



Office of the Ohio Consumers' Counsel

**Before
The Ohio Senate**

Energy and Public Utilities Committee

**Proponent Testimony on Senate Bill 143
(Benefitting Consumers by Eliminating Electric Security Plans)**

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On Behalf of the Office of the Ohio Consumers' Counsel

January 23, 2024

Hello Chair Reineke, Vice-Chair McColley, Ranking Member Smith, and Committee members. I hope you and your colleagues are well. Thank you for the opportunity to testify on this consumer protection legislation. And thank you to the bill sponsor, Senator Romanchuk, for this proposal to reform electric ratemaking in Ohio.

My name is Maureen Willis. I am the Ohio Consumers' Counsel, the director of the state agency that represents 4.5 million residential utility consumers. I am testifying in support of the bill and recommend its passage.

The legislation restores the General Assembly's vision in 1999 to deregulate power plants to bring the benefits of electric competition to Ohio utility consumers. That vision was impaired by the 2008 energy law when so-called electric security plans were created with their increased involvement of government regulators.

The 2008 energy law allowed for the pricing of generation service by giving utilities the choice of a market rate offer or the alternative of an electric security plan. Market rate offers emphasize competitive pricing and de-emphasize government regulation. Electric security plans emphasize government involvement in electric rates. And the electric security plans circumvent standard ratemaking (and their associated safeguards) that were Ohio law long before 2008. Unfortunately, electric security plans and government regulation have won out. There has never been a market rate offer adopted under the 2008 energy law.

Under S.B. 143 electric security plans will be eliminated. (Lines 1632-1633) That is a good thing for utility consumers.

Electric security plans allow utilities to charge consumers for costly "riders." Riders are add-on charges that allow utilities to cherry pick expenses and investments for expedited recovery with limited review. That ratemaking is an exception to Ohio rate case law that otherwise requires utility expenses, revenues, plant, and profits to be

considered together in a case. Standard ratemaking does not allow for such riders. Under an electric security plan, there is almost no limitation on the type of riders the electric utilities can ask for.

The riders highlight a related problem – that the electric security plans also allow for charges to consumers for distribution service. That allows utilities to avoid the consumer protections in standard ratemaking that apply to distribution service. Under standard ratemaking only those costs and investments prudently incurred and that are used and useful (at date certain) in providing utility service can be charged to consumers. And standard ratemaking sets reasonable (not outdated) profits on utility investments.

Utilities also use electric security plans to obtain millions of dollars in subsidies from their consumers. These subsidies come in many sizes, shapes, and forms: lost revenues, decoupling, stability riders, distribution modernization charges, credit support, etc. OCC's subsidy scorecard gives you an idea of the magnitude of the subsidy problem for utility consumers, with its \$15 billion tally of subsidies paid for by consumers over the years (2000 to 2022). Approximately \$3.7 billion is for subsidies consumers paid under electric security plans implemented in 2009 and later; about \$12 billion reflects subsidies consumers paid to transition to deregulation. I have attached OCC's subsidy scorecard to my testimony for reference.

One of the primary and costly subsidies utility consumers currently pay is a coal plant subsidy that remains under tainted H.B. 6. Before H.B.6, the PUCO used electric security plans as a vehicle to approve the coal plant subsidies paid to AEP, Duke, and AES Ohio for their ownership of legacy generation (OVEC plants). OCC estimates that these three utilities have charged consumers approximately \$339 million in coal plant subsidies from 2016 to 2022. S.B. 143 does not undo the OVEC coal subsidy enacted under H.B. 6, but it will prevent the PUCO from resurrecting the coal plant subsidy that was approved in the utilities' electric security plans from 2016 to 2019.

There's more not to like about electric security plans. The 2008 energy law allows electric utilities to charge consumers for excessive profits—just not “significantly excessive profits.” That was an unfortunate modification to Ohio law which otherwise gives utilities only an opportunity to earn a “fair and reasonable” amount of profit based on current market conditions.

The 2008 law also allows electric utilities to withdraw their electric security plans if they don't like the outcome of a PUCO order. It gives the utility a veto over the regulator, and also serves as an oversized bargaining chip that is used against other stakeholders. In 2009, then Commissioner Roberto separately wrote how this utility option creates an imbalance in settlements: “I have no reservation that the parties are indeed capable and knowledgeable but, because of the utility's ability to withdraw, the remaining parties certainly do not possess equal bargaining power in an ESP action before the Commission.” (PUCO Case 08-0935-EL-SSO, March 25, 2009). Ohio law does not give any other stakeholder this option to reject a PUCO decision.

We have seen this withdrawal option used and abused. A prime example is Dayton Power and Light (DP&L or AES). Dayton Power and Light (DP&L or AES Ohio) has withdrawn ***twice*** from a PUCO approved electric security plan, twice reverting back to its 2009 approved plan. Its withdrawal has caused its consumers to pay hundreds of millions of dollars in stability charges that were outlawed by the Ohio Supreme Court (post 2009).

Enough said about electric security plans. They are gone under S.B. 143. Good riddance.

S.B. 143 also protects consumers in other ways.

A great consumer benefit of the bill is it would preserve the utilities' competitively-bid standard offers for generation service. (Lines 455-457; 551-561) The competitively bid standard offer gives consumers the benefit of a market rate option without the challenges of door-to-door sales, telemarketing and so forth. Researchers at Cleveland State and Ohio State concluded that customers have saved over \$12 billion through competitively bid standard service offers.

