telephone service standards (MTSS).

At the spring meetings, the OCC solicited feedback from CAP members regarding current publications through an interactive group process. CAP members reviewed and provided comment on several publications. The OCC planned to use the survey results to make changes and improvements to current and future publications.

The OCC held the fall CAP meeting in conjunction with public forums about the proposed electric security plans where panel members learned about the new electric issues.

Public forums provide insight into proposed electric rate plans

Decisions made in 2008 about Ohio's electric rates will affect Ohio consumers for many years to come. In leading the Ohio Consumer and Environmental Advocates, the OCC hosted seven public forums to educate consumers about the proposed new Electric Security Plans developed by all of Ohio's publicly owned electric companies.

Attended by several hundred consumers, the forums assisted consumers in gaining a better understanding of the proposed rate plans. Locations for the forums included Warren, Sandusky, Toledo, Cleveland, Columbus, Athens, and Cincinnati. Panel speakers addressed issues such as an overview of the plans, their impact on senior and low-income consumers and environmental issues.

Consumers speak out at local public hearings

During 2008, the OCC was dedicated to keeping consumers and consumer groups informed about their opportunities to testify in local public hearings about utility issues. Turning out in record numbers, 2,779 consumers attended 64 local public hearings on proposed increases in natural gas, electric and water rates. More than 700 consumers testified in opposition to the proposed increases before the Public Utilities Commission of Ohio (PUCO). In addition, more than 900 wrote letters of concern to the PUCO.

Throughout Ohio, consumers who attended the hearings represented a diverse audience of ages and occupations. Key concerns included the poor economy, difficulty managing current utility bills and having to choose between medicine, food and utility bills. Consumers pointed out that they did not believe the utilities were justified in seeking increases as many were reporting healthy profits throughout the year. The overwhelming majority of consumers urged the PUCO to seriously consider the proposed increases in light of the issues they addressed. In some cases, the OCC and other parties were able to negotiate with the utilities so that many of the final increases were significantly less than what the company requested.

"Stay Connected" and "Train-the-Trainer" programs reach out to low-income advocates

Consumer utility disconnections increased in 2008. One in 10 Ohio households (about 424,000) were disconnected from their electric or natural gas service in the last 12 months. With the U.S. officially declared in a recession, an increasing number of consumers turned to the OCC seeking assistance programs to help them maintain utility service.

The OCC's outreach and education specialists provided training about the Percentage of Income Payment Plan (PIPP), Home Energy Assistance Plan (HEAP) and Lifeline to approximately 2,000 service workers at 100 train-the-trainer sessions and encouraged consumers to call the OCC to prevent future utility disconnects. Participants received a comprehensive workbook including detailed information about all of the utility assistance programs and the credit and disconnect rules.

Colleges and universities host National Consumer Protection Week activities

"Financial Literacy a Sound Investment," the theme for the 2008 National Consumer Protection Week, proved to be an important message for students at Ohio colleges and universities. Joining with federal and state agencies, including the Ohio Attorney General, the Social Security Administration and the Credit Union League, the OCC held five fairs at Ohio colleges.

Using an interactive game as a learning tool, each agency raised awareness among students about credit cards, scams and the importance of reading the fine print before signing contracts. Through this effort, the OCC reached more than 1,500 consumers.

OCC outreach at a glance

- Met with Ohio consumers in 230 cities and 82 counties.
- Visited 542 organizations and agencies to educate about the OCC's services.
- More than 11,000 consumers attended 500 presentations provided by the OCC.
- Staffed 105 shows, fairs, radio station breakfast breaks and listener lunches to meet and educate more than 30,000 consumers.
- Met with more than 43,000 consumers through all outreach efforts.
- Signed up more than 5,000 new subscribers to the "Consumers' Corner" newsletter through all outreach efforts.
- The newsletter is mailed to more than 100,000 consumers and consumer groups and e-mailed to more than 6,000.
- Distributed more than 545,000 educational materials to consumers and consumer groups including brochures and fact sheets on utility topics, utility assistance, energy efficiency and renewable energy.

