

**Testimony of Samantha Williams**  
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**Opposition Testimony for Ohio House Bill 114**  
**March 21, 2017**

Chairman Seitz, Vice Chair Carfagna, Ranking Member Ashford, and Members of the Ohio House Public Utilities Committee, thank you for the opportunity to submit this written testimony. I am an attorney and energy policy advocate at the Natural Resources Defense Council (NRDC), a national environmental organization that has been working in the Ohio energy space for nearly a decade.

We urge you to oppose HB 114.

**Background and Qualifications**

NRDC began working in Ohio in 2008, just as the state’s electric distribution utilities were first starting to plan energy efficiency programs to meet the then-newly-enacted clean energy standards. Since that time, we have been a regular intervenor in the energy efficiency cases before the Public Utilities Commission of Ohio, and an active participant in collaborative meetings with the investor-owned utilities, helping to improve the design and implementation of their programs, track their progress, and ensure that all Ohioans have access to cost-effective opportunities to control their energy costs.

I represent NRDC in three Ohio utility energy efficiency dockets for 2017-2019 that are currently in different stages of approval at the Commission: AEP, FirstEnergy, and Duke.

Because energy efficiency is my principal area of focus in Ohio, I will confine my testimony to the parts of HB 114 that affect the energy efficiency standard.

**Summary of Energy Efficiency Program Benefits**

Ohio’s utility-run efficiency programs give people and businesses rebates, technical information and other support necessary to help them make investments that save money on their energy bills. Importantly, the law requires that *all utility programs be cost-effective*, which means they *must* produce more in energy savings for consumers than the programs cost.

All four major Ohio utilities have themselves documented the significant energy savings from these programs through annual reports filed with the Commission. Based on key utility estimates of avoided electricity supply costs, we estimate that the utilities’ efficiency programs have delivered on the order of \$2 billion in net economic benefits to Ohioans to date. And that is a conservative number because the utilities have not fully quantified several key benefits of their efficiency programs. Nor does this number account for the reduced risk of exposure to future fuel price volatility and costs of compliance with future environmental regulations.

It is also important to recognize that it is not just the customers who participate in the programs who benefit. Many of the benefits of efficiency programs accrue to *all electricity customers* – these benefits include reduced need for new power plants, reduced need for investment in transmission and distribution system infrastructure (the “poles and wires” that deliver electricity to homes and businesses), reduced future environmental compliance costs and reduction in market prices for energy. In other words, when a residential customer (for example) saves energy it also benefits large industrial

customers, hospitals, grocery stores and all other customers. The converse is also true. When a factory or office building saves energy, it also benefits all other business and residential customers.

All available evidence suggests there is much more that can be done in Ohio. For example, in its recently-approved 2017-2019 efficiency portfolio, AEP projects that it will cut energy use by 1.3% in each of the next three years, beating its statutory requirement of 1.0% per year by a substantial margin. AEP estimates that its customers will see about \$400 million in reduced energy costs as a result.<sup>1</sup> Similarly, First Energy's 2017-2019 filed plan (currently awaiting a Commission decision) forecasts similar energy savings in each of the next three years; it also estimated that its plan will save its customers about \$400 million.

### **Problems w/HB 114**

If Ohio wants to continue these benefits for consumers in the coming years, then it is critical that the energy efficiency standards be preserved, and that they be enforceable and mandatory (as opposed to “voluntary”), meaningful, and robust for all customer classes.

Unfortunately, HB 114 does not do that. It is rife with problems that would result in a major step backwards for the state.

We have two main concerns with the energy efficiency components of the bill:

1. Its removal of penalties and compliance measures associated with the energy efficiency standards, rendering the standards essentially voluntary;
2. Its expansion of the primary voltage opt-out that was passed two years ago in SB 310, to include all mercantile customers in Ohio (a far larger number of customers – potentially 50% of statewide energy use).

These provisions will have large adverse impacts on Ohio's energy efficiency programs, ultimately depriving homeowners and businesses of cost-effective ways to control their energy bills.

#### 1. Making efficiency programs “voluntary”

The bill would significantly reduce utility reporting requirements and remove all penalties for not meeting the annual efficiency standards.

A standard that is not enforced is effectively no longer a *requirement*, but rather a *voluntary target*. While we understand the philosophical concern that some members of the legislature may have with requirements (or “mandates”), the reality is that cost-effective energy efficiency investments will simply not happen at anywhere close to economically optimal levels – or even anywhere close to the levels currently being proposed by Ohio's utilities – without enforceable standards.

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<sup>1</sup> This is the estimated net economic benefits – energy bill savings minus both all utility program costs and the portion of efficiency measure costs borne by program participants – under the Total Resource Cost (TRC) test. It should be noted that the TRC test, particularly as it is commonly applied in Ohio, is very conservative in that it accounts for all efficiency costs but only a portion of efficiency benefits. The net benefits under the Utility Cost Test (UCT), which compares just the utility's efficiency program costs to just the benefits to the utility system, are considerably larger. In AEP's case, they are twice as large – on the order of \$800 million.

You're probably wondering – if energy efficiency is such a great deal, then why can't customers just do it on their own? Why do we even need to require these programs?

