

Public Utilities Commission of Ohio
Todd A. Snitchler, Chairman

Senate General Government Finance Subcommittee
2014-2015 Biennial Budget

April 30, 2013

Chairman Peterson, members of the committee, thank you for the opportunity to testify in support of the Public Utilities Commission of Ohio's (Commission) budget request today.

The Commission is governed by a chairman and four commissioners, each of whom is appointed by the governor to staggered, five-year terms. The governor's selection is made from a list of names submitted by the PUCO Nominating Council, a broad-based 12-member panel charged with screening candidates for the position of commissioner. As chairman, I also act as the agency's director and chair the Ohio Power Siting Board, which reviews all applications for building major utility facilities in Ohio and economically significant wind farms.

The Commission is a non-general revenue fund (GRF) agency funded through assessments to the utilities, as well as through fees generated by motor carrier registrations and federal program assistance. By statute, our utility assessment must equal our appropriations and thus, Commission appropriations have no negative impact on the GRF and are not available for general use.

Although the Commission is a non-GRF agency, we are still sensitive to budgetary constraints. We also understand that the public-at-large may not know about such things as "non-GRF." Therefore, we make adjustments in our spending consistent with prudent management techniques, and independently cut more than \$800,000 from our biennial budget before submitting our budget request to the Office of Budget and Management (OBM). In addition to this reduction, a majority of the Commission's FY14 and FY15 budget decreases come from Wireless Enhanced 9-1-1 (E9-1-1) funds being transferred from the purview of the Commission. While I will go into further detail on the E9-1-1 reduction in a moment, the FY14 proposed budget of \$71,646,302 million is a 23% decrease from the FY13 budget of \$92,978,316 million, and the FY15 proposed budget of \$53,254,528 is a 43% decrease of the FY13 budget. In addition, it is important to note that the Commission regularly contributes to the GRF from civil forfeitures and penalties assessed against utilities that are not in compliance with Ohio's regulations. The Commission contributed \$4.8 million to the GRF in FY11–FY12.

As I briefly mentioned above, today the Commission is responsible for collecting a wireless E9-1-1 surcharge from wireless telephone carriers to distribute to eligible counties for the provision of E9-1-1. The E9-1-1 Fund was created in 2005 to assist local emergency response organizations in upgrading facilities and equipment to enable them to receive information transmitted when a 9-1-1 call is made from a wireless phone. In FY15 the Commission budget will decrease by approximately \$18.4 million when the 25 cents-per-month wireless E9-1-1 surcharge that the Commission administers and passes through to counties in Ohio will no longer be distributed by the Commission beginning January 1, 2014. The 9-1-1 funds and duties were transferred from the Commission in 129th GA's HBs 360 and 472 to the departments of Taxation and Public Safety. Taxation will be in charge of the collection and distribution of funds at that time, currently an assigned responsibility of a Commission staff member.

The Commission oversees public utility industries, including electric, natural gas, pipelines, landline telephone, water, railroad, hazardous material carriers and commercial transportation carriers, including ferryboats, buses, towing companies and household goods carriers.

The Commission is the only state agency charged with ensuring that essential utility services are safe, reliable and adequate, and operate in a competitive market place. The Commission employs a staff of about 320 professional accountants, auditors, engineers, economists, investigators and attorneys who assist us in meeting our goals and serving the public. This is down from a staffing level of 368 in 2009. The Commission will still maintain a high level of service without increased spending primarily due to staff reductions through retirements and unfilled vacancies. Our expert staff regularly inspects utility facilities around the state to ensure that utility wires, pipes and equipment are safe and well-maintained.

The Commission serves all customer classes — commercial, industrial and residential — and sets service standards to protect utility customers from such things as poor service quality, unfair denial or disconnection of service, or long waits for repair or installation of service. The Commission staff monitors compliance with these standards through customer complaints and

on-site inspections. When violations are found, only the Commission can order corrective action to be taken and can fine utilities for non-compliance.

The Commission assists more than 350,000 Ohioans each year through the issuance of the Winter Reconnect Order. This plan allows natural gas and electric customers to reconnect their service for \$175 plus a reconnection fee. In addition, the Commission recently updated rules for the Percentage of Income Payment Plan (PIPP Plus), a low income energy assistance program, to encourage regular monthly payments among enrollees, thereby reducing the burden on other ratepayers.

