Office of Consumers' Counsel

Senate Finance and Financial Institutions Committee

Ross Miller, Senior Economist
Legislative Service Commission

May 22, 2007

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LSC Redbook

for the

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- The Office of Consumers' Counsel is funded by annual assessments on utility companies; no GRF funding
- The executive proposal calls for an increase in appropriations of 9.4% for the biennium

OVERVIEW

The Office of Consumers' Counsel (OCC), established in 1976, is the statutory advocate for residential utility customers. The OCC has the statutory responsibility to represent the interests of 4.5 million residential customers of Ohio's investor-owned electric, natural gas, telecommunications, and water companies. The OCC represents consumers in cases before the Public Utilities Commission of Ohio, federal regulatory agencies, and state and federal courts. Additionally OCC educates consumers and organizations about utility issues; during the past two fiscal years the OCC has distributed over 800,000 educational materials to utility consumers.

The OCC employs a staff of approximately 65. Funding for the agency is derived solely from an assessment on utilities operating in Ohio. The amount appropriated in the main operating budget is apportioned between those utilities based on their intrastate gross revenues. The OCC receives no funding from the General Revenue Fund. The current estimate of the agency's FY 2007 expenditures is slightly under $7.8 million.

Summary of FYs 2008-2009 Budget Issues

The executive budget recommends appropriations of $8,498,070 in FY 2008 (a 9.4% increase compared with the FY 2007 estimate) and the same amount in FY 2009. Any funds appropriated but not spent during a fiscal year are returned to the utilities that fund the agency's budget. Actual FY 2006 expenditures were 9.8% below the appropriation for that year. Thus, the recommended FY 2008 appropriation is 21.3% larger than actual FY 2006 expenditures.

While the proposed increase in the appropriation represents a significant increase compared to appropriations in the last operating budget bill, Am. Sub. H.B. 66, it also represents an 8.4% cut compared to appropriations for FY 2004 and FY 2005. H.B. 66 cut the appropriation for OCC at the same time that it enacted a prohibition against OCC operating a telephone call center for consumer complaints. The executive proposal would repeal that prohibition.

The proposed increase is intended to provide resources needed for OCC to handle the increased workload that would result from several anticipated industry developments. First, electric companies in Ohio are currently operating under rate stabilization plans (RSPs). With the exception of the Dayton Power and Light RSP, all RSPs will expire by the end of calendar year 2008. OCC officials indicate that this development means that OCC will need additional resources (detailed below) to advocate effectively for consumers of each of the other electric utilities. Second, natural gas companies are exiting the merchant function, i.e., they are getting out of the business of procuring natural gas supplies in favor of distributing gas purchased by others. OCC officials believe that much analysis will be required to effectively advocate for natural gas customers in light of this development. In light of these developments and others, the increased funding is intended to allow hiring 3.6 additional full-time equivalent (FTE) staff members: one staff attorney, one natural gas regulatory analyst, one economist, and a part-time government affairs intern.

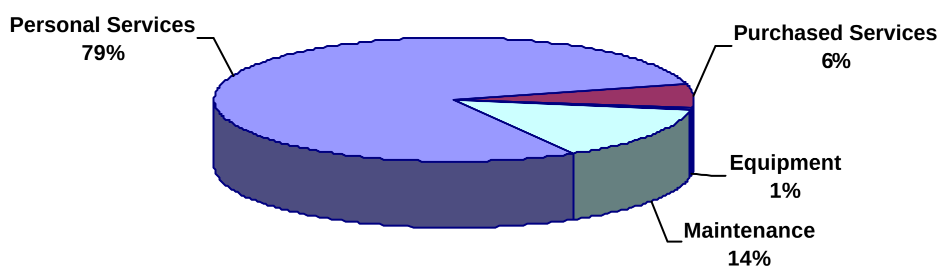
Staffing Levels

The following table shows actual FTE staffing levels during each fiscal year. The agency has operated with several staffing vacancies in recent years; its approved staffing level has been 81.5 FTE positions.

Office of Consumers' Counsel Staffing Levels						
					Estimated	
Program Series/Division	2004	2005	2006	2007	2008	2009
Consumer Advocacy	72.5	75	66	65	75	75
Totals	**72.5**	**75**	**66**	**65**	**75**	**75**

In addition to the 3.6 FTE positions listed above, the increase in staffing for FYs 2008 and 2009 shown in the table is requested to hire an administrative assistant, an economist/analyst, a second staff attorney, a senior energy policy analyst, and a consumer services specialist. These positions represent the Office's priorities in filling positions that have become vacant in recent years and that have not yet been filled.