Weatherization, energy efficiency seminars and Ohio State Fair teach consumers about savings

Energy efficiency continued to be a hot topic with consumers anxious to learn ways to improve energy usage and lower their energy bills. The OCC provided presentations featuring energy efficiency topics as well as hands-on weatherization workshops. The workshops featured low-cost and no-cost energy efficiency measures to keep indoor air comfortable year-round. With energy prices continuing to rise, the OCC's weatherization workshops and energy efficiency presentations attracted more than 3,000 consumers participating in 147 sessions. Participants learned to install a door sweep, insulate windows with heavy plastic, replace incandescent bulbs with compact fluorescent light bulbs and weather-strip around doors.

OCC's Legal Intern Chris Allwein and Outreach and Education Specialist Andy Tinkham quiz a family of Ohio State Fair visitors about their energy efficiency knowledge.

"Are You a Smart Energy Consumer" was the theme of OCC's booth at the 2008 Ohio State Fair. It is estimated that nearly 7,000 consumers of all ages visited the booth to answer questions about energy efficiency. Representatives from OCC's Consumer Services Division were on hand each day to answer individual consumer questions and respond to complaints about their services.

Consumer Services

During 2008, the OCC Consumer Services Division received nearly 95,000 calls to the agency's toll-free hotline (1-877-PICKOCC, 1-877-742-5622) and provided one-on-one assistance to consumers.

The total call volume in 2008 represented an increase of 26 percent over 2007. The higher number is attributed to legislative restoration of the OCC complaint-handling capabilities, increasing utility costs and consumers affected by the decline in the Ohio economy. More than 47,500 consumers spoke directly with agency representatives to seek assistance and resolutions to their utility complaints and concerns.

Of the contacts requiring follow-up activity with consumers, 38 percent involved the natural gas or water industries, 35 percent involved electric utilities, and 22 percent were about telecommunications issues. The remaining contacts were either non-jurisdictional or non-industry specific in nature. Consumer services investigators provided support to consumers on a diverse array of concerns, such as:

- Preventing disconnections by explaining alternatives, negotiating payment arrangements, and making referrals to financial assistance programs;
- Researching company-specific complaints and mediating resolutions, when possible;
- Identifying service quality problems such as utility reliability, electric outages, and water quality;
- Explaining or verifying the authenticity of charges on utility bills;
- Educating consumers about their utility rights and responsibilities;
- Explaining utility tariffs and the specific terms and conditions for service;

OCC's Customer Service Representative Angelique Goliday meets with a consumer to discuss winter heating resources.

- Disseminating information about competitive choices, government aggregation programs, and available suppliers;
- Providing information about energy efficiency and renewable energy resources and programs; and
- Sharing the status of on-going rate cases and other legal proceedings.

Also in November 2008, the OCC hosted two guests from the Ghana Public Utilities Commission. The visit provided an opportunity to share different regulatory perspectives involving consumer advocacy and to discuss best practices in consumer services.

Employee Recognition

The devoted staff of the Office of the Ohio Consumers' Counsel (OCC) is made up of nearly 70 professionals including accountants, attorneys, communicators, educators, economists, engineers, investigators and support staff. These professionals work tirelessly in a combined effort to ensure that the voice of Ohio's 4.5 million residential utility consumer households is heard. Employees at the OCC are committed to lending a helping hand to fellow co-workers, as well as the community by participating in the Combined Charitable Campaign, Operation Feed and various other charitable events throughout the year.

The OCC greatly values the dedication and hard work of its staff. In 2008, the OCC management along with some staff members took the initiative and designed a program to recognize exceptional employees on a monthly basis. The OCC launched this new program during fiscal year 2008.

Mary Seltzer

Mary Seltzer joined the OCC in January 2008 as an administrative assistant in the Operations Department. In her role with the office, Mary assists the director of operations, fiscal officer and human resources administrator. She also processes all job applicants, sets up interviews, serves as the contracts coordinator and records travel and training for all personnel.

