Public Utilities Commission of Ohio

- Funded primarily by assessments on regulated companies; no GRF funding
- The budget requires a transfer out of Fund 5F6 in FY 2009 that would reduce funds available to support Commission operations by 18% that year

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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.[11] 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 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 services at fair prices, while facilitating an environment that provides competitive choices." 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)
	2008	2009	2008	2009	
407	$78.63 million	$64.47 million	$0	$0	Am. Sub. H.B. 119

*Employee count obtained from the Department of Administrative Services (DAS) payroll reports as of June 2007.

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 changes, PUCO retains a role in setting rates that some utilities may charge their customers, and must approve the standard service offer that electric utilities provide since restructuring. The Commission monitors 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. The budget of the Power Siting Board (PSB), which must approve any (sufficiently large) investment in electric generation or transmission facilities or natural gas

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

transmission pipelines, is housed in PUCO, with the Chairman of PUCO serving as the Chairman of the PSB.

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 PUCO as operating one of the best and most comprehensive transportation audit, compliance review, and enforcement programs in the United States.

Summary of FYs 2008 - 2009 Budget Issues

The budget provides total funding of $78,632,617 in FY 2008, a decrease of 3.2% compared to estimated FY 2007 expenditures, and of $64,468,698 in FY 2009, a decrease of 18.0% compared to FY 2008 appropriations. The budget fully funds the agency's budget request except for a reduction in two appropriations that relate to the Single State Registration Program, and it increases the appropriation funding for PSB.

Although PUCO officials report that the appropriations provide sufficient funding to maintain effective operations, the act requires a transfer out of the Public Utilities Fund (Fund 5F6) no later than February 28, 2009 to provide funding for telecommunications relay service for hearing impaired Ohioans. The transfer amount depends on the costs incurred during 2008 by the vendor who provides the service, so the exact transfer amount is not known at this time. Based on historical experience with the costs of providing the service, though, it is expected that the transfer amount will be approximately $7 million, which would leave a balance in Fund 5F6 that is insufficient to support the appropriations from that fund in the budget. Appropriations from Fund 5F6 support basic PUCO operations, and account for 53.4% of the Commission's biennial budget. A transfer of $7 million would represent slightly over 18% of the FY 2009 appropriations from Fund 5F6. PUCO officials report that no final decisions have been made, as of this writing, regarding how the Commission will respond to the effective reduction in funding. However, over 87% of the appropriations from the fund were earmarked to pay for personal services, so it appears that the transfer is likely to result in some, perhaps many, layoffs. Given the timing of the transfer, the layoffs would not be necessary until the latter half of FY 2009.

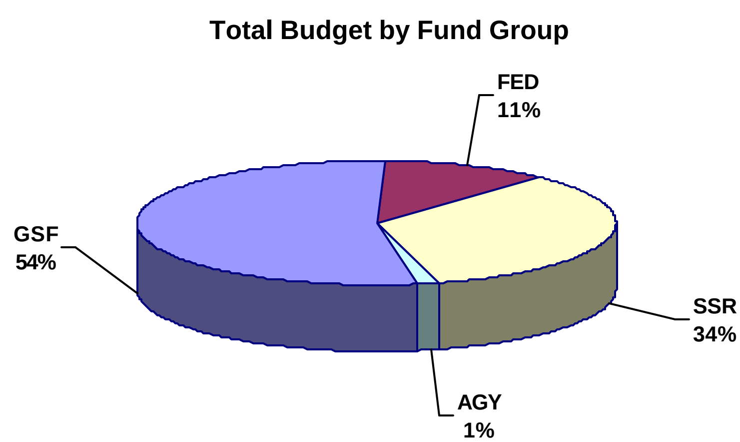
For the most part, the Commission's budget request sought funding for the continuation of current programs and operations. The federal Single State Registration Program (SSRP) was phased out effective January 1, 2007, and is to be replaced by the Unified Carrier Registration (UCR) Program. The Federal Motor Carrier Safety Administration (FMCSA) has not provided final guidance as to how the UCR Program is to work, and it is not known at this time, for example, what fee schedules will be. But PUCO officials are working with FMCSA officials in working out final details, and will promulgate rules to implement the UCR Program when the final federal requirements are published. The phasing out of the SSRP is the reason for the $3.6 million decline for FY 2008 in the amount in appropriation line 870-616, Base State Registration Program, and the $2 million decline (to zero) in the appropriation for FY 2009. The remaining appropriation for FY 2008 was requested to accommodate any payments of registration fees to other states that may remain outstanding after the end of FY 2007. The phasing out of this program is also the reason for the cuts to two other line items: 870-625, Motor Transportation Regulation, and 870-620, Civil Forfeitures.

