Public Utilities Commission of Ohio

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- Funded primarily by assessments on regulated companies; no GRF funding
- Am. Sub. H.B. 66 accelerates payment of a portion of the assessments

OVERVIEW

Duties and Responsibilities

The Public Utilities Commission of Ohio (PUCO) regulates investor-owned public utilities and commercial carriers in Ohio. The public utilities regulated by PUCO today include electric, natural gas, and pipeline utilities, heating and cooling companies, local and long-distance telephone companies, and waterworks and wastewater companies.[22] The commercial carriers regulated by PUCO include railroad companies, commercial trucking companies, household moving companies, bus companies, towing companies, and ferryboat operators. Despite significant changes in the PUCO's role in recent years, its mission continues to be "to assure all residential and business customers access to adequate, safe, and reliable utility and transportation services at fair prices, while facilitating an environment that provides competitive choices." The PUCO is governed by five commissioners, including the chairman, who are appointed by the Governor for five-year terms.

Agency in Brief

Agency In Brief					
Number of Employees*	Total Appropriations-All Funds		GRF Appropriations		Appropriation Bill(s)
	2006	2007	2006	2007	
419*	$55.02 million	$54.74 million	$0	$0	Am. Sub. H.B. 66

*Employee count obtained from the Department of Administrative Services payroll reports as of June 2005.

Many changes have come about in the utility industries in the past few years. Many aspects of the telephone, natural gas, and electric industries have been opened up to competition in a process known as restructuring; one might consider this concept synonymous with deregulation. Despite these efforts, the PUCO retains a transitional role in setting rates that utilities may charge their customers, and a more permanent role in monitoring the actions of utility companies to ensure that they provide customer service of at least the required level of quality, and to ensure that monopoly owners of pipeline, electric, and telephone networks truly provide access to their networks as required by law.

[22] The PUCO regulates the quality of long-distance services, but does not regulate long-distance rates. Also, although the PUCO certifies cellular companies to operate in Ohio, it does not regulate cellular rates. The PUCO does not regulate utilities owned and operated by municipalities, cooperatives, or nonprofit entities.

The transportation regulation program has attained a higher profile since homeland security has emerged as an important concern of governments at both the state and federal levels. The Federal Motor Carrier Safety Administration (FMCSA) has recognized the PUCO as operating one of the best and most comprehensive transportation audit, compliance review, and enforcement programs in the United States.

Summary of FYs 2006-2007 Budget Issues

The enacted budget provides total funding of $55,017,608 in FY 2006, an increase of 8.6% compared to FY 2005 expenditures, and of $54,742,608 in FY 2007, a decrease of 0.5% from FY 2000. For the most part, the funding provided is for the continuation of current programs and operations. The appropriations for the main operating lines for motor carrier regulation – 870-625, Motor Transportation Regulation, and 870-608, Motor Carrier Safety – were increased by 15.3% and by 3.9%, respectively, compared with FY 2005 expenditures, but were not increased from their FY 2004 (or FY 2005) appropriation levels.[23]

The FY 2006 appropriation for the main operating line item for utility regulation, 870-622, Utility & Railroad Regulation, was increased by 4.9% compared to FY 2005 expenditures, and by $650,000 as compared with the FY 2005 appropriation. The $650,000 increase was intended to provide funding to expand the telephone call center for utility consumer complaints. Am. Sub. H.B. 66 (H.B. 66) included language requiring the PUCO to operate a telephone call center for consumer complaints and prohibiting the Office of Consumers' Counsel (OCC) from operating such a call center. It is expected that there will be an increase in call volume to the PUCO call center due to the referral of consumer complaints from OCC to PUCO. Also, the bill requires PUCO to "expeditiously provide the consumers' counsel with all information concerning residential consumer complaints" received by PUCO through the operation of its call center. PUCO officials indicate that the additional funding will be used to hire additional staff for the call center; this will be done gradually as the call center gains experience with the change in call volume. Also, they expect some reorganization of staffing, with the creation of a Customer Education and Contact Division within the existing Service Monitoring and Enforcement Department. Discussions with OCC officials are continuing, as of this writing, regarding how to implement both OCC forwarding complaints received by telephone to PUCO and a system for PUCO to provide information regarding complaints to OCC. Those discussions have not yet yielded final decisions about a number of implementation issues.

The three line items discussed above account for approximately 80% of the Commission's biennial appropriations. Appropriations to all other continuing line items were either maintained at the FY 2005 appropriation level for each year of the biennium, or reduced.

