Before

The Ohio Senate
Energy and Public Utilities Committee
Testimony on Substitute House Bill 6

Presented by Michael Haugh

On Behalf of the
Office of the Ohio Consumers' Counsel

June 19, 2019

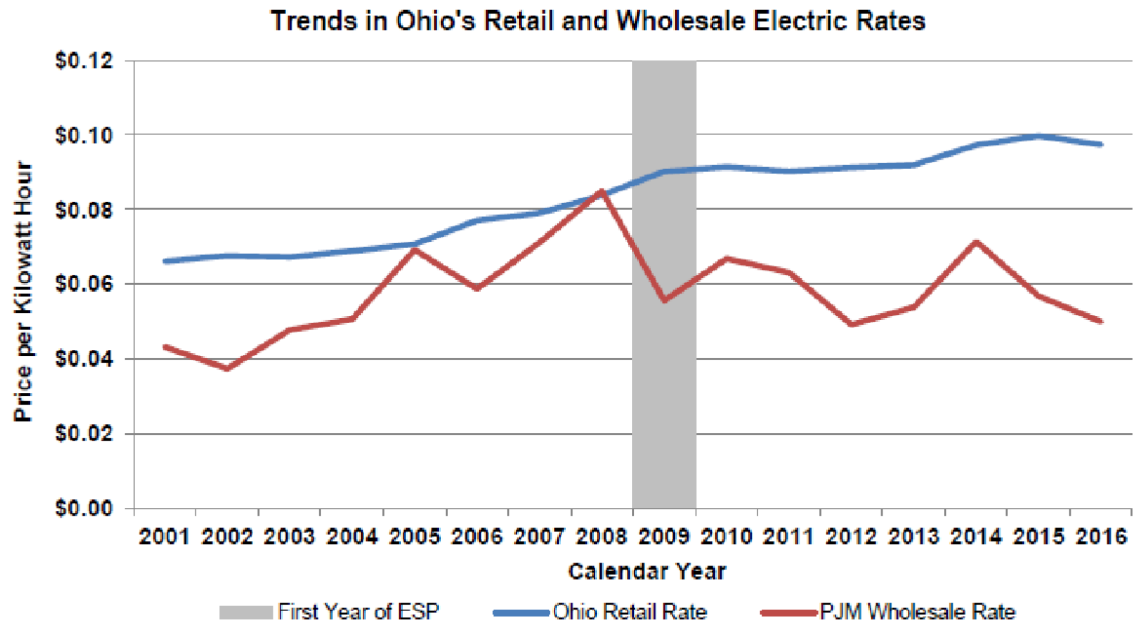
Hello Chair Wilson, Vice Chair McColley, Ranking Member Williams and members of the Committee. Thank you for this opportunity to testify in opposition to a bad bill that could leave Ohioans across the state wondering why they are paying a tax for a billion-dollar bailout of two nuclear power plants on the shores of Lake Erie. And asking a similar question about bailing out two ancient coal plants, one of which is in Indiana.

I am Michael Haugh, testifying for the Ohio Consumers' Counsel, where I provide consulting services for OCC's consumer advocacy. Previously I was the assistant director of OCC's Analytical Department. The Consumers' Counsel is the state's representative of millions of residential utility customers. My background is nearly 25 years in the energy industry, working on both the regulated and deregulated sides of the energy markets in government and private industry.

The PJM Independent Market Monitor, Dr. Joseph Bowring, has described subsidies as "contagious," meaning that subsidies beget more subsidies. One need look no further than the line of special interests forming for corporate welfare under H.B. 6. Ohioans would pay a billion dollars in subsidies to FirstEnergy Solutions and its big Wall Street bankruptcy creditors for its uneconomic nuclear plants. Ohioans would pay a half-billion dollars in subsidies to AEP, Duke and DP&L for two 64-year-old coal plants (one of which is in Indiana). And Ohioans would pay more subsidy to AEP and others for solar plants. All this would happen in a state that twenty years ago made the right move to deregulate power plants in favor of competitive markets for consumer protection instead of government interference in those markets.

Since deregulation in 1999, Ohioans have been made to pay an astounding $15 billion in subsidies to electric utilities. We track those subsidies in the Subsidy Scorecard that is Attachment 1 to my testimony.

Attachment 2 is a Legislative Service Commission Fiscal Note from last session for H.B. 247. It contains a graph on page 2 showing a decrease in PJM wholesale electric rates since 2008. That is good for consumers. What's bad for consumers is that the graph shows the rise in Ohio retail electric prices since 2009. LSC noted "the lack of correlation between wholesale and retail prices emerges around calendar year 2009, which is the same year that Ohio's utilities began operating under ESPs." It's not a coincidence that 2009 is the year following Ohio S.B. 221's intrusion in competitive markets. Here is the LSC graph:



Source: Average Ohio retail price of electricity from U.S. Energy Information Administration; total wholesale power price from 2016 State of the Market Report for PJM

I commend for your consideration FirstEnergy's words from October 19, 2011. Then, in testimony before the Ohio House Public Utilities Committee, FirstEnergy Vice-President and General Counsel Leila Vespoli testified that: "…competitive markets work. They deliver the lowest price over the long-term to consumers, and the proof is undeniable." (See Attachment 3)

The General Assembly's deregulation of power plants works for Ohio families and businesses. Deregulation has contributed to competitive wholesale markets producing billions of dollars in savings for Ohio electric customers. Researchers at The Ohio State University and Cleveland State University concluded that Ohioans saved over $15 billion between 2011 and 2015 from competition. They projected savings of another $15 billion in savings between 2016 and 2020. (Link: https://engagedscholarship.csuohio.edu/urban_facpub/1416/)

Last month the Ohio Consumers' Counsel Governing Board adopted a resolution supporting competitive power plant markets and opposing subsidies for power plants at the expense of Ohioans. The resolution states, in part:

> [T]hat the Governing Board of the Office of the Ohio Consumers' Counsel supports power plant competition and deregulation as envisioned by the Ohio General Assembly in 1999 to deliver lower prices and higher innovation to consumers.

Further the resolution states:

> [T]hat the Governing Board of the Office of the Ohio Consumers' Counsel opposes any legislation (including House Bill 6) that would charge Ohio utility consumers (contrary to deregulation and competitive generation markets that have emerged) to subsidize any type of generation (including nuclear power plants).

The full Governing Board resolution is Attachment 4 to my testimony.

Regarding the bill's coal plant bailout, Attachment 5 is the Senate testimony of the Ohio Industrial Energy Users last session. IEU expressed concerns about making customers subsidize the OVEC coal plants. The IEU testimony provides a good explanation of why these plants should not be subsidized at consumer expense. Codifying the coal plant subsidies would favor AEP, Duke and DP&L, against consumers, by removing the PUCO's discretion to end the subsidies. And the bill would harm consumers by requiring AEP, Duke and DP&L consumers to subsidize the coal plant costs that FirstEnergy Solutions is shedding in bankruptcy (lines 1257-1261). Further, the bill would harm residential and small business consumers by making them pay more and enabling the biggest business customers to pay less than they currently pay for the coal subsidies that the PUCO authorized (Lines 1371-1384).

We appreciate PJM's testimony before this Committee on June 5, 2019 which included a study of how markets would work without the FirstEnergy Solutions nuclear plants. OCC and the Pennsylvania Commission had requested the study. Note also that these power plants that Ohioans would be made to subsidize are not needed for the reliability of their electric service. The regional wholesale power markets do not need the Davis-Besse and Perry nuclear plants and the OVEC coal plants for reliability. In fact, they don't need those plants for anything. PJM has procured more than enough power to serve consumers for the next three years. Specifically, PJM's procurement for the 2021/2022 planning year has been successful without including the Davis-Besse and Perry plants in the reliability mix. The PJM capacity auction has a reserve of 21.5%, 5.7% above the target reserve margin to safeguard reliable service. (See Attachment 6) In other words, there will be light when Ohioans flip on their light switches.

Bill proponents claim customer savings from elimination of the utilities' energy efficiency programs. But the bill does not eliminate the utilities' ability to continue these programs, with PUCO approval. In fact, the utilities can reinstate the energy efficiency programs the day after they are required to end them, if the PUCO approves. (lines 1772-1773) The bill refers to these programs as "voluntary programs" (line 1755); however, these programs would not be voluntary for residential and small commercial customers who are asked to pay for them. But large customers are favored with the ability to opt-out of paying for these programs.

In the current energy efficiency programs utilities can charge customers for profits, known as "shared savings." Utility profits charged to Ohioans in 2018 totaled over $50 million for energy efficiency programs: $25 million paid by AEP customers; $12 million paid by FirstEnergy customers; $9 million paid by DP&L customers; and $4 million paid by Duke customers. It should be noted the $9 million in profit DP&L charged its customers was based on a $20 million program. Given these profits, there is little doubt the utilities will want to voluntarily continue these programs, which will undercut the customers savings claimed by the bill's proponents.

We do not recommend the end of utility energy efficiency programs (which can produce customer savings), but there needs to be much more customer protection. The law should limit the costs and profits that utilities are allowed to charge to customers. And the programs (and customer funds) should be managed by independent administrators with the customers' interest foremost, instead of run by utilities.

Another way this Bill can increase customers' electric bills is through the utility purchase power agreements found on lines 1415-1448. These agreements permit the utility to charge big business customers a below market rate and then charge all other customers for the shortfall. This provision is for services that are offered in the competitive marketplace and those services should not be subsidized by other customers. It should be removed from this Bill.

On June 4th Ray Gifford testified before this Committee in support of HB 6 and its nuclear subsidies. During Senator questioning he acknowledged representing FirstEnergy Solutions. Mr. Gifford commented that other states had acted to preserve nuclear power plants and that Ohio "should use the same ZEC (zero emission credit) mechanism to preserve its nuclear plants."[1] But in an earlier May 2018 article that he and a colleague published, Mr. Gifford contradictorily wrote that "No 'around market' solution whether designed to develop a new state-level acronym and product like a ZEC or expand a competitive solicitation to let nuclear participate, will solve

[1] : http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/133rd_ga/ready_for_publication/committee_docs/cmte_s_energy_pu_1/submissions/cmte_s_energy_pu_1_2019-06-04-0930_683/raygiffordtestimony.pdf (See page 1).

the RAMM's [Regional Administrative Market Model] fundamental problems."[2] And Mr. Gifford urged FERC to "put an end to the 'around market' and 'in-market' madness." Mr. Gifford got it right in 2018, and not earlier this month.

