

Substitute House Bill 15 of the 136th Ohio General Assembly

Opponent Testimony of Torrence L. Hinton

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Chair Holmes, Vice Chair Klopfenstein, Ranking Member Glassburn, and members of the Energy Committee, my name is Torrence L. Hinton, and I am the President of FirstEnergy Ohio. I joined FirstEnergy in June 2024. FirstEnergy is headquartered in Akron, and its ten regulated distribution companies form one of the nation's largest investor-owned electric systems serving six million customers in the Midwest and Mid-Atlantic regions. FirstEnergy's distribution utilities operate more than 269,000 miles of distribution lines and are dedicated to providing customers with safe, reliable, and affordable service.

FirstEnergy's three Ohio electric distribution utilities (EDUs), Ohio Edison, The Illuminating Company and Toledo Edison, serve more than 2.2 million customers within 10,900 square miles of northern and central Ohio with nearly 4,800 employees. Since 2013, our economic development efforts have helped facilitate more than 34,000 new jobs and nearly \$20 billion in investments in the state of Ohio. Since 2023 we have made significant investments in transmission and distribution projects designed to enhance service reliability for customers. We paid approximately \$725 million in state and local taxes in 2024, including income and property taxes, and purchased more than \$1.6 billion in goods and services in 2024.

On behalf of our three distribution utilities, as well as FirstEnergy's transmission subsidiary serving Ohio, American Transmission Systems, Inc. (ATSI), I appreciate the opportunity to offer testimony on portions of Substitute House Bill 15.

Electricity is the lifeblood of the communities we serve. FirstEnergy shares this Committee's goal of ensuring the delivery of safe, reliable, and affordable power to our Ohio customers. While Ohio policy is to promote competitive markets for electric generation service, through independent power producers (IPPs) and competitive retail electric service (CRES) providers, transmission and distribution service are provided by regulated utilities like FirstEnergy.

Given the rigorous standards and capital investment required, the delivery of electricity through transmission and distribution lines operates under a regulatory compact. Under the compact, the utility is obligated to provide electric service within an exclusive service territory at just and reasonable rates which give the utility an opportunity to earn a fair return on its investment, and the utility submits to full regulatory scrutiny of its costs and operations. Generation service has no similar regulatory compact, and its pricing is subject to competitive market forces.

FirstEnergy respects the General Assembly's intent to focus on competitive market solutions to address generation resource adequacy across Ohio and the surrounding region, and to provide choice of generation providers for the citizens in Ohio and to power growth and development within our communities. However, some of the changes proposed in Substitute H.B. 15 do not

promote competitive generation markets and would hinder regulated utilities' ability to deliver safe, reliable transmission and distribution service. Substitute H.B. 15's changes will eliminate important tools and flexibility currently available to the Public Utilities Commission of Ohio (Commission) to respond to changing circumstances that may impact the safety and reliability of electric operations and adversely affect our customers and our communities.

First, we understand the intent to eliminate the electric security plan (ESP) statute and transition to a new ratemaking construct with rate cases based on three years of projected costs. As written, however, the legislation would not allow the Commission to consider pending ESPs. For instance, our pending ESP proposes programs to support reliability and affordability for customers, including a continuation of our capital investment rider to recover costs of investments in the distribution system made since May 2024.

While we are supportive of the transition from ESPs to rate cases with future test periods, there must be a reasonable transition that provides us an opportunity to recover costs of ongoing capital investment made after May 2024 until those costs can be recovered in new rates.

Allowing pending ESPs to move forward will support a reasonable transition and provide regulatory stability that benefits both utilities and customers, by ensuring that service remains reliable and cost-effective while also providing the financial clarity necessary for utilities to make critical infrastructure investments. A well-structured transition including our pending ESP will minimize disruption, avoid unintended consequences, and support Ohio's economic development by maintaining strong and financially healthy electric utilities. Absent a reasonable transition, we may need to temporarily curtail our investment in the distribution system in Ohio until we have an opportunity to seek timely cost recovery again.

