Vistra Energy Written Testimony to Ohio House Committee on Public Utilities Regarding HB 247

Chairman Callender, Ranking Member Smith and distinguished members of the House Committee on Public Utilities. Vistra Energy appreciates the opportunity to submit written testimony in opposition to House Bill 247.

Vistra Energy is a premier, integrated energy company, combining an innovative, customer-centric approach to retail with a focus on safe, reliable, and efficient power generation. Through its retail and generation businesses, Vistra operates in 20 states and the District of Columbia, and six of the seven competitive markets in the U.S., with about 5,400 employees. Vistra is one of the largest competitive residential electricity providers in the country, and its retail brands serve approximately 3.7 million residential, commercial, and industrial customers with electricity and gas. The company's generation fleet totals approximately 41,000 megawatts of highly efficient generation capacity, with a diverse portfolio of natural gas, nuclear, coal, solar, and battery storage facilities. The company is currently developing the largest battery energy storage system of its kind in the world – a 300-MW/1,200-MWh system in Moss Landing, California.

We take pride in being a good neighbor and strengthening the places where we serve customers, where our valued employees live, and where we call home. Vistra provides retail electric and gas services to approximately 360,000 Ohioans through our retail brands, including Dynegy, Public Power, Ohio Gas & Electric, and Energy Rewards. We recently launched a new retail electricity brand in Ohio called Brighten Energy to supply renewable energy to socially conscious consumers looking for an affordable way to make a difference. Vistra serves all customer classes in Ohio: residential, small business, large commercial and industrial. Additionally, Vistra is currently in the process of growing our retail presence in the state. We are expanding our retail sales office located in Cincinnati and opening new offices in Columbus and Cleveland. We employ more than 380 Ohioans across the state and are recruiting more retail sales professionals as we expand our presence.

Vistra is also the largest power generator in Ohio, providing over 5,100 MW of generation capacity through our seven generation facilities using natural gas, coal and oil:

- Dicks Creek (155 MW, Gas – CT), in Monroe, Ohio;
- Hanging Rock (1,430 MW, Gas - CCGT), in Ironton, Ohio;
- Miami Fort (1,097 MW, Oil & Coal), in North Bend, Ohio;
- Richland (423 MW, Gas- CT), in Defiance, Ohio;
- Stryker (16 MW, Oil), in Stryker, Ohio;
- Washington (711 MW, Gas – CCGT), in Beverly, Ohio; and
- Zimmer (1,300 MW, Coal), in Moscow, Ohio.

Ohio is one of the most important and diverse energy states in the U.S. and Vistra is committed to providing its residents with innovative, customer-centric retail electricity, along with safe, reliable, and efficient power generation.

HB 247 is a huge step backwards towards providing Ohio residents with innovative and diverse electricity. When the Ohio legislature elected to bring competition to the state it was a vote for moving the state forward to a new energy future and one that moved away from the antiquated centralized command and control model that had dominated the electric industry since the time of Edison. However, legislation, like HB 247, signals to the market that the legislature is moving away from competition and back to the bygone days of regulated monopolies. Legislation like HB 247, and previously passed HB 6, are better suited for old Soviet style command and control economies where government picked winners and losers than for the modern competitive and innovative Ohio electric market.

No system is perfect, and the competitive market model certainly has its flaws, and we will gladly work with the legislature on policies to address those flaws, but HB 247 is not one of those solutions. Instead of a policy that moves the competitive market forward and ensures that the benefits of choice, innovation and cost efficiencies are felt by all Ohioans, HB 247 moves the market backwards by transferring risk onto consumers, providing structural competitive advantages to EDUs, and removing incentives for non-EDUs to bring innovation and choice to the market.

One of the key features of competition is the transfer of risk to where it should be, on the investors and businesses that compete in the market. This means that when there are product or business failures, the impact of those failures fall most acutely on the investors and businesses responsible for those failures, not the broader population. This risk helps drive prudent business investment. However, in HB 247, EDUs are being allowed to receive cost recovery and a just-and-reasonable rate of return for traditionally competitive products via their Electric Security Plans (ESP). This is a total inversion of where risk should be held. With cost recovery and a guaranteed return, EDUs have warped economic incentives to determine what makes a prudent business investment. Furthermore, when such investments fail, the EDU are not the ones to feel the impact, instead it is the rate payers, every day Ohioans, who pay the price in increased service costs.

In previous hearings, EDUs stated that HB 247 “levels” the competitive playing field. Yet how can policy that provides them with the ability to encroach further into the competitive market while taking on few, if any, true competitive risks be “level”? It is doubtful that any EDU, being given the ability to provide these competitive products, will seek, or indeed be able, to truly compete by offering these products outside their protected jurisdictions. In short, HB 247 doesn’t “level” the playing field, it just expands the offerings regulated entities are able to make within their already un-level regulatorily protected territories. It is true that EDU affiliates are supposed to be, at minimum, “functionally separated” from their regulated parents. However, HB 247 further erodes these requirements, meaning in practical day-to-day market operations EDUs have a built in “competitive” advantage against un-affiliated entities. Allowing continued EDU encroachment into the competitive market does nothing to enhance competition but does move the state closer to a re-regulated electricity market.

EDUs testified that they had unique knowledge regarding the electric market and their function. Vistra’s multi-state, multi-power region operations provide us with a unique and broad knowledge as well into electric markets and how they function. In jurisdictions where Vistra operates that have fully mature competitive electric markets, we are seeing innovation and investment that takes advantage of smart grid technology. For example, in those markets, our retail brand is able to offer “*Solar Days / Free Nights*” to residential consumers. This plan provides customers a 100% renewable option as Vistra purchases solar power, along with solar and wind renewable energy credits, offsetting customers’ actual usage. Customers get free electricity from 9 p.m. to 6 a.m., and solar electricity from 6 a.m. to 9 p.m. The program is great for consumers who want to participate in solar energy but are unable to install solar panels where they live. The offer also leverages the smart grid technology, customer data and supplier consolidated billing that have been made available via competitive enhancing legislation and regulation in that market. For our business customers, our retail brand offers a "*GreenBack"* program where the customer receives rebates for making energy efficiency improvements to their facilities that yield long term savings. That brand also offers Demand Side Management programs that pay the customer for load reduction during rare emergency peak load events.

Our "*Solar Days / Free Nights*" and "*GreenBack"* plans have some of the highest satisfaction and request rates of our portfolio of offerings in these markets, which itself is just some of hundreds of offers available to consumers in those competitive markets. Offers like these are proof that retailers, in a well-functioning competitive market, can and do provide innovative solutions to customers that leverage the investments in and benefits of smart grid technology. It is not necessary to give EDU's access to the competitive market to "make" innovation happen, all that is necessary is to let the market function as intended. EDU's are not a safety net towards utilization of the smart grid investment, they are an inhibitor.

Ultimately, you as Ohio's elected representatives must decide what is best for the state, its citizens and its economy. Whether it is better to make a return to a government controlled, one size fits all, rate regulated service construct for Ohio's electric market or whether Ohio's citizens and economy will be better served by continuing to move forward towards a true, fully mature competitive market construct that has been proven in other jurisdictions and industries to bring choice, innovation, and economic benefits to customers. Make no mistake, a vote for HB 247 is a vote for moving back towards re-regulation of the electric market not a vote for free and fair competition.

Thank you again for your consideration.