Before joining the OCC, Mary worked for 20 years in the telecommunications industry as a technical writer, public relations/communications manager and project manager.

She received a bachelor's degree in business management and a master's degree in marketing and communications from Franklin University.

Larry Sauer

Larry Sauer joined the OCC in March 2003 as an assistant consumers' counsel. Larry has handled complex electric and natural gas issues, including distribution rate cases.

Prior to joining the OCC, Larry worked for 24 years as an accountant, analyst and attorney for American Electric Power (AEP) and handled a variety of issues including contract reviews and negotiations, regulatory matters, corporate compliance, property and easement disputes and workers' compensation.

Larry received a bachelor's degree in accounting from Indiana University and earned his law degree from Capital University.

Beth Hixon

Beth Hixon worked as a utility rate analyst supervisor with the OCC from 1982-1987, returned to the agency in May 1998 and is now the assistant director of analytical services and leader of the OCC's electric team. In this capacity, Beth manages staff members and provides oversight and coordination of the OCC's activities on energy issues. In addition, she contributes policy and financial analysis, conducts studies and investigations on utility issues and presents testimony on behalf of the OCC in legal filings before the Public Utilities Commission of Ohio.

Before joining the OCC, Beth worked as a field audit examiner for the Ohio Rehabilitation Service Commission. From 1988-1998 she worked for Berkshire Consulting Services, providing analysis on rate issues to utility consumer advocates.

Beth received a bachelor's degree in business administration from Ohio University. In addition to participating in projects with the National Association of Regulatory Utility Commissioners, she is involved in various professional and community activities serving as past president of Chillicothe Business and Professional Women and currently as a board member for Scioto Valley Habitat for Humanity.

Fiscal Report

The Office of the Ohio Consumers' Counsel (OCC) is funded through an assessment on the intrastate gross receipts of the state's investor-owned utility companies pursuant to Section 4911.18 of the Ohio Revised Code. Total assessments for fiscal year 2008 amounted to $7,959,943 after adjustments.

The OCC assessed 453 utility companies for operating funds for fiscal year 2008. Companies can pass on the cost of supporting the OCC to their customers (less than 3.5 cents of every $100 paid in utility bills).

Operating budget - fiscal year 2008 appropriations

Personnel services	$6,348,750
Maintenance and equipment	$1,379,250
Consultants and transcripts	$770,000
Total	**$8,498,000**

2008 OCC Case Participation

Cases with All Utilities at the Public Utilities Commission of Ohio

Case Number	Company/Case Type	Issue
08-0723-AU-ORD	Rules Review	Establishment of Credit, Percentage of Income Payment Plan and Service Disconnection
08-0558-AU-ORD	Rules Review	Standard Filing Requirements for Utility Applications for Increases in Rates