The PUCO Consumer Call Center is our direct link to the public. Each day, callers across Ohio contact Commission representatives, seeking assistance with utility issues. Our representatives are able to answer questions, offer suggestions to callers seeking assistance with their utility bills and mediate disputes between customers and utility companies. In calendar year 2012, Commission investigators saved individual Ohio residential and business customers anywhere from \$5 to \$43,000. Collectively, in FY12, the Commission saved consumers more than \$1.2 million. The Commission learns a great deal from customers that call with questions and complaints. This information is used to ensure that companies engage in fair and reasonable practices. It also helps the Commission to formulate rules and regulations. The call center is an invaluable asset to the Commission.

The Commission is also an active partner with other state agencies, utilities and private companies to further economic development in the state. In 2008, Senate Bill 221 provided the Commission with the ability to work with industry on reasonable rate arrangements or discounted rates that are tied to projected investment and job retention or creation benchmarks. Thus, mercantile or industrial customers now have the ability to file an application with the Commission for a reasonable rate arrangement.

Under a reasonable rate arrangement, an electric utility company agrees to give a discount on the power to the mercantile or industrial customer. The difference between the standard rate and the discounted rate creates what the Commission terms as a “delta”. This delta is then spread over

the electric utility's service area to be collected from all customers. There was proposed language in the executive version of the budget which would allow these costs to be spread across the entire state's electricity customer base in future reasonable rate proceedings instead of the current service area. This change would have had two impacts. First, costs would have been spread over a larger customer base and minimize rate impacts in future years for all Ohio electric customers. Second, it would have allowed Ohio to pursue economic development opportunities that might otherwise be considered too large. As of today, only seven reasonable rate arrangements have been approved by the Commission. Further, the Commission included language to create a sunset of January 1, 2018 for reasonable rate arrangements. The reason for choosing January 1, 2018 is because three of the four electric companies (DP&L still has a pending case before the Commission) are expected to have sold their power plants to affiliates by then, and the price of power will be decided by the market, instead of a regulated price that guarantees a rate-of-return for the utility. As the market will dictate the price and electric plants will no longer be regulated, there will not be the same need as there was in 2008 for reasonable rate arrangements as large industrial customers will have a more fully developed market in which to shop for the best available rate offering that suits their business model.

Utility markets continue to evolve, and today competition in utility sectors is present in trucking, natural gas, local telephone and electricity. Over the last few years, the Commission has made great strides in the development of a number of these markets in Ohio while ensuring that service reliability remains a top priority.

Commercial transportation companies in Ohio are public utilities under the jurisdiction of the Commission. The Commission registers motor carriers and ensures they adhere to state and federal safety standards. In 2010, Ohio's Motor Carrier Safety Assistance Program (MCSAP) received an award from the Federal Motor Carrier Safety Administration (FMCSA) for being the most effective compliance review program among large states.

In the last two years, the Commission distributed nearly \$1 million in training grants to government entities located throughout the state. Cleveland State University receives \$400,000

annually to support a program that develops and provides training to government and private industry in the safe handling of hazardous materials.

In the area of rail, the Commission is responsible for evaluating Ohio's public grade crossings to determine the need for installing active warning devices. In 2011, the Commission ordered upgrades at 46 grade crossings throughout the state. Over the past two decades, the annual number of train-motor vehicle crashes in the state has decreased significantly, from 326 in 1990 to 63 in 2011. Each year, the Commission authorizes funding for the installation of lights and gates at grade crossings across Ohio.

The Commission oversees the service quality of telephone companies in Ohio with about 3.5 million telephone lines. The Commission ensures that, regardless of competitive market conditions, the quality of telephone services in Ohio, for both residential and business customers, is adequate and reliable.

The natural gas industry is a complex network of companies that produce, transport and distribute natural gas. In Ohio, more than 3.5 million people use natural gas. The Commission oversees more than 56,000 miles of distribution lines which provide natural gas to individual users, as well as more than 2,321 miles of intra-state transmission lines and 7,748 miles of interstate transmission lines.

To aid consumers shopping for an alternative supplier, the Commission publishes its *Apples to Apples* charts weekly. The charts are the only comparisons in the state in which certified suppliers are required to provide accurate and up-to-date information about their latest rate offers. The charts are routinely the most sought after information on our website. Currently, nearly two million customers purchase their natural gas from a competitive supplier.