*Here's why:* Even though energy efficiency investments generate significant benefits both for participants in the programs and all customers in Ohio, homeowners and businesses are *far less likely to make these investments on their own*. Utility energy efficiency programs are essential to overcome market barriers, such as lack of information, high capital costs, transaction costs, and split incentives between landlords and tenants. Energy efficiency standards and associated programs are critical vehicles for realizing the huge potential for cost-effective savings.

You're probably also wondering – don't utilities get cost-recovery and performance incentives for meeting certain annual efficiency benchmarks? Isn't that enough to make sure that programs happen, even with a voluntary standard?

No, it isn't enough. *Here's why:* Consider what happened here in Ohio when the SB 310 "freeze" on compliance with efficiency standards was enacted in 2014. First Energy cancelled most of its efficiency programs. Similarly, following Indiana's repeal of its energy efficiency standard in 2014 (around the time Ohio SB 310 was passed), investment in energy efficiency programs in Indiana plummeted by more than 50% and the overall cost-effectiveness of programs fell, which means lower energy savings and a loss of jobs and related economic development.

These unfortunate results are consistent with the national experience – states without specific, enforceable efficiency targets produce lower levels of savings than those that have requirements. While at least a few of Ohio's utilities would likely continue some level of programs under a voluntary standard, the savings levels will almost certainly be lower.

Put simply, energy efficiency should be *treated as a resource* that can be acquired in lieu of other supply and demand resources; indeed, it should be acquired whenever it can deliver services at a cost that is lower than those other resources such as new power plants, new "poles and wires," etc. Again, by any measure, Ohio is nowhere close to making economically optimal levels of investment in end-use electric efficiency.

The result is that Ohio consumers are spending far more on electricity supply than they should. Making efficiency standards voluntary will just perpetuate that reality, with adverse effects for consumers and the local economy.

## 2. Putting programs at risk by expanding opt-out to all mercantile customers

HB 114 would expand the existing large industrial opt-out. In 2014, SB 310 allowed the largest-of-the-large industrial customers (called "primary voltage" customers) to opt out of paying the energy efficiency rider. That large customer opt-out went into effect on Jan 1, 2017, and we don't yet know its impacts and how many customers will take the option. HB 114 would prematurely expand that existing opt-out to all customers in the "mercantile" customer class (i.e., customers that use at least 700,000 kWh per year, and "national accounts" such as Donato's, Walgreens, etc.)—a much larger category that encompasses most small, medium and large manufacturing facilities in Ohio, as well as many commercial customers. *This would essentially be a "freeze" on Ohio's industrial EE programs.*

The industrial sector has some of the most cost-effective energy savings potential of any customer class. In our experience, even the largest and most sophisticated of industrial customers do not capture all of this potential. This is usually because they limit their investments to projects that have very short paybacks – typically one to three years. In contrast, no utility would limit its investment in the supply of electricity to those that pay off within just one to three years; their planning cycles are often decades long. Utility-run efficiency programs help bridge this divide by providing financial incentives to buy down the cost of efficiency investments for business customers. They can also provide specialized technical expertise, which can be just as important in helping industrial customers identify and pursue cost-effective savings.

And, as previously noted, industrial investments in efficiency not only reduce specific industrial customers' energy bills, they also provide *significant system-wide benefits* that drive down rates for residential and small commercial customers. Allowing the lion's share of the industrial (and likely commercial) class to opt out means that utilities will have to scale back their industrial efficiency programs, depriving not just those customers, but *all Ohioans*, of valuable cost savings. At the same time, the industrial customers will be benefiting from energy savings produced by residential and small business customers. That seems inequitable.

As mentioned above, the SB 310 large customer opt-out went into effect on Jan 1, 2017, and we don't yet know its impacts and how many customers will take the option. It would be more prudent to wait and see what the impacts of the first opt-out are before we make it even larger.

There's also a question of why we need to expand the opt-out when existing law already permits mercantile customers to "self-direct" their energy efficiency projects. This provision has given mercantile customers flexibility for nearly 8 years and appears to be working well (ORC 4928.66 (A)(1)(c)). Mercantile customers can opt out of participating in the EE rider as long as they provide some basic information on energy efficiency projects they're doing on their own. The process is simple – they fill out a form at the Commission, and it gets automatically approved within 60 days. This existing process is already being used by hundreds of industrial and commercial customers, and can fill the gap for any mercantile customers seeking added flexibility.

## **Conclusion**

In closing, NRDC believes retaining required standards, and ensuring that the programs are not jeopardized by an expanded opt-out, is absolutely essential for Ohio to realize the promise of energy efficiency.

We also note that if Ohio goes down the road of effectively removing its efficiency standards, it will not happen in a vacuum. Other states in the Midwest are moving forward, and HB 114 would only leave Ohio behind. Illinois, for example, enacted legislation last December that elevated that state as a leader in the Midwest (and possibly the country) in its energy efficiency standard. Around that same time last year, the Michigan Senate (which is a Republican-supermajority similar to Ohio), passed a bill with a required 15% by 2020 RPS, and a 1.5% annual efficiency standard. We ask that Ohio not take itself out of the running as the rest of the region moves forward toward building out its clean energy infrastructure.

We appreciate your consideration of this testimony. Please reject HB 114.