Electricity Cases at the Public Utilities Commission of Ohio

Case Number	Company/Case Type	Issue
08-1301-EL-AAM	American Electric Power	2008 Wind Storm-Related Costs
08-1299-EL-UNC	Electric Utilities	Request by Consumers for Reliable Electricity in Ohio to Investigate Whether Reliability of Electric Service is Adequate
08-1227-EL-UNC; 08-1228-EL-UNC	Duke Energy	Demand-Side Management
08-1202-EL-UNC	American Electric Power	Transmission Costs
08-1172-EL-ATA	FirstEnergy	Transmission Costs
08-1094-EL-SSO; 08-1095-EL-ATA; 08-1096-EL-AAM; 08-1097-EL-UNC	Dayton Power & Light	Electric Security Plan
08-1025-EL-UNC	Duke Energy	Annually Adjusted Component of Standard Service Offer
08-0936-EL-SSO	FirstEnergy	Market-Rate Offer
08-0935-EL-SSO	FirstEnergy	Electric Security Plan
08-0920-EL-SSO; 08-0921-EL-AAM; 08-0922-EL-UNC; 08-0923-EL-ATA	Duke Energy	Electric Security Plan
08-0918-EL-SSO	Ohio Power	Electric Security Plan
08-0917-EL-SSO	Columbus Southern Power	Electric Security Plan
08-0888-EL-ORD	Rules to Implement Senate Bill 221	Energy Efficiency and Demand Reduction Benchmarks; Alternative Energy Portfolio Standard; Greenhouse Gas Reporting and Carbon Dioxide Control Planning; Long-Term Forecast Reports for Natural Gas Utilities and Electric Utilities
08-0884-EL-AEC	Ohio Power & Globe Metallurgical, Inc.	Special Contract
08-0883-EL-AEC	Columbus Southern Power & Solsil, Inc.	Special Contract
08-0777-EL-ORD	Rules to Implement Senate Bill 221	Standard Service Offer; Transmission Rider; Corporate Separation; Reasonable Arrangements
08-0709-EL-AIR; 08-0710-EL-ATA; 08-0711-EL-AAM	Duke Energy	Distribution Rate Case
08-0658-EL-UNC	Ohio Department of Development	2009 Universal Service Fund Rider
08-0651-EL-UNC	Dayton Power & Light	Bill Format related to Rate Stabilization Surcharge
08-0613-EL-UNC	Duke Energy	Corporate Separation related to Sale or Transfer of Generating Plant
08-0184-EL-ATA	Duke Energy	Standby Rates
08-0124-EL-ATA	FirstEnergy	Deferred Fuel Costs and 08-0125-EL-AAM
07-1304-EL-ATA	Ohio Power	Net Metering
07-1303-EL-ATA	Columbus Southern Power	Net Metering
07-1302-EL-ATA	Dayton Power & Light	Market Standby Tariff
07-1301-EL-ATA	Dayton Power & Light	Interconnection/Net Metering
07-1299-EL-ATA	Cleveland Electric Illuminating	Standby Rates
07-1298-EL-ATA	Toledo Edison	Standby Rates
07-1297-EL-ATA	Ohio Edison	Standby Rates
07-1296-EL-ATA	Toledo Edison	Partial Service
07-1295-EL-ATA	Ohio Edison	Partial Service
07-1294-EL-ATA	Cleveland Electric Illuminating	Partial Service
07-1293-EL-ATA	Ohio Edison	Net Metering
07-1292-EL-ATA	Toledo Edison	Net Metering
07-1291-EL-ATA	Cleveland Electric Illuminating	Net Metering
07-1290-EL-ATA	Ohio Edison	Interconnection
07-1289-EL-ATA	Toledo Edison	Interconnection
07-1288-EL-ATA	Cleveland Electric Illuminating	Interconnection
07-1287-EL-AAM	Dayton Power & Light	Transmission Costs
07-1278-EL-UNC	American Electric Power	Generation Service Rate Increase
07-1191-EL-UNC	American Electric Power	Generation Service Rate Increase
07-1156-EL-UNC	American Electric Power	Transmission Costs
07-1132-EL-UNC	American Electric Power	Generation Service Rate Increase
07-0975-EL-UNC	Duke Energy	System Reliability Tracker
07-0974-EL-UNC	Duke Energy	Fuel and Purchased Power Costs
07-0973-EL-UNC	Duke Energy	Annually Adjusted Component of Standard Service Offer

07-0723-EL-UNC	Duke Energy	System Reliability Tracker/Fuel Purchased Power
07-0551-EL-AIR; 07-552-EL-ATA; 07-553-EL-AAM; 07-554-EL-UNC	FirstEnergy	Distribution Rate Case
07-0498-EL-CSS; 07-0514-EL-CSS; 07-0525-EL-CSS	Toledo Edison/Ohio Edison	Windmill Interconnection Complaints
06-1085-EL-UNC	Duke Energy	Annually Adjusted Component of Standard Service Offer
06-1069-EL-UNC	Duke Energy	System Reliability Tracker
06-1068-EL-UNC	Duke Energy	Fuel and Purchased Power Costs
06-0986-EL-UNC	Duke Energy	Market-Based Standard Service Offer Post-2008
06-0653-EL-ORD	Rules to Implement Senate Bill 221	Retention of Records; Electric Service and Safety Standards; Competitive Retail Electric Service Rules and Certification; Interconnection; Electric Reliability, Market Monitoring
05-1500-EL-COI	PUCO Investigation	Distributed Generation
05-0724-EL-UNC	Cincinnati Gas & Electric	System Reliability Tracker
05-0376-EL-UNC	American Electric Power	Costs Regarding Integrated Gasification Combined Cycle Electric Generating Facility
04-1932-EL-ATA/AAM	FirstEnergy	Transmission Costs
04-1323-EL-CRS	Duke Energy Retail Sales	Certification of Competitive Retail Electric Service Supplier
03-2081-EL-AAM; 03-2080-EL-ATA; 03-2079-EL-AAM	Cincinnati Gas & Electric	Transmission and Distribution Cost Deferrals
03-0093-EL-ATA	Cincinnati Gas & Electric	Market-Based Electricity Pricing After End of Market Development Period

