Before
The Ohio Senate
Public Utilities Committee

Testimony on Senate Bill 155

Presented by
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On Behalf of the
Office of the Ohio Consumers' Counsel

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Hello Chair Beagle, Vice Chair LaRose, Ranking Minority Member Williams, and members of the Committee. Thank you for this opportunity to testify.

My name is Michael Haugh. I am the Assistant Director of Analytical Services for the Office of the Ohio Consumers' Counsel. The Ohio Consumers' Counsel is the state's representative of four million residential utility consumers. My background is over 20 years of experience in the energy industry, including work for several deregulated energy suppliers.

I am testifying in opposition to S.B. 155, to protect millions of Ohio consumers from paying subsidies for power plants built in the 1950s, one of which is not even in Ohio (Indiana). In addition, I am testifying in opposition to the legislation making only one group of Ohio customers pay the subsidy charges, while many customers would pay nothing for this subsidy, which is characterized ostensibly as related to national security (that would affect all consumers and businesses). There are four Ohio electric distribution utilities systems that have an ownership interest in the Ohio Valley Electric Corporation ("OVEC") and they would charge Ohio consumers to subsidize two power plants, Clifty Creek and Kyger Creek. Consumers – and the competitive market – should be spared having to pay utilities for the anti-competitive subsidies.

As background, the Ohio investor-owned utilities or utility affiliates that have an ownership interest in OVEC are: Ohio Power (19.93%), Dayton Power and Light (4.9%), Duke Energy Ohio (9%) and FirstEnergy Solutions (4.85%), for a total ownership of 38.68%.[1] In October 1952, OVEC was formed by utilities that provided electric service to uranium enrichment facilities being constructed by the Atomic Energy Commission ("AEC") in Southern Ohio through an Inter-Company Power Agreement ("ICPA"). OVEC's two generating plants began operations in 1955. The power agreement with the AEC was to last through December 31, 2005. On December 29, 2000, however, the U.S. Department of Energy notified OVEC that it would be cancelling the power agreement on April 30, 2003. Since April 30, 2003, the power and capacity from OVEC has been sold into the wholesale electric markets. On August 11, 2011, the owners extended the term of the ICPA to June 30, 2040. The plants included in OVEC can produce almost 2,400 MW of power and are connected to the PJM wholesale interstate markets.

Of the 50 states and the District of Columbia, Ohio has the 18th highest average residential rate for electricity—meaning 33 states have lower residential rates. (See Attachment 1) Of the restructured states—those that have moved towards the free market—Ohio has the second highest residential price increases from 2008 to 2016. (See Attachment 2)

[1] OVEC 2015 Annual Report at page 1. Buckeye Power, an Ohio electric cooperative, owns an 18% share in OVEC.

Ohio has these higher electricity costs for consumers despite being awash in shale natural gas that has given us historically low gas prices. The U.S. Energy Information Administration has projected that natural gas prices will be relatively stable for a couple decades or more. Given deregulation and low natural gas prices, Ohio has a growing number of new gas-fired power plants under planning or construction. (See Attachment 3) Ohio should be working toward converting low prices in the natural gas market into lower electric bills for Ohioans, not increasing electric bills to subsidize mid-20th century power plants.

Competition is working in the electric generation market. A recent study by Ohio State University and Cleveland State University researchers found that Ohio consumers had saved about $12 billion from the utilities' competitively bid standard service offers during 2011 to 2015. And the researchers project another $12 billion to be saved for consumers in the next five years because of having the market-based standard service offer. We thank the Ohio General Assembly for giving consumers those benefits of the competitive electric generation market in the 1999 law.

But there are at least a couple problems preventing Ohio families and businesses from realizing the full benefits of lower prices in the market. One problem is the continuing requests by Ohio electric utilities for consumers to pay subsidies above the market price of electricity. Consumers already have paid billions of dollars in subsidies to electric utilities since the enactment of Senate Bill 3 in 1999. We are now years beyond the 1999 deregulation law's allowance of charges for the transition to competition. Another problem is ratemaking standards in Ohio's 2008 energy law that favor electric utilities over consumers. House Bill 247 would solve many of those ratemaking problems for electric consumers.