H.B. 66 established a new appropriation line item to fund the 9-1-1 Service Program that was created by Am. Sub. H.B. 361 of the 125th General Assembly. H.B. 361 created a new fund, the Wireless 9-1-1 Administrative Fund, and a revenue stream for the fund to help PUCO cover the costs of implementing the new program. The revenue stream is derived from monthly charges on cellular telephone customers' bills, and is expected to raise approximately the amounts appropriated to the new line item. The primary function of the new program is to administer the 9-1-1 Government Assistance Fund, which will provide assistance to counties and municipalities that implement wireless enhanced 9-1-1 services. This fund receives the substantial majority of the revenue raised by the monthly charges on telephone customers' bills.

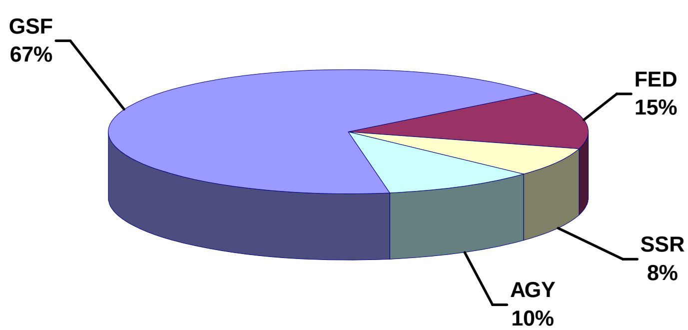
[23] The federal government wants states to expand their programs for monitoring new motor carrier companies, which will require additional personnel. The additional personnel can be hired with the budgetary resources provided by the enacted budget.

Operating costs for the PUCO are funded primarily by the assessments levied against railroads and utilities that are deposited into Fund 5F6. The enacted budget increases the minimum annual assessment against a railroad and a public utility from $50 to $100. It also revises the schedule by which the PUCO collects the assessments. Currently PUCO assesses these companies on or before October 1 of each year and the money is typically received in October. The current system requires the Director of Budget and Management to transfer money from the GRF to Fund 5F6 at the beginning of each fiscal year to cover operating costs until receipts from the assessment are received (at which time the amounts transferred are returned to the GRF). H.B. 66 will alter this schedule beginning in calendar year 2006, allowing PUCO to assess companies half the amount they were assessed on October 1 by the following May 15 if the company paid more than $1,000 in assessments for that fiscal year, with the amount assessed due by June 20. The remainder of the assessment would be payable on the current schedule. This provision essentially accelerates payment of the annual assessment, in the process increasing the total assessment paid in FY 2006, but not changing it significantly in future fiscal years. The acceleration means that approximately half of the assessment will be due by June 20 rather than in October.

The enacted bill also increases the maximum forfeiture amounts the PUCO is permitted to levy for violations of certain laws and rules. Specifically, it increases the amount the PUCO can assess for gas pipeline safety violations from $10,000 for each day of each violation to $100,000 per day (to a maximum of $500,000). It also increases the maximum amount the PUCO may assess for violations of statutes or orders by railroads and public utilities from $1,000 for each violation to $10,000. Any forfeiture amount collected as a result of these assessments is deposited into the GRF. The amount of revenue raised due to these provisions would depend on the degree of compliance of natural gas pipeline companies, railroads, and public utilities with state laws.

The PUCO has only one program series, the Utility Regulation program series. The following chart represents the breakdown of the enacted budget by Fund Group.

Total Budget by Fund Group



ANALYSIS OF THE ENACTED BUDGET

For budget purposes, as detailed below, the Public Utilities Commission of Ohio is considered a single program series agency and its activities are not subdivided into separate programs.

Program Series 1 — Utility Regulation

Purpose: To ensure Ohio residential and business customers access to adequate, safe, secure, and reliable utility services at fair prices, while facilitating an environment that provides competitive choices, and to achieve safe commercial transportation on public highways, on railroads, and at transportation facilities.

The following table shows the line items that are used to fund the Utility Regulation program series, as well as the appropriations in the enacted budget.