In 2008, the Commission implemented a new "levelized" residential distribution rate structure for Ohio's four largest natural gas utilities (Columbia Gas of Ohio, Dominion East Ohio, Duke Energy Ohio and Vectren Energy Delivery of Ohio) that better reflects the fixed cost nature of delivering natural gas. The new rate structure more accurately reflects the cost of distribution

service while lowering what had otherwise been added to the cost of the natural gas itself. At the same time, the new rate structure gives customers a more accurate reward for conservation measures.

The Commission additionally has approved applications allowing Columbia Gas of Ohio, Dominion East Ohio and Vectren Energy Delivery of Ohio to eliminate their gas cost recovery rates and price their natural gas supplies through a more market-based rate methodology. All three companies conduct auctions to purchase natural gas on behalf of their customers.

Finally, the Commission recently approved a process further enhancing the competitive market in Columbia and Dominion's service territories. Once consumer shopping benchmarks for an alternative gas supplier are met, these companies will be allowed to no longer provide default gas service to their non-residential customers. This process is set to trigger in April for Dominion (they are currently at a shopping rate of over 90% for non-residential customers), and when the 70% threshold of non-residential customer shopping in Columbia's service territory is crossed. For example, if you own XYZ business and move to Dominion service territory in May, you will either choose or be assigned to a gas supplier that serves the area, instead of signing up with Dominion for the actual gas commodity. The business can then shop for natural gas with other suppliers after they move to the territory. Dominion and Columbia will still continue to be responsible for the gas pipelines, send you a bill and handle gas leaks within your business or neighborhood. The only part of the gas process these orders affect is the actual gas commodity.

Since the implementation of Senate Bill 3 in 1999, the Commission has worked to ensure electric rate stability for customers, financial stability for electric utilities and promote further development of competitive markets. The Commission also worked closely with lawmakers in 2008 on Senate Bill 221 that sought to stabilize electricity prices, create jobs and expand Ohio's alternative energy industry. In the current fiscal biennium, the Commission approved three utility electric security plans (ESP) that further enhance the competitive market in Ohio. AEP Ohio and Duke Ohio's cases were approved in August of 2012 and November of 2011 respectively, and in 2012, FirstEnergy's ESP was extended through May 2016. I can answer questions you may have

about those cases offline, but at a high level the utilities will divest their power plants by the end of 2015, and move fully into the competitive market.

Ohio's energy law requires electric utilities to meet energy efficiency/peak demand reduction benchmarks. The law allows electric utilities to include energy efficiency/peak demand resources committed by mercantile customers to be integrated into and counted toward the utilities' benchmarks.

The energy law in the state also has an alternative energy requirement for renewable and advanced energy resources. In June 2009, the Commission established a process for facilities seeking certification as a certified Ohio Renewable Energy Resource (REN) Generating Facility under the state's Alternative Energy Portfolio Standard. Since that time, the Commission has certified 5,719 renewable energy facilities, totaling 3,905.49 MW of combined renewable energy capacity. During the period from March 1, 2011 to April 1, 2013, the Commission certified 4,473 renewable generating facilities totaling 1,339.62 MW of capacity.

In order to address this large number of applications in such a short timeframe, in 2011 the Commission created a database system that we continually improve to streamline our REN processing and tracking. This system tracks the auto certificate program to reduce errors; improves the interface with the Commission's Docketing Division on issuance of certificates; streamlines the application form and makes it more clear and user-friendly; uses the database to find errors and duplicates; and finally establishes a review schedule within the Commission's 60-day time frame for each case. The application is automatically approved after 60 days unless suspended by the Commission.

During the 129th General Assembly, the Commission worked with the Governor's Office and ODNR in crafting SB 315, the Energy Mid-Biennium Review (MBR). The MBR, in addition to increasing Commission safety oversight over Ohio's natural gas pipelines, allows Combined Heat and Power (CHP) projects to be counted towards Ohio's Energy Efficiency standard. Waste Energy Recovery (WER) additionally can be counted towards the state's renewable benchmarks. CHP systems use a feedstock such as natural gas to produce both electricity and useful thermal

energy for a facility. WER systems are similar, but use exhaust heat from engines or turbines at industrial, commercial or institutional sites as the energy source used to generate electricity. Under the new law facility owners can receive renewable energy credits for qualified WER systems or an incentive payment check from a utility's energy efficiency program for CHP or WER to offset some of the costs of their investment. This is in addition to the savings the facility will realize as it generates its own electricity on-site.