Recommendations:

This Bill is bad for Ohio electric utility customers. Please vote against this legislation. If there is a desire to legislate on this issue, here are my suggestions to improve the Bill:

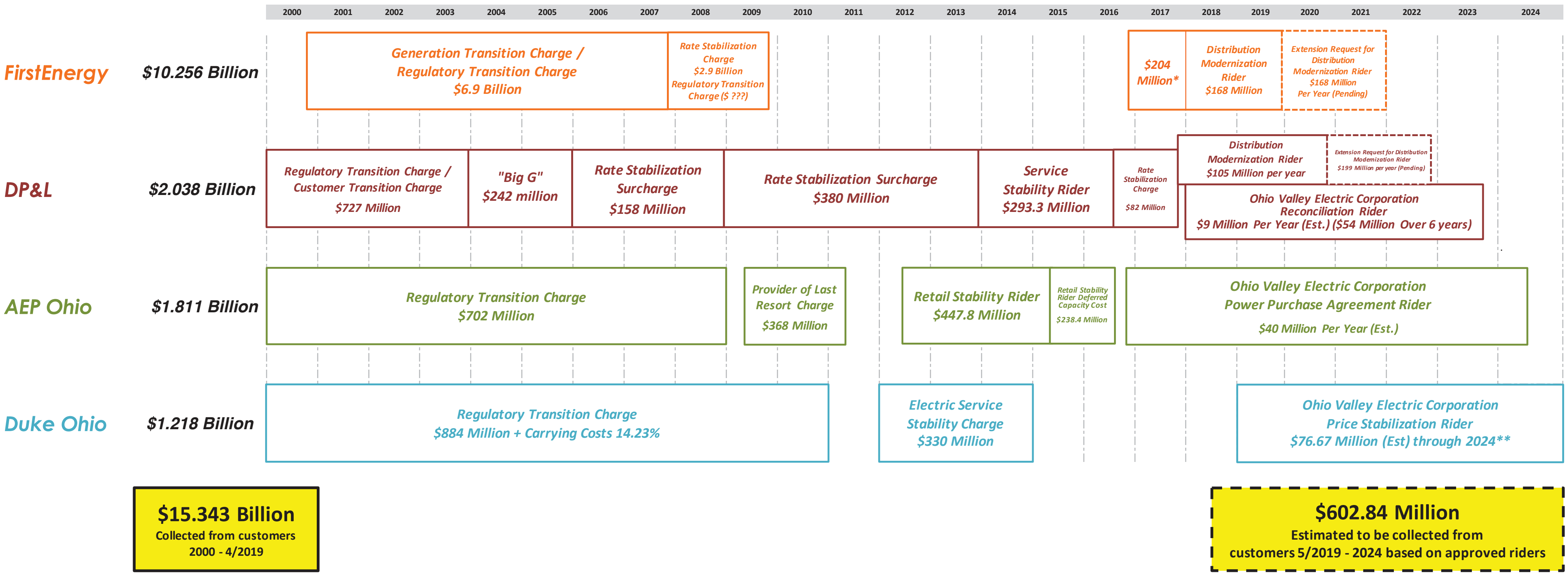
1. **Limit the bill to only consideration of a nuclear subsidy.** All other bill provisions should be taken up in other stand-alone legislation, if at all. The Committee Chair has suggested that the Senate will consider comprehensive energy legislation. There, the bill's provisions that largely favor big utilities, at the expense of Bob and Betty Buckeye, can be balanced or discarded in favor of pro-consumer provisions like reforms proposed in last session's H.B. 247 by Rep. Romanchuk. Attachment 7 to my testimony is a list of topics for addressing in future energy policy legislation.
2. **Do not make Ohioans subsidize more than 1,200 MW of nuclear capacity.**
3. **Do not make Ohioans subsidize the ancient, dirty-air OVEC coal plants of AEP, Duke, DP&L, and pre-bankruptcy FirstEnergy Solutions.** This issue is addressed earlier in this testimony. And it's addressed in my Attachment 5, which is the testimony last session from the Industrial Energy Users.

[2] https://www.wbklaw.com/uploads/file/Articles-%20News/2018%20articles%20publications/White%20Paper%20-%20Market%20Design%20Issues%20-%20May%202018).pdf (pages 1 and 20).

4. **Do not make Ohioans subsidize utility-scale solar plants.** There is no need to add a solar subsidy for the benefit of large solar developers (50 MW or greater), including AEP. This provision is more proof that subsidies are "contagious."
5. **There should be a strict test to prohibit a nuclear subsidy if a plant is profitable.** The bill should deny subsidies to applicants unless they can prove with evidence that they are unprofitable. Further, the provision in the bill for audits is very weak and needs substantial improvement for it to work as a consumer protection. Audits should include a determination of whether the subsidized power plant is profitable without the subsidy.
6. **Limit the nuclear subsidy to three years or less.** Customer subsidies of generation should not be condoned and especially not as a long-term business model for a power plant.
7. **Set a much lower strike price for reducing the nuclear subsidy if market prices increase and in turn change the provision to reduce what consumers pay into the "Clean Air" subsidy fund.** The alleged consumer protection of reducing the subsidy if market prices increase is little or no protection for consumers. The strike price of $46 is much too high, and is unlikely to be achieved during the effective period of the bill. The strike price should be substantially reduced to under $30 per mwh. (Lines 537-544)

This bill is about making Main Street bail out Wall Street. It's great for FirstEnergy Solutions (and its big Wall Street bankruptcy creditors), and for AEP, Duke, and DP&L. But it's real bad for Bob and Betty Buckeye who would pay for the corporate welfare to big utilities. Twenty-six Ohio counties have populations with more than 14.5 % living with food insecurity. Thirty-six Ohio counties have populations with more than 15% living in poverty. I urge you to protect millions of Ohioans by voting against this legislation. Thank you for your consideration.

SUBSIDY SCORECARD - ELECTRIC UTILITY CHARGES TO OHIOANS



* FirstEnergy's Distribution Modernization Rider (DMR) collected $204 Million in 2017, subject to 35% tax rate.

** The Price Stabilization Rider (PSR) of Duke Energy Ohio is scheduled to end at the end of May 2025. This $76.67 million is an estimated amount through the end of 2024.

6/7/19

OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

Fiscal Note & Local Impact Statement

Bill: H.B. 247 of the 132nd G.A. **Status:** As Introduced

Sponsor: Rep. Romanchuk **Local Impact Statement Procedure Required:** No

Subject: Revise policies applicable to electric utilities

State & Local Fiscal Highlights

- The bill has no direct fiscal effect on expenditures for state agencies or political subdivisions, but the bill might have the indirect effect of changing electricity costs if electric security plans are eliminated. Should retail electric rates increase or decline as a result of H.B. 247, there could be a corresponding impact in commercial activity tax revenue paid by affected utilities. Revenue from the tax is allocated primarily to the GRF.

Detailed Fiscal Analysis

H.B. 247 revises several state policies governing electric utilities. For a complete explanation of the changes, refer to the LSC Bill Analysis. The topics highlighted below are those that are most likely to have an indirect fiscal effect on governmental revenues and expenditures. The bill does not have a direct effect on state agencies or political subdivisions, but it could impact the electricity prices paid by these entities as well as state tax receipts collected from electric distribution utilities (EDUs).

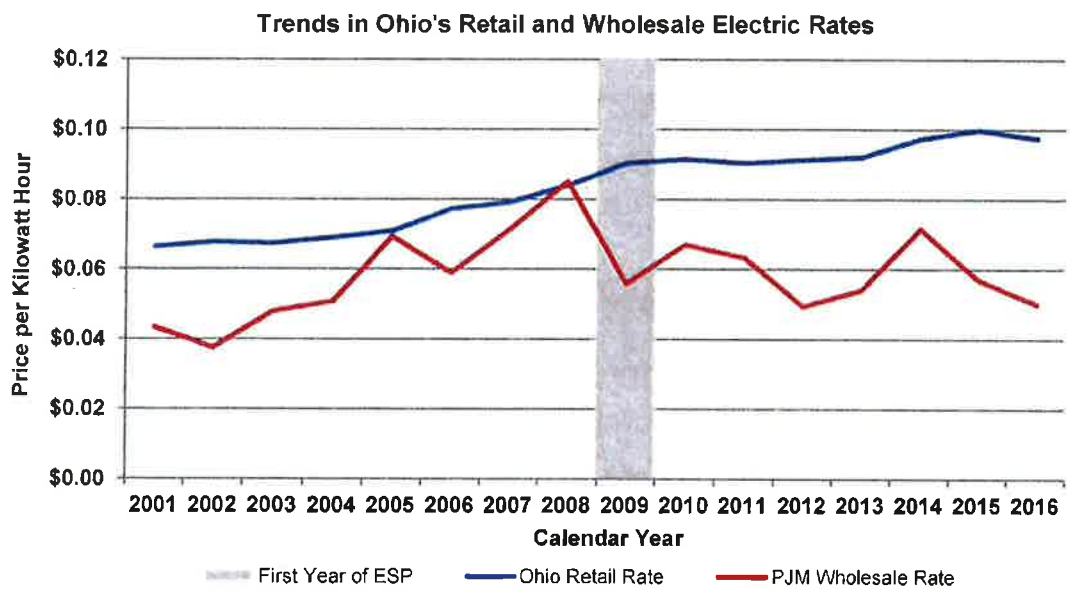
Elimination of electric security plans

H.B. 247 requires an EDU's standard service offer (SSO) to be established only as a market rate offer (MRO) by eliminating the electric security plan (ESP) option and making the MRO mandatory. Under current law in R.C. 4928.141, an EDU must provide consumers within its certified territory a standard service offer of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either an MRO in accordance with R.C. 4928.142 or an ESP in accordance with R.C. 4928.143. The MRO is determined through a competitive bidding process in which generation suppliers submit their least-cost bids.

Existing law governing an ESP permits numerous rate components, but does not explicitly specify the rate calculation. The only substantive requirement is that the plan must be "more favorable in the aggregate as compared to the expected results" of an

MRO.[1] In practice, the Public Utilities Commission of Ohio (PUCO) evaluates the quantitative and qualitative benefits when determining whether the proposed ESP is more favorable than the expected MRO.[2] Moving to market-based rates would almost certainly change the rates that customers, including the state and local governments, pay for electricity. Current market conditions exhibit retail rates for electricity in Ohio that are significantly higher than wholesale rates (see chart below), which suggests the most likely impact of moving to market-based rates would initially be downward.

The chart below illustrates trends in Ohio's average retail electric rate and the wholesale rates reported by the regional transmission organizer, PJM. Both retail and wholesale rates grew in the earliest years of the centrally organized market operated by PJM, but the subsequent downturn in wholesale prices has not been reflected in retail rates paid by Ohio customers. The lack of correlation between wholesale and retail prices emerges around calendar year 2009, which is the same year that Ohio's utilities began operating under ESPs. However, other external factors may be relevant. For example, the emergence of a large amount of unconventional natural gas production (i.e., shale gas) started in 2006-2007. The resulting drop in natural gas prices began in 2009 under the combined impacts of low electricity demand during the economic recession and a significant increase in supply.[3]



Source: Average Ohio retail price of electricity from U.S. Energy Information Administration; total wholesale power price from 2016 State of the Market Report for PJM

[1] R.C. 4928.143(C)(1).

