Before
The Ohio Senate
Government Oversight and Reform Committee

Testimony on Senate Bill 9
(Reduction of Regulatory Restrictions)

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On Behalf of the
Office of the Ohio Consumers' Counsel

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Hello Chair Roegner, Vice-Chair McColley, Ranking Minority Member Craig, and members of the Committee. I hope you and your colleagues are well. As agency director, I am testifying on behalf of the Office of the Ohio Consumers' Counsel, for the millions of Ohio residential utility consumers who could be affected by Senate Bill 9. Thank you for this opportunity to testify. I am providing limited opponent testimony on S.B. 9, to the extent the Bill would reduce the regulations for protection of utility consumers. For consumer protection, we respectfully recommend that you exempt from the Bill the PUCO regulations applicable to regulation of public utilities.

I thank the Committee for its consideration of this Bill to reduce unnecessary regulations. We know that some regulations, like those for creating so-called electric security plans, should be eliminated. Those plans can hinder the competitive market that we support for power plants and other technologies that are emerging. And we appreciate the Bill's intention to eliminate regulations that have an "adverse impact on any other person…." (Lines 160-161)

In any event, many of the PUCO regulations are needed to protect Ohioans from utility monopoly power or from other companies with market power, where effective competition is lacking. In some instances that monopoly power shows itself in undue influence by utilities in this state. The scandal of House Bill 6, involving FirstEnergy among others, is an example of how undue utility influence can negatively impact Ohio utility consumers. House Bill 6 is also an example of creating more government interference and regulation in the power plant market, instead of reliance on power plant competition. So, repealing House Bill 6 is consistent with reducing government regulation.

State intervention (with House Bill 6 subsidies) in the competitive power market is increasing consumers' electric bills for paying subsidies for coal power plants. And the state's intervention is preventing the competitive market from protecting the environment by limiting or ending the use of coal plants that are a source of air pollution. Attached is OCC's Subsidy Scorecard, showing the subsidies (at consumer expense) that have been approved under state regulation since the intended electric *deregulation* in 1999.

But many PUCO regulations are not well suited for elimination, because they address essential services for Ohioans (including for their electricity, natural gas, telephone and water services). The current pandemic has highlighted the essential nature of utility services, as many Ohioans struggle with a lack of money for health, utilities, food, and housing. For example, regulations are intended to protect Ohioans from unreasonable disconnections of their utility service, which can even be life threatening. (There was a tragedy in 2011 when two consumers in Cincinnati died from hypothermia after their electric service was disconnected during cold weather.)

A better approach for addressing at least some of the Bill's objectives, with regard to Ohioans' utility-related services, would be for the General Assembly to continue its previous consideration of specific legislation. For example, in House Bill 247 (132nd General Assembly) the House Public Utilities Committee was considering the (well-justified) elimination of so-called electric security plans under O.R.C. 4928.143. Eliminating electric security plans would substantially reduce PUCO regulations in O.A.C. 4901:1-35, and protect Ohioans from paying more for above-market charges for electricity. But eliminating these regulations will need a specific act of the Ohio General Assembly (not S.B. 9) to reform and undo parts of Ohio's 2008 energy law.

Another example of how S.B. 9 is not well suited for addressing PUCO regulations is the regulatory construct for emerging technologies on the customer side of the electric meter (such as for electric vehicle charging). The above concern about the government making consumers pay subsidies for power plants and the related harm to the competitive power plant market in not a concern limited to power plant competition. That problem might be replicated going forward (again, in so-called electric security plans) to the detriment of emerging technologies and the customers who use them. Already, the PUCO approved a proposal by AEP that its 1.3 million consumers will subsidize some electric vehicle charging stations. The electric vehicle market should instead be a competitive space for bringing Ohioans the benefits of competition with lower prices and higher innovation. Again, this matter would benefit from specific legislative action, such as former House Bill 247 from the 132nd General Assembly, to end electric security plans and the related PUCO regulations. Specific legislation on the issue, and not S.B. 9, is needed for consumer protection from an intrusion of monopoly utilities (aided by government intervention) into the competitive market for emerging technologies, such as electric vehicle charging.

A final example of why PUCO regulations should be exempted from S.B. 9 is the important matter of PUCO processes. In this regard, there should be public-interest reform of the PUCO's process for settlements. New regulations are needed to reform (and end) the practice of monopoly utilities offering financial inducements (cash and cash equivalents) to special interests to secure settlements for their rate increases and other plans. S.B. 9 will not contribute to PUCO process reform, and it could even hinder process reform by encouraging the elimination of rules that are needed to protect utility consumers.

