Before
The Ohio Senate Finance Committee

Testimony on Substitute House Bill 166 (Budget Bill)
(Consumer Protection Issues Involving FirstEnergy Charges and OCC Budget)

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On Behalf of the
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Hello Chair Dolan, Vice-Chair Burke, Ranking Member Sykes and Members of the Finance Committee. Thank you for this opportunity to testify on Substitute H.B. 166 (the budget bill), regarding two separate consumer issues.

A provision in Substitute House Bill 166 (amended June 11, 2019, in the Senate) could subject 1.1 million customers to overcharges by Ohio Edison (FirstEnergy). (Lines 54801-54805, lines 554832-54836, and lines 54856-54857) This provision should be removed. At a minimum it should be considered in a stand-alone bill instead of in the budget bill, along with considering consumer protection reforms to Ohio's 2008 energy law that contains unfavorable ratemaking for Ohio utility consumers. Attached is a map showing the service area for Ohio Edison's 1.1 million customers and a list of the counties where Ohio Edison fully or partially serves customers.

The budget bill would change the calculation of "significantly excessive" profits for FirstEnergy under Ohio's 2008 energy law (S.B. 221, 127th General Assembly). This change would artificially dilute Ohio

Edison's high profits, on paper, for calculating whether it is charging customers for significantly excessive monopoly profits. Under the bill, Ohio Edison's higher profits would be averaged with the lower profits of FirstEnergy's other Ohio utilities, Toledo Edison and Cleveland Electric Illuminating. Instead of protecting consumers under the 2008 energy law against paying for high utility profits, the bill would protect FirstEnergy from refunding significantly excessive monopoly profits to a million Ohio Edison customers.

To be clear, the consumer protections in Ohio's 2008 energy law are woefully inadequate. For example, the 2008 law allowed electric utility monopolies to charge Ohioans for *excessive* profits; the law merely protects consumers from paying for "significantly" excessive profits. But, under the budget bill, Ohio Edison customers would have the unfortunate distinction of losing even that minimal protection. The Consumers' Counsel supported House Bill 247 (Rep. Romanchuk) in the last session which, had it been enacted, would have repealed the anti- consumer ratemaking in the 2008 energy law.

FirstEnergy has already been circumventing (against the interests of consumers) the 2008 law's profit standard at the PUCO. In a recent annual PUCO review of Ohio Edison's profits for 2017, the PUCO denied OCC's proposal for a $42 million credit to Ohio Edison consumers for significantly excessive profits. (See PUCO Case 18-857-EL-UNC) The PUCO allowed Ohio Edison to exclude the subsidy revenues collected from customers through its so-called "Distribution Modernization Rider" from the law's profits review. That ruling artificially deflated monopoly Ohio Edison's calculation of significantly excessive profits (on paper), from a very high level above 17% to a lower level the PUCO deemed not to be significantly excessive. The questionable legality of this manipulation of FirstEnergy's profits would now be permanently solved for Ohio Edison (FirstEnergy) in the budget bill, contrary to the interests of Ohio families and businesses who pay for these extra-high monopoly profits.

The Governor's original budget bill did not contain these anti-consumer terms for FirstEnergy's monopoly electric service. For consumer protection, I recommend that these provisions be removed from the budget bill. At the very least, this benefit for FirstEnergy should be considered in a stand-alone bill and not in the state's budget bill, along with considering reforms of the ratemaking in the 2008 law to improve consumer protection.

A second consumer issue involves OCC's biennial budget. (Lines 75946-75950) I understand that at least two Senators submitted amendments for an increase of $600,000 for the Agency's budget for consumer advocacy. I gratefully support that increase for OCC's services to Ohio consumers. In this regard, the Agency has experienced increased costs since 2015 related to State "parity" increases for employee salaries and for increases in the cost of employee medical coverage benefits. Additional State parity increases for employees are anticipated during the upcoming biennium. Further, the preceding Administration reduced the Agency's budget by $100,000 for the current biennium (after initiating a budget decrease of nearly $3 million as of July 1, 2011). Those circumstances together (at about $600,000) have pressed our operating budget resources for services to protect millions of Ohio consumers.

In this regard, at OCC Governing Board meetings there has been interest expressed by several Board members for seeking a budget increase for the Agency's services to Ohioans. We are in a period of change for the electric industry and electric consumers, which is an important time for consumers to have a voice in those changes. Finally, it should be noted that during my tenure as Agency director, I have not sought a budget increase – not even after the budget reduction of nearly $3 million in 2011 that was initiated by the preceding Administration.