[2] Most recently in an October 20, 2017 Opinion and Order that adopted Dayton Power and Light Company's current ESP (PUCO Case No. 16-395-EL-SSO).

[3] Further discussion of this dynamic can be found in the U.S. Department of Energy's "Staff Report to the Secretary on Electricity Markets and Reliability." https://energy.gov/downloads/download-staff-report-secretary-electricity-markets-and-reliability.

likely received refunds totaling $368 million.[4] At the time, the Ohio Supreme Court found that PUCO erred when it approved certain charges contained in AEP Ohio's first ESP, in effect from 2009 to 2011. Although the Supreme Court regarded those charges as unjustified, it did not order the money refunded to customers, citing existing statute and case law against retroactive ratemaking.

HB0247IN.docx/lb

[4] Supreme Court Document Ohio Supreme Court Slip Opinion, 2014-Ohio-462, affirming PUCO's decision in Case No. 08-0917-EL-SSO.

Commercial Activity Tax

H.B. 247 does not have a direct effect on Commercial Activity Tax (CAT) receipts, but if the bill changes electric charges for customers, Ohio's electric distribution utilities may remit more or less CAT revenue than they otherwise would absent the legislation. LSC cannot speculate on the potential indirect effect, but the table below provides the total CAT charges reported by EDUs in their most recent annual reports. The six utilities reported a combined total of $20.3 million in CAT charges during calendar year 2016.

Under continuing law, the Commercial Activities Tax Receipts Fund (Fund 5GA0) consists of money arising from the CAT. The Department of Taxation's Revenue Enhancement Fund (Fund 2280) receives the first 0.75% of the money credited to that fund to defray the costs incurred by the Department. Of the remaining money in Fund 5GA0, 85% must be credited to the GRF, 13% to the School District Tangible Property Tax Replacement Fund, and 2% to the Local Government Tangible Property Tax Replacement Fund. Expenses of the latter two funds are fixed, with excess revenue transferred to the GRF, so the GRF would bear the full gain or loss of revenue after Fund 2280 gets its share.

Company-Reported CAT Charges During Calendar Year 2016	
Electric Distribution Utility	**CAT Charged During 2016**
Cleveland Electric Illuminating Company	$2,473,429
Dayton Power and Light Company	$2,725,934
Duke Energy Ohio, Inc.*	$3,055,279
Ohio Edison Company	$3,234,840
Ohio Power Company (AEP Ohio)	$7,733,279
Toledo Edison Company	$1,096,661
Total	**$20,319,422**

*Company reported data adjusted by LSC using company's annual report to PUCO. The downward adjustment isolates CAT paid on behalf of electric utility receipts by excluding gas utility receipts.

Source: FERC Form No. 1: Annual Report of Major Electric Utilities

Refunds for utility charges

The bill requires that all charges paid by customers to any public utility that are later found to be unreasonable, unlawful, imprudent, or otherwise improper by PUCO, the Supreme Court, or another authority be promptly refunded to the customers who paid the charges. PUCO must order these refunds in a manner designed to allocate them to customer classes in the same proportion as the charges were originally collected.

The refund provision may reduce costs to ratepayers, but LSC cannot predict the frequency (if any) with which this provision would be invoked in future years. If this language was in effect when a 2014 Ohio Supreme Court decision was issued, the ratepayers in American Electric Power's (AEP Ohio) two service territories would have

House Public Utilities Committee

Competitive Markets Work

Submitted by:
Leila L. Vespoli
Executive Vice President and General Counsel
FirstEnergy

October 19, 2011

Chairman Stautberg, Ranking Minority Member DeGeeter, members of the Committee – good morning. I'm Leila Vespoli, Executive Vice President and General Counsel of FirstEnergy, which is the parent company of three electric distribution utilities in Ohio – Ohio Edison, The Illuminating Company and Toledo Edison – and of our competitive subsidiary, FirstEnergy Solutions.

I'm pleased to be here today to talk about what Ohio has done right in creating an effective structure for providing customers with lower prices for electric generation, and where we can do more to maintain and expand competitive markets for electricity in the years ahead.

Specifically, my testimony will focus on three key points:

- First, with respect to electric generation, competitive markets work. They deliver the lowest price over the long-term to customers, and the proof is undeniable. Moreover, they will continue to ensure adequate and affordable supplies of generation for Ohio's future – which, in my mind, is the only meaningful definition of Ohio's energy security.

- Second, measures that restrict customer shopping or subsidize one electric generator over another are throw-backs to monopoly regulation. Such efforts that pick "winners" and "losers" in the energy market would create obstacles to private investment in generation and increase prices for customers.

- Third, governmental aggregation is the jewel of Senate Bill 3 – a proven way to deliver significant savings on electric generation to large numbers of residential and small business customers. Toward that end, we should pursue every effort to extend this channel to more Ohioans.

Keep Competitive Markets Working

Regarding competitive markets for electric generation, we already know that they work because these markets have resulted in lower electric generation prices and less risk for Ohio customers. That's good news for businesses and homeowners looking for every opportunity to stretch their limited resources.

Today, every customer of FirstEnergy's Ohio utilities is getting the benefits of competition for electric generation. Our utilities conduct wholesale auctions in which many suppliers compete to provide generation at the lowest price for customers who choose not to shop. In addition, customers are free to shop with competitive suppliers and get an even better price – and many customers are choosing to do that. These customers saved an estimated $100 million in 2010 through competitive markets for electric generation. Right now, 2.3 million Ohioans – including more than 200,000 businesses – are saving money through electric competition. In addition, competitive suppliers are lining up to do more, with more than 40 registered suppliers in Ohio standing ready to bring additional savings to customers.

These and other benefits validate the good judgment of Ohio's legislators when they established competitive markets for electricity in our state – first in 1999 through Senate Bill 3, and then again in 2008 through changes made with Senate Bill 221.

This first display illustrates how our industry was restructured by Senate Bill 3, making generation a competitive business. The idea was that competitive markets for electric generation, instead of utility monopolies, would drive innovation, efficiency and investment – and, most important, deliver the lowest price to customers over time.

At FirstEnergy, we made every effort to meet the letter and spirit of the new law – devoting significant resources to prepare our company, employees and customers for competitive markets.

Among other changes, we structurally separated our regulated and unregulated operations so our power plants are no longer owned by our electric distribution companies. But more important, all of our generation-related investments – including the risks that accompany them – are now borne by our shareholders, not by customers. This includes the significant investments we've made in environmental controls at our generating plants. This change has made us better – leaner, more efficient, and more customer-focused.

Since 1999, our competitive subsidiary, FirstEnergy Solutions, has invested nearly $6.4 billion in its generating fleet while adding more than 900 megawatts of power. That's the equivalent of a large, baseload power plant – and, once again, we've brought that additional capacity online *at no risk to customers*.

These are just a few of the many benefits that competitive markets for electricity are bringing to Ohio. Unfortunately, several ill-conceived proposals such as restrictions that effectively cap shopping have the potential to undermine these markets and drive up prices for certain effectively captive customers.

Eliminate Shopping Caps and Other Obstacles

For example, there is one proposal wherein a utility is seeking to be allowed to effectively cap shopping by limiting the amount of market-priced capacity available to suppliers over the next three years. Once these caps are reached, third-party suppliers would be forced to buy capacity from the company at prices that would be more than four times the market value. This is simply an attempt to restrict shopping and to force customers to pay the utility's above-market rate. The stated rationale for imposing this servitude on customers is that the utility needs time to "transition" to market – a transition the company has had more than 10 years to make.

The price tag for this protectionist approach would be significant – especially when you consider how the arbitrary shopping cap would negatively impact governmental aggregation.

We're also concerned about any effort to subsidize certain generating facilities. Much of the rhetoric around these efforts involves a misguided notion of Ohio's energy security –

that our state could experience outages if it doesn't generate as much energy as it consumes. This notion simply ignores how the electric grid operates, and how competitive markets always secure generation from the lowest-cost sources – no matter where they are located.

The second display highlights PJM and MISO – regional transmission organizations that are charged with maintaining adequate supplies of wholesale power to serve the energy needs of nearly 100 million customers within their footprints. As you can see, these footprints extend far outside Ohio – so a power plant in one state can serve customers in any number of other states if it is economical to do so.

Even when utilities were vertically integrated – with centralized control of distribution, transmission and generation – new siting decisions involving power plants were always based on key factors such as available water, space and fuel sources. That's why even under the previous regulated model, power plants formerly regulated by the PUCO weren't necessarily built in Ohio. Some were built in Pennsylvania or West Virginia to serve customers in Ohio.

Even if Ohio's energy security were an issue – which it is not – our state imports less electricity today than it did under the previous regulated model, largely due to the significant amount of generation that has been added since competitive markets were established in Ohio. From 2005 to 2009, Ohio imported an average of 10 percent of its total electricity needs, compared with 17 percent in 1990.

The real problem with subsidized generation is that regulators would be picking the "winners" and "losers" in the energy market. We've been down that road before, and the results weren't pretty. For example, in the past our utilities in Pennsylvania and New Jersey were required to purchase power from Non Utility Generators, with contracts extending up to two or three decades. In our Pennsylvania service area alone, customers have paid $1.5 billion over market prices for this subsidized generation. At a time when Ohio is exploring every opportunity to create jobs and grow our economy, we simply cannot afford similar missteps that would saddle our customers with higher-than-market prices for electricity.

Let me offer a final example of the unintended consequences of subsidized generation. FirstEnergy Solutions is currently reviewing a plan to transform an old limestone mine in Norton, Ohio, into a Compressed Air Energy Storage, or CAES, facility. With the volume of nine Empire State Buildings, the site was identified by a leading developer of natural gas storage facilities as the best among more than 70 potential sites in the nation for supporting CAES technology. It would be scalable – from approximately 270 megawatts all the way up to 2,700 megawatts – and, more important, would support the operation of intermittent renewable sources such as wind by compressing air at night and standing ready to serve load on peak. However, it is highly unlikely that we would consider moving forward with this project if the plant would have to compete against subsidized generation in Ohio.

Extend Governmental Aggregation to More Ohioans

Rather than creating new obstacles to competitive markets, I believe lawmakers and regulators should build on efforts such as governmental aggregation that already are delivering lower prices for electric generation to Ohioans.

As you may know, governmental aggregation is an effective way for local communities to combine their residents and small businesses into a single, large buying group. With this significant buying power, municipalities can then shop for the best deal on electric generation on behalf of all its citizens. This process is currently providing savings on electricity to nearly 1.2 million Ohioans. In addition, ballots scheduled for the upcoming election in November would authorize governmental aggregation for more than 100 additional communities representing 450,000 residential and 15,000 small commercial customers.

