

Chair Callender, Vice Chair Wilkin, Ranking Member Smith, and members of the Public Utilities Committee, thank you for this opportunity today to urge your opposition to Senate Bill 33, the critical infrastructure bill.

If this bill were to pass, you could tear-gas someone, set fire on their land... even commit “criminal mischief” on an occupied aircraft, risking harm to folks... and still be convicted for a steeper crime if you “tampered with” a telecommunications central switching office. Why is “critical infrastructure” being singled out? What is the exceptional harm that merits this greater penalty?

Could vandalism to such facilities cause a catastrophic event? If so, why do these facilities exist and continue to expand in residential areas?

Is the threat to employees the real concern? The odd protester only fiddles with equipment here and there, but oil and pipeline workers have been 4.3 times more likely to die than the average American since 2013. In 2016, OSHA issued a paltry \$5,000 fine for a “less than serious” violation after a workplace death. By contrast, a third-degree felony—proposed for trespassing on a “critical infrastructure facility”—can cost the accused up to \$10,000—that’s 20% of a good gross salary. It could also result in a prison sentence of nine months or more—a cost of about \$18,000.

Should the penalties be greater, because consumers rely so heavily on these utilities? In that case, why are the companies themselves not levied stiffer fines when their equipment fails?

Railroads are being added to the definition of critical infrastructure facilities, for instance. In 2012, a Norfolk Southern train derailed resulting in an explosion that caused an estimated \$1.2 million in damages, not even 1% of the company’s reported \$1.7 billion in profits at the end of 2012. No criminal charges were brought against them for lapsed maintenance of their rail lines, either.

AEP has consistently failed to achieve reliability standards, including this year. Consumers go days, if not well over a week, without power in Columbus, due to failure on the utility’s part, and yet no action is taken against them, while their rates go up every year.

On the flip side, when a protester did turn off a valve recently, it took seven hours to repair it and cost TransCanada \$50,000: a company that netted \$1.1 billion in the fourth quarter of 2018 alone—that’s less than 1% of three months’ profits.

One more point: in three states, four folks have already been convicted of felonies for turning off pipeline valves, without any of this unnecessary legislation.

Concern for impact to citizens and deterring future offenders is not really the priority here. This isn’t about danger to employees or residents; this isn’t about an outsized inconvenience or impact. What we really need to be talking about is plutocracy.

To illustrate: Marathon Corporation, headquartered in Findlay, OH, has been vocal in support of this bill. They funded and partially own the Dakota Access Pipeline, as well as a “network of crude oil and refined product pipelines.” The conglomerate’s revenue in 2018 was \$96.5 billion.

Media battles and negative PR costs money. Consumer confidence and reputation, though, is invaluable to shareholders and stock prices. Legislative and regulatory action is a constant worry when it comes to the bottom line. Free speech and the dissemination of information threatens industry. We saw cigarette companies acting in an eerily similar way during a prior era. It took years for the populace to convince legislators they were being had in that instance. Don't let the same thing happen to you. Please do the right thing and make sure that SB 33 is squarely rejected in the Ohio House. Thank you for the opportunity to testify. I'll now take any questions you may have.