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Before
The Ohio House of Representatives

Energy Committee
Testimony on House Bill 15

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Proponent Testimony on Behalf of the Ohio Energy Leadership Council

February 12, 2025

Chair Holmes, Vice-Chair Klopfenstein, Ranking Member Glassburn, and Committee members. My name is David Proaño, and I am a partner representing clients on energy and utility matters at the law firm of Baker & Hostetler, where I have practiced law for over 20 years. My testimony today is on behalf of my client, Ohio Energy Leadership Council, as a proponent of House Bill 15.

Relevant to my testimony, my practice is devoted to representing clients before the Public Utilities Commission of Ohio in rate cases and utility matters, including electric utility distribution rate cases and electric security plan cases. Since October 2022, I have served as regulatory counsel to the Ohio Energy Leadership Council, known as OELC, which is the premier trade association in Ohio that represents the interests of large commercial and industrial customers in energy, utility and rate matters.

For more than four decades, OELC has represented energy-intensive manufacturing, industrial, institutional, education, and retail businesses on utility matters in Ohio. Our members include steel companies, chemical processing companies, materials and equipment manufacturers, educational institutions, retail business establishments, petroleum refiners, recycling and scrap steel companies, and many other businesses across the State of Ohio. Our members collectively spend billions of dollars on annual energy expenditures and consume over four billion kWh in electricity in Ohio each year, or the equivalent electricity usage of nearly 400,000 residential homes in Ohio. Our members are located in each of the four major electric utility service territories in Ohio.

As major contributors to Ohio's economy, our members utilize their energy expertise to advocate for fair and transparent energy rates and promote reliable and reasonable utility service. Our mission, quite simply, is to keep Ohio's energy and utility costs competitive for existing and new businesses that fuel Ohio's economy and jobs.

Because OELC supports reasonable rates, competitive energy markets, and transparency in the PUCO ratemaking process, we support House Bill 15. Specifically, OELC's members have experienced and believe in the benefits of free and competitive markets, and as a result of those markets, have made significant investments in Ohio providing many jobs and economic benefits for Ohioans. Many of the provisions in Ohio law that would be eliminated by House Bill 15 are antithetical to free and competitive markets, including huge subsidies paid by Ohio ratepayers to AEP Ohio, Duke Energy Ohio and AES Ohio related to their ownership stakes in OVEC, which operates aging coal plants in Ohio and Indiana. Those subsidies are paid by Ohio ratepayers through the Rider LGR charged to residential, commercial and industrial customers in all four utility service territories in Ohio. Those subsidies have cost Ohio ratepayers over $100 million in 2020 alone, and there is no good reason why Ohio's utilities should be subsidized for ownership stakes in these coal plants.

Other subsidies that would be eliminated by House Bill 15 include the so-called Solar Generation Fund, through which Ohio's ratepayers are charged $20 million each year to subsidize a fund used for large-scale solar generation plants in Ohio. OELC believes these facilities do not require additional subsidies for development, as demonstrated by the significant number of renewable projects in PJM's queue. In fact, PJM's 4 R's report ("Resource Retirements, Replacements & Risks") published in February 2023 noted that PJM's queue stood at approximately 290 GW of installed generation capacity interconnection requests, of which nearly 94%

(271 GW) was composed of renewable and storage-hybrid plants. PJM also noted that 5.2 MW of solar is needed in order to replace 1 MW of thermal generation.[1]

OELC also supports House Bill 15's provisions that would eliminate the ability of Ohio's utilities to own generation. Ohio is a competitive and free market, and Ohio's electric utilities should be strictly in the business of safely and reliability delivering that competitively sourced electricity to Ohio consumers. Under no circumstances should we give Ohio's electric utilities monopoly power over generation. We should look to the competitive markets for that power, and find ways without the use of subsidies to encourage new generation resources in our state, including allowing the co-location of large load with existing or new generation facilities, facilitating the development of customer-site and behind-the-meter generation projects, and reforming the interconnection and power siting process to make it more efficient and less costly to start up new generation.

