

**Before
The Ohio Senate
Finance Committee**

Testimony on House Bill 33 (Non-Budget Issues for Utility Consumers)

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On Behalf of
Office of the Ohio Consumers' Counsel**

May 30, 2023

Hello Chair Dolan, Vice Chair Cirino, Ranking Member Sykes, and Members of the Committee. I hope you and your colleagues are well. Thank you for this opportunity to testify on utility consumer concerns in the budget bill. Previously, the Consumers' Counsel appreciated the opportunity to testify in the General Government Committee on OCC's budget for consumer protection.

The Consumers' Counsel's services to Ohioans are related to their services from electric, natural gas, telephone, and water utilities that are regulated by the PUCO. OCC's services primarily include legal representation of residential utility consumers.

OCC recommends removal of language in the House-passed version of the bill regarding two non-budget-related issues affecting utility consumers. I also address a third issue, being our opposition to a matter involving submetering that we understand may yet find its way into the bill.

Utility Consumer Cost to Support Electric Vehicle Charging: Lines 76687 to 76695 of the budget bill allow electric utilities to charge their consumers for distribution costs related to electric vehicle (EV) charging stations that are owned by businesses in the market. The Legislative Service Commission described this arrangement as "subsidies" for electric vehicle charging companies (on page 479 of its Comparison Document). Indeed, the bill itself describes the charges to consumers as "subsidies" on line 76694. So the subsidies to charging station companies in what should be a competitive market would be at the expense of utility consumers.

Please protect for Ohioans a competitive marketplace for electric vehicle charging, by removing this anti-competitive matter from the budget bill. Also note that the federal government is already making substantial funds available to local governments for electric vehicle charging stations.

Utility Consumer Cost for Infrastructure (Economic) Development: Lines 76543 through 76615 of the budget bill enable utilities to add charges to the monthly bills of utility consumers for subsidizing infrastructure. For example, line 76600 allows for utility "collection of net infrastructure development costs...."

It seems this provision is purported to be for economic development. Well-designed economic development, with protections for consumers, can be a good thing for the public. But the bill language is lacking adequate design and consumer protections from utility charges. The bill is lacking consumer protections such as: requiring the use of the fair and balanced ratemaking standards in R.C. 4909.15; a strict low annual limit on charges to consumers for the program; more time for stakeholders to review funding applications; requirements for actually adding jobs and investment as a result of the subsidies; and principles to guide the PUCO in making fair choices for subsidizing companies so government is not picking winners and losers in the marketplace.

Accordingly and respectfully, the infrastructure subsidy language for charging utility consumers should be removed from the bill. Attached is a letter sent to the House by the Ohio Manufacturers' Association, in which it also opposes the language. In this regard, the budget bill already has an economic development program, the All Ohio Future Fund. And economic development programs, funded by utility consumers, are already available at the PUCO.

Protections Against Submetering of Utility Consumers: We understand there is the possibility of an amendment to the budget bill to limit or bar PUCO regulation of submeterers. Respectfully, that would be a mistake to the detriment of consumers. Submetering involves the reselling of utility services by third-parties, the submeterers, such as in apartment buildings and condominiums. Submetering is resulting in the degrading of utility service in Ohio, where submetered consumers lack the basic consumer protections of Ohio utility regulation. That includes lacking consumer protections about utility billing, disconnection and other regulations. Submetered consumers also lack the pricing protections available to utility consumers. Further, submetered consumers also lack access to Ohio's approach of competitive energy markets where consumers can choose their energy provider. What Ohioans need is legislative protection from submetering, not the elimination of protection. That includes legislation to clarify the PUCO must regulate submeterers as utilities. Please do not amend the budget bill to deny consumers protection from submetering. Any submetering issue can be heard in a stand-alone bill without an amendment at this late date in the budget process.

Thank you for your consideration of these consumer issues.



April 25, 2023

The Honorable Jason Stephens, Speaker
The Honorable Allison Russo, Minority Leader
The Honorable Jay Edwards, Finance Chair
The Honorable Jeff LaRe, Finance Vice Chair
The Honorable Bride Rose Sweeney, Finance Ranking Member

VIA EMAIL

Dear Speaker Stephens, Minority Leader Russo, Chair Edwards, Vice Chair LaRe, and Ranking Member Sweeney:

As the state's largest business association representing manufacturers, which, collectively contribute more to Ohio's Gross Domestic Product than any Ohio business sector, we again express concerns with costly new Ohio utility-related provisions included in Sub. House Bill 33 (HB 33). While this language would not heavily impact state finances, it would certainly impact household and business finances.

Substitute HB 33 includes a provision that creates new utility statutes – sections 4928.85, 4928.86, 4928.88, and 4928.89 – applicable to electric distribution utilities. Collectively, this language (as amended) subjects customers of electric utilities to new costs and removes important customer protections.

Certainly, economic development and infrastructure investment are important to our state's economy, and the OMA supports such projects and investment in the state of Ohio. However, as proposed, the language regarding cost recovery for such projects is problematic.

It is important to note that under current law, public utilities may recover new infrastructure costs from customers if they can demonstrate to the Public Utilities Commission of Ohio (PUCO) that such charges are "used and useful" to its customers and were prudently incurred. This important standard has served to balance the needs of public utilities and customers for decades. HB 33 enables electric utilities to bypass the "used and useful" standard, layering on a new above-market charge on customers' power bills.

The electric utilities are already poised to benefit from recovery of costs associated with infrastructure expansion. This new language grants electric utilities swift cost recovery from customers for all net costs associated with infrastructure development and economic development projects, including funds used during construction, depreciation, a return on equity, ongoing operation and maintenance expenses, tax expenses, project planning costs, and right of way costs. Cost recovery from customers is to make the electric utility whole after they have already received funds from the All Ohio Future Fund for the economic development projects.

However, the amount of money to be collected – and the method of collection from customers to support potential site-ready economic development projects that may never come to fruition or

infrastructure that may never be used – is unlimited and unspecified. This would leave much discretion to the electric utilities and PUCO to choose which businesses are winners and losers.

More specifically, there are no caps on spending or cost recovery from customers or guidance as to how the costs will be allocated or collected. The broad types of costs that can be recovered for an infinite number of projects and infrastructure upgrades from electric utilities would be unwieldy for customers.

The new law will increase customers' electric bills, erode important customer protections, and enable electric utilities to get paid for potential "economic development" or "infrastructure" projects that might never be used.

The OMA urges the House to refrain from making significant changes to public utility law inside of the state's operating budget and to instead evaluate modifications through a comprehensive, transparent committee process. On behalf of Ohio's manufacturing industry, we urge the removal of these troubling provisions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan Augsburger". The signature is fluid and cursive, with a large initial "R" and "A".

Ryan Augsburger
President, The Ohio Manufacturers' Association

cc: Ms. Brittney Colvin, Majority Chief of Staff
Mr. Jordan Plottner, Minority Chief of Staff