Unfortunately, the utilities are continuing their efforts to increase the cost of electricity for Ohioans. The owners of OVEC are asking for passage of a bill that would make Ohio customers pay more subsidies. For several reasons I will now discuss, I recommend that you protect Ohio consumers from paying these subsidies and reject this legislation.

One reason to reject this legislation is because the utilities had the opportunity to withdraw from the Inter-Company Power Agreement in 2011. In 2011, the OVEC plants' revenue was nearly $700 million[2] and the utilities were reaping profits—but not sharing all of those profits with customers. The utilities' extension of the OVEC agreement allowed them to profit from these plants in the wholesale markets.

But now that the revenues for the plants have declined ($586 million[3]) as a result of declining wholesale electric prices, the utilities want to be protected from their own decisions to continue operations at OVEC. And that means seeking to charge consumers for a subsidy. The utilities are seeking to shift the investor risk for OVEC to their customers. That is unfair to Ohio families and businesses who would pay this subsidy.

Another matter is that the legislation is described as for national security. But the plants have not been shown to be needed for national security at this time. Moreover, regardless of a past national security connection, the Ohio utilities had an extended opportunity over sixty years for charging consumers for profits and for the costs of the plants. Consumers do not owe the utilities anything more at this point.

I will also note the reliability of generation service, which is more than adequate for Ohio consumers with or without these plants. In 2017, reliability is a regional issue and managed

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[2] 2010 OVEC FERC Form 1 Statement of Income Operating Revenue.

[3] 2016 OVEC FERC Form 1 Statement of Income Operating Revenue.

by PJM, the regional authority (not by Ohio). There is plenty of generation provided through the PJM wholesale markets, and the reliability index (reserve margin) exceeds PJM standards.

And there are at least five new state-of-the-art natural gas-fired power plants that are in different stages of planning or construction with billions of dollars to be invested in Ohio. The plants will benefit from the plentiful shale gas as a fuel resource in Ohio. And that will mean the plants can be expected to provide lower priced power for consumers in the region including Ohio. It would be bad for competition and bad for consumers for these new Ohio power plants to have to compete against subsidized utility power plants in the market.

The bill allows the Ohio utilities two ways to charge consumers for "any and all" OVEC costs, including any deferred costs. (Lines 497-498; 510-512) One way for consumers to be charged is by allowing the utilities to pass the costs through their standard service offers to the customers who do not shop for electricity with an energy marketer. (Lines 495-500) The other way for consumers to be charged is for the utilities to sell the output of the plants in the wholesale electric markets. The resulting revenues could offset costs. This method would charge all customers the net of the costs and revenues. (Lines 551-560) The first option is inequitable for Ohio customers who would pay the subsidy.

As I stated, the bill is unfair because only some customers would pay the subsidy while many customers would not. According to the Fiscal Analysis of the Ohio Legislative Service Commission (LSC) for S.B. 155—under the scenario where only the standard service offer customers are charged the costs of OVEC—this bill will cost those customers up to about $256 million per year. Assuming the current rate of shopping of 76%, that means 24% of all Ohio customers would be paying all of the subsidy. The $256 million would cost an average residential (standard offer) customer up to about: $6.64 per month; $80 per year; and $1,700 over the 22-year term of the Inter-Company Power Agreement. This scenario is patently unfair to the subset of consumers who would pay the subsidy and it should be removed from the legislation.

Another problem for consumers is that the bill requires the PUCO to approve charging consumers for "any and all costs, including any deferred costs." (Lines 497-498; 510-512) Yet, the bill does not identify what the costs include, nor does it cap the costs to be charged to customers. Deferred costs identified by OVEC in its 2016 consolidated financial statements include $122 million. These same financial statements show numerous liabilities, including tens of millions of dollars related to pensions and employee benefits. And under the Inter-Company Power Agreement, at the closing of the power plants, the owners must pay the entire costs of decommissioning, shut down, and demolition. Under the inclusive wording of the bill, "any and all costs" could result in utility claims that Ohioans should pay the Ohio investor-owned utilities' share of these costs. While there should be no subsidy paid by consumers, the bill should strictly limit the subsidy to be paid by prohibiting charges for deferrals and decommissioning, among other charges.