As I mentioned, Substitute H.B. 15's new ratemaking construct allows electric utilities to propose base rate changes for up to three consecutive twelve-month periods using a forecasted test period, which will help support recovery of capital investments once those new base rates go into effect. However, Substitute H.B. 15 as proposed would only allow utilities to adjust the amount they recover in years two and three for the return of, and return on, incremental rate base additions. To ensure recovery of all costs of capital investments, the adjustments to revenue in years two and three also need to include recovery of applicable taxes, including property taxes.

Second, we are concerned that several brand-new proposals included in versions of Substitute H.B. 15 issued last week have not been sufficiently reviewed by all parties and could lead to increased customer costs and more barriers for customers seeking to connect to our systems.

- The additions to the Power Siting section will delay transmission infrastructure projects necessary to keep the grid reliable and efficient. It appears that more oversight of transmission expansion is the goal of these additions; however, these requirements, including changing the definition of "major utility facility" from 100 kV to 60 kV, will likely only result in longer project durations, increased costs to customers, and no reliability benefits.
- Giving nonresidential customers the option to self-build transmission and distribution line extensions would jeopardize the safety and reliability of the power delivery system. Our

transmission and distribution systems operate under rigorous standards and protocols. Under this proposal, these systems would be at greater risk if a customer does not meet the high bar of minimum standards that our utilities meet and exceed with every project.

- The community energy pilot program appears to be complex and could benefit from further analysis, including but not limited to, potential administrative challenges regarding program implementation and interconnection, as well as economic impacts on participating and non-participating customers.
- The requirement for utilities to publish hosting capacity maps of the transmission system creates security risks. Transmission line hosting capability is critical energy/electric infrastructure information (CEII), Non-Public Transmission Information (NPTI), and Critical Infrastructure Protection (CIP) information that should be kept confidential. Further, Substitute H.B. 15's requirement to publish hosting capacity maps of the distribution system is unnecessary. Our Ohio distribution utilities have already committed to implementing a circuit-level solar accommodation map and a circuit capacity hosting heat map in our most recent Grid Modernization case before the PUCO.

A more collaborative approach, with ample time to review these additions, would better serve the collective goal of crafting the most effective legislation. We would be happy to engage in these future discussions.

Third, Substitute H.B. 15's proposed changes to transmission siting provisions could cause Ohio transmission siting to encroach on the regulation of transmission planning and transmission rates – matters that Ohio does not regulate. Ohio's transmission siting determinations are limited to considering the action of locating a transmission line in a particular place. In contrast, transmission planning is conducted in PJM's transparent stakeholder forums, and transmission rates and costs are regulated by FERC.

Substitute H.B. 15's proposal that OPSB siting determinations consider cost or alternatives would cause the OPSB to make determinations about the need for a line, a transmission planning matter. Also, Substitute H.B. 15's proposal to require competitive bidding for transmission facilities and components would cause the OPSB to regulate costs and rates, a matter FERC regulates applying its prudence standard of review. These encroachments into areas outside state jurisdiction create litigation risk and attendant delay.

Further, the proposed requirements to consider competitive bidding and alternatives could delay the in-service dates of transmission facilities needed to improve the regional transmission grid. These projects are already vetted through the PJM process, which considers cost and alternatives where appropriate.

Lastly, Substitute H.B. 15's requirement that the OPSB, before granting a certificate for a transmission line, find the project could not be addressed through construction or replacement of a distribution line or facility, is impracticable under Ohio law. FirstEnergy's Ohio transmission subsidiary, ATSI, is a stand-alone transmission utility that by law is a separate legal entity from our distribution utilities. ATSI does not plan the distribution system nor design facilities for our distribution utilities.

Finally, PJM forecasts indicate demand will exceed generation supply by 2030. Current law positions the utility as a backstop if competitive markets cannot meet projected demand. The law does not contemplate utility ownership of generation unless competitive markets have already failed. While utility ownership of generation is not FirstEnergy's preferred path for Ohio, Substitute H.B. 15's elimination of utility-owned generation as a backstop removes an important tool from policymakers' toolbox as they contend with the resource adequacy challenge.

Thank you for giving me the opportunity to testify about this important legislation.