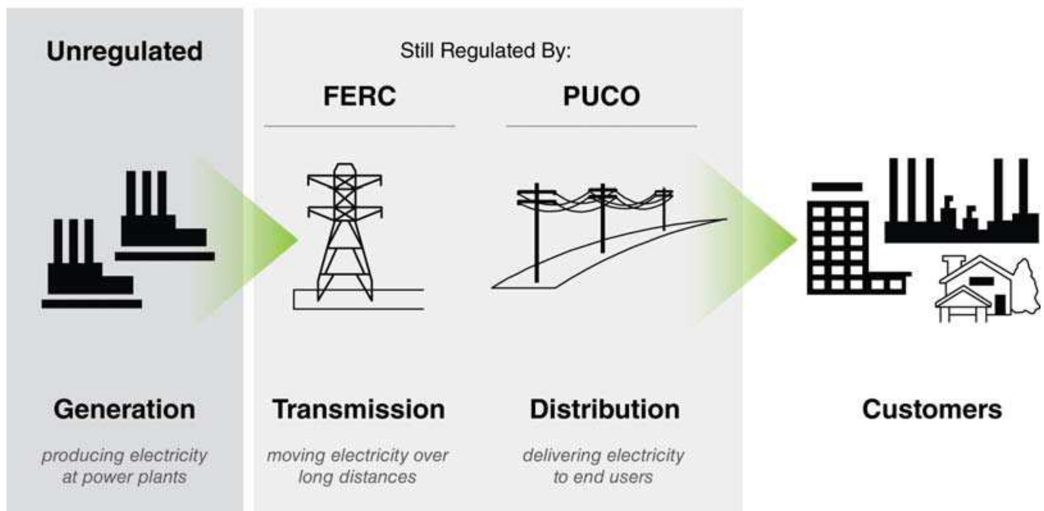
However, because of the way one utility plan is contrived, there will be limited – if any – opportunities for residential customers and no opportunities for small business customers to benefit from governmental aggregation.

The fact is, these and other restrictions can only undermine competitive markets that already are bringing significant savings to customers throughout Ohio. Simply put, we have the right structure in place. We just need to keep those markets working to continue delivering real savings to homes and businesses throughout our state. That's one of the best strategies I can think of to create jobs and promote economic development in Ohio.

As always, FirstEnergy remains committed to working with the Committee and the Ohio General Assembly. Thank you again for allowing me to address you today. I would be pleased to answer your questions.

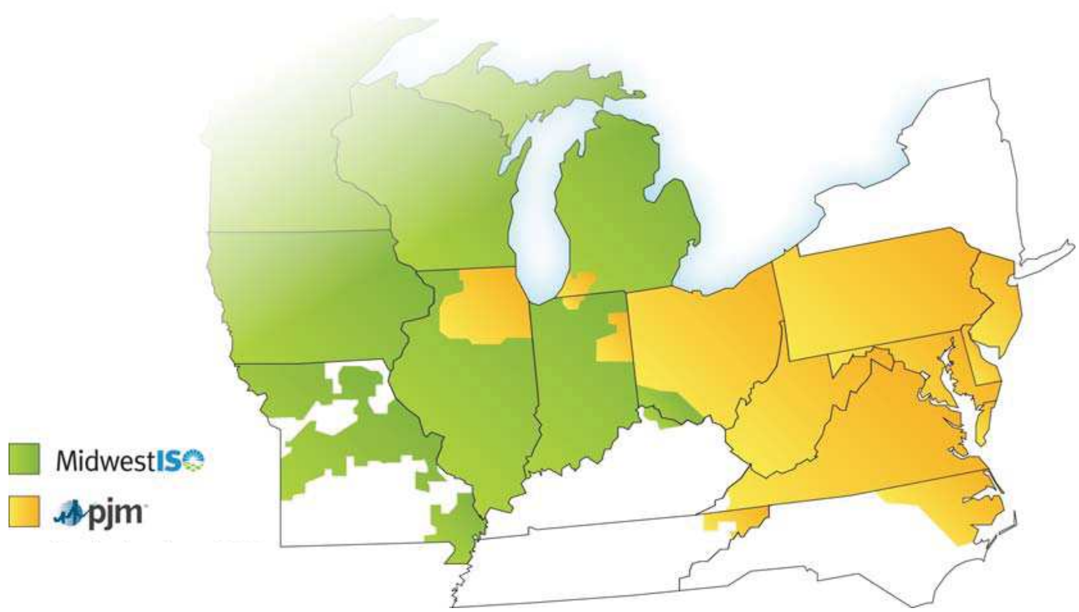
Attachment A:

Generation is a competitive business; transmission and distribution remain regulated



MISO and PJM – FERC Regulated

Large, regional transmission organizations coordinate movement of wholesale electricity



Resolution

Office of the Ohio Consumers' Counsel
Governing Board

In Support of the Ohio General Assembly's Vision for an Energy Future Based on Competition by Power Plants, Not Subsidies by Consumers. And In Support of a Strong and Independent Office of the Ohio Consumers' Counsel to Represent and Educate Residential Utility Consumers for Consumer Protection

WHEREAS, Electricity, natural gas, telephone, and water services are essential for Ohioans; and

WHEREAS, Ohio consumers should have retail electric service that is reliable, safe and reasonably priced; and

WHEREAS, The Ohio General Assembly deregulated power plants in 1999 to give Ohio families and businesses the benefits of lower prices and higher innovation through power plant competition, among other things; and

WHEREAS, Despite deregulation, Ohio consumers have paid more than $15 billion in subsidies to the electric utilities since 1999; and

WHEREAS, House Bill 6 was introduced on April 12, 2019, to mandate subsidies of power plants (including nuclear plants), at a cost to Ohioans of $300 million annually with no end date for the subsidies; and

WHEREAS, House Bill 246 was introduced on May 14, 2019, to "reform and modernize" the Office of the Ohio Consumers' Counsel (and the PUCO); and

WHEREAS, a strong and independent Office of the Ohio Consumers' Counsel is needed for the protection of millions of residential utility consumers and residential consumers of other PUCO-regulated providers in Ohio.

THEREFORE, BE IT RESOLVED, that the Governing Board of the Office of the Ohio Consumers' Counsel supports power plant competition and deregulation as envisioned by the Ohio General Assembly in 1999 to deliver lower prices and higher innovation to consumers.

THEREFORE, BE IT FURTHER RESOLVED, that the Governing Board of the Office of the Ohio Consumers' Counsel opposes any legislation (including House Bill 6) that would charge Ohio utility consumers (contrary to deregulation and the competitive generation markets that have emerged) to subsidize any type of generation (including nuclear power plants).

THEREFORE, BE IT FURTHER RESOLVED, that the Governing Board of the Office of the Ohio Consumers' Counsel opposes any legislation that would result in reductions, limits or weakening of the services and independence of the Office of the Ohio Consumers' Counsel for protection of millions of Ohio residential consumers.

I verify that this Resolution has been approved by the Governing Board of the Office of the Ohio Consumers' Counsel, this 21st day of May 2019.

Stuart Young

Stuart Young, Vice-Chair (Acting Chair)
Governing Board of the Office of the Ohio Consumers' Counsel

Senate Bill 155

Senate Public Utilities Committee

Prepared Statement of Sam Randazzo
General Counsel
Industrial Energy Users-Ohio

June 8, 2017

Mr. Chairman, Ranking Member Williams, Members of the Senate Public Utilities Committee, I am Sam Randazzo. I am here today in my capacity as General Counsel for the Industrial Energy Users-Ohio ("IEU-Ohio"). IEU-Ohio is a trade association that was created more than 25 years ago to help Ohio businesses address issues affecting the price and availability of energy. I have included a list of IEU-Ohio's members in Appendix A, attached to my testimony.

The purpose of my testimony is to discuss Senate Bill 155 ("SB 155") as it has been presented to the Committee by Senator Terhar and share some suggestions with this Committee that may be useful as you develop a final version of the legislation. My perspective on this topic is that of a person who has walked the Ohio energy beat for most of the time since the Ohio Valley Electric Corporation ("OVEC") began operating its generating plants in Ohio and Indiana.

Attachment B to my testimony contains a number of questions and answers which I have prepared to provide you with: (1) information on the history of the OVEC, a public utility subject to the jurisdiction of the Public Utilities Commission of Ohio ("PUCO"); (2) information on the wholesale relationship between OVEC's Indiana, Kentucky and Ohio operations and the electric distribution utilities ("EDU") that seem to support the current version of SB 155; and, (3) information that indicates the potential for the current version of SB 155 to give these EDUs the right to privatize the reward and socialize the risk associated with their for-profit business relationship with OVEC, which would have ended long ago but for their voluntary election to twice extend a contract (the Inter-Company Power Agreement or “ICPA”) which now runs into June 2040 as a result of extensions in 2004 and again in 2011. These extensions of the ICPA occurred well after the federal government pulled out of the nuclear enrichment project in Piketon, Ohio and well after Ohio and the federal government established laws and regulations calling for the electric generation business to be competitive, devoid of “captive customers” and stand on its own in the marketplace.

The current version of SB 155 would socialize the business and financial risks which these for-profit EDUs elected to sign up for (and twice extend) by requiring retail customers having no connection to or responsibility for OVEC to pay the EDUs the difference between the OVEC-related costs the EDUs incur because of the ICPA and the revenue they would obtain by selling their share of the OVEC electricity production at a market-based price (this difference is the “above-market OVEC costs”).

After profiting from their chosen relationship with OVEC for many decades and extending the life of this profit opportunity, these EDUs now want customers to step into their EDU shoes because, as is the case with a lot of older coal and nuclear generating plants, the OVEC generating plants in Ohio and Indiana are not as competitive as they once were.

SB 155 will not make the OVEC generating plants more competitive; it just transfers to customers, and away from the EDUs or their affiliates, the financial responsibility for the challenges the OVEC plants are facing.

Now, if you have heard me testify previously, you know that I could drone on for hours and provide you with mountains of “geeky” information in support of the position on the current version of SB 155 that I have just summarized. But the purpose of my testimony today is not to “pile on” or “beat a dead horse”.

Rather, I will use the balance of my testimony to offer some suggestions on how SB 155 could be improved and made fairer to customers while establishing a framework that would incentivize OVEC, OVEC's shareholders and the Sponsoring Companies[1] to develop and implement actions to address the underlying problems with the OVEC generating plants in Indiana and Ohio.

The suggestions are presented in order based on preference; the first suggestion is the most preferred.

The suggestions assume that any enabling legislation would end any previously authorized mechanism for OVEC-related costs that has been approved by the PUCO.

Suggestion 1 – Leverage the PUCO's Accounting Authority

As I have already mentioned, OVEC is a public utility (a one-customer public utility) subject to the PUCO's jurisdiction. Among other things, the PUCO supervises the accounting practices of public utilities and can authorize public utilities to adopt accounting practices dealing with the matching of expenses and revenue. More specifically, the PUCO can authorize a public utility to defer recognition of an expense (regulatory asset) or revenue (regulatory liability). This accounting authority provides a means of stretching out or phasing in the recognition of expenses and revenue so as to avoid abrupt or uneven impacts in a particular time period that would otherwise control but for the use of deferral accounting. In some cases, the PUCO has already authorized EDUs to defer OVEC-related costs.