In addition to my duties as Commission Chairman, I am also the chairman of the Ohio Power Siting Board (OPSB), the sole state entity that approves the installation of energy capacity and transmission infrastructure within Ohio. Pursuant to Ohio Revised Code 4906.06, the Board is primarily a self funded entity, under the Power Siting Board Fund, supported by application fees and assessments to cover the expenses for review of the applications filed before the Board. The line item before you authorizes the OPSB to spend those fees and assessments on staff salaries and other OPSB needs.

Since 1998, 19 new electric generating facilities have become operational adding 8,997 megawatts (MW) of generating capacity in Ohio. The OPSB has certificated eight wind projects in Ohio, two facilities totaling 450 MW are operational and another 852 MW are pending construction and/or approval. Furthermore, 382 electric transmission certificates/approvals have been granted for a total of \$1.1 billion in investment in the state of Ohio since 1998. From March 1, 2011 to April 1, 2013 the OPSB has approved 126 projects with a total of 218.4 MW of electric generation investment. In total, the OPSB has approved approximately \$13 billion in electric transmission and generation related investment dollars for Ohio over the past 15 years.

Ohio's unique power siting process is possible because all 11 statutorily required entities involved with approving any siting application are seated at the same table: the chair of the Commission; the directors of the Ohio Environmental Protection Agency, Ohio Development Services Agency, the Ohio departments of Agriculture, Health, and Natural Resources; and a public member. Four members of the Ohio General Assembly also serve as non-voting members of the Board. The Board's caseload has increased significantly over the past year as electric utilities work to meet new demands created by the retirement of coal facilities across the region

and to provide renewable capacity in response to the state's alternative energy portfolio standard. Utilities and other developers continue to file applications with the Board for authorization to construct transmission lines and substations, as well as new wind and natural gas-fired generating facilities, to ensure that Ohio's electric power needs are met. S.B. 315 created a new accelerated process to more efficiently process these applications.

The House included in their substitute bill a new setback for wind farms that produce over 5MW but less than 50MW of power. Currently, the statute has two setbacks. The first one being that one defined minimum is equal to a horizontal distance from the turbine's base to the property line of the wind farm property, equal to one and one-tenth times the total height of the turbine structure as measured from its base to the tip of its highest blade. The second setback is a minimum of seven hundred fifty feet in horizontal distance from the tip of the turbine's nearest blade at 90 degrees to the exterior of the nearest, habitable, residential structure, if any, located on adjacent property. The amendment states that any future wind farm that has not yet filed an application before the Board will require a setback of 1,250 feet. The OPSB has no position relative to this amendment to Sub. H.B. 59. However, I have talked to the Governor's office, OBM, and Chairman Peterson about drafting clarifying language to include in the OBM omnibus amendment to make the residential structure setback applicable to any wind farm larger than 5MW, instead of the current 5MW–50MW range. This could, for instance, be done by changing the definition of "economically significant wind farm" to include all wind facilities greater than 5 MW. This would clarify that the setback applies to the large wind farms as well, instead of the current proposed legislation before you that expressly applies to the smaller wind farms only.

The Commission and OPSB is also evaluating if there is a need to alter the "As Passed the House" language in relation to projects that are currently in the siting process or have been approved. On line 75560 the bill states that a project that is "filed" with the OPSB will retain the current setback of 750 feet. The OPSB has concerns that entities that should not be "filing" at the OPSB yet will submit something simply to have a future project in the siting system. The OPSB is considering language to the effect that a project must be in compliance with ORC 4906.06, the Power Siting Statute. Again, the Commission has discussed with OBM, the

Governor's office, and Chairman Peterson to possibly include this slight change in the OBM amendment process.

As we look to the future, the Commission will continue to monitor the evolving utility markets as they develop in the competitive marketplace. It is essential that the Commission closely track utility activities to ensure that consumers are protected, state laws are enforced and an atmosphere conducive to furthering Ohio's economic development continues.

Thank you for the opportunity to appear before you today. We look forward to working with you to continually improve our service to the citizens of Ohio. Chairman Peterson, if you or members of the committee have questions, I am happy to answer them.