SUBSTITUTE HOUSE BILL 15 (-5) OF THE 136TH OHIO GENERAL ASSEMBLY
TESTIMONY OF AMY SPILLER, STATE PRESIDENT OF DUKE ENERGY OHIO
BEFORE THE OHIO HOUSE ENERGY COMMITTEE

March 18, 2025

Chair Holmes, Vice Chair Klopfenstein, Ranking Member Glassburn, and members of the Ohio House Energy Committee:

My name is Amy Spiller, and I am President of Duke Energy Ohio. I lead the company's business, regulatory, and legislative functions that facilitate the provision of safe and reliable energy services and solutions for our 700,000 electric and 490,000 natural gas customers in southwest Ohio, continuing the nearly two-hundred-year legacy of our predecessor companies. Thank you for the opportunity to testify on the most recent version of Substitute House Bill 15 (Sub. H.B. 15).[1] I wish to incorporate by reference elements of my earlier testimony on H.B. 15, as introduced, to the extent that the relevant bill provisions have remained unchanged in Sub. H.B. 15.

I. Electric and natural gas utilities play an essential role in our customer's lives and our shared economic prosperity.

Energy is the one input common to every good produced and service delivered, and the critical infrastructure that Duke Energy Ohio builds, operates, maintains, and safeguards helps to bring economic opportunities to the communities we serve. In 2023, our economic development team partnered with local and state government authorities to help create 276 new jobs and bring $263 million in new capital to Greater Cincinnati.

We share the state's goal of succeeding in regional, national, and worldwide economic arenas. And we know that reliable and abundant energy is the bedrock upon which American artificial intelligence (AI) innovation, deployment, and dominance will be built. Indeed, Duke Energy recently outlined energy-related priorities to the Trump Administration that will help the United States meet its new, AI-driven data center electric load demands, thereby enabling the country to enhance its economic strength, buttress its national security objectives, and support the American people. (See Appendix A.)

II. Sub. H.B. 15 has improved in some ways but more work is needed.

[1] Legislative Services Commission. (2025). L_136-0688-5.

Since its introduction, Sub. H.B. 15 has evolved considerably. In some respects, the bill now attempts to address concerns raised in my prior testimony on the as-introduced version of the bill. Despite those improvements, Duke Energy Ohio still opposes passage of Sub. H.B. 15 because in the aggregate the policy provisions it now contains still pose significant challenges to our ability to meet the needs and expectations of our customers and communities. Currently, we find that Sub. H.B. 15:

- Adopts a forward-looking framework for ratemaking, yet amendments are required to create a modernized 21st-century approach to the setting of base rates
- Erodes confidence in the ability to make sound and timely business decisions
- Injects risk and inefficiencies into critical infrastructure projects, which would have a deleterious effect on reliability and economic development
- Violates the cost causation principle and state policy for electric generation
- Creates costly additional regulatory requirements that will drive up project costs

III. Ohio needs a modernized utility regulatory model and while Sub. H.B. 15 now attempts to provide such an approach, amendments are needed to ensure its benefits are fully realized.

Sub. H.B. 15 would provide electric distribution utilities with the ability to file a base distribution rate case with both investments and expenses forecasted for the first year, but only investments for the second and third plan years. Upon completion of the first year, utilities would true-up their actual investments and expenses through a cost recovery mechanism approved by the Public Utilities Commission of Ohio (Commission). In years two and three, however, the true ups would only cover invested capital. As compared with current law, this approach provides customers with greater predictability and levelizing of base distribution rates. It also helps utilities better plan capital investments and make expense-related decisions that can help reduce customer costs. However, the omission of forecasted expenses in the second and third years and the lack of true up to actual expenses in the second and third years causes this methodology to fail to fully address a situation plaguing Ohio, that of regulatory lag.

For those who may be unfamiliar with the term, regulatory lag is the time between when investments are made or expenses are incurred, and when those investments and expenses are recovered through utility rates. Regulatory lag is important to individual customers for the very reason that it is important to the utilities that serve them. That is, increased

regulatory lag negatively impacts the financial health of utilities and thus increases the utility's cost of capital. This cost must be paid to creditors and ultimately collected from customers through base rates. Put simply, less regulatory lag translates to lower cost of service.