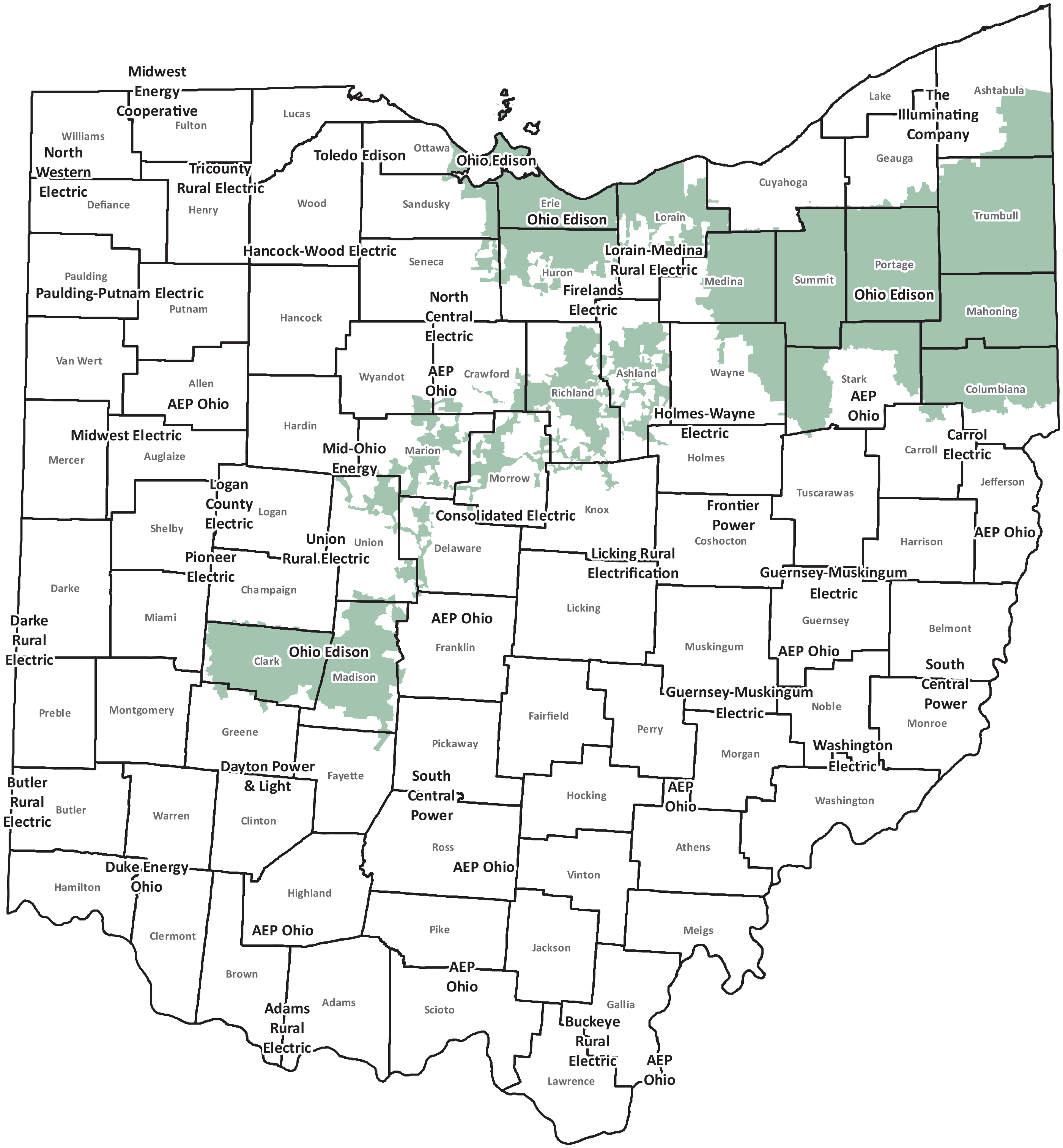
Thank you for this opportunity to testify on these important budget issues.

Counties (Full or Partial) Where Ohio Edison Serves Electric Customers

Ashland
Ashtabula
Carroll
Champaign
Clark
Columbiana
Crawford
Cuyahoga
Delaware
Erie
Fayette
Franklin
Geauga
Greene
Holmes
Huron
Knox
Lorain
Madison
Mahoning
Marion
Medina
Miami
Morrow
Ottawa
Portage
Richland
Sandusky
Seneca
Stark
Summit
Trumbull
Tuscarawas
Union
Wayne
Wyandot

Electric Service Territory of Ohio Edison

As of Aug. 1, 2017



Source: Derived from PUCO website