

**Before
The Ohio House of Representatives
Finance Committee**

**Testimony on Substitute House Bill 166 (Budget Bill)
(Consumer Protection Issue Involving FirstEnergy Charges)**

**Presented by Jeff Jacobson
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**On Behalf of the
Office of the Ohio Consumers' Counsel**

May 7, 2019

Hello Chair Oelslager, Vice-Chair Scherer, Ranking Member Cera and Members of the Committee.

Thank you for this opportunity to testify on Substitute H.B. 166 (the budget bill). I am Jeff Jacobson, testifying on behalf of the Office of the Ohio Consumers' Counsel.

A new provision in the budget bill would subject 1.1 million customers to price-gouging by Ohio Edison (FirstEnergy). (Lines 44033 – 44036 and lines 44064 – 44068) This new provision should be deleted. At the least it should be considered in a stand-alone bill instead of in the budget bill.

The bill would change the calculation of “significantly excessive” profits for FirstEnergy under Ohio’s 2008 energy law (S.B. 221, 127th General Assembly). This change would artificially dilute Ohio Edison’s high profits, on paper, for calculating whether it is improperly charging customers for significantly excessive monopoly profits. Under the bill, Ohio Edison’s profits would be averaged with the profits of FirstEnergy utilities Toledo Edison and Cleveland Electric Illuminating. Instead of the intended consumer protection under the 2008 law, the bill would protect FirstEnergy from refunding significantly excessive monopoly profits to a million Ohio Edison customers.

The consumer protections in Ohio's 2008 energy law are woefully inadequate. For example, the 2008 law allowed electric utility monopolies to charge Ohioans for *excessive* profits, just not "significantly" excessive profits. But, under the budget bill, Ohio Edison customers would have the unfortunate distinction of losing even that minimal protection. The Consumers' Counsel supported House Bill 247 (Rep. Romanchuk) in the last session which, had it been enacted, would have repealed the anti-consumer ratemaking in the 2008 energy law.

FirstEnergy has already been gaming the 2008 law's profit standard at the PUCO. In a recent annual PUCO review of Ohio Edison's profits, the PUCO denied a million Ohio Edison consumers \$42 million in refunds for their utility's significantly excessive profits. (PUCO Case 18-857-EL-UNC) In this regard, the PUCO allowed Ohio Edison to exclude its so-called "Distribution Modernization Rider" from the law's profits review. That ruling artificially deflated monopoly Ohio Edison's calculation of significantly excessive profits, from an outrageously high percentage. This ruling was at the expense of Ohio families and businesses whose electric bills were what should have been deflated. The questionable legality of this manipulation of FirstEnergy's monopoly profits would now be permanently solved for FirstEnergy by the budget bill.

The Governor's original budget bill did not contain these anti-consumer terms for FirstEnergy's monopoly electric service. For consumer protection, I recommend that these provisions be removed from the Bill. At the least, this benefit for FirstEnergy should be considered in a stand-alone bill and not in the state's budget bill. Attached are a map showing the service area for Ohio Edison's 1.1 million customers and a list of the counties where Ohio Edison fully or partially serves customers. Thank you for this opportunity to testify.

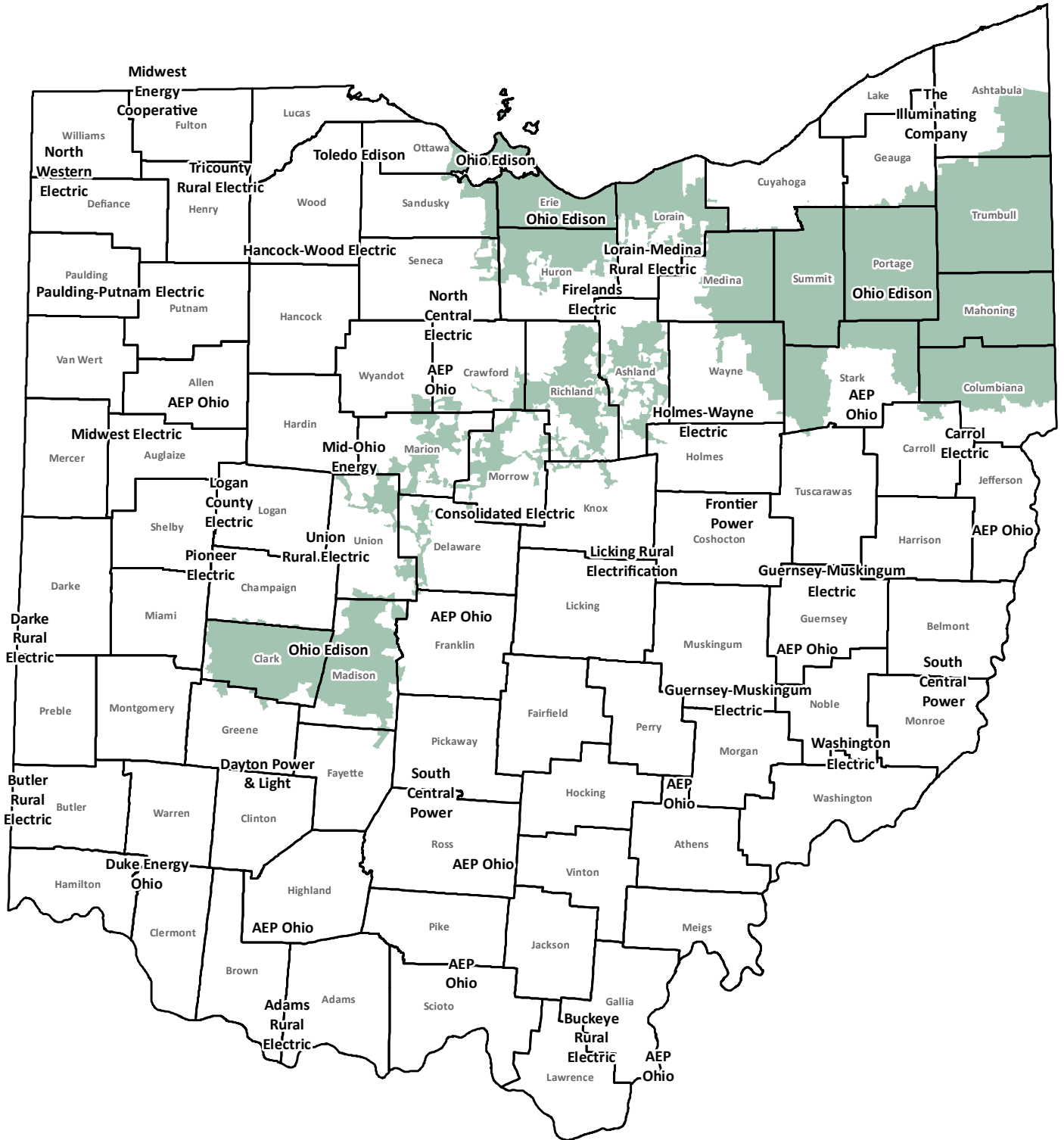
Counties (Full or Partial) Where Ohio Edison Serves Electric Customers

Ashland
Ashtabula
Carroll
Champaign
Clark
Columbiana
Crawford
Cuyahoga
Delaware
Erie
Fayette
Franklin
Geauga
Greene
Holmes
Huron
Knox
Lorain

Madison
Mahoning
Marion
Medina
Miami
Morrow
Ottawa
Portage
Richland
Sandusky
Seneca
Stark
Summit
Trumbull
Tuscarawas
Union
Wayne
Wyandot

Electric Service Territory of Ohio Edison

As of Aug. 1, 2017



Source: Derived from PUCO website