Of note, Ohio currently ranks dead last among the fifty states for regulatory lag – even worse than California and New York. This subject and its importance to Ohio's economic future is addressed in the Ohio Business Roundtable's comprehensive Energy Competitiveness Study, which correctly states that "[r]egulatory lag has tangible economic consequences, including making Ohio less competitive in attracting infrastructure investments compared to states with more timely cost-recovery mechanisms," and that "[e]nsuring utilities have access to necessary funding in a timely manner will accelerate the construction of critical energy assets, supporting Ohio's resource adequacy and long-term energy resilience."[2]

Sub. H.B. 15 also contains mandatory, enforceable deadlines for the issuance of opinions and orders by the Commission relating to rate cases. This improvement to state law will provide much needed certainty for customers, regulators, and utilities. And such certainty will help increase the state's ability to attract new businesses and the jobs that follow. However, Sub. H.B. 15 should more fully address regulatory lag. We suggest that the bill should be amended to require the incremental capital investment made in each plan year be measured as of a date certain at the midpoint of each year. In addition, revenues, expenses, and billing determinants (number of customers, amount of electricity consumed, etc.) should be updated annually in setting base rates, as well as in considering true-ups to actual results (*i.e.*, the second- and third-year updates should operate the same as the first-year update). Our proposal should be adopted as it aligns with principles in current law, reduces regulatory lag, and benefits customers by providing a means through which they may realize potential utility cost savings.

IV. Sub. H.B. 15 erodes business confidence in state law at a time when policymakers should be sending the opposite signal.

The Legacy Generation Resource (LGR) statute that would be repealed by Sub. H.B. 15 was established by policymakers to mitigate a portion of customers' exposure to volatile wholesale commodity markets. Before the state codified the LGR provisions, similar constructs were approved by the Commission, and its decisions were affirmed by the Ohio

[2] Ohio Business Roundtable. (2025). Economic Competitiveness Study.

Supreme Court. Duke Energy Ohio has since made business decisions that rely upon the existence of the LGR law through the statutory sunset of December 31, 2030. Abruptly repealing parts of state law – no matter the industry involved – without providing a means of redress or alternate remedy sends a chilling message to the business community and is thus antithetical to economic development. If the state is determined to remove the LGR statutes from law, it should provide entities such as Duke Energy Ohio – that relied upon and followed the law – with a different path down which we can proceed and a reasonable amount of time to do so.

V. Subjecting lower-voltage critical infrastructure projects to unwarranted red-tape bureaucracy would severely jeopardize local reliability and economic development.

Sub. H.B. 15 expands the reach of government certification requirements administered by the Ohio Power Siting Board (OPSB) to electric grid projects at voltage levels as low as sixty kilovolts, down from the existing level of one hundred kilovolts. Duke Energy Ohio routinely constructs lower-voltage projects to address local system reliability concerns and to support local economic development projects. We estimate that this additional regulation will triple the number of project applications filed by our company at the OPSB and cause unwarranted delays in many of those projects. Sub. H.B. 15 would also add to the cost and timeline of replacing existing circuits of one mile or more with new equipment that is essentially identical by subjecting them to OPSB jurisdiction. Such delays place at risk the ability for Duke Energy Ohio to complete projects in the time frame desired and expected by our customers and local government partners.

Consider, too, that every certification decision issued by the OPSB is immediately appealable to the Ohio Supreme Court, thereby subjecting crucial reliability and economic development projects to a potentially years-long timeline for final resolution. As a result, more appeals may follow, thereby creating the risk of uncertainty, adding to project costs and potentially expanding project timelines. Economic development prospects would also have to account for such costs and delays in their decisions as to whether to locate a new facility in Ohio or another state. This regulatory expansion would significantly impede and in some cases prevent the construction of critical infrastructure projects that are necessary for reliability and economic development. Thus, the current requirement for certification of projects above one hundred kilovolts should be retained and the additional changes to siting requirements that are incorporated in the bill should be eliminated.

VI. The Community Energy Program, an expansion of the community solar concept, shifts developer risk to utility customers and creates unfair and inequitable outcomes for customers.

Duke Energy Ohio acknowledges and supports the efforts of lawmakers to provide solutions to the electricity supply challenges faced by Ohio. But those solutions should not violate principles fundamental to Ohio ratemaking and the provision of retail electric service. A tenet found in Ohio ratemaking is cost causation, which simply means that each customer should pay for costs of service they cause. The Community Energy Program (Program) will unfairly force non-subscribing customers to pay for subscribing customers' use of the electric grid through a bill savings credit. Such credit would include the subscribing customer's cost of using the transmission system, which proponents of the program claim should be avoided because their facilities connect directly to the distribution grid. This assertion reflects a poor understanding of the laws of physics and the engineering of electric grids. Consider that each subscribing customer takes power, as needed, at their location around the utility's service territory. These customers are using both the transmission and distribution grids to *physically obtain the power that they consume – 100 percent of the time*. Physics dictates that the load of every customer will draw power through both transmission and distribution grids, regardless of whether a customer is or is not contracting with a community energy organization. It is critically important to the centuries-old regulatory paradigm that customers who cause a utility to incur transmission and distribution costs must bear those costs.