Easily the largest change in the budget over the last few years is in line item 870-623, Wireless 9-1-1 Administration. This line item was established in H.B. 66 to implement the funding provisions of H.B. 361 of the 125th General Assembly. Funding for the biennium of $40.25 million is almost entirely (over 98%) for the purpose of distributing to counties to support the operation of enhanced 9-1-1 service for wireless communications customers. The appropriation decreases by $13.5 million from FY 2008 to

FY 2009, reflecting that the fee that H.B. 361 imposed on wireless communications customers to provide funding for this line item was temporary and is scheduled to expire on December 31, 2008.

As noted above, the operating expenses of PUCO are primarily paid from Fund 5F6, and in particular out of two appropriations from that fund. The amount appropriated for the main appropriation item, 870-622, Utility and Railroad Regulation, is 4.9% higher in FY 2008 than was appropriated for FY 2007. The amount appropriated for FY 2009 is 3.0% higher than the amount appropriated for FY 2008. These increases are partially offset by decreases to the second major appropriation from the fund, 870-625, Motor Transportation Regulation. The budget decreases that latter appropriation amount by 13.5% in FY 2008 followed by a 3.0% increase. Due to the fact that the amounts appropriated in 870-622, Utility and Railroad Regulation are much larger than the amounts appropriated in the second line item, the combined total appropriations from this fund (including a third, relatively small line item) are 2.2% higher for FY 2008 than for FY 2007, and 3.0% higher in FY 2009 than for FY 2008. As noted above, a required transfer will mean that Fund 5F6 does not have sufficient funds to support these appropriation amounts in FY 2009.

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



ANALYSIS OF THE BUDGET

Single Program Series — 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 2008	FY 2009
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
5BP	870-623	Wireless 9-1-1 Administration	$26,875,000	$13,375,000
559	870-605	Public Utilities Territorial Administration	$4,000	$4,000
560	870-607	Public Utilities Investigations	$100,000	$100,000
561	870-606	Power Siting Board	$404,651	$404,652
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	**$30,983,686**	**$17,483,687**
General Services Fund				
5F6	870-622	Utility and Railroad Regulation	$32,820,027	$33,804,627
5F6	870-624	NARUC/NRRI Subsidy	$158,000	$158,000
5F6	870-625	Motor Transportation Regulation	$4,635,413	$4,772,765
		General Services Fund Subtotal	**$37,613,440**	**$38,735,392**
Federal Special Revenue Fund				
3V3	870-604	Commercial Vehicle Information Systems/Networks	$300,000	$300,000
333	870-601	Gas Pipeline Safety	$597,957	$597,959
350	870-608	Motor Carrier Safety	$7,137,534	$7,351,660
		Federal Special Revenue Fund Subtotal	**$8,035,491**	**$8,249,619**
Agency Fund				
4G4	870-616	Base State Registration Program	$2,000,000	$0
		Agency Fund Subtotal	**$2,000,000**	**$0**
Total Funding: Utility Regulation			**$78,632,617**	**$64,468,698**

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). Enforcement efforts yielded $4.1 million during the biennium in forfeitures and penalties assessed against utilities that were not in compliance with Ohio statutes or rules, with the resulting funds deposited into the GRF. The program also houses the 9-1-1 Service Program, which collects and disseminates revenues from the temporary fee that funds county provision of enhanced 9-1-1 wireless service. As of October 2006, 49 counties had been authorized to receive funding through this program.

