



## **TESTIMONY OF THE ELECTRIC POWER SUPPLY ASSOCIATION IN SUPPORT OF HOUSE BILL 15**

The Electric Power Supply Association (EPSA) appreciates this opportunity to provide testimony in support of House Bill 15 (HB 15). EPSA strongly supports HB 15 as this legislation will enhance competition and choice for Ohio energy customers and shift investment risk away from captive ratepayers.

### **A. Background**

EPSA is the national trade association representing leading competitive power suppliers participating in power markets across the United States, including the PJM Regional Transmission Organization (“RTO”) which serves the state of Ohio.<sup>1</sup> EPSA members provide reliable and competitively priced electricity from environmentally responsible facilities using a diverse mix of fuels and technologies, including natural gas, nuclear, coal, and renewables. Our member companies own, operate, and develop critical assets in Ohio and the PJM Interconnection footprint, including over 13,000 megawatts (MW) of electric power generation located in Ohio and nearly 70,000 MW across the PJM footprint. Unlike vertically integrated utilities, EPSA’s power producers have invested billions of dollars in Ohio and the PJM region at their own risk, without the guaranteed rate of return shouldered by captive customers. These generators can do so

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<sup>1</sup> These comments represent the position of EPSA as an organization, but not necessarily the views of any particular member with respect to any issue.

thanks to the voluntary decisions of Ohio and other PJM states to depend on competitive markets to deliver safe, reliable electricity at the lowest cost to consumers rather than relying on the cost-of-service regulation model for generation resources. EPSC members rely on this competitive model to provide power to Ohio customers and the broader PJM region and invest in the continued maintenance and operation of these resources which support operational, maintenance, and management jobs, local and state tax revenues, and other aspects of the local communities where those assets are located. This model continues to deliver for Ohio and PJM; in just the last month, meaningful additions to generation capacity have been announced, including significant updates here in Ohio. These critical investments will help Ohio, and the region, meet new demand and preserve reliability while keeping risk with investors, not consumers.<sup>2</sup>

#### **B. The Opportunities for Ohio to Benefit from Investment are Significant and Can be Optimized for the Benefit of All**

The United States is set to experience load growth in the electric power sector at a sustained level that has not been seen in decades. Reports from PJM Interconnection, NERC, incumbent utilities, and other third parties all suggest that demand for power will grow by significant amounts over the next decade.<sup>3</sup> These projections are being made, at least in part, due to the expected and announced

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<sup>2</sup> Alpha Generation, *AlphaGen Proposes 450 MW of Additional High-Reliability Generation Across PJM*, March 17, 2025, <https://www.prnewswire.com/news-releases/alphagen-proposes-450-mw-of-additional-high-reliability-generation-across-pjm-302403345.html>

LS Power, *LS Power Submits Proposal to Add New Generation Supply Across PJM*, March 14, 2025, <https://www.lspower.com/ls-power-submits-proposal-to-add-new-generation-supply-across-pjm/>; NRG Energy, *NRG Energy, GE Vernova and Kiewit Accelerating New Generation Capacity to Support Demand Growth*, February 26, 2025. <https://www.nrg.com/about/newsroom/2025/44211.html>.

<sup>3</sup> PJM Interconnection, *PJM Load Forecast Report*, (January 2024); North American Electric Reliability Corporation, *2024 Long-Term Reliability Assessment*, (December 2024); and FTI Consulting, *An Evaluation of Regulated and Restructured Electricity Markets*, (November 2024) (“FTI ACP Study”)

development of data centers, reshoring of manufacturing, crypto mining, and electrification of the economy. Taken together, these inputs will drive load growth at a level not seen in more than 20 years.

The entire electric sector, competitive power suppliers, incumbent electric distribution utilities, and retail suppliers, can all be positioned to meet the moment during this remarkable period of energy expansion. Additionally, natural gas exploration and production and the necessary associated pipeline infrastructure will also need significant investment and to be integrated with the electric system to meet the growing demands of Ohio's families and businesses. Because of this once in a generation opportunity, it is even more important that Ohio position itself to win the race for investment in the state and to ensure that Ohio receives the benefits that come from that investment.

Because of the scale of the opportunity, all parts of the energy value chain need to recognize that this is a chance for all sectors to secure meaningful wins for Ohio. Said another way, there is enough value to go around to **all** sectors of the energy value chain, and to protect consumers from unnecessarily high costs while delivering a reliable system. Each segment of the energy value chain would do well to excel in our respective areas of responsibility rather than try and vacuum up ever greater benefits that accrue to one sector at the expense of others and specifically at the expense of **consumers** who will ultimately be forced to pay the bill. HB 15 aims to ensure that specific outcome.

### **C. HB 15 Builds on the Enormous Benefits that Competitive Power Markets Have Delivered for Ohio**

In the years since Ohio restructured its electric system starting in 1999, competitive markets have delivered extraordinary benefits while improving system reliability. In fact, PJM operations, markets, and planning result in annual savings of \$3.2–4 billion for the region.<sup>4</sup> In addition, market forces yielded significant environmental benefits, with carbon emissions in the PJM footprint dropping 43% since 2005.<sup>5</sup> Adding to those benefits, a recent study conducted by FTI found that, from 2013 to 2022, restructured states had more reliable electric service than fully regulated states in nearly every year across multiple reliability metrics.<sup>6</sup>