The Community Energy Program shifts the risk of the community energy facility developer onto non-subscribing customers. This not only violates the cost causation principle, but it also runs afoul of the policy of the state of Ohio whereby the risk of building, owning, and operating generation supply is to be borne by private company shareholders rather than ratepayers – a policy reinforced in several other parts of Sub. H.B. 15. Duke Energy Ohio appreciates the desire of the state and our customers to explore distributed energy resource opportunities, and this subject may be ripe for additional stakeholder discussions. However, given the flagrant cost and risk-shifting policy violations of the proposed Community Energy Program, as well as the many customer-fairness concerns raised, these provisions should be stricken from the bill.

VII. The pursuit of innovation in the engineering of the nation's transmission grid is laudable, but the addition of new and overly burdensome regulatory requirements is unnecessary and counterproductive.

Sub. H.B. 15 would add several new mandates to Ohio regulatory law related to an engineering concept identified as "advanced transmission technology." Duke Energy Ohio agrees that modernized technologies should be encouraged and used, where reasonable, but the bill adds requirements that are too costly and time-consuming for the purported benefits. Changes proposed in the bill would require every application relating to a transmission line to include a summary of studies conducted by the applicant concerning the use of advanced transmission technologies. In addition, every OPSB decision would have to find that indeed the project has suitably considered implementation of such technologies. On its face, the premise may sound reasonable, but there is more to this story.

Duke Energy Ohio always engineers its projects to maximize value, capacity, and reliability. Yet the studies mandated by this bill would require a new level of modeling, based on numerous technical data inputs, to be accomplished by personnel using software systems not currently designed for that purpose. The resultant additional costs, and likely delays in the preparation of the many applications that would be required based on the bill's expansion of OPSB jurisdiction, will increase the cost of service that must ultimately be borne by customers. Duke Energy Ohio suggests that the related provisions be stricken from Sub. H.B. 15 and that this body consider a comprehensive stakeholder process for evaluating how best to unlock the potential of evolving grid-enhancing technologies.

VIII. Conclusion

I appreciate the opportunity to share with this committee Duke Energy Ohio's informed perspectives on Sub. H.B. 15, which we recognize contains some benefits for our electric and natural gas customers and our company. When balanced against the issues I have addressed in my testimony, however, we must currently maintain our opposition to passage of the bill. We appreciate your willingness to listen to our concerns and suggestions. And, we welcome the opportunity to continue working with you and other interested parties on improvements to address the issues covered in my testimony. With those improvements, Sub. H.B. 15 would be better able to advance the mission of the chair and this committee of ensuring Ohio citizens have access to reliable, resilient, and affordable energy.



Duke Energy support for the development of the AI Action Plan

A reliable and abundant energy supply is the bedrock upon which American artificial intelligence (AI) innovation, deployment and dominance will be built. Duke Energy stands ready to provide the energy needed to unleash AI technology's powerful potential in America. In this era of unparalleled opportunity, we are investing $83 billion to add 12.5 gigawatts of energy by 2030. That's enough to power 10 million homes – twice the number that are in our home state of North Carolina. Ensuring a steady and secure power supply 24/7 is critical to serve the growing energy needs of AI while keeping costs affordable for our customers across the Southeast and Midwest. Smart policy solutions can provide the additional energy generation needed and advance our shared goal of building resilient and modern energy infrastructure to power our growing AI-enabled economy.

Key Actions to Accelerate Speed to Market for New Dispatchable Resources by 2-4 years

- *Streamline federal regulatory approval process*
- *Expedite environmental permits, including by working with states*
- *Increase certainty of natural gas supply pipelines*
- *Accelerate domestic production to improve critical equipment delivery times*
- *Fast track interconnection of power plants to the grid*

How policy can help

1. Promote American-made supplies of critical components to strengthen the energy generation supply chain
2. Expedite siting and permitting for critical energy infrastructure while protecting the environment
3. Fast track grid interconnection for new generation facilities necessary to support AI data centers
4. Focus on grid stability
5. Unlock grid flexibility through data center demand response
6. Unleash private investment in energy infrastructure
7. Enhance energy grid defense

We're moving and leading the industry – Duke Energy fast facts

- Operating ~55 Gigawatts of energy capacity for 8.4 million electric and 1.7 million natural gas customers
- Investing $83B across our seven-state footprint to increase generation capacity by more than 20% (nearly 12.5 gigawatts by 2030)
- Developing new customer solutions to meet evolving needs while protecting reliability and affordability for all customers
- Protecting against cyberattacks and natural disasters by meeting high standards for grid security and resilience
- Partnering with the federal government, U.S. military and technology companies to provide generation and secure grid access to critical installations
- Helping to finance the next generation of nuclear by earning more than half a billion of nuclear production credits in 2024, which flow dollar for dollar back to customers

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