PUCO operates a call center for consumer complaints about utilities, which serves as the primary source for more than 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. These contacts led to PUCO helping consumers save over $1 million in 2005. H.B. 66 of the 126th General Assembly required PUCO to operate this call center for the first time, and prohibited the Office of Consumers' Counsel (OCC) from operating one for purposes of collecting consumer complaints. The budget reversed the latter action, permitting OCC to operate a call center for this purpose. This change could lead to a gradual decrease in call volume to the PUCO call center.

The program conducted over 100 safety inspections of natural gas pipelines in FY 2006. PUCO officials inspect each shipment of high-level radioactive material that is transported from, to, or through Ohio, whether by truck or by train. Fines imposed on transporters of HAZMAT are used to fund training grants for emergency responder training for incidents involving HAZMAT. The program distributed over $1 million in such training grants during the biennium to governmental entities located in several Ohio counties; about half of the total amount goes to an established training program at Cleveland State University. The program ordered more than 100 rail crossing safety upgrades during 2005. Rail-related fatalities have fallen by 65% over the last four years, due in part to the cumulative effect of such upgrades.

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. 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. A significant portion of motor carrier auditing and inspecting activities is funded by a federal grant from the Federal Highway Safety Administration. Total expenditures funded by federal grants in this program were over $6.6 million in fiscal year 2006. Personnel conduct inspections of rail industry structures and operational practices, and monitor railroad worker safety issues.

Funding Source: 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, temporary fee imposed on wireless communications customers, and federal grants

Implication of the Budget: The budget provides sufficient appropriations to continue the program at its current level of service, and provides increased funding for the Power Siting Board in anticipation of an increase in workload. A transfer out of Fund 5F6 in FY 2009 that is required by the budget, however, will leave insufficient funds available to support appropriations from that fund. This may require staffing reductions and thus a reduction in the effectiveness of this program.

Temporary and Permanent Law Provisions

Enforcement of Federal Laws with Respect to Transportation of Household Goods in Interstate Commerce (R.C. section 4921.40). Authorizes PUCO to adopt rules providing for the enforcement of the consumer protection provisions of Title 49 of the United States Code related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed as a result of this enforcement is deposited into the GRF. The amount of revenue raised due to this provision would depend on the degree of compliance with the rules adopted on the part of the regulated companies. PUCO officials expect any revenue resulting from this provision to be minimal, based in part on historical compliance among household moving companies engaged in intrastate transportation, which are already regulated by PUCO.

Enhanced and Wireless Enhanced 9-1-1 (section 369.10). Specifies that appropriation item 870-623, Wireless 911 Administration shall be used as provided by section 4931.63 of the Revised Code.

Program 2: Registration and Certification

Program Description: 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. Since 1998, 15 new facilities have become operational adding 7,200 megawatts of generating capacity in Ohio, and three more facilities are currently under construction. This program has certified 651 telecommunication companies (e.g., local telephone companies, long-distance companies, cellular companies), 121 electric utilities (including brokers/aggregators and marketers), 168 natural gas companies, 26 water and sewer companies, 15 heating and cooling companies, and 5 gas pipeline companies.

Similarly, PUCO registers and certifies motor carriers, HAZMAT haulers, and rail companies to operate in the state. This program certifies more than 58,000 general freight motor carriers, more than 2,500 HAZMAT carriers, more than 1,000 towing companies, and more than 300 household goods movers each year. The commission certifies over 7,000 rail cars, 3,000 HAZMAT rail cars, 37 rail companies, and 5 water transportation carriers to operate in Ohio. 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 (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), which was phased out effective January 1, 2007. The SSRP allowed 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. The budget includes a $2 million appropriation in FY 2008 in the line that permits Ohio to distribute fee revenue to other states. This will allow any funds that may lag in payment to be distributed appropriately.