Fund	ALI	Title	FY 2006	FY 2007
State Special Revenue Fund				
4A3	870-614	Grade Crossing Protection Devices - State	$1,349,757	$1,349,757
4L8	870-617	Pipeline Safety - State	$187,621	$187,621
4S6	870-618	Hazardous Material Registration	$464,325	$464,325
4S6	870-621	Hazardous Materials Base State Registration	$373,346	$373,346
4U8	870-620	Civil Forfeitures	$284,986	$284,986
559	870-605	Public Utilities Territorial Administration	$4,000	$4,000
560	870-607	Special Assessment	$100,000	$100,000
561	870-606	Power Siting Board	$337,210	$337,210
5BP	870-623	Wireless 9-1-1 Administration	$650,000	$375,000
638	870-611	Biomass Energy Program	$40,000	$40,000
661	870-612	Hazardous Materials Transportation	$900,000	$900,000
		State Special Revenue Fund Subtotal	**$4,691,245**	**$4,416,245**
General Services Fund				
5F6	870-622	Utility and Railroad Regulation	$31,272,222	$31,272,223
5F6	870-624	NARUC/NRRI Subsidy	$167,233	$167,233
5F6	870-625	Motor Transportation Regulation	$5,361,239	$5,361,238
		General Services Fund Subtotal	**$36,800,694**	**$36,800,694**
Federal Special Revenue Fund				
3V3	870-604	Commercial Vehicle Information Systems/Networks	$300,000	$300,000
333	870-601	Gas Pipeline Safety	$597,957	$597,957
350	870-608	Motor Carrier Safety	$7,027,712	$7,027,712
		Federal Special Revenue Fund Subtotal	**$7,925,669**	**$7,925,669**

Fund	ALI	Title	FY 2006	FY 2007
Agency Fund				
4G4	870-616	Base State Registration Program	$5,600,000	$5,600,000
		Agency Fund Subtotal	**$5,600,000**	**$5,600,000**
Total Funding: Utility Regulation			**$55,017,608**	**$54,742,608**

This analysis focuses on the following specific programs within the Utility Regulation program series:

- ***Program 1: Safety and Service Quality Oversight***
- ***Program 2: Registration and Certification***
- ***Program 3: Tariff and Economic Oversight***

Program 1: Safety and Service Quality Oversight

Program Description: This program enforces service quality and safety standards on utilities and investigates consumer complaints against utilities, including natural gas, electric, telecommunications, and water utilities. The program enforces safety standards on railroads and motor carriers, and provides funding for training emergency responders in handling accidents involving hazardous materials (HAZMAT).

The program operates a call center for consumer complaints about utilities, which serves as the primary source for a total of over half a million contacts with consumers each year. PUCO tracks the status of each contact with its Contact Management System database. The information gathered via such consumer contacts serves to alert PUCO to patterns in customer service problems, and thus to situations that may require investigation of utilities. The program conducted over 100 safety inspections of natural gas pipelines in FY 2004. Chairman Schriber served on the U.S.-Canada Task Force investigating the August 14, 2003 blackout that affected northern Ohio and parts of Canada and the northeastern U.S., and PUCO staff worked with the task force in conducting the investigation. During FY 2004 this program collected over $3.1 million in civil forfeitures and penalties from utilities that were not in compliance with Ohio's rules and statutes; the resulting revenue was deposited into the GRF.

Monitoring service quality takes on a broader meaning in the partially deregulated environment of some Ohio utilities. While a number of companies are able to compete in providing utility services at the retail level, that ability to compete depends on comparable access to the distribution network owned, in most cases, by an incumbent utility. For example, electric generation was deregulated by S.B. 3, but the ability of a new entrant to provide electricity to customers depends on the ability of the new entrant to deliver the electricity generated to the customer. That requires access to the electric transmission and distribution network. New competitors in supplying natural gas and telephone services are similarly dependent on access to the relevant distribution networks. The PUCO monitors the markets for evidence that incumbent utilities are not providing the access that the law requires them to provide to competitors, at an acceptable quality.

PUCO personnel employed in this program cooperate with other state and federal agencies in protecting Ohio's citizens from unsafe practices by motor carriers and railroads. Personnel inspect vehicles employed by motor carriers and conduct audits of their records on drivers and vehicles. Of the $3.1 million in civil forfeitures collected during FY 2004 by this program, over $2 million came from motor carriers that were in violation of state laws. A significant portion of motor carrier auditing and inspecting activities is funded by a federal grant from the Federal Highway Safety Administration. The total amount received from three separate grants was slightly over $6.8 million in federal fiscal year 2004.

Personnel conduct inspections of rail industry structures and operational practices, and monitor railroad worker safety issues. In FY 2004 they participated in 94 grade crossing safety projects including 59 involving the installation of lights and gates.

Funds generated from the HAZMAT civil forfeiture program are used to fund training grants for emergency responders in handling HAZMAT situations. The program series distributes approximately $800,000 per year for this purpose, of which $400,000 goes to an established program at Cleveland State University and the balance goes to other educational institutions, state agencies, and political subdivisions.