The OVEC-related costs that show up at the EDUs originate at OVEC. So, this suggestion calls for the PUCO to permit OVEC to defer above-market costs and then amortize the deferred costs through the application of OVEC's dividends and any gain on the sale of electricity produced by the OVEC generating plants in Ohio and Indiana, the operation of OVEC's transmission assets and retail sales OVEC either makes or

[1] The Sponsoring Companies are identified in Appendix B.

arranges for its remaining customer. Since OVEC is a public utility subject to the jurisdiction of the PUCO, OVEC can request this accounting treatment from the PUCO under current law; **no legislation is required to implement this suggestion**.

This suggestion, if implemented, would avoid the above-market **or below-market** OVEC-related costs hitting the books of the EDUs so that their earnings are not affected by their OVEC relationship.

This suggestion, if implemented, would not tag innocent-bystander-customers with the above-market OVEC-related costs and would not give them the benefit of below-market OVEC-related costs.

This suggestion, if implemented, would continue to place responsibility for addressing OVEC-related challenges with OVEC's shareholders and the Sponsoring Companies including the EDUs that support the current version of SB 155. Based on a report issued by Moody's Investment Service which I discuss in Appendix B to my testimony, it appears that OVEC's shareholder and the Sponsoring Companies have started a process to "modernize" the various OVEC-related agreements. I strongly recommend that you not do anything in SB 155 that weakens the incentives that OVEC's shareholder and the "Sponsoring Companies" currently have to proactively identify and remedy problems that may negatively affect OVEC's going-forward viability. Among other things, these problems include a highly leveraged capital structure (mostly debt capital) and relatively high interest rates for the debt. Some of the older debt is maturing and as this debt matures, OVEC should be able to reduce its weighted average cost of debt and thereby reduce its "fixed costs".

Suggestion 2 – Make Any OVEC-Related Retail Charge Bypassable

The electric generation business is a competitive business in Ohio and as a result of the regulatory structure that has been put in place at the federal level. This Ohio and federal structure gives customers the right to select their generation supplier (a

Competitive Retail Electric Services or “CRES” provider). If a customer obtains generation supply from a CRES provider, the cost of the generation supply available from the EDU (the default supplier) is avoided (bypassable) by the customer.

This suggestion, if implemented, would make any OVEC-related charge approved by the PUCO fully avoidable by customers.

This suggestion, if implemented, would continue to place some responsibility for addressing OVEC-related challenges with OVEC’s shareholders and the Sponsoring Companies including the EDUs that support the current version of SB 155.

Suggestion 3 – Cap Any OVEC-Related Retail Non-Bypassable Charge and Sunset the Burden Transferred to Customers

Over objections, the PUCO has approved riders for the recovery of OVEC-related costs. The current OVEC-related rider for AEP-Ohio (also known as Ohio Power Company) costs a “typical” residential customer (1000 kilowatt hours per month) about $2.50 per month. To illustrate how this suggestion might work, I will use this $2.50 per month amount.

Under this suggestion, a non-bypassable charge capped at no more than $2.50 per customer per month would be established and the non-bypassability feature would end (sunset) by no later than December 31, 2023. The above-market OVEC-related costs (exclusive of any return on equity) that hit an EDU’s books would be deferred with the capped non-bypassable charge used to amortize the resulting regulatory asset (exclusive of any return on equity). The actual charge per month could be less than $2.50 if the actual net OVEC-related deferred costs could be amortized through a lesser charge but never greater than $2.50 per month. Any OVEC-related above-market costs remaining on the books of the EDUs as of December 31, 2023 would be subject to amortization exclusively through the application of any dividends received from OVEC and any gain made on the sale of the OVEC generation supply in the wholesale market.

This suggestion, if implemented, would limit and make any non-bypassable OVEC-related charge approved by the PUCO certain and predictable for customers. Beyond a “transition period”, the innocent-bystander customers would be off the hook for the above-market OVEC-related costs which hit the EDUs books as a result of their decision to extend the ICPA.

This suggestion, if implemented, would continue to place some responsibility for addressing OVEC-related challenges with OVEC’s shareholders and the “Sponsoring Companies” including the EDUs that support the current version of SB 155.

Thank you for the opportunity to share information and our perspective on the current version of SB 155 with you. I hope my testimony, the information and the suggestions are useful.

In my remaining time, I will do my best to answer any questions.

.

Appendix A

IEU-OHIO'S MEMBER COMPANIES

Abbott Nutrition
Airgas, Inc.
AMAC Enterprises, Inc.
American Greetings Corporation
American Manufacturing Inc.
Anheuser-Busch Companies, Inc.
Appvion, Inc.
Area Aggregates, LLC
ASHTA Chemicals Inc.
Ashtabula Rubber Co.
Aurora Plastics, Inc.
Automation Plastics Corporation
Avalon Precision Casting Company, LLC
Avon Lake Regional Water
Barberton Steel Industries
Bescast, Inc.
Burton Rubber Processing
BWX Technologies, Inc.
ClarkDietrich Building Systems
Cleveland Cavaliers
Cleveland Indians
Cleveland Museum of Natural History
Cobra Plastics, Inc.
Component Repair Technologies, Inc.
Cristal USA Inc.
DRS Industries Inc.
Duramax Marine, LLC
Energizer Manufacturing, Inc.
Eramet Marietta Inc.
Falcon Foundry Company
Federal Metal Company, The
Ferriot, Inc.
Flambeau, Inc.
Glen-Gery Corporation
Globe Metallurgical, Inc.
GoldKey Processing, Inc.
Independent Franchises DBA McDonald's
Iten Industries
J.H. Routh Packing Company
Jack Thistledown Racino
Jacobson Manufacturing LLC
Jet Rubber Company
John Carroll University
Kent Elastomer Products, Inc.
Kent State University
Kraton Polymers U.S. LLC
Landmark Plastic Corporation
Lincoln Electric Company
Marathon Petroleum Company
Mar-Bal Incorporated
McGean-Rohco, Inc.
Mercury Plastics, Inc.
MetalTek International
MICA
Miceli Dairy Products, Inc.
Milliron Iron & Metal, Inc.
Mondeléz International
Neff-Perkins Company
Norman Noble, Inc.
Ohio Star Forge Co.
P.H. Glatfelter Co.
Paulo Products Company
Plastipak Packaging Inc.
Pressure Technology, Inc.
Quaker City Castings
Quintus Landlord LLC
Rothenbuhler Cheesemakers, Inc.
RTS Companies, Inc.
Saint Gobain Companies
Sajar Plastics, LLC
Salem-Republic Rubber Company
Sauder Woodworking Co.
Tate & Lyle Americas, Inc.
TimkenSteel Corporation
Toledo Refining Company, LLC
Tri-Cast Ltd.
Trilogy Plastics
U. S. Steel Seamless Tubular Operations, LLC
U.S. Casting Company, Inc.
University of Akron
USG Corporation
Vallourec Star
Viking Forge Corporation
Welded Tubes, Inc.

Statement of Sam Randazzo
Appendix B

Senate Bill 155

Ohio Valley Electric Corporation Q & A

Q 1. What is the Ohio Valley Electric Corporation ("OVEC") and who owns OVEC?

A. OVEC is an Ohio corporation which owns and operates facilities for the generation, transmission and sale of electric power and energy in Ohio and owns and operates facilities for the transmission of electric power and energy in Kentucky. It was organized by ten participating companies which are all owners of OVEC's capital stock to supply, with fifteen Sponsoring Companies, the entire power requirements of the gaseous diffusion plant near Portsmouth, Ohio. The gaseous diffusion plant was originally owned and operated by the United States Atomic Energy Commission until January 19, 1975 and from that date until September 30, 1977 by the United States Energy Research and Development Administration which, under the Energy Reorganization Act of 1974, succeeded to certain functions of the Atomic Energy Commission, and thereafter by the United States Department of Energy ("DOE").[2]

Below are additional descriptions of OVEC and its wholly owned subsidiary, Indiana-Kentucky Electric Corporation that are taken from documents generated by OVEC.

> Ohio Valley Electric Corporation (OVEC) and its wholly owned subsidiary, Indiana-Kentucky Electric Corporation (IKEC), …, were organized on October 1, 1952. The Companies were formed by investor-owned utilities furnishing electric service in the Ohio River Valley area and their parent holding companies for the purpose of providing the large electric power requirements projected for the uranium enrichment facilities then under construction by the Atomic Energy Commission (AEC) near Portsmouth, Ohio.
>
> OVEC's Kyger Creek Plant at Cheshire, Ohio, and IKEC's Clifty Creek Plant at Madison, Indiana, have nameplate generating capacities of 1,086,300 and 1,303,560 kilowatts, respectively. These two generating stations, both of which began operation in 1955, are connected by a network of 705 circuit miles of 345,000- volt transmission lines. These lines also interconnect with the major power transmission networks of several of the utilities serving the area.

[2] PUCO Case No. 01-482-EL-AIS, OVEC's Application and Statement, pages 1 and 2 http://dis.puc.state.oh.us/TiffToPDf/CA_2IN$_F1PBG7N_.pdf

The current Shareholders and their respective percentages of equity in OVEC are:

Allegheny Energy, Inc.	3.50%[3]
American Gas & Electric Company, Inc. [holding company – now AEP]	39.17%
Buckeye Power Generating, LLC	18.00%
The Dayton Power and Light Company	4.90%
Duke Energy Ohio, Inc.	9.00%
Kentucky Utilities Company	2.50%
Louisville Gas and Electric Company	5.63%
Ohio Edison Company	.85%
Ohio Power Company [Columbus Southern]	4.30%
Peninsula Generation Cooperative	6.65%
Southern Indiana Gas and Electric Company	1.50%
The Toledo Edison Company	4.00%

These investor-owned utilities and affiliates of generation and transmission rural electric cooperatives comprise the Sponsoring Companies and currently share the OVEC power participation benefits and requirements in the following percentages:

Allegheny Energy Supply Company LLC[4]	3.01%
Appalachian Power Company	15.69%
Buckeye Power Generating, LLC	8.00%
The Dayton Power and Light Company	4.90%
Duke Energy Ohio, Inc.	9.00%
FirstEnergy Solutions Corp.	4.85%
Indiana Michigan Power Company	7.85%
Kentucky Utilities Company	2.50%
Louisville Gas and Electric Company	5.63%
Monongahela Power Company	.49%
Ohio Power Company	19.93%
Peninsula Generation Cooperative	6.65%
Southern Indiana Gas and Electric Company	1.50%[5]

[3] Contrary to suggestions that the current owners are "stuck" with their OVEC positions, Allegheny Energy Inc. ("Allegheny") sold (prior to the acquisition by FirstEnergy Corp. and in 2004) a portion of its equity OVEC position (9%) to Buckeye Power Inc. ("Buckeye"). Buckeye paid $102 million in cash and assumed approximately $37 million in debt. See https://www.sec.gov/divisions/investment/opur/filing/35-27897.htm (last visited June 1, 2017). Allegheny Energy Inc. ("Allegheny") was acquired by FirstEnergy Corp. in 2011 and Allegheny's remaining OVEC equity position was acquired as part of that transaction. https://www.firstenergycorp.com/content/fecorp/about/company_history.html.