Electricity Rules at the Ohio Department of Development

Case Number	Company/Case Type	Issue
	Rules	Percentage of Income Payment Plan (Electric Utilities)

Electricity Cases Appealed to the Supreme Court of Ohio

Case Number	Company/Case Type	Issue
2008-0466	OCC v. PUCO (Duke Energy)	System Reliability Tracker/Fuel Procurement Plan Riders
2008-0367	OCC v. PUCO (Duke Energy)	Rate Stabilization Plan Remand

Electricity Cases at the Federal Energy Regulatory Commission

Case Number	Company/Case Type	Issue
ER09-134	FirstEnergy	Captive Customers
ER09-75	American Electric Power/Duke	Pioneer Project
ER08-1457	PPL Electric Utilities Corp.	Transmission Construction Project Receiving Incentive Rate of Return and Reasonableness of Formula Rates
ER08-516	PJM Interconnection	Capacity Market Rates and Cost of New Entry
ER08-394	Midwest ISO Tariff Revision	MISO Proposed Load Modifying Resources, Including Demand Resources to Have Planning Reserve Margin Equal to that of the Load Serving Entity
ER08-386	Potomac Appalachian Transmission Highline Company	Transmission Construction Project Receiving Incentive Rate of Return, Construction Cost Treatment and Requesting Hearings
ER08-107	FirstEnergy	Generation Mansfield Unit 1
EC08-78	Duke	Generating Facility
EL08-67	Reliability Pricing Model Buyers	Complaint
EL08-61	Duke	Divest Assets
EL08-47	PJM Interconnection	Request to Eliminate the Market Power Test from PJM Transactions or Make it Less Stringent
EL08-23	PPL Electric Utilities Corp.	500 KV Transmission Line
IN08-3	Edison Mission Energy, Edison Mission Marketing & Trading and Midwest Generation	Violation of Market Power and Price Manipulation
ER05-1410	PJM Interconnection	Reliability Pricing Model Buyers Interconnection

