



## Office of the Ohio Consumers' Counsel

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### **Before The Ohio House of Representatives**

### **Energy Committee**

### **Testimony on House Bill 15 (Amend competitive retail electric service law)**

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**On Behalf of the Office of the Ohio Consumers' Counsel**

**March 19, 2025**

Hello Chair Holmes, Vice-Chair Klopfenstein, Ranking Member Glassburn, and Committee members. I hope you and your colleagues are well. Thank you for this opportunity to testify as a Proponent of House Bill 15.

My name is Maureen Willis. I am the Ohio Consumers' Counsel, the Director of OCC. OCC is the state agency that has been the voice for Ohio residential utility consumers for almost fifty years. I am testifying on behalf of the Ohio's 4.5 million residential utility consumers.

OCC supports H.B. 15 and thanks Rep. Klopfenstein for his work on this legislation. The legislation restores the General Assembly's vision in 1999 to deregulate power plants to bring the benefits of electric competition to Ohio utility consumers. That vision was impaired by the 2008 energy law when so-called electric security plans were created with their increased involvement of government regulators.

There are many good aspects of the Dash 5 version of H.B. 15 that provide much overdue and needed protection for utility consumers. We do have suggestions to offer, intended to provide more protection for your constituents. Please consider these "nits" as part of the ongoing process to craft a bill that supports strong economic growth, increases personal well-being, and improves the quality of life for all Ohioans.

We thank Representative Klopfenstein for retaining the pro-consumer provisions of earlier versions of H.B. 15<sup>1</sup> and amending the bill to add more consumer protections. We appreciate that the legislation no longer includes the duplicative and costly consumer choice billing

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<sup>1</sup> The pro-consumer provisions of H.B.15 that OCC supported in prior testimony include ending coal subsidy charges at the effective date of the legislation; an end to pro-utility electric security plans; continued prohibition on utility ownership of power plants; preserving the standard service offer; prohibiting cash payments for settlements; requiring electric distribution utilities to file rate cases every three years; and protecting consumers from teaser rates offered by marketers. See <https://www.occ.ohio.gov/testimony/hb15/2025-02-12>.

program that we testified against. We are also appreciative of the bill's intent to keep utilities out of behind the meter generation. Utility involvement means less competition, potential cost shifting and risks to utility consumers in Ohio.

H.B. 15 also is a good start for addressing the regulatory gap that exists in Ohio on local (supplemental) transmission projects undertaken by the electric distribution utilities. These are the projects that Ohioans pay billions for but are not being reviewed by anyone. In October 2023, we pursued this issue with FERC, through the filing of a complaint.<sup>2</sup> (FERC has not ruled on our complaint). The added review should provide consumers some protection against utilities "gold plating" transmission investment and charging utility consumers for that excess. We are also hoping FERC acts on our complaint in the near term, implementing some of the relief we advocated for Ohio consumers.

For too long, the regulatory environment in Ohio has heavily favored utilities over consumers. Ohioans deserve legislation that restores fairness and balance to this system. H.B. 15 Dash 5 is on a good path forward for essential regulatory reform.

When it comes to regulatory reform, we should be mindful of the many Ohioans who struggle to make ends meet and the impending affordability crisis that is upon us. In Ohio, we continue to struggle to retain affordable utility rates. The overall poverty rate is above 13.3%, higher than the 11.1% national average. Almost 30% of Ohioans live at or below 200% of the federal poverty level. Twenty-six of eighty-eight counties in Ohio experienced a decrease in median household income from 2022 to 2023. According to the Ohio Utility Rate Survey conducted by the PUCO, in the last five years, Ohio utility bills in major Ohio cities have increased considerably. [https://analytics.das.ohio.gov/t/PUCPUB/views/UtilityRateSurvey/ScheduleTrends?%3Adisplay\\_count=n&%3Aembed=y&%3AisGuestRedirectFromVizportal=y&%3Aorigin=viz\\_share\\_link&%3AshowAppBanner=false&%3AshowVizHome=n](https://analytics.das.ohio.gov/t/PUCPUB/views/UtilityRateSurvey/ScheduleTrends?%3Adisplