



An **AEP** Company

BOUNDLESS ENERGY™

March 18, 2025  
Before the House Energy Committee  
Opponent Testimony on House Bill 15

Chair Holmes, Vice Chair Klopfenstein, and Ranking Member Glassburn, my name is Steve Nourse, VP-Legal for AEP Ohio. Thank you for allowing me to testify today in opposition to House Bill 15 (HB15).

Headquartered in Gahanna, AEP Ohio serves 1.5 million customers across 61 counties throughout Ohio. With over 1,300 employees that live in the communities we serve, AEP Ohio is proactively working to redefine the future of energy in this state, in addition to developing innovative solutions that power communities and improve lives all across Ohio.

AEP Ohio appreciates how the committee made some needed changes in the current substitute bill. Additional enhancements in the ratemaking provisions, a pass-through mechanism to continue recovery of wholesale transmission charges, and a transition for ending Electric Security Plans (ESPs) are examples of substantial improvements made since HB 15 was introduced. As discussed below, however, AEP Ohio is concerned that the current substitute bill also added some harmful provisions and there are still important changes that need to be made.

For the reasons below, we feel that HB15 currently falls short of protecting Ohioans and consumers. AEP Ohio will continue to work with legislators and stakeholders to develop a more balanced set of energy policy updates that promote reliability and affordability for our customers, while also continuing the positive trend of economic growth in this state.

### **Repeal of electric security plans**

As our prior testimony outlined, the ESP statute was originally designed, and has been applied, to benefit consumers. Throughout the years, the PUCO has continuously concluded that ESPs have resulted in billions of dollars of savings to AEP Ohio consumers. That being said, we continue to work with legislators on a framework of repealing the ESP statute in tandem with implementing a more efficient and flexible ratemaking process that minimizes cost recovery lag while also ensuring that customers only pay for prudent costs being incurred to provide reliable service.

Although significant progress has been made on this front, additional changes are needed. Specifically, AEP Ohio proposes amendments to the Dash 4 version of HB 15 that would streamline rate updates for the three-year plan by providing that a date certain shall be used to measure incremental capital investment. In addition, revenues, expenses, and billing determinants should be updated annually during the plan to reflect actual costs at that time (*i.e.*, for the second- and third-year updates to operate the

same as the first-year update). This approach aligns with current law that requires a date certain, mitigates regulatory lag, and protects customers by truing up to actual expenses (*i.e.*, customer would receive the benefit of any utility cost savings during the plan).

### **Repeal of the legacy generation rider**

The story of OVEC in Ohio has gone on for nearly 70 years. And in recent times, the importance of OVEC as a baseload resource has been shown time and time again. As loads grow and existing generation units continue to retire, Ohio needs all the generation resources we can get. OVEC also serves as an important power source for municipal power and cooperative electric companies. And OVEC's units are being dispatched by PJM because OVEC's units are essential to making sure there are no disruptions for customers.

AEP Ohio understands that this committee wishes to remove ratepayers from OVEC. If that is the path this committee wishes to take, a reasonable phase out is needed to manage this transition. Under current law, Ohio's EDUs have until 2030 to do that, but accelerating that time frame to 2028 would be more reasonable than an immediate transition, which the substitute bill currently does. Furthermore, the abrupt withdraw of cost recovery for the legacy generation will result in a substantial financial impairment for AEP Ohio after we already took a multi-billion dollar write down related to deregulation. Such a significant financial impairment will likely drive up the cost of capital for AEP Ohio – a cost that will be placed directly on the backs of ratepayers – and hinder AEP Ohio's ability to invest in grid upgrades needed to fuel the growing economy in Ohio. A reasonable phaseout will avoid these disastrous outcomes.

### **Competitive service restrictions and behind-the-meter provisions**

Contrary to popular belief, EDUs do own generation resources and provide competitive retail electric services under current law (e.g., customer-sited renewable projects, renewable energy purchase agreements, OVEC ownership, and reasonable arrangements approved by the Commission). So, the inclusion of "no generation" in the definition of an electric distribution utility (EDU) in lines 1909-1910 should be deleted because it is highly problematic and will cause massive confusion. And a similar overbroad cross-reference remains in R.C. 4928.17 (lines 3001-3002) in the current substitute bill that could be interpreted to restrict activities electric utilities lawfully do today under provisions not affected by the bill. More accurate cross-references like the one in lines 2418-2419 of the substitute bill are needed to be consistent and to more accurately exempt activities done under current law.

Having behind-the-meter generation on a customer site is a good way to supplement existing generation resources, but permitting a virtual power plant concept would impose substantial costs on the grid that would be funded by other customers. The Committee's new provisions in lines 2072-2080 are helpful for the "self-generator" definition in R.C. 4928.01, but a requirement for the generation facility to be adjacent to the customer site like it was in the parallel provision for mercantile customer self-power system in lines 4034-4041.

Finally, repeal of the current law that allows for a business to contract directly with a utility for behind the meter renewable energy is hard to understand at a time when an “all of the above” approach is needed to solve the lack-of-generation problem that currently plagues this state. Ratepayers do not pay a single penny for these projects, and only the business contracting with the utility does.

As an alternative, AEP Ohio proposes to either restore R.C. 4928.47 or adopt an amendment after line 310 to insert a new section of the Revised Code, as follows: “Sec. 4905.311. Notwithstanding any provision of the Revised Code to the contrary, and beginning on and after the effective date of this section, an electric distribution utility, as defined in section 4928.01 of the Revised Code, may enter into a reasonable arrangement with a mercantile customer to provide behind the meter electric generation supply, but the utility shall not recover any costs associated with such arrangement through any rate, charge, or recovery from retail electric service customers not a party to the arrangement.”

Or, at a bare minimum, contracts entered into prior to the effective date of the legislation must be grandfathered, in order to avoid an unlawful impairment of contracts and/or an unlawful retroactive law under the Ohio Constitution.

### **Community Energy program, new OPSB regulations and new Heat Map regulations**

These provisions socialize unjustified subsidies on all ratepayers in Ohio by shifting costs from participating customers to non-participating customers. Specifically, it would allow participating customers to avoid paying for distribution and transmission system charges (i.e., not just generation charges), despite receiving power through those facilities. And instead, it would require other customers to cover those costs. In other words, it will cause rate increases for non-participating customers so that solar developers can get a subsidy.

The proposed changes in the bill for expanding Power Siting regulations and jurisdiction should also be rejected. These changes will cause even greater delays that would be detrimental to economic development and to the provision of adequate service to customers.

Finally, the so-called “heat maps” (as codified in new sections 4928.83 through 4928.87 of the Revised Code and in uncodified Section 7 of the bill) will create new regulations and overstep the bounds of the PUCO’s retail jurisdiction. Even more troubling is how these “heat maps” will (1) jeopardize grid security by disclosing key infrastructure data to foreign adversaries, (2) be very expensive, (3) provide little benefits, and (4) bureaucratically micromanage a utility’s grid planning function. Advanced transmission technologies are already considered as appropriate in the PJM planning process but are seldom used. Thus, the net effect of these new provisions will be additional regulation and no demonstrated benefit.

### **Conclusion**

We urge the committee to carefully consider the implications of this legislation and AEP Ohio stands ready to provide solutions that puts Ohioans first – by working to amend the bill in a way that addresses the major concerns outlined above. I am happy to answer any questions at this time.