The LSC Fiscal Analysis also accounts for the OVEC charges to be reduced if a utility decides to sell the electricity from the plants into the wholesale markets. If this option is applied, the costs are spread out to all customers whether they shop for electricity or are served by the standard service offer. The costs would also be reduced to $88 million which means an average residential customer would pay up to about: $0.55 per month; $6.50 per year; and $145 over the 22 year term of the Inter-Company Power Agreement. It should be noted that $88 million assumes no increases in costs and steady revenues from the wholesale markets, neither of which is certain.

As stated, LSC's analysis of the cost of the bills under the two scenarios does not include additional costs that could be charged to consumers through the broadly worded "all costs." And LSC's analysis does not include potential charges to consumers for "deferred costs" that amount to the Ohio utilities' share of $122 million as mentioned earlier.

To be clear, the Ohio Consumers' Counsel opposes this bill which requires Ohioans to fund any and all costs of these power plants over the next 22 years and beyond. But, if there is to be a subsidy, the legislation should require that all Ohioans pay the subsidy—and not just those consumers who have electric service through the utilities' standard service offers. In other words, the subsidy charge for these power plants should be "non-bypassable." In this regard, the General Assembly should require the utilities to sell the output of the OVEC plants into the wholesale markets and credit all customers for revenues received.

There are still concerns if the utilities sell the generation into the wholesale market. This process can lead to incorrect signals in the market by removing key factors a plant should consider when participating in the wholesale markets. This legislation can be harmful to both the competitive markets and to consumers. It can be harmful to the competitive wholesale markets by allowing an inefficient, expensive generating plant to run while a more efficient, less expensive plant will be displaced. It can harm customers if these plants' costs are too high and they are never called upon to run. In this instance the plants could sit idle and customers could be saddled with paying the subsidy for a plant that is not even running.