Funding Sources: GSF, SSR, and FED: assessments on utilities and railroads, fees paid by motor carriers, filing and processing fees paid by electric and natural gas companies, state motor vehicle fuel taxes, and federal grants

Implication of the Enacted Budget: H.B. 66 provides sufficient funding to continue the program at its current level of service. It also provides funding to increase staffing in the telephone call center, and to implement operations for providing data derived from consumer complaints against utilities to the Office of Consumers' Counsel. The enacted budget includes an appropriation for operations of the new 9-1-1 Service Program; funding for the program was established by H.B. 361 of the 125th General Assembly.

Program 2: Registration and Certification

Program Description: The PUCO registers and certifies utilities to operate in Ohio. The Power Siting Board, supported by the activities of this program, issues permits for the construction of major electric generation, electric transmission, and natural gas transmission facilities in Ohio. This program has certified 700 telecommunication companies (e.g., local telephone companies, long-distance companies, cellular companies), 121 electric utilities (including brokers/aggregators and marketers), 134 natural gas companies, 27 water and sewer companies, 15 heating and cooling companies, and 5 gas pipeline companies.

Similarly, the PUCO registers and certifies motor carriers, HAZMAT haulers, and rail companies to operate in the state. This program has certified 66,275 interstate motor carriers, 8,245 intrastate motor carriers, 2,524 HAZMAT carriers, over 7,000 rail cars, 3,000 HAZMAT rail cars, 38 rail companies, and 5 water transportation carriers to operate in Ohio. The PUCO is the lead agency in implementing the federally mandated Commercial Vehicle Information Systems and Networks (CVISN) project. CVISN streamlines the licensing, registration, regulation, and taxation of commercial motor carriers. For motor carriers, CVISN represents a single contact point for all interactions with the state of Ohio, as opposed to contacting four separate agencies (the PUCO and the departments of Public Safety, Transportation, and Taxation).

This program also administers Ohio's participation in the Single State Registration Program (SSRP, formerly known as the Base State Registration Program). The SSRP allows trucking companies that operate on an interstate basis to register in one state only, their base state, rather than in every SSRP-participating state in which they operate. Currently 36 of the states participate in this federal program. Motor carrier registration fees that are ultimately to be transferred to other states are kept in a separate fund, Fund 4G4, and there is a separate appropriation line item to authorize spending from the fund.

Funding Sources: GSF, SSR, FED, and AGY: assessments on utilities and railroads, filing and processing fees paid by electric and natural gas companies, fees paid by motor carriers, and federal grants

Implication of the Enacted Budget: H.B. 66 provides sufficient funding to continue the program at its current level of service, with the possible exception of the Base State Registration Program line. The sufficiency of the appropriation for that line depends on whether additional states join the SSRP and on changes that the federal government may make to the program. The reduced appropriation amount could result in Ohio not being able to fulfill obligations to other states under the SSRP.

Temporary and Permanent Law Provisions: The enacted budget creates the Commercial Vehicle Information Systems and Networks Fund in the state treasury to receive funding from a federal grant conferred by the U.S. Department of Transportation. These funds are to be used to deploy the Ohio Commercial Vehicle Information Systems and Networks Project. This fund has been created by each main operating budget bill since Am. Sub. H.B. 94 of the 124th General Assembly. It has not been created in statute because the federal funding that is its source is temporary.

Program 3: Tariff and Economic Oversight

Program Description: This program continues the traditional business of the PUCO of setting the rates (i.e., tariffs) that utilities are able to charge customers in those markets that remain noncompetitive. It settles disputes between utilities through mediation, arbitration, and adjudication. The program also monitors markets that are considered to have become competitive to prevent the possibility of market manipulation of the type that the Federal Energy Regulatory Commission determined that California experienced in 2000 and 2001. Due to the emerging need to monitor the financial activities of regulated utilities and their affiliated companies, PUCO established a Financial Analysis and Auditing Division. This division will work to prevent the financial stability of a regulated utility being undermined by resources being diverted from that regulated utility to an unregulated affiliate.

The electric restructuring law, S.B. 3, defined market development periods (MDPs) for the electric utilities; those periods will end on December 31, 2005. The PUCO adopted rules for electric utilities to determine a market-based standard service offer following the end of the MDPs. Under these rules, and as of February 2005, PUCO has approved rate stabilization plans for four of the electric utilities in Ohio: Dayton Power and Light, Cincinnati Gas and Electric, AEP, and First Energy.

Funding Sources: GSF and SSR: assessments on utilities and railroads, filing and processing fees paid by electric and natural gas companies, fees paid by motor carriers, special assessments on utilities, a grant from the Council of Great Lakes

Implication of the Enacted Budget: The enacted budget provides sufficient funding to continue the program at its current level of service.