Ohio's ratepayers would also benefit from the elimination of Electric Security Plans, which have resulted in a proliferation of riders and have allowed electric utilities to extend the time between rate cases, sometimes by 15 or more years. On the positive side, ESPs have permitted the development of critical interruptible, transmission and economic development programs for Ohio's businesses that have been instrumental in keeping Ohio an affordable and competitive state in which to do business. Accordingly, some amendments are necessary to ensure that Ohio remains attractive for large manufacturers and energy users that rely on affordable energy and utility rates to remain in operation and expand in this state.

Specifically, the elimination of ESPs would have the very negative outcome of unintentionally eliminating utility programs that have become instrumental to keeping Ohio affordable for manufacturers in this state. Dozens of Ohio's most important employers are in reliability programs called "interruptible" programs that allow the utilities to drastically reduce the power to those companies when necessary to keep the grid stable. These companies can be interrupted at any time, meaning essentially shut down, and for however long is needed in exchange for monthly interruptible credits. These crucial interruptible programs, which between

[1] *See* *https://www.pjm.com/-/media/DotCom/library/reports-notices/special-reports/2023/energy-transition-in-pjm-resource-retirements-replacements-and-risks.ashx*

AEP Ohio and FirstEnergy include as much power as a 1 GW natural gas power plant, are a crucial tool to keep Ohioans' lights on when electricity demand is high and power is needed most. The interruption of the industrial load in these programs is equivalent to immediately turning on a 1 GW power plant in Ohio and is a powerful tool to keeping the lights on for our residential customers and critical businesses during times of emergency and extreme weather events -- 1 GW can power around 750,000 to 1 million residential customers!

These interruptible programs proved themselves during Winter Storm Elliot on the eve of Christmas in 2022, with those customers being interrupted over two days, ensuring that residential customers had light and heat during those extremely frigid days. Likewise, we would need to preserve the ability of the utilities to propose transmission and economic development programs that also help with grid reliability and are critical to keeping businesses in Ohio. Over one hundred Ohio businesses are in either AEP's or FirstEnergy's transmission programs, called "pilot" programs, and these important programs could be eliminated with the ESPs without a necessary adjustment to Ohio's ratemaking statute.

Accordingly, if we are going to eliminate ESPs, Ohio's ratemaking statute needs to be updated to permit the Public Utilities Commission of Ohio to approve interruptible programs that provide these important grid reliability benefits for all Ohioans. We also need an amendment to allow for the orderly transition away from ESPs because, as currently drafted, House Bill 15 could immediately eliminate these programs for utilities operating under expired ESPs, such as FirstEnergy.

Finally, no discussion of reform of Ohio's energy laws is complete without a discussion of transmission reform. This is one subject matter OELC would like to see addressed in House Bill 15. Specifically, we must allow the Ohio Power Siting Board to have jurisdiction over supplemental projects built at 69 kV, which is below the current jurisdictional threshold of 100 kV. Supplemental projects by transmission companies in Ohio, such as AEP Transco and ATSI, receive virtually no review at PJM, and if below the 100 kV level, they receive zero review from the Ohio Power Siting Board. This is a regulatory gap that has allowed the unchecked proliferation of 69 kV supplemental transmission projects in Ohio, the costs of which are allocated 100% to Ohio ratepayers through the transmission riders that ratepayers pay to every single electric distribution utility.

For example, in 2022 alone, AEP's zone had \$26 million in baseline transmission projects but \$469 million of supplemental transmission projects. This out-of-control transmission spending has cost Ohio's businesses, including OELC's members, dearly, leading to shocking transmission cost increases over the past decade and reducing the competitiveness of Ohio's energy markets for existing and new businesses. There must be some checks and balances, and regulatory oversight, over these projects, and OELC is ready to work with this committee to introduce amendments to House Bill 15 that would allow for review of 69 kV supplemental transmission projects by the Ohio Power Siting Board.

For these reasons, the Ohio Energy Leadership Council respectfully urges that this committee pass House Bill 15 out of this committee with the amendments discussed today necessary to keep Ohio affordable, competitive and attractive for existing commercial and industrial customers in this state and new businesses looking to locate their facilities to this state.

Thank you for your consideration. I welcome any questions from the committee.

D.F.P.