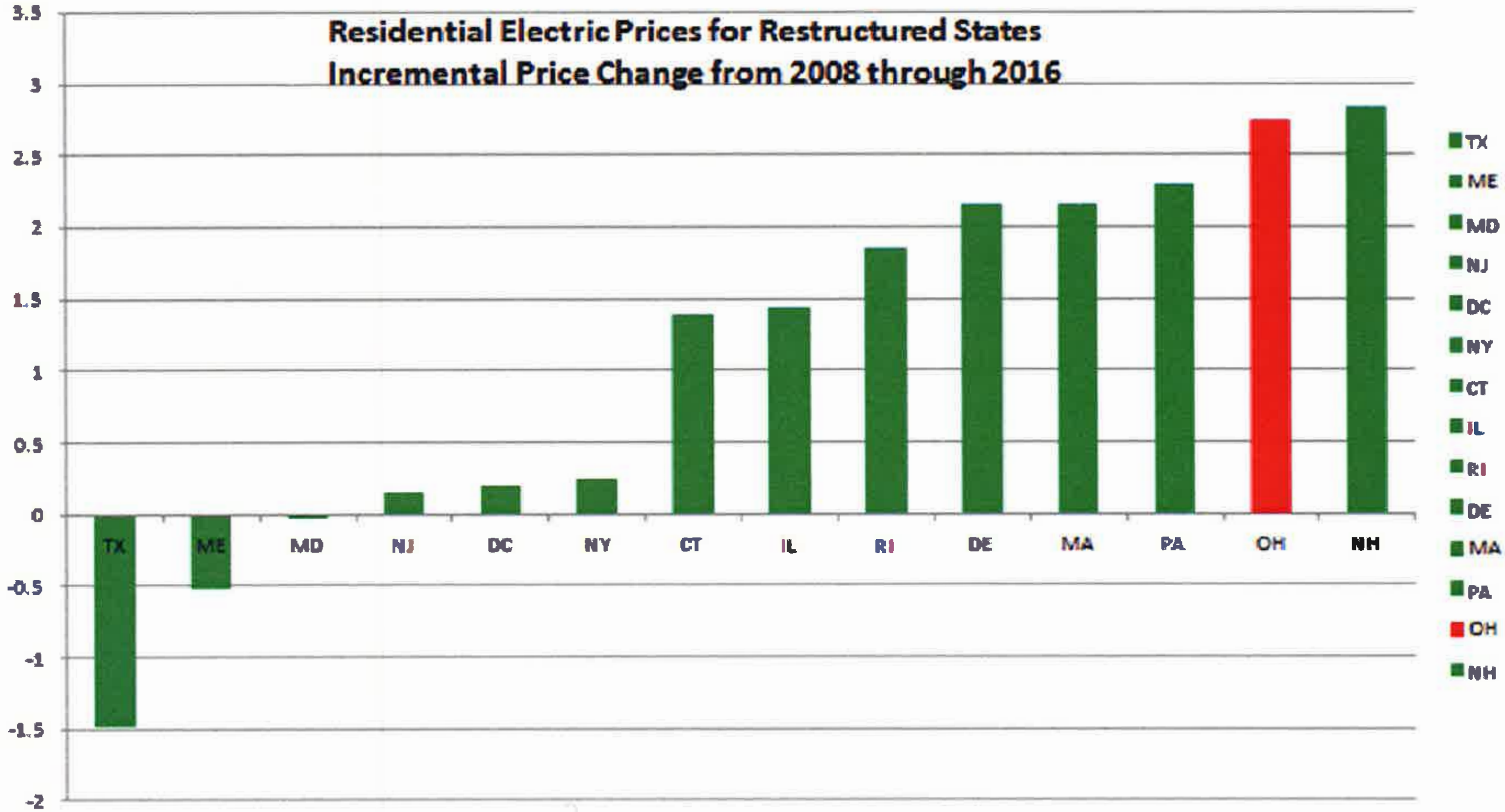
Ohio Revised Code Section 4928.38 states that at the end of the market development period a utility "shall be fully on its own in the competitive market." This bill does not put the utilities "on their own" but instead once again would enable them to be subsidized by customers. Therefore, I respectfully urge you to protect over four million Ohio businesses and families, by rejecting Senate Bill 155. Thank you.