[4] As a result of electric restructuring legislation in Ohio, Pennsylvania and Maryland, Allegheny transferred ownership or control over the generating assets of its utility operating companies providing service in these states to Allegheny Energy Supply LLC which was subsequently acquired by FirstEnergy Corp. when FirstEnergy Corp. acquired Allegheny. In a similar fashion, FirstEnergy Solutions became a Sponsoring Company. Had Duke Energy Ohio, The Dayton Power and Light Company and Ohio Power complained with Ohio law and transferred their OVEC positions to another affiliated but unregulated entity (as FirstEnergy and Allegheny did) or to an unaffiliated entity (as Allegheny did), they would not today retain any OVEC-related obligations.

[5] https://www.ovec.com/OVECHistory.pdf

***

OVEC was formed by fifteen sponsoring companies, all public electric utility companies, for the sole purpose of supplying the United States Atomic Energy Commission, currently the Department of Energy (DOE), with all the electrical energy needed for the operation of its uranium enrichment plant located near Portsmouth, Ohio. The large amount of energy required for the process of uranium enrichment, however, is beyond the capacity of OVEC alone. To ensure that it could meet its obligations under the power agreement with the DOE, OVEC entered separate power agreements with IKEC and the fifteen sponsoring companies.

According to the IKEC-OVEC power agreement, the entire output of power IKEC generates is sold to OVEC. Under OVEC's power agreement with the fifteen sponsoring companies, the companies sell electricity to OVEC when the demands of the DOE exceed the amount OVEC can generate and purchase from IKEC. Additionally, the agreement permits the sponsoring companies to purchase surplus electricity from OVEC, when the demands of the DOE fall below the total amount OVEC can generate and purchase from IKEC.[6]

***

On July 1, 1993, the uranium enrichment processing responsibilities of the United States Government were transferred from the Department of Energy (DOE) to the United States Enrichment Corporation (USEC). At that time, USEC was a wholly owned government corporation and an agency and instrumentality of the United States of America. OVEC modified the DOE Power Agreement in 1993 to permit the DOE to resell the OVEC power to USEC. On July 28, 1998, USEC became a publicly held company through the transfer of the federal government's ownership in USEC to the private sector. On September 29, 2000, the DOE notified OVEC that the DOE Power Agreement would terminate no later than April 30, 2003. Also, the DOE notified OVEC that the DOE entitlement to power would reduce to specified levels until reaching zero on August 31, 2001. On September 1, 2001, the Sponsoring Companies became entitled to 100% of the Companies' generating capacity under the terms of the ICPA.[7]

***

[6] http://law.justia.com/cases/indiana/tax-court/1992/02t10-9104-ta-00014-2.html

[7] OVEC 2004 FERC Form 1, page 123.1
https://www.ovec.com/OVECFERC/OVEC2004FERCForm1Annual.pdf

The Sponsoring Companies purchase power from OVEC according to the terms of the Inter-Company Power Agreement (ICPA").[8]

Q 2. Why is the percentage of equity ownership different than the percentages reflecting the Sponsoring Companies' participation benefits and obligations?

A. This is the result of the age of the OVEC structure, changes that have taken place over the last 60 plus years and internal decisions made within the various holding company structures. For example, the holding company American Electric Power ("AEP") did not exist until 1958. The predecessor holding company, American Gas & Electric Company ("AG&E") originally held the common equity shares in OVEC and had 39.17% of the total common equity. This occurred when AG&E was headquartered in New York City. When it came time to develop the benefits and obligations shares, it appears that AEP (the holding company) pushed down the benefits and obligations to affiliated operating companies.

Also, when the OVEC structure was put together, Columbus Southern Power Company was not owned by AEP. AEP's acquisition of Columbus Southern Power Company was not completed until 1983 and this is when AEP moved its corporate headquarters to Columbus, Ohio. [9]

In any event, the equity ownership shares as well as the relative shares of benefits and obligations established for the "Sponsoring Companies" are all the result of voluntary subscriptions and contracts that have been modified repeatedly since the 1950s.

Q 3. There have been claims that the OVEC structure has "national security interest" implications. Do these claims provide a complete view of the historical record?

A. No.

It is true that the uranium enrichment process eventually established in Piketon, Ohio was initially intended and expected to meet the needs of our nuclear weapons program. However, this original purpose quickly gave way in the mid-1960s to a plan to meet the expected commercial demand for nuclear fuel.[10] And the relationship to any federal or national purpose ended in 2003 following the notice of termination issued by the DOE in 2000.

[8] OVEC 2005 FERC Form 1, page 123.1
https://www.ovec.com/OVECFERC/OVEC2005FERCForm1Annual.pdf

[9] https://www.aep.com/about/history/

[10] https://en.wikipedia.org/wiki/Portsmouth_Gaseous_Diffusion_Plant

Q 4. Since OVEC was created to meet the electricity needs of the Atomic Energy Commission (eventually DOE and United States Enrichment Corporation or "USEC"), was the federal government obligated to compensate OVEC for the cost of satisfying those needs?

A. Yes.

In fact, the OVEC/DOE/USEC agreement, as it existed in 2000, stated that DOE could only reduce its contractual obligation if the Sponsoring Companies wished to take the power that was otherwise committed to DOE. The OVEC/DOE/USEC agreement as it existed in 2000 also permitted (but did not obligate) OVEC to waive DOE's/USEC's contractual obligations to pay all the costs of additions to, and replacements of, OVEC's facilities provided the waiver was accompanied by an agreement by the Sponsoring Companies to take the OVEC output that was otherwise committed to DOE/USEC.

On May 24, 2000, DOE/USEC and OVEC entered into a supplement to their original agreement that allowed DOE to reduce its contract demand and compensation obligation to OVEC with the Sponsoring Companies agreeing to take the generation output otherwise committed to DOE/USEC. As part of that supplemental agreement, OVEC and the Sponsoring Companies agreed to provide DOE/USEC with compensation reflecting the value of the OVEC generation in the market at a time when the market price of electricity was substantially above the cost of the OVEC supply.[11] In other words, this 2000 supplemental agreement between OVEC and DOE/USEC was revenue neutral to OVEC (it received the same cost-based compensation either way) but it allowed DOE/USEC and the Sponsoring Companies to profit because of the difference between the cost-based price they paid for the OVEC output and the much higher market-based price for which the OVEC output was sold in the wholesale electric market.[12]

The 2000 supplement to the original OVEC and DOE/USEC agreement was characterized by some stakeholders as an attempt to monetize the market value of OVEC output that DOE/USEC elected not to use. Because of the alleged implications of this proposed contract modification, which took place after DOE/USEC announced closure of the Ohio enrichment operations in favor of the operations in Kentucky, Congressman Ted Strickland formally urged the PUCO to initiate an investigation. Congressman Strickland alleged that the proposed contract modification was facilitating DOE/USEC efforts to evade responsibilities to continue operation of the gaseous diffusion plant. And, he also alleged that the PUCO had a responsibility to "…ensure that the Power Contract continues to serve the public interest." [13]

[11] OVEC Application, PUCO Case No. 00-940-EL-AEC at pages 6 and 7, (May 31, 2000) https://dis.puc.state.oh.us/TiffToPDf/JKXA7ZA1KFTA7XP3.pdf

[12] OVEC Application, PUCO Case No. 00-940-EL-AEC at pages 6 and 7, (May 31, 2000) https://dis.puc.state.oh.us/TiffToPDf/JKXA7ZA1KFTA7XP3.pdf

[13] Motion and Memorandum of Congressman Ted Strickland, PUCO Case No. 00-940-EL-AEC (August 16, 2000) http://dis.puc.state.oh.us/TiffToPDf/EE5DVSQ7JQYGQFWL.pdf

The concerns raised by Congressman Strickland and others, including Governor Bob Taft, Senator Mike DeWine and Senator George Voinovich, were eventually resolved by USEC agreeing to provide community and worker benefits outlined in an agreement filed with the PUCO.[14] And the PUCO then approved the 2000 supplement to the original OVEC and DOE/USEC agreement.[15]

In early 2001, DOE offered to provide the Sponsoring Companies increased access to OVEC's firm generating capacity through August 31, 2001 (on which date the DOE planned to cease purchasing OVEC generated power). This transfer of power entitlement was offset by transferring the liability for specific unpaid capital improvement debt from the DOE to the Sponsoring Companies. As a result, the Sponsoring Companies agreed to assume $76.6 million of the DOE debt and interest costs. OVEC billed this balance of debt and interest costs for capital improvements to the Sponsoring Companies over the period June 2001 through April 2003 (the termination date of the DOE Power Agreement).[16]

Q 5. Why was the PUCO involved in the approval of the 2000 supplement to the original OVEC and DOE/USEC agreement?

A OVEC is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of the PUCO. OVEC had and has one customer. The original service and compensation arrangement (a "reasonable arrangement" under R.C. 4905.31) between OVEC and its one customer was approved by the PUCO in 1953 in PUCO Case No. 23,719 and that arrangement has been modified numerous times since. Each modification of that reasonable arrangement and any termination of that reasonable arrangement must receive PUCO approval before it can become effective.

To the extent that any proposed modification of the OVEC and DOE/USEC reasonable arrangement might affect the interests of OVEC's shareholders or the Sponsoring Companies, they could have sought to intervene and participate in the required PUCO proceeding and also sought relief from the PUCO just as Congressman Strickland did.

Q 6. When did the DOE and OVEC contract end?

A. On September 29, 2000, DOE sent OVEC a notice of cancellation and the power supply contract ended on April 30, 2003. Again, this notice and cancellation occurred well before the Sponsoring Companies and OVEC agreed to extend the term of the ICPA.

[14] Joint Motion for Expedited Approval, PUCO Case No. 00-940-EL-AEC (November 21, 2000)
https://dis.puc.state.oh.us/TiffToPDf/EEG3Z6JHWTTBYH4O.pdf

[15] PUCO Case No. 00-940-EL-AEC, Finding and Order (November 21, 2000)
https://dis.puc.state.oh.us/TiffToPDf/YIS482TWV2VD1WE@.pdf

[16] OVEC 2004 FERC Form 1, page 123.1
https://www.ovec.com/OVECFERC/OVEC2004FERCForm1Annual.pdf

Q 7. Did DOE have to pay OVEC to end the contract?

A. Yes.

While DOE had the right to terminate the contract, it still had obligations to compensate OVEC for costs that remained on OVEC's books.