In sum, a focused approach is needed for addressing consumer protection issues in regulation of utility monopolies (instead of a broad target of ultimately a 30% reduction in regulations). (Lines 420-431) There is a need for some new regulations and a need for eliminating other regulations such as those that support the state's subsidy culture for utilities at consumer expense. Needed consumer protections include fixing the unfair denial of utility refunds to consumers,[1] repealing the 2008 law allowing the so-called electric security plans, reforming the PUCO's process for case settlements, and revamping the selection process for PUCO commissioners. That last matter requires new regulations for the PUCO Nominating Council, to create more balance and justice for Ohioans at the PUCO (where until recently three of the five PUCO Commissioners who regulate utilities had worked for utilities).

Thank you for your consideration.

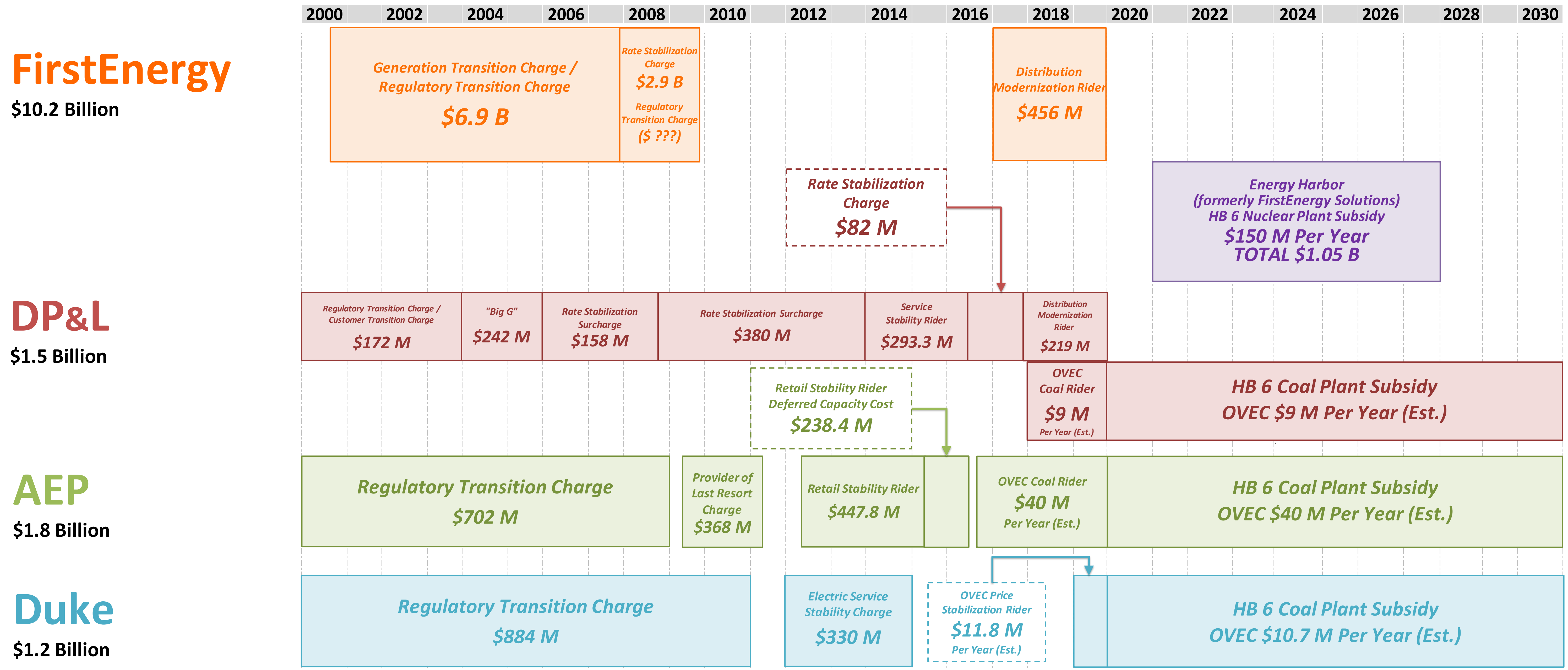
[1] Attached is an OCC pie chart, showing that electric consumers lost more than a billion dollars in denied refunds from utilities just since the 2008 energy law.

$14.7 Billion Charged to Customers (2000 - 2019)

SUBSIDY SCORECARD

- ELECTRICITY CHARGES TO OHIOANS -

$1.7 Billion Projected Charges to Customers (2020 - 2030)



B=Billions; M=Millions

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OHIOANS DENIED $1.5 BILLION IN ELECTRIC REFUNDS SINCE 2009