ATTACHMENT 1

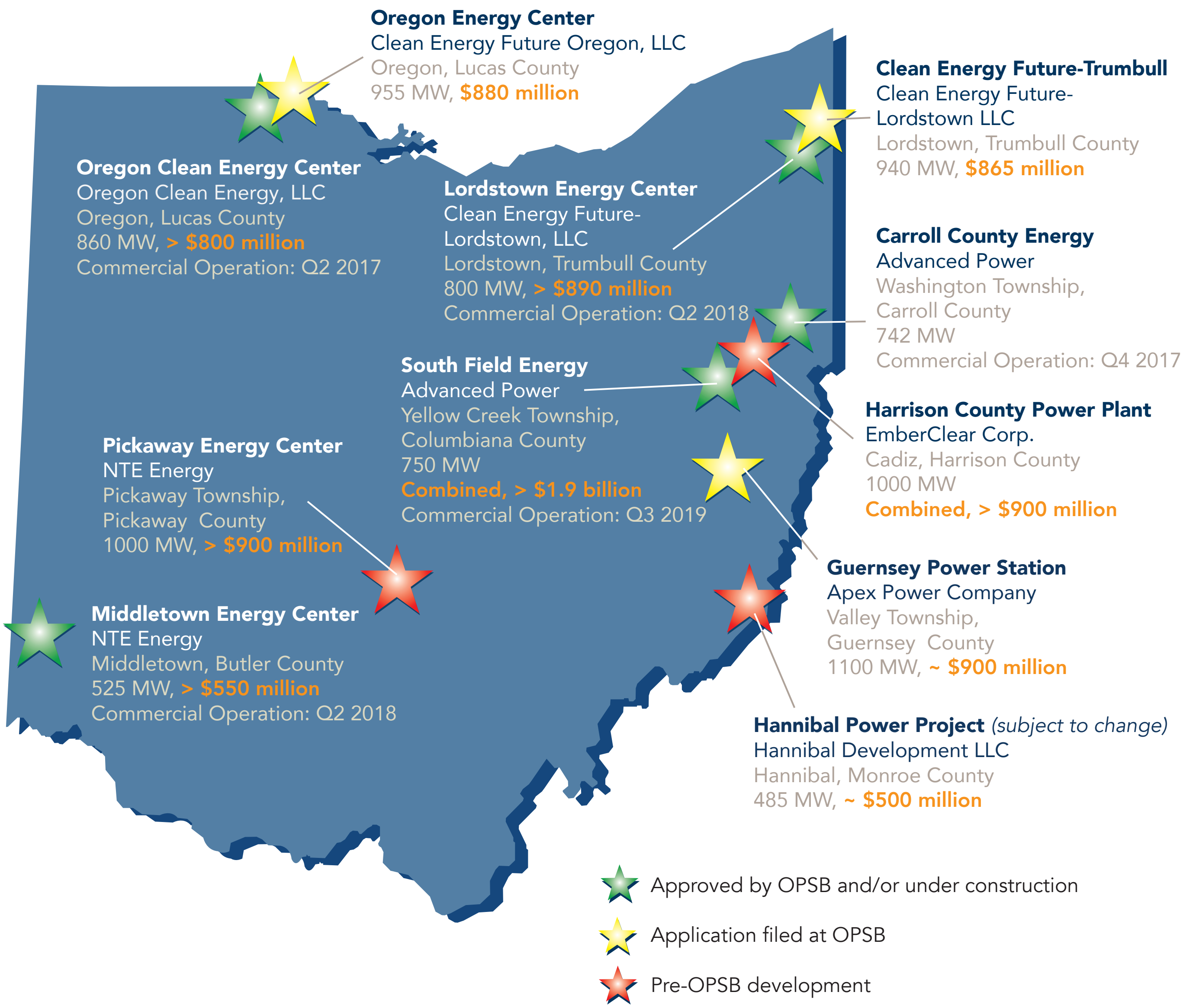
U.S. Energy Information Administration Data: Table 5.6.B. Average Retail Price of Electricity to Ultimate Customers by End-Use Sector, by State, Year-to-Date through December 2016 (Cents per kWh)

	Residential	
	State	December 2016 YTD
1	Washington	9.09
2	Louisiana	9.33
3	North Dakota	9.62
4	Arkansas	9.82
5	Idaho	9.93
6	West Virginia	10.08
7	Oklahoma	10.14
8	Kentucky	10.24
9	Tennessee	10.30
10	Nebraska	10.60
11	Oregon	10.66
12	Montana	10.88
13	Utah	10.88
14	Wyoming	10.97
15	South Dakota	11.08
16	Missouri	11.21
17	Mississippi	11.27
18	North Carolina	11.28
19	Virginia	11.37
20	Georgia	11.54
21	Texas	11.56
22	Indiana	11.57
23	Florida	11.58
24	Iowa	11.63
25	Alabama	11.70
26	Minnesota	12.12
27	Colorado	12.12
28	Arizona	12.13
29	Kansas	12.34
30	New Mexico	12.47
31	Illinois	12.50
32	South Carolina	12.57
33	Nevada	12.76
34	Ohio	12.80
35	District of Columbia	12.99
36	Delaware	13.42
37	Pennsylvania	13.64
38	Maryland	13.82
39	Wisconsin	14.11
40	Michigan	14.42
41	Maine	15.61
42	New Jersey	15.81
43	California	16.99
44	Vermont	17.09
45	New Hampshire	18.50
46	New York	18.54
47	Rhode Island	19.29
48	Alaska	19.83
49	Massachusetts	19.83
50	Connecticut	20.94
51	Hawaii	29.60
	U.S. Total	12.67

ATTACHMENT 2



Source: U.S. Energy Information Administration



Compiled by Bricker & Eckler LLP