> On September 29, 2000, the DOE notified OVEC that the DOE Power Agreement would terminate no later than April 30, 2003. Also, the DOE notified OVEC that the DOE entitlement to power would reduce to specified levels until reaching zero on August 31, 2001. On September 1, 2001, the Sponsoring Companies became entitled to 100% of the Companies' generating capacity under the terms of the ICPA.
>
> Under the terms of the DOE Power Agreement, OVEC was entitled to receive a "termination payment" from the DOE to recover unbilled costs upon termination of the agreement. The termination payment was related to unbilled postretirement benefit costs and a portion of the estimated generating plants' closure costs. In addition, OVEC had retained monies from undistributed antitrust and investment tax credit proceeds that were due to the DOE upon termination of the DOE Power Agreement. During December 2003, OVEC reached a settlement with the DOE, and, as a result of the settlement agreement, during February 2004, OVEC received a net settlement payment of approximately $97.5 million.[17]

Q 8. Is OVEC still involved in supplying electricity to DOE for use at the Piketon, Ohio operations?

A. Yes and, again, this is the result of an agreement which required approval by the PUCO.

In order to give DOE time to negotiate arrangements for the supply of electricity to the Piketon, Ohio operations after the termination of the OVEC and DOE/USEC contract, OVEC and DOE agreed to enter into a Letter Agreement dated April 29, 2003 for the temporary supply of electricity. Under this letter agreement, OVEC agreed to arrange electricity supply to satisfy DOE's ongoing electricity needs. This arrangement required OVEC to charge market-based prices based on solicitations from various suppliers.[18]

Through numerous PUCO modifications to the OVEC and DOE/USEC reasonable arrangement, DOE was able to reduce and then terminate its contract responsibilities to OVEC and obtain PUCO approval of an arrangement between OVEC

[17] OVEC FERC 2004 Form 1, page 123.1
http://www.ovec.com/OVECFERC/OVEC2004FERCForm1Annual.pdf

[18] OVEC Application, PUCO Case No. 03-1168-EL-AEC (May 16, 2003)
http://dis.puc.state.oh.us/TiffToPDf/P40$SU68XIIXFKKD.pdf

and DOE that allows DOE to shop for its electricity supplier and pay market-based prices. OVEC helps DOE procure electricity in the marketplace to meet a demand that does not exceed 50 megawatts.[19]

Q 9. Is OVEC still helping DOE obtain electricity in the market place rather than be supplied from the OVEC facilities?

A. Yes.

As indicated above, the termination of the shopping arrangement between DOE and OVEC requires PUCO approval. On May 7, 2015, OVEC filed an application with the PUCO to obtain, if needed, the PUCO's authorization to terminate the shopping arrangement with DOE. The OVEC application stated that upon termination, DOE would obtain its electricity from another provider subject to OVEC's continuing obligation to provide transmission service.[20]

The PUCO has not acted on OVEC's May 7, 2015 application and the case is still open. In fact, on January 15, 2016, Ohio Power Company filed a motion to intervene in this proceeding for the purpose of staking out a claim that it has the exclusive right to provide electricity to DOE.[21] The most recent pleading in the case was filed on March 2, 2017.[22]

Q 10. If the legislation is enacted, would it cause Ohio retail electric customers to be responsible for the business and financial risk associated with the IKEC electric generating plants in Indiana?

A. Yes. And the Indiana generating capacity is greater than the amount located in Ohio. It is important to note that these generating plants were not built to meet the needs of retail customers located in Ohio.

Q 11. Has the original ICPA between OVEC and the Sponsoring Companies been changed from time to time?

A. Yes.

[19] OVEC Application, PUCO Case No. 05-624-EL-AEC at 2 (May 11, 2005) http://dis.puc.state.oh.us/TiffToPDf/I0AH8IAABSLNL1NV.pdf

[20] OVEC Application, PUCO Case No. 15-0892-EL-AEC (May 7, 2015) http://dis.puc.state.oh.us/TiffToPDf/A1001001A15E07B65327D90377.pdf

[21] Ohio Power Company Motion to Intervene and Memorandum in Support, PUCO Case No. 15-0892-EL-AEC (January 15, 2016) http://dis.puc.state.oh.us/TiffToPDf/A1001001A16A15B45240B05564.pdf

[22] OVEC Notice to the Commission of the Fifth Amendment to Termination Agreement, PUCO Case No. 15-0892-EL-AEC (March 2, 2017) http://dis.puc.state.oh.us/TiffToPDf/A1001001A17C02B54453B00510.pdf

The original ICPA had a 50 year term[23] and was scheduled to end in the mid-2000s. However, in 2004, an Amended and Restated ICPA was unanimously approved by the Sponsoring Companies and OVEC extended the term of the ICPA for an additional 20 years from March 13, 2006 to March 31, 2026.[24]. Subsequent to this extension, the Sponsoring Companies and OVEC agreed to extend the term of the ICPA until June 30, 2040. These voluntary extensions of the ICPA occurred well after agreement between OVEC and DOE terminated.

The ICPA is not subject to the PUCO's jurisdiction. It is subject to exclusive jurisdiction of the Federal Energy Regulatory Commission ("FERC"). The FERC has ongoing jurisdiction over the ICPA and the authority to modify the ICPA to the extent such modification is shown to be lawful and reasonable.

The changes that have been made to the ICPA in the past indicate that it is possible to modify the Agreement when the Sponsoring Companies wish to do so. This history is inconsistent with the claim that the Sponsoring Companies are "stuck" in their current relationship with OVEC.

In any event and irrespective of whether the Sponsoring Companies are "stuck" with the OVEC relationship, they are in the OVEC relationship because of their individual and collective decisions to stay in the relationship long after it was clear that DOE was off the hook.

Since the practical effect of Senate Bill 155 is to modify the obligations of the OVEC shareholders and the Sponsoring Companies by transferring their business and financial risk to Ohio retail customers, it is reasonable to expect that, if enacted, the legislation will be challenged based on claims that it violates the Commerce Clause and is otherwise pre-empted by the authority delegated exclusively to FERC through the Federal Power Act.[25]

Q 12. If the Sponsoring Companies are losing money as a result of the ICPA, why would they agree to twice extend the term of the ICPA so that it is now scheduled to end on June 30, 2040?

A. As explained above, the Sponsoring Companies paid cost-based prices for their share of the OVEC output and then could sell their share of the output in the wholesale electric market. Until recently, this arbitrage opportunity created by the differential between the cost of the OVEC supply and the price the supply commanded in the wholesale market was profitable, thereby contributing to the earnings of the Sponsoring Companies that sold the OVEC output in the wholesale market. Testimony already

[23] Kentucky Public Service Commission Case Nos. 2011-00099 and 2011-00100, Order at page 1(August 11, 2011) https://psc.ky.gov/order_vault/Orders_2011/201100100_08112011.pdf

[24] OVEC 2005 FERC Form 1, page 123.1
https://www.ovec.com/OVECFERC/OVEC2005FERCForm1Annual.pdf

[25] *Hughes v Talen Energy Marketing*, 578 U.S. __ (U.S. Supreme Court April 19, 2016).

given by proponents of the legislation confirms that the ICPA extensions occurred because the Sponsoring Companies were making money on the deal.

The Sponsoring Companies took advantage of the buy-low-sell-high opportunity they inserted in the relationship with OVEC and deprived OVEC of the benefits of the opportunity. Had the Sponsoring Companies not extended the ICPA, OVEC would have been able to sell its generation output in the wholesale market and use the above-cost proceeds to, among other things, pay down debt, bring its capitalization ratio into better balance and improve its financial health.

The OVEC generating stations are old coal-fired facilities. Like other old coal and nuclear plants, the OVEC facilities are now having a more difficult time selling the output and market prices have dropped significantly, thereby reducing cash flow. OVEC's capital structure is heavily leveraged; almost all of OVEC's capitalization consists of debt (about $1.5 billion in debt outstanding as of December 31, 2016) with embedded rates of interest that are above current rates. The highly leveraged financial structure of OVEC creates a fixed cost obligation that is harder to meet in current circumstances. And, as is also true with other older coal and nuclear plants, large federal subsidies and state mandates are bleeding cash flow away from the older coal and nuclear plants.

Q 13. In view of OVEC's history, is it reasonable to make Ohio retail electric customers responsible for any loss that the OVEC shareholders or Sponsoring Companies may incur as a result of their decisions to enter and then extend agreements establishing their rights and obligations?

A. No.

There is no good justification for making Ohio retail electric customers responsible for any loss that the OVEC shareholders or Sponsoring Companies may incur as a result of their decisions to enter and then extend agreements establishing their rights and obligations.

At the same time that the OVEC Sponsoring Companies are supporting legislation that would make Ohio retail customers responsible for the Sponsoring Companies' OVEC-related business and financial risks, some of the Sponsoring Companies are seeking non-bypassable charges from these same retail customers to cover the costs of new renewable generating facilities that, if built, will further reduce the market share and cash flow opportunity for generating plants like those owned by OVEC.

It is also important to note that making Ohio retail electric customers responsible for any loss that the OVEC shareholders or Sponsoring Companies may incur as a result of their decisions to enter and then extend agreements establishing their rights and obligations would not do anything to address the fundamental challenges that OVEC faces. The OVEC plants are old. In today's environment, they are struggling to compete for market share against newer, more efficient, generating technologies and heavily subsidized renewable technologies. The highly leveraged capital structure needs attention.

If Ohio retail electric customers are required to underwrite the OVEC shareholders or Sponsoring Companies as a result of their decisions to enter and then extend agreements establishing their rights and obligations, the OVEC shareholders or Sponsoring Companies will have weaker incentives to address the problems that have arisen as a result of their choices.

Q 14. Is there any indication that the OVEC shareholders and Sponsoring Companies realize that they need to modify their OVEC-related agreements?

A. Yes.

For some of the same reasons that OVEC is facing financial challenges, FirstEnergy Solutions ("FES") is also facing financial challenges. FES has suggested that it may submit itself to the federal bankruptcy process to resolve its challenges. Because FES is one of the OVEC Sponsoring Companies, FES' suggestion that it may resort to filing bankruptcy in combination with OVEC-related contracts that don't fit well with today's conditions and OVEC's highly leveraged capital structure have affected OVEC's investment ratings.

