



**BEFORE THE HOUSE ENERGY COMMITTEE
REPRESENTATIVE ADAM HOLMES, CHAIRMAN**

**TESTIMONY
OF
KIM BOJKO
OMA ENERGY COUNSEL**

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(UPDATED)

Chairman Holmes, Vice-Chair Klopfenstein, Ranking Member Glassburn and members of the House Energy Committee, my name is Kim Bojko and I am a partner with Carpenter Lipps LLP. I specialize in energy, public utilities, and regulatory law, as well as energy policy, and have been practicing in this area for over 26 years. I am here today on behalf of the Ohio Manufacturers' Association (OMA) to testify on Substitute House Bill 15, Version 6 (Sub. H.B. 15) as accepted on March 19, 2025.

The OMA is a mission-driven organization comprised of Ohio's manufacturing leaders, many of which are Ohio's largest energy consumers. The OMA adopts public policy positions as a community of manufacturers, which is based on guiding principles, data-driven research and analysis, and member input. OMA has approximately 1,300 members of all sizes, many with multiple facilities and meters in the state. It is impossible to competitively operate a modern manufacturing facility without affordable energy. Simply stated, energy is very important to Ohio's manufacturing competitiveness.

Ohio has operated a competitive electric generation market for almost twenty-five years, which has allowed customers to choose who supplies their power. Competitive power markets have led to lower wholesale energy prices, advancements in technology, and new power plants. Ohio is a low-cost place to generate electricity with abundant natural resources.

Even now, Ohio has excess power. Even during cold snaps and heat waves, Ohio utilities export power outside of Ohio. Ohio utilities are investing in a multi-billion transmission project to send more power to the east coast, earning a healthy return on their investments. This abundant and diverse generation is attracting new energy-intensive manufacturers and data centers to Ohio. Ohio has a good thing going and can attract more generators with open, competitive markets. Ohio should stay the course with competitive markets while instituting common-sense policy reforms to expand competition and free markets.

To this end, we thank this Committee's leadership on this important energy bill and thank the Committee for working to protect customers.

Sub. H.B. 15 will help protect customers by addressing unfair, anti-consumer provisions embedded in current law that cost customers billions of dollars. For example, the repeal of non-bypassable, above-market charges for customers who choose to shop for their generation, and the immediate elimination of the anti-competitive subsidies that customers pay for a few solar companies and two very old coal plants (one of which is in Indiana) owned by the Ohio Valley Electric Corporation (OVEC) will save customers

hundreds of millions of dollars. Ohioans have already paid over \$670 million in total subsidies to OVEC's utility owners since 2017. In current proceedings before the PUCO, we have learned that for the three-year period of 2021-23, customers have paid over \$125.9 million dollars for OVEC. Based on historical and predicted future electricity prices, we project that this trend will continue. If the OVEC subsidies are not repealed, we estimate that Ohioans could pay over \$1.1 billion total by 2030. The plants are not being operated in an economic manner, allowing the utilities to continue to operate the old plants in the same manner will only exacerbate the harm to customers. The time to end these subsidies is now.

As many of you have heard me say, words matter and every change to the current ratemaking law will have lasting impacts on customers' bills and will likely result in some unintended consequences.

For example, the language authorizing electric utilities to forecast their test years in rate cases will incentivize utilities to forecast higher projected costs and lower projected revenues, leading to increases in customers' bills. Language in the bill also allows projected used and useful determinations, requiring customers to pay for electric facilities that are not yet used and useful in the provision of service to customers. Additionally, the language requires annual increases to the utilities' forecasted rates to provide them with an additional return on projected projects that were already included in the forecasted test year, and therefore, base rates. These changes to current ratemaking law eliminate important customer protections and allow customers' bills to increase every year based on forecasted projects. Truing up any rate base additions the following year will not result in rate certainty for customers and will eliminate any rate stability between rate cases.

While we do not believe that the current ratemaking statutory scheme is broken, we thank the Committee for improving the true-up mechanism contained in Version 5 to ensure that the utility's forecasted test years are annually trued up to actual, including the utility's profit.

We also thank the Committee for addressing OMA's concerns regarding the shortening of the deadlines for intervenors to file objections and expert testimony in rate cases, which will protect intervening customers and due process.

As this Committee is aware, in Ohio and throughout other states, transmission costs are on the rise. While all customers benefit from useful upgrades to the grid that make it more resilient, there is good reason to question the efficacy of recent utility transmission spending, most of which emanates from so-called "supplemental" projects, which receive little regulatory oversight.

In an effort to bring more oversight to these supplemental transmission projects, the prior Version 3 of Sub. H.B. 15 revised the size of transmission projects that will receive accelerated review by the OPSB from two miles to one mile (line 613). This was a positive change that would have limited the number of projects that receive accelerated review and, therefore, receive less scrutiny and oversight by the OPSB. This change was an important, positive change because, over the past 6 years, \$266 million dollars have been spent on transmission lines between 1 and 2 miles in length that have been approved by the OPSB through the accelerated process. The change from Version 3 will decrease the benefits to customers and will reduce attempts to control and limit utility over spend on supplemental transmission projects that customers have to pay. OMA encourages the Committee to revert back to the language in Version 3 (lines 525-534) and substitute that language for lines 613 through 619 in Version 6.

The OMA also encourages the Committee to ensure that customers who are participating in existing transmission programs or who have reasonable arrangements approved by the PUCO are protected from unexpected changes to their energy bills. There are ongoing PUCO proceedings regarding transmission costs and billing issues. Many parties have opined on what is the true cost to provide transmission service to various types of customers. The newly added phrase in Version 6 could contravene past PUCO orders or usurp ongoing PUCO proceedings and add uncertainty to the market. To address this concern, OMA suggests eliminating the newly added qualifying phrase in Version 6 at the end of Sec. 4909.192, beginning with “so long” on line 1813 to the end of the sentence on line 1814. The phrase should be eliminated to protect existing customer arrangements and programs that encourage grid reliability and economic development in the State and ensure that customers pay the transmission costs that they incur on the system.

While we continue to be concerned about allowing electric utilities to forecast their test years in rate cases and overturning decades of ratemaking law, we believe this legislation is a step in the right direction that will allow competitive markets to work without subsidies and without numerous electric security plan riders, and will provide much needed improvements to the electric grid through transmission spending oversight and hosting capacity maps.

The OMA is pleased to support the intent and direction of the bill and this Committee’s efforts to support competitive markets and manufacturers in Ohio. Nonetheless, further refinements to Version 6 of Sub. H.B.15 are needed to protect customers as I described above.

Mr. Chairman and members of the committee, that concludes my testimony. I would be happy to answer any questions that you may have.