While competitive markets continue to serve Ohio and its ratepayers well, HB 15 recognizes that more work can be done to further unleash the benefits of competition within the state. Critically, HB 15 would require electric distribution utilities' (EDU's) standard service offer (SSO) to be established only as a market-rate offer (MRO) by eliminating the electric security plan (ESP) option and making the MRO mandatory. The ESP process has become a vehicle to avoid regular rate cases that ensure appropriate reconciliation of utility spending and costs charged to captive customers, allowing EDUs to essentially sidestep traditional rate cases and saddle Ohio customers with additional costs that would not likely be authorized under the traditional rate case process via the

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<sup>4</sup> PJM Interconnection, PJM Value Proposition, 2019. <https://www.pjm.com/-/media/DotCom/about-pjm/pjm-value-proposition.pdf>

<sup>5</sup> PJM Inside Lines: "Emission Rates in PJM Reach All-Time Low," (March 28, 2024). Available at: <https://insidelines.pjm.com/emission-rates-in-pjm-reach-all-time-low/>

<sup>6</sup> FTI ACP study, p.26-27

use of one-off riders which now number in the dozens.<sup>7</sup> This legislation corrects that practice and increases transparency and accuracy of charges authorized and paid by customers. By requiring MROs to be the only source of procuring the SSO supply going forward, HB 15 will help to limit the myriad non-bypassable charges that EDUs have been able to levy on Ohio customers via ESPs. Doing so will ensure that Ohio ratepayers benefit from a more transparent, cost-effective regulatory regime going forward.

In addition, HB 15 recognizes that Ohio is best served by clearly defining the responsibilities of each sector of the electricity value chain. Because Ohio determined that generation is not a monopoly service, HB 15 ensures that EDUs stay out of the generation business. Ohio made the affirmative decision to separate the generation component from the wires portion of the business more than 20 years ago and it has served the state well. Investment in new generating resources has come to Ohio in the way of thousands of MWs of new generating resources without any non-bypassable cost being assigned to captive customers. This risk shift from captive customers to shareholders and investors is one of the most significant benefits that accrues to Ohio families and businesses; the parties best situated to bear the risk are the shareholders and investors of competitive power suppliers and not captive customers who would otherwise be required to pay for those same resources via a non-bypassable charge on their monthly utility bill for decades.

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<sup>7</sup> ESPs have also permitted some EDUs to operate for extraordinary periods between filing base rate cases and avoid the accountability that accompanies base rate proceedings, with FirstEnergy being the most recent EDU to illustrate this trend. FirstEnergy filed its first base rate case in 14 years in May of 2024. (24-0468-EL-AIR)  
<https://dis.puc.state.oh.us/ViewImage.aspx?CMID=A1001001A24E31B34601H03959>

Additionally, even as all signs point to meaningful load growth, there remains uncertainty around the **exact** amount of load growth and the associated demand for generating resources on the system. For example, the issue of “double counting” of projects that AI and data center developers propose to multiple utility service territories requires that each utility plan as if they will succeed in locating that new customer in their service territory. For example, if a large data center requires 1,000 MW of generation and inquires of 3 utilities as part of its decision on where best to locate, the broader load forecast could suggest 3,000 MW of generation are needed because all of the utilities will plan for the possibility when in reality only one-third of the forecasted amount is needed.

Under the competitive supplier model supported by HB 15, if more plants get built than are actually needed, the investors in those projects are at risk for their investment; in a traditional utility model, those costs would be borne by captive customers via a non-bypassable charge, directly and definitively raising consumer costs. This simple example highlights the important distinction between the two business models and equally importantly who would be required to pay the bill under each.

Where a primary driver for the increased forecasts for load growth in Ohio and the broader PJM region is the rapid development of energy intensive data centers, providing a clear, brightline around which entities perform which function in Ohio provides incrementally greater certainty for competitive power suppliers to make investments in new generating resources. HB 15 wisely acknowledges that competitive suppliers are best suited to respond nimbly and efficiently to this new market need and deploy reliable, dispatchable generation resources which are not being fully valued in

the regional market due to aspirational policy choices in other states. Through innovative approaches and longstanding expertise in developing and building generation, competitive suppliers and data center customers can avoid longstanding interconnection queue logjams, socialized utility grid upgrade requirements, and transmission buildout by entering into co-location arrangements directly and should be supported in doing so. With respect to co-location, EPSA recently outlined a series of principles<sup>8</sup> that offer a roadmap to ensure that Ohio and the PJM region support innovative approaches to meet these new large sources of demand cost-effectively, efficiently, and rapidly – while ensuring that investors, not customers, bear the risks of this shift.

At the same time, however, it is important to recognize that a healthy transmission and distribution utility sector is also vital to delivering reliable power to customers. While the issue of multiyear rate making plans is outside the scope of wholesale power market issues, the use of that type of ratemaking approach can serve to provide the utility with greater certainty around their investment decisions while also providing consumers' a better line of sight into the cost of service for the period of the plan. This approach can balance the needs of the utility and the consumer so long as the appropriate guardrails are in place around the program and the Public Utilities Commission of Ohio is diligent in its evaluation of the proposed rate program and the mechanics around true ups and verification of utility investments in used and useful assets.

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<sup>8</sup> Electric Power Supply Association, EPSA Principles for Data Centers and Co-Location, (November 5, 2024), <https://epsa.org/epsa-principles-for-data-centers-and-co-location/>.

#### **D. Conclusion**

EPSA appreciates the opportunity to provide its support for HB 15. The policy that this bill seeks to codify will greatly benefit Ohio residents and businesses. EPSA urges the Ohio House to expeditiously pass this measure because the reforms contained in this bill will enhance competitive markets in Ohio, increase transparency, and protect ratepayers from incurring any further unnecessary non-supply related charges.