Total Budget by Object Code



ANALYSIS OF EXECUTIVE PROPOSAL

Single Program Series — Consumer Advocacy

Purpose: The Consumer Advocacy program series advocates for and educates Ohio's residential utility consumers.

The following table shows the line item that is used to fund the Consumer Advocacy program series, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2008	FY 2009
General Services Fund				
5F5	053-601	Operating Expenses	$8,498,070	$8,498,070
		General Services Fund Subtotal	**$8,498,070**	**$8,498,070**
Total Funding: Consumer Advocacy			**$8,498,070**	**$8,498,070**

Program Description: The Office of Consumers' Counsel advocates for residential utility customers in proceedings before the Public Utilities Commission (PUCO), federal regulatory agencies, and in state and federal courts. During 2006 OCC staff participated in around 100 state proceedings and numerous federal proceedings. It monitors utility service performance, receiving data from the PUCO regarding complaints individual customers may have with utilities. OCC continues to operate its own call center to provide information to consumers about utility matters. OCC actively disseminates information to utility customers about utility issues. OCC distributed over 800,000 educational materials during the current biennium, and OCC officials visited 215 Ohio cities and 76 counties, meeting with 57,000 consumers through their outreach program.

With energy prices at historically high levels, utility issues remain as important as ever. One of the Strickland Administration's Turnaround Ohio initiatives with which OCC will be involved is developing a statewide energy policy that provides for price stability and diversity of resources. One looming issue is the expiration of rate stabilization plans for most of the electric utilities operating in Ohio before the end of 2008. OCC will advocate for consumers as this deadline approaches. S.B. 3 of the 123rd General Assembly, often referred to as the electric restructuring law, defined "market development periods" during which PUCO would retain authority over electric rates. The market development periods expired on December 31, 2005, meaning that PUCO does not have authority over electric rates but does have authority to approve standard service offers by the electric utilities. It is not clear at this time what will replace the rate stabilization plans when they expire, but hearings continue in committees in both the Ohio House and the Ohio Senate exploring this (and related) questions.

A second current issue has to do with high natural gas prices and the changing roles of industry participants in this industry. Natural gas utilities anticipate exiting the merchant function they currently perform, meaning they will no longer procure gas supplies themselves, but will simply distribute gas procured by others. This process has begun with Dominion East Ohio, which has completed Phase I of a two-phase process. In Phase I, Dominion held a wholesale auction, which OCC officials describe as having been a success. The second phase involves assigning customers to retail gas suppliers. OCC officials indicate that they are concerned about this second phase, and anticipate that it will require significant analysis to advocate effectively for consumers. A third issue relates to local telephone service. OCC officials report concerns with the way in which H.B. 218 of the 126th General Assembly is being implemented. That bill authorized PUCO to allow alternative regulation of basic local exchange telephone service by incumbent local telephone companies if the market offered sufficient competition to these companies. OCC officials indicate that alternative regulation has in some cases been granted when there is not sufficient competition in the market, leading to higher prices for consumers. All these issues have the potential to affect Ohio utility consumers, indicating a need for analysis of the effects of the various developments, and a need to develop adequate responses to these developments in proceedings before PUCO, the Federal Energy Regulatory Commission, and other federal agencies.

H.B. 66 of the 126th General Assembly instituted a prohibition against OCC operating a telephone call center for consumer complaints, and required PUCO to operate such a call center. The bill also required PUCO to provide OCC with all information that it collected concerning residential consumer complaints. At the time the bill was enacted, OCC employed about 16 staff in its call center. OCC has continued to operate a call center to handle consumer inquiries and provide customer information. However, the center no longer handles complaints. The staffing level has fallen gradually to a current level of 11 staff members, as employees have left OCC, or have been transferred to other departments within the organization, and not been replaced. OCC officials report that they are receiving information from PUCO regarding residential consumer complaints, as required by H.B. 66, and that such information is received on a daily basis.