Natural Gas Cases at the Public Utilities Commission of Ohio

Case Number	Company/Case Type	Issue
08-1250-GA-UNC; 08-1251-GA-ATA	Duke Energy	Accelerated Main Replacement Program Costs
08-1248-GA-WVR	Columbia Gas	Pipeline Refund
08-0941-GA-ALT	Pike Natural Gas	Alternative Regulation
08-0940-GA-ALT	Eastern Natural Gas	Alternative Regulation
08-0833-GA-UNC	Columbia Gas	Demand-Side Management
08-0724-GA-ORD	Rules	Competitive Retail Natural Gas Service
08-0632-GA-AAM	Vectren Energy Delivery	Deferral of Revenues
08-0360-GA-CSS	Manchester Group v. Columbia Gas of Ohio	Complaint regarding Billing of Non-regulated Services
08-0221-GA-GCR	Columbia Gas	Management/Performance Audit for Gas Costs
08-0220-GA-GCR	Vectren Energy Delivery	Management/Performance Audit for Gas Costs
08-0219-GA-EXR	Dominion East Ohio	Audit
08-0218-GA-GCR	Duke Energy	Financial Audit
08-0178-GA-ORD	Rules	Gas Cost Recovery
08-0169-GA-UNC	Dominion East Ohio	Pipeline Infrastructure Replacement Plan
08-0072-GA-AIR; 08-0073-GA-ALT; 08-0074-GA-AAM; 08-0075-GA-AAM	Columbia Gas	Rate Case and Alternative Rate Plan
07-1285-GA-EXM	Vectren Energy Delivery	Exit Merchant Function
07-1080-GA-AIR; 07-1081-GA-ALT	Vectren Energy Delivery	Rate Case and Alternative Rate Plan
07-0829-GA-AIR; 07-0830-GA-ALT; 07-0831-GA-AAM	Dominion East Ohio	Rate Case and Alternative Rate Plan
07-0589-GA-AIR; 07-0590-GA-ALT; 07-0591-GA-AAM	Duke Energy	Rate Case and Alternative Rate Plan
07-0478-GA-UNC	Columbia Gas of Ohio	Infrastructure Replacement - Gas Riser
07-0237-GA-AAM	Columbia Gas of Ohio	Costs for Survey of Gas Risers
07-0218-GA-GCR	Duke Energy	Management/Performance Audit for Gas Costs
06-1453-GA-UNC	Dominion East Ohio	Automated Meter Reading
05-1444-GA-UNC	Vectren Energy Delivery	Decoupling and Energy Conservation

Natural Gas Cases Appealed to the Supreme Court of Ohio

Case Number	Company/Case Type	Issue
2008-1837	OCC v. PUCO (Duke Energy)	Straight Fixed Variable Rate Design

Telecommunications Cases at the Public Utilities Commission of Ohio

Case Number	Company/Case Type	Issue
08-1281-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
08-1267-TP-ACE	CenturyTel & Embarq	Merger
08-1142-TP-WVR	Windstream	Grace Period for Owing Customer Credits
08-1124-TP-WVR	Cincinnati Bell	Grace Period for Owing Customer Credits
08-1118-TP-WVR	Embarq	Grace Period for Owing Customer Credits
08-1041-TP-BLS	Embarq	Alternative Form of Regulation of Basic Local Exchange Services
08-1007-TP-BLS	Cincinnati Bell	Alternative Form of Regulation of Basic Local Exchange Services
08-0989-TP-BLS	Verizon North, Inc.	Alternative Form of Regulation of Basic Local Exchange Services
08-0912-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
08-0889-TP-UNC	CenturyTel	Prepaid Telephone Services
08-0594-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
08-0539-TP-ORD	Ohio Telephone Companies	Uniform System of Accounts; Administration of Boundaries; Filing of Contracts; Line Extension Charges
08-0117-TP-WVR	Doylestown	Edge Out Access Rate Reduction Requirements
08-0107-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
07-1312-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
07-0760-TP-BLS	Embarq	Alternative Form of Regulation of Basic Local Exchange Services
07-0511-TP-UNC	Verizon	PUCO Staff/Verizon Service Quality Stipulation
07-0259-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
06-1013-TP-BLS	AT&T	Alternative Form of Regulation of Basic Local Exchange Services
05-1102-TP-ORD		
00-1265-TP-ORD	Rulemaking	Minimum Telephone Service Standards – Disconnection Rules
00-1532-TP-COI	Rulemaking	Elective Alternative Regulation Plan