S.B. 143 also benefits consumers by requiring utilities to file a rate case application every five years starting with the effective date of the bill's passage. (Lines 16-20) Periodic rate cases are a good thing for consumers because they allow scrutiny of all a utility's costs and revenues.

Under S.B. 143 restrictions prevent an electric utility from providing any competitive retail electric services. (Lines 877-963) That protects consumers from subsidizing unregulated businesses that an electric utility may be engaged in.

Consumers also benefit from the bill's provisions which give enhanced protection to large scale aggregation. (Lines 1141-1143; 1150-1162) Aggregation is a cost-effective means to get a substantial number of residential consumers to participate in the competitive market. By bringing together a large number of consumers, aggregators are able to achieve better pricing than individual consumers could obtain on their own. Aggregation has been a success for consumers who want to shop for their energy services but don't have the time or inclination to participate in the market through individual retail contracts.

To summarize, the current Ohio statutes allowing electric security plans benefit utilities but not consumers. The best way forward for consumers is to fully repeal electric security plans and allow the competitive market for electric generation service to function to enable lower energy prices and greater innovation. That is the approach embedded in S.B. 143. OCC supports S.B. 143 and urges its adoption.

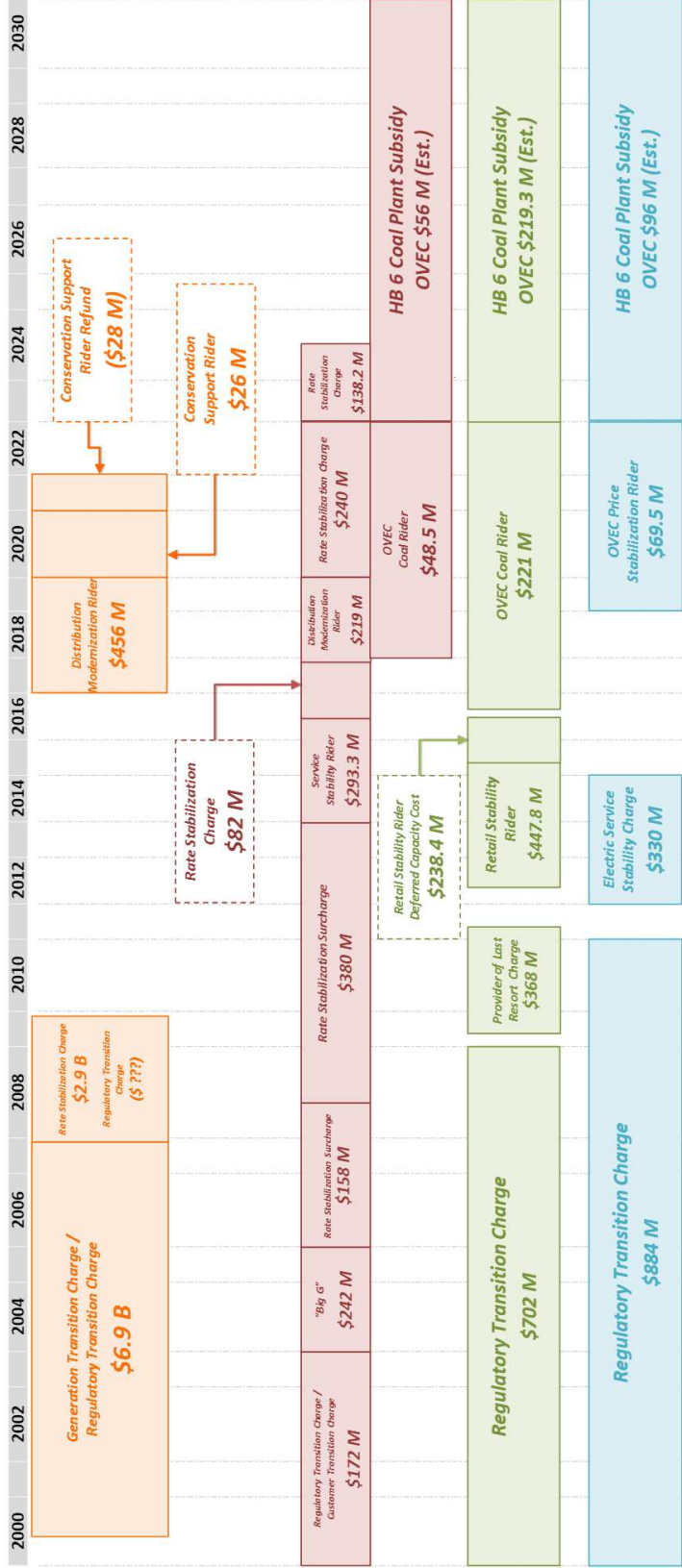
Thank you again for your consideration of Senate Bill 143 and this opportunity to present testimony.

\$15.29 Billion
Charged to Customers
(2000 - 2022)

SUBSIDY SCORECARD

- ELECTRICITY CHARGES TO OHIOANS -

\$509.5 Million Projected
Charges to Customers
(2023 - 2030)



FirstEnergy
\$10.28 Billion

AES Ohio
(formerly DP&L)
\$1.75 Billion

AEP
\$1.98 Billion

Duke
\$1.28 Billion

B=Billions; M=Millions

Rev. 03/07/2023