More specifically, and on December 20, 2016, Moody's Investment Services ("Moody's) downgraded OVEC's bond rating from Baaa3 to Ba1 with a negative outlook. In doing so, Moody's stated:

> This rating action was prompted by the recent downgrades of FirstEnergy Corp's (FirstEnergy) subsidiaries FirstEnergy Solutions Corp. (FES: Caa1 negative) and Allegheny Energy Supply Company, LLC (AES: B1 negative) which together are contractually obligated to cover about 8% of OVEC's expenditures.
>
> The downgrades of FES to Caa1 from Ba2 and AES to B1 from Ba1 followed FirstEnergy's announced intention to exit its merchant business entirely within 18 months, even if it requires a restructuring or bankruptcy at FES. Although the proportion of OVEC's revenues that are derived from FES (4.85%) and AES (3.01%) are relatively modest, the payment obligations under the Inter-Company Power Agreement (ICPA), which is the basis for OVEC's revenue, are several and not joint. In addition, in the event of a payment default, there is currently no requirement for the non-defaulting sponsor companies to "step-up" their payments to cover any shortfall.
>
> The rating action also considers the December 1st decision of the OVEC Board to begin funding a debt service reserve, and to form a strategic planning group to evaluate a possible modernization of the ICPA. We view

> both of these developments as indicative of the Board's desire to support credit quality.
>
> The strategic planning group will be tasked with reviewing possible ways to update the ICPA, including the potential creation of a step-up to cover sponsor shortfalls and/or requirements for credit assurance in the event of declining sponsor company credit quality. Any such changes to the ICPA would need to be approved by all of the sponsoring companies. In the interim, OVEC's funding of a $44 million reserve over 18 months beginning January 2017 should help to mitigate potential cash shortfalls. Absent these credit strengthening actions by the Board, OVEC's ratings could have moved down by more than one notch.
>
> In the event of a payment default by FES or another sponsor, OVEC may suspend service to the defaulting entity; in which case, the energy and capacity allocated to the defaulting party would become available to the other sponsor companies, or to OVEC, to sell into the PJM Interconnection markets. Based on current market conditions, we estimate the revenues available from the sale of this capacity and energy into the market would cover only about 50% of OVEC's billable non-fuel expenses. As such, we expect the shortfall from a potential loss of FES revenue (4.85% of the total) could be in the range of about $6-10 million per year. While this amount appears manageable, there currently is no automatic means of funding the gap other than through draws on the OVEC revolver. Revolver usage requires a representation of no material adverse change, a credit negative, and would need to be repaid pro-rata by the sponsoring companies.[26]

The statement issued by Moody's is based on interviews that Moody's conducted with OVEC. Based on Moody's statement, it appears that efforts are presently underway to modernize the ICPA and address OVEC's credit issues.

The information provided by Moody's also provides an indication of how much the current OVEC structure and SB 155 might cost customers.

In Moody's statement, it indicates that the potential FES-related shortfall is in the range of $6 to $10 million per year with FES' share set at 4.85%. Using Moody's numbers, the total OVEC-related shortfall would be in the range of $124 to $206 million per year. Using the Sponsoring Companies percentages shown on page 2, the range for Ohio Power Company (19.93%) would be between $25 and $41 million per year, the range for Duke Energy Ohio (9%) would be between $11 and 18.5 million per year, the range for The Dayton Power and Light Company (4.9%) would be between $6 and $10 million per year and the range for Buckeye Power Generating LLC (18%) would be between $22 and $37 million per year. Summing the range for FES, Ohio Power, Duke Energy Ohio, Dayton Power and Light and Buckeye produces a range of between $70

[26] Moody's Investor Services, December 20, 2016 https://www.moodys.com/research/Moodys-downgrades-OVEC-to-Ba1-outlook-negative--PR_359882

million and $116.5 million per year. Of course, the actual shortfall associated with OVEC's above-market costs will depend on the level of OVEC's actual costs and the extent to which the actual costs are below or above the revenue produced by sales of the electricity generated by the OVEC units as well as the contractual responsibilities of OVEC's shareholders and Sponsoring Companies.

Q 15. In traditional ratemaking of the type that was practiced in Ohio prior to the electric restructuring legislation, were customers responsible for covering electric utility losses resulting from an equity investment in another corporation?

A. No.

For example, Columbus Southern Power Company ("CSP") held the stock of an affiliated company (Simco Inc.). Simco Inc. owned coal lands and it sold the coal lands realizing a net gain of $1.2 million on the sale. Some customer groups urged the Public Utilities Commission of Ohio ("PUCO") to require CSP to give CSP's customers the benefit of Simco Inc.'s gain on the sale of the coal lands. CSP successfully opposed this effort by arguing that the equity ownership in the coal mines was a "bellow the line transaction" and it had no legal or other duty to give all or any portion of the gain to its customers.[27]

Also, traditional utility regulation tested the ability of a utility to pass costs on to customers through things like prudency evaluations and the "used and useful" standard which required an investment to be used to meet the needs of customers before the investment could be included as part of the recoverable costs.

[27] *In the Matter of the Regulation of the Electric Fuel Component of Columbus Southern Power Company*, PUCO Case No. 88-102-EL-FAC, Finding and Order (October 28, 1988). In this proceeding, Columbus Southern Power Company (now part of Ohio Power Company) successfully argued that customers were not entitled to any portion of the gain on the sale of the coal lands because customers never purchased an interest in the assets, never were the legal owners of the assets and never were subject to the risks of ownership of the assets.

2021/2022 RPM Base Residual Auction Results

Executive Summary

The 2021/2022 Reliability Pricing Model (RPM) Base Residual Auction (BRA) cleared 163,627.3 MW of unforced capacity in the RTO representing a 22.0% reserve margin. Accounting for load and resource commitments under the Fixed Resource Requirement (FRR), the reserve margin for the entire RTO for the 2021/2022 Delivery Year as procured in the BRA is 21.5%, or 5.7% higher than the target reserve margin of 15.8%. This reserve margin was achieved at clearing prices that are between approximately 44% to 82% of Net CONE, depending upon the Locational Deliverability Area (LDA). The auction also attracted a diverse set of resources, including a significant increase in Demand Response and Energy Efficiency resources, additional wind and solar resources, and one new combined cycle gas resource.

The 2021/2022 BRA is the second where PJM has procured 100% Capacity Performance ("CP") Resources. CP Resources must be capable of sustained, predictable operation, and are expected to be available and capable of providing energy and reserves when needed throughout the entire Delivery Year. As was the case with the 2020/2021 BRA, the 2021/2022 BRA was conducted under the provisions of PJM's Enhanced Aggregation filing (Docket ER17-367-000 & 001) which was accepted by FERC on March 21, 2017.

2021/2022 BRA Resource Clearing Prices

Resource Clearing Prices (RCPs) for the 2021/2022 BRA are shown in Table 1 below. The RCP for CP Resources located in the rest of RTO is $140.00/MW-day. EMAAC, PSEG, BGE, ATSI and COMED were constrained LDAs in the 2021/2022 BRA with locational price adders, in regards to the immediate parent LDA, of $25.73/MW-day, $38.56/MW-day, $60.30/MW-day, $31.33/MW-day and $55.55/MW-day, respectively, for all resources located in those LDAs. For comparison, the RTO's resource clearing price in the 2020/2021 BRA was $76.53/MW-day. Additionally, the MAAC, EMAAC, COMED and DEOK LDA were constrained LDAs in the 2020/2021 BRA with RCPs of $86.04/MW-day, $187.87/MW-day, $188.12/MW-day and $130.00/MW-day respectively.

	2021/22 BRA Resource Clearing Prices ($/MW-day)					
Capacity Type	Rest of RTO	EMAAC	PSEG	BGE	ATSI	COMED
Capacity Performance	$140.00	$165.73	$204.29	$200.30	$171.33	$195.55

Considerations for Senate Comprehensive Energy Policy
By
Office of the Ohio Consumers' Counsel

The Office of the Ohio Consumers' Counsel makes these recommendations for the comprehensive energy policy that the Ohio Senate will be considering. OCC will provide further recommendations during the Senate process.

<u>Electric Security Plans Should Be Eliminated or Reformed</u> (R.C. 4928.143):

The 2008 Energy Law (S.B. 221) created the electric security plan (and a market-rate option that the PUCO has never implemented). The plans are a step backward from power plant deregulation under the 1999 law (S.B. 3).

- **Electric Security Plans should be eliminated.** Utilities would provide customers with the standard service offer through a competitive bidding process (R.C. 4928.142). The utilities' distribution rates would continue to be set through distribution rate cases by the PUCO. This approach would allow the PUCO to review all expenses and revenues together when the utility seeks a rate increase. H.B. 247, introduced last session, would have eliminated electric security plans and is a good component for a comprehensive energy plan. If the plans are not eliminated from the law, then elements of the plans should be eliminated from the plans as follows:
    - **Utility veto power should be eliminated.** Under the law for electric security plans, the utility essentially has veto power over PUCO modifications to an electric security plan. If a utility doesn't like a PUCO ruling that modified its proposed plan with proposals from other parties, the utility can withdraw its application. This is approach is biased in the utility's favor, and harmful to consumers who have no corresponding right. The utilities' veto power should be eliminated.
    - **The test for whether an electric security plan is more favorable than a market-rate plan should be limited to using quantitative factors for the price of electric service.** Under the 2008 law, the PUCO is not to approve a utility's plan unless the result is "more favorable in the aggregate" for customers when compared to the expected results from the market-rate option. But in approving the plans the PUCO has granted utility requests to consider "qualitative" factors, not just the quantitative factor of whether plan's rates are more favorable than a market rate. The PUCO's use of qualitative factors has resulted in above-market charges to customers. And that has undermined what should have been the consumer protection that prices in the plans would be more favorable than market prices.
    - **Consumers should be protected from paying for excessive utility profits.** The 2008 law allowed utilities to charge consumers for excessive profits. The law merely barred utilities from charging consumers for "significantly" excessive

profits. Ohioans should not be charged for any excessive utility profits, and the law should be changed to provide that protection.

- **End the so-called "riders."** Under the 2008 law, utilities can implement single-issue ratemaking. That means they can cherry-pick charges (riders) to add to consumers' bills. That is allowed without a comprehensive review of their revenues, expenses and profits. Single-issue ratemaking is a divergence from traditional rate cases that protect customers by reviewing all aspects, including all costs and revenues, of utility operations affecting customers.

Improper Utility Charges to Customers Should Be Refundable

Under Ohio legal precedent, a utility can keep money it has collected from customers, even if the Supreme Court finds the charges were improper. The Supreme Court of Ohio has stated this issue requires legislation. Since 2008, the refunds Ohio utility consumers have lost is approaching a billion dollars. The Ohio General Assembly should remedy this unfair situation that favors utility interests over consumers.

PUCO Nominating Council Should be Reformed

The current PUCO nominating process, under R.C. 4901.021, has led at times to under-representation of consumer interests on the PUCO. For example, there currently are three PUCO Commissioners who in their prior careers represented public utilities, without any Commissioners who formerly represented residential utility consumers. OCC's recommendations for reform include that the PUCO should have at least one Commissioner who has been a bona-fide consumer representative, to provide balance.

Utility Energy Efficiency Programs Should be Revised

Energy efficiency can provide many benefits to customers. Utilities have touted hundreds of millions of dollars in savings annually through their utility programs for energy efficiency. At the same time utilities are charging customers millions of dollars in profit (shared savings) for these programs. If the energy efficiency programs are to continue the should be changed to limit costs and profits charged to consumers by utilities. Profits for utilities offering these programs can reduce the effectiveness of the programs and the ability for customers to take control of their bills. Also, the programs should be managed by independent administrators, instead of the utilities.

Regulate or Ban Submetering of Residential Consumers' Utility Services