Funding Source: GSF: assessments on utilities

Line Items: 053-601, Operating Expenses

Implication of Executive Recommendation: The executive recommendation increased funding to OCC by $728,000 over the amount requested in FY 2008, and by $494,900 in FY 2009. Of the total $1.22 million increase for the biennium, $1.03 million is coded for personal services in the Central Accounting System, and the remainder ($195,000 in FY 2008) is for purchased services. Of these amounts, approximately $318,000 each year is for additional payroll costs associated with OCC hiring 3.6 FTE staff members: a staff attorney, a natural gas analyst, an economist, and a part-time government affairs intern. The total also includes funding for staff pay increases in fiscal years 2008 and 2009. This increase in FTEs is over and above the three FTE staff members included in the original budget request.

The initial budget submission by OCC accorded with guidelines imposed by OBM regarding permissible requests by non-GRF agencies, and OCC officials complied with those guidelines even though they believed that it would leave the agency with insufficient resources to advocate effectively for consumers given current and pending utility issues that may affect Ohio consumers. The Strickland Administration indicated willingness to consider a revised request, which was submitted by OCC on March 7 of this year. The executive recommendation included funding for most of the requested increase. OCC officials believe that without funding for the 3.6 new FTE positions, the ability of OCC to advocate effectively for Ohio's residential utility consumers would be compromised.

Permanent Law Provision

Repeal of prohibition against operating a telephone call center for consumer complaints (R.C. 4911.021). OCC operated a telephone call center to receive consumer complaints until the current biennium. H.B. 66 enacted a prohibition against OCC operating a call center for this purpose. The executive proposal would repeal that prohibition. This repeal would permit the call center to handle additional types of calls, which is likely to lead to a gradual increase in staffing levels, and associated costs. The current staffing level in the call center is 11, though OCC officials report that they expect to replace one position for a staff member that left recently. When the telephone call center still received consumer complaints, prior to enactment of the prohibition, staffing levels were approximately 17.

REQUESTS NOT FUNDED

All requests were funded.

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General Services Fund Group

5F5 053-601 Operating Expenses

2004	2005	2006	2007 Estimate	2008 House Passed	2009 House Passed
$7,025,929	$8,239,754	$7,007,426	$7,770,070	**$8,498,070**	**$8,498,070**
	17.3%	-15.0%	10.9%	**9.4%**	**0.0%**

Source: GSF: Assessments against intrastate revenues of utility companies operating in Ohio, subject to a minimum assessment of $100. The total assessments are based on the agency's current appropriation for operating expenses. At the end of each fiscal year any unused funds are credited back to the utilities.

Legal Basis: ORC 4911.18 (established by Am. Sub. H.B. 215 of the 122nd G.A.; prior to H.B. 215 assessments were deposited into the GRF, and appropriations to the agency were funded from the GRF)

Purpose: Funds in this line item are used for maintaining and administering the Office of Consumers' Counsel, including expenditures associated with salaries, maintenance, equipment and consultants.

LSC Budget Spreadsheet by Line Item, FY 2008 - FY 2009

Fund	ALI	ALI Title	Estimated 2007	As Introduced 2008	House Passed 2008	% Change Est. 2007 to House 2008	As Introduced 2009	House Passed 2009	% Change House 2008 to House 2009
OCC		**Consumers' Counsel, Office of**							
5F5	053-601	Operating Expenses	$7,770,070	$ 8,498,070	$ 8,498,070	9.4%	$ 8,498,070	$ 8,498,070	0.0%
		General Services Fund Group Total	**$ 7,770,070**	**$ 8,498,070**	**$ 8,498,070**	**9.4%**	**$ 8,498,070**	**$ 8,498,070**	**0.0%**
		Total All Budget Fund Groups	***$ 7,770,070***	***$ 8,498,070***	***$ 8,498,070***	***9.4%***	***$ 8,498,070***	***$ 8,498,070***	***0.0%***

	As Introduced (Executive)	As Passed by the House
1	**(CD-386-OCC) Telephone Call Center**	
	R.C. ***4911.021***	**R.C.** ***4911.021***
	Repeals a prohibition against OCC operating a telephone call center for consumer complaints that was enacted in Am. Sub. H.B. 66 of the 126th General Assembly. OCC has continued to operate a call center for other purposes.	Same as the Executive.
	Fiscal effect: Would allow OCC to handle more types of telephone calls from utility consumers, which suggests that the volume of calls from utility consumers that are received in the call center is likely to increase. This provision may result in an increase in the number of staff members employed in the call center, with accompanying costs. No estimate of that cost is currently available.	**Fiscal effect: Same as the Executive.**