Telecommunications Cases at the Federal Communications Commission

Case Number	Company/Case Type	Issue
WC 08-205*	Frontier	Petition for Forbearance from Exemption from Access Charges for Internet Protocol-Enabled Voice Calls Terminated to the Public Switched Network
WC 08-160*	Embarq	Conditional Waiver of Price Cap Rules
WC 08-152*	AT&T	Access Charges
WC 08-55*	Sprint Nextel/Kansas Corporation Commission	Limitations on Federal Lifeline Support
WC 08-23*	AT&T	Petition on Interconnection Agreements
WC 08-8*	Embarq	Petition for Forbearance from Exemption from Access Charges for Internet Protocol-Enabled Voice Calls Terminated to the Public Switched Network
WC 07-273*	Verizon/Frontier/Embarq Petitions	Forbearance from Service Quality and Other Performance Reporting
WC 07-258*	Embarq	Petition to Not File Wholesale Contracts
WC07-256*	Feature Group IP Petition	Petition for Forbearance from Access Charges for Internet Protocol Calls
WC 07-245*	Rulemaking	Policies on Pole Attachments
WC 07-207*	Rulemaking	Rules for Forbearance Petitions
WC 07-204*	AT&T/Qwest	Forbearance from Reporting on Service Quality and Other Matters
WC 07-139*	AT&T Petition	Forbearance from Service Quality and Other Performance Reporting
WC 07-135*	Qwest	Petition for Declaratory Ruling Against Traffic Inflation
WC 07-97*	Qwest	Petition for Forbearance from Unbundling Requirements in Metro Areas
WC 07-52*	Rulemaking	Broadband Industry Practices
WC 07-38*	Rulemaking	Data on Broadband Services
WC 07-21*	AT&T/Verizon/Qwest	Petition for Forbearance from Cost Allocation Rules
WC 06-125*	AT&T/Bell South	Merger
WC 06-122*	Rulemaking	Universal Service Fund Contribution Methodology
WC 05-337*	Rulemaking	Universal Service Support for High Cost Areas
WC 05-195*	Rulemaking	Universal Service Fund Management
WT 05-194*	Rulemaking	CTIA Petition on Early Termination Fees
WC 04-36*	Rulemaking	Internet Protocol-Enabled Services
WC 03-109*	Rulemaking	Lifeline and Link-Up
CC 02-278*	Rulemaking	Do-Not-Call List
WC 02-60*	Rulemaking	Rural Health Care Mechanism
WC 02-6*	Rulemaking	Schools & Libraries Program
CC 01-92*	Rulemaking	Intercarrier Compensation
CC 00-256*	Rulemaking	Multi-Association Group Plan for Interstate Services of Non-Price Cap Incumbent Carriers
CC 99-200*	Rulemaking	Numbering Resource Optimization
CC 99-68*	Rulemaking	Intercarrier Compensation for Internet Service Provider-Bound Traffic
CC 97-21*	Rulemaking	Changes to the Board of Directors of National Exchange Carrier Association
CC 96-262*	Rulemaking	Access Charge Reform
CC 96-45*	Rulemaking	Universal Service
CC 80-286*	Rulemaking	Jurisdictional Separations and Referral to the Federal-State Joint Board

* This case activity is with the National Association of State Utility Consumer Advocates.

U.S. Court of Appeals District of Columbia Circuit

Case Number	Company/Case Type	Issue
08-1353*	NASUCA v. FCC	Multi-Carrier Service Quality and Other Performance Reporting and Cost Allocation Forbearance
08-1257*	Qwest	Forbearance from Unbundling Requirements in Metro Areas
08-1234*	Verizon	Customer Retention
08-1226*	AT&T	Cost Allocation
08-1012*	Verizon	Forbearance from Unbundling Requirements in Metro Areas

* This case activity is with the National Association of State Utility Consumer Advocates.

Telecommunications Cases at the United States Supreme Court

Case Number	Company/Case Type	Issue
06-1184*	Sprint/Nextel v. NASUCA	FCC Preemption of State Regulation of Listing of Surcharges on Wireless Bills

* This case activity is with the National Association of State Utility Consumer Advocates.

Water Cases at the Public Utilities Commission of Ohio

Case Number	Company/Case Type	Issue
08-1125-WW-UNC	Aqua Ohio	Monitoring Compliance with the Terms and Conditions of the Settlement of a Rate Case
08-0227-WS-AIR	Water & Sewer	Rate Case
07-1112-WS-AIR	Ohio American Water	Rate Case
07-0981-WW-AIR	Mohawk	Rate Case
07-0564-WW-AIR	Aqua Ohio	Rate Case
07-0292-WS-ORD	Rulemaking	Water and Sewer Standards

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