



**Senator Andrew O. Brenner – 19<sup>th</sup> District**  
**Senate Energy and Public Utilities Committee**  
**June 20<sup>th</sup>, 2023**  
**Senate Bill 123 – Sponsor Testimony**

Good morning, Chairman Reineke, Vice Chair McColley, Ranking Member Smith, and members of the Senate Energy and Public Utilities Committee. Thank you for allowing me to present testimony today on Senate Bill 123. This legislation seeks to preserve the rights of property owners to use existing and future technologies currently available to them.

Property owners currently have the option to purchase utility services, including electricity, water, or sewage, and resell that service to consumers by using a submeter that records usage for each housing unit in a multi-unit property. The current submetering market is open to competition from a number of providers. This legislation is intended to preserve that open market and prevent utility providers from garnering a monopoly through regulation.

Two recent cases have been brought before the Public Utilities Commission that have tested the definition of a “public utility” subject to PUCO regulation. This ambiguity has resulted in questions about the legality of private companies offering submetering services. Public utilities cannot operate in another public utility’s territory. Therefore, if the Commission determines submetering providers are in fact public utilities, it would jeopardize the right of private submetering companies to operate and conduct business on private property. Common sense dictates a private company operating on private property is not a public utility.

Senate Bill 123 clarifies that an entity that provides, constructs, or installs for customers “utility related service” at a point after service provided by a public utility reaches the public utility’s metered points of delivery at the customers’ locations is *not* considered a public utility. The bill further defines a “utility related service” to be:

- (1) service or benefit from an advanced energy resource (on-site generated power),
- (2) electricity, natural gas, or water service,
- (3) electric vehicle charging, and
- (4) billing services for electricity, natural gas, or water service and service or benefit from advanced energy resources.

Finally, the bill establishes that a public utility may not set their meters in such a location as to prevent an entity from providing these utility related services at a point after the public utility’s point of delivery. There is an exception to this provision in the language for safety and reliability.

So a utility could still move their meters to improve their grid or if a meter's location was harmful.

One example of the kind of situation Senate Bill 123 is attempting to rectify would be for a business that wanted to build an electric-vehicle charging station in its parking lot. That business would be responsible for the cost of installing the infrastructure to deliver power past the utility provider's meter to the charging station. That would be a privately funded, operated, and billed enterprise located entirely on private property. This should not be included under the same legal definition as utilities such as AEP.

I believe it is the responsibility of the General Assembly to clarify legal definitions in the Revised Code whenever there is ambiguity, especially when those definitions are being considered by a creature of statute such as PUCO. My hope is that the clarification we may provide with this legislation will ensure that private businesses are able to operate in an open market. I should note that nothing in Senate Bill 123 prevents a public utility from offering such services behind their meter, and they would still be able to compete to provide them. Additionally, PUCO would retain their authority to review complaints brought up in cases where privately-operated technology crosses beyond a private property's borders.

Chairman Reineke, members of the Committee, thank you again for allowing me to present sponsor testimony today on this legislation. I appreciate the Committee's time and attention to this matter and would be happy to answer any questions as I am able.