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HOUSE DISTRICT 2

HB 247 | Energy Markets Bill
House Public Utilities Committee
Sponsor Testimony
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Chairman Seitz, Vice Chair Carfagna, Ranking Member Ashford and fellow members of the committee, thank you for the opportunity to deliver sponsor testimony on House Bill 247 – legislation which strengthens consumer protection through electric competition.

It's no secret that Ohio's journey to a competitive market for electricity began with the enactment of Amended Substitute Senate Bill 3 (SB 3) in 1999. Since then, over the past 16 years, there have been fits and starts associated with the implementation of the restructuring legislation. And yet, at the same time, we have made steady progress toward realizing the expected benefits of competition.

SB 3 was inspired by a firm belief in the power of competition. In the words of Milton Friedman:

- *"The great danger to the consumer is the monopoly ... His most effective protection is free competition ... The consumer is protected from being exploited by one seller by the existence of another seller from whom he can buy and who is eager to sell to him. Alternative sources of supply protect the consumer far more effectively than all the Ralph Naders of the world."*

The successes of Ohio's transition to a competitive market for electricity are now well documented. They include:

- Billions of dollars in generation savings for business and residential customers – including \$14.98 billion saved between 2011 to 2015, with an expected additional \$14.94 billion from 2016 to 2020 (ref: *Electricity Customer Choice In Ohio: How Competition has Outperformed Traditional Monopoly Regulation*: https://www.nopecinfo.org/wpcontent/uploads/2017/01/16NOP212-WhtPpr_r1_NC_HI-1.pdf);

- Significant new investment in generation facilities in Ohio – including 11 new gas-fired power plants which are either under construction, approved by the Ohio Power Siting Board (OPSB), have an application filed at OPSB, or are in the Pre-OPSB development. This new investment represents an investment of \$9 billion in new, state-of-the-art, low-cost generation capacity (9,157 MW). It should also be noted that these plants are being built with private money, not customer money;
- More than adequate reserve margins of around 21.7%, expected to increase to 22.4% in 2019, for power reliability. In fact, there is more generation today than when the market was fully regulated;
- And, fuel diversity, which is improving from being overly dependent on coal to a fuel diversity that represents a mix that includes low-cost Ohio natural gas. It is estimated that the new capacity outlined above (9,157 MW) will yield approximately \$40 billion of natural gas purchases over a 30-year period.

Electric generation competition is working. Customers now have choices, and innovation and investment are occurring. However, an opportunity exists for stronger consumer protections – and even lower customer electric bills.

The main problem is that there are certain rate-making provisions in current law which are anti-competitive, overly costly for residential and business customers, and bad for Ohio's economy. These provisions – many of which became law through Senate Bill 221, passed in 2008 – pose a clear and serious threat to the benefits of competition.

Electric Security Plans (ESPs) were created in Senate Bill 221 because of concerns that the deregulated, electric generation market had not fully developed. Therefore, ESPs were created as a back-stop to allow the market more time to mature. The ESPs were only meant to be temporary.

Unfortunately, ESPs have had the perverse effect of enabling utilities to seek – and often gain – approval from the Public Utilities Commission of Ohio (PUCO) to charge customers above-market prices through the use of non-bypassable riders.

For example, the Ohio Consumers' Counsel has documented more than \$11 billion in PUCO-approved, above-market electric utility charges since 2000. Those charges were paid by customers of AEP-Ohio, Dayton Power & Light, Duke Energy Ohio, and FirstEnergy.

At a time when lower prices in competitive electricity markets ought to be reflected in lower electric bills for Ohio customers, anti-competitive provisions of SB 221 are depriving customers savings realized from competition in generation markets.

House Bill 247 will help protect electricity customers by addressing three major problem areas and fixing a number of harmful ratemaking provisions:

The first problem area is **unfair, anti-consumer provisions that cost consumers billions of dollars.** For example, as part of an ESP, a utility was allowed to collect so-called “distribution modernization charges” from customers through non-bypassable riders. That’s allowed even if none of the money the utility collects through the rider is used on distribution modernization.

House Bill 247 solves this problem by removing language in Ohio law that permits utilities to file ESPs. This would allow the market to work and eliminate above-market charges to customers that currently are allowed in ESPs.

The second major problem area is that **customers are denied refunds of charges that are later determined by the Supreme Court of Ohio to be improper.** House Bill 247 allows customers to receive refunds for all charges later determined to be improper by the Supreme Court of Ohio or the PUCO.

And third, **customers are not protected from subsidizing the operations of a utility’s corporate affiliate.** Ohio’s comprehensive electric industry restructuring legislation, SB 3, enacted in 1999 with strong bipartisan support, prohibits utilities from owning and operating generation. Rather than completely divest their generation, however, some utilities chose to spin off their generation assets to a corporate affiliate.

In recent years, the utilities have used the poor financial performance of their unregulated generation affiliates to seek riders from customers to offset their losses.

House Bill 247 clarifies that Ohio’s 1999 electric restructuring law means utilities and their affiliates cannot own generation.

House Bill 247 is supported by many groups, including:

- AARP
- Ohio Farm Bureau
- National Federation of Independent Business/Ohio
- Northeast Ohio Public Energy Council (NOPEC)
- Office of the Ohio Consumers’ Counsel

- Ohio AgriBusiness Association
- The Ohio Cast Metals Association
- Ohio Chemistry Technology Council
- Ohio Hotel & Lodging Association
- The Ohio Manufacturers' Association
- Ohio State Grange

House Bill 247 is pro-consumer, pro-business, and pro-markets. It creates an environment conducive to continued business investment, economic growth and job creation.

I ask for your careful consideration of and support for this legislation. Thank you for your attention today. I would be happy to answer any questions you may have at this time.