H.B. 218 of the 126th General Assembly authorized PUCO to allow alternative regulation of basic local exchange telephone service if it finds that there is sufficient competition in providing that service in a company's territory. Such alternative regulation plans give companies greater pricing flexibility for services other than basic local exchange service. As of October 2006, ten companies had adopted alternative regulation plans. Some consumer groups and the Ohio Consumers' Counsel charge that in some cases alternative regulation plans have been approved when there is not sufficient competition in the market, leading to increased prices for basic local exchange service. PUCO officials indicate that the rules adopted to implement the alternative regulation plans have been approved by JCARR, indicating that they are in compliance with the provisions of H.B. 218.

Funding Source: 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 Budget: The budget provides sufficient appropriations to continue the program at its current level of service, and provides increased funding for the Power Siting Board in anticipation of an increase in workload. A transfer out of Fund 5F6 in FY 2009 that is required by the budget, however, will leave insufficient funds available to support appropriations from that fund. This may require staffing reductions and thus a reduction in the effectiveness of this program.

Temporary and Permanent Law Provisions

Federal Commercial Vehicle Transportation Systems Fund (R.C. section 4923.26). Codifies the Commercial Vehicle Information Systems and Networks Fund and renames it the Federal Commercial Vehicle Transportation Systems Fund. There is no fiscal effect from this provision since the fund has been in existence for several years (under its old name), recreated each biennium in the main operating budget bill.

Commercial Vehicle Information Systems and Networks Project (Section 369.10). Specifies that the new fund created in section 4923.26 (see above) is the same as the Commercial Vehicle Information Systems and Networks Fund, Fund 3V3, previously established by temporary law in the State Treasury.

Program 3: Tariff and Economic Oversight

Program Description: This program continues the traditional business of 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.

This program conducts analysis of proposed mergers involving utilities. For example, the program reviewed facts related to the merger between Duke Energy and Cinergy in 2006 and the 2005 mergers of SBC Ohio with AT&T and Verizon with MCI. PUCO review and analysis may result in unconditional approval of the merger, disapproval of the merger, or an approval subject to specified conditions. For example, PUCO approved the merger between Duke Energy and Cinergy subject to the merged company providing $35 million in rate credits to customers, and to the company agreeing to penalties if there were to be a decline in service quality.

The electric restructuring law, S.B. 3, ended PUCO authority over electric generation tariffs effective December 31, 2005, but permitted continuing authority over the standard service offer that incumbent electric companies are required to maintain. Electric generation rates are currently subject to transitional rate stabilization plans (RSPs), that were adopted according to rules PUCO promulgated for utilities to determine a market-based standard service offer, as required by S.B. 3. The RSPs expire by December 31, 2008 for all the incumbent electric distribution companies except Dayton Power and Light. PUCO officials expect an increase in workload in this program in connection with analyzing standard service offers by these companies during the period leading up to expiration of the current RSPs.

Funding Source: 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 Governors, Inc.

Implication of the Budget: The budget provides sufficient appropriations to continue the program at its current level of service. A transfer out of Fund 5F6 in FY 2009 that is required by the budget, however, will leave insufficient funds available to support appropriations from that fund. This may require staffing reductions and thus a reduction in the effectiveness of this program.

Line Item Detail by Agency

Report For: Main Operating Appropriations Bill — **Version:** Enacted

PUC Public Utilities Commission of Ohio

Fund	Line Item	Description	FY 2005:	FY 2006:	FY 2007 Adj. Appropriations:	FY 2008 Appropriations:	% Change 2007 to 2008:	FY 2009 Appropriations:	% Change 2008 to 2009:
558	870-602	Salvage & Exchange	$ 18,749	----	$ 0	$ 0	N/A	$ 0	N/A
5F6	870-622	Utility & Railroad Regulation	$ 29,801,600	$ 31,456,553	$ 31,272,223	$ 32,820,027	4.95%	$ 33,804,627	3.00%
5F6	870-624	NARUC/NRRI Subsidy	$ 147,165	$ 147,163	$ 167,233	$ 158,000	-5.52%	$ 158,000	0.00%
5F6	870-625	Motor Transportation Regulation	$ 4,651,438	$ 4,971,196	$ 5,361,238	$ 4,635,413	-13.54%	$ 4,772,765	2.96%
General Services Fund Group Total			**$ 34,618,951**	**$ 36,574,912**	**$ 36,800,694**	**$ 37,613,440**	**2.21%**	**$ 38,735,392**	**2.98%**
333	870-601	Gas Pipeline Safety	$ 454,859	$ 659,857	$ 597,957	$ 597,957	0.00%	$ 597,959	0.00%
350	870-608	Motor Carrier Safety	$ 6,764,837	$ 6,007,990	$ 7,027,712	$ 7,137,534	1.56%	$ 7,351,660	3.00%
3V3	870-604	Commercial Vehicle Information Systems/Networks	$ 308,609	$ 45,489	$ 300,000	$ 300,000	0.00%	$ 300,000	0.00%
Federal Special Revenue Fund Group Total			**$ 7,528,305**	**$ 6,713,336**	**$ 7,925,669**	**$ 8,035,491**	**1.39%**	**$ 8,249,619**	**2.66%**
4A3	870-614	Grade Crossing Protection Devices-State	$ 1,222,318	$ 903,948	$ 1,349,757	$ 1,349,757	0.00%	$ 1,349,757	0.00%
4L8	870-617	Pipeline Safety-State	$ 161,388	$ 151,088	$ 187,621	$ 187,621	0.00%	$ 187,621	0.00%
4S6	870-618	Hazardous Material Registration	$ 529,264	$ 518,442	$ 464,325	$ 464,325	0.00%	$ 464,325	0.00%
4S6	870-621	Hazardous Materials Base State Registration	$ 315,615	$ 302,755	$ 373,346	$ 373,346	0.00%	$ 373,346	0.00%
4U8	870-620	Civil Forfeitures	$ 344,143	$ 292,515	$ 284,986	$ 284,986	0.00%	$ 284,986	0.00%
559	870-605	Public Utilities Territorial Administration	----	----	$ 4,000	$ 4,000	0.00%	$ 4,000	0.00%
560	870-607	Public Utilities Investigations	----	$ 59,467	$ 100,000	$ 100,000	0.00%	$ 100,000	0.00%
561	870-606	Power Siting Board	$ 400,955	$ 396,781	$ 337,210	$ 404,651	20.00%	$ 404,652	0.00%
5BP	870-623	Wireless 911 Administration	----	$ 3,372,649	$ 26,875,000	$ 26,875,000	0.00%	$ 13,375,000	-50.23%
638	870-611	Biomass Energy Program	$ 36,925	$ 38,926	$ 40,000	$ 40,000	0.00%	$ 40,000	0.00%
661	870-612	Hazardous Materials Transportation	$ 598,986	$ 861,304	$ 900,000	$ 900,000	0.00%	$ 900,000	0.00%
State Special Revenue Fund Group Total			**$ 3,609,595**	**$ 6,897,875**	**$ 30,916,245**	**$ 30,983,686**	**0.22%**	**$ 17,483,687**	**-43.57%**
4G4	870-616	Base State Registration Program	$ 4,923,573	$ 5,130,520	$ 5,600,000	$ 2,000,000	-64.29%	$ 0	-100.00%
Agency Fund Group Total			**$ 4,923,573**	**$ 5,130,520**	**$ 5,600,000**	**$ 2,000,000**	**-64.29%**	**$ 0**	**-100.00%**
Public Utilities Commission of Ohio Total			***$ 50,680,425***	***$ 55,316,642***	***$ 81,242,608***	***$ 78,632,617***	***-3.21%***	***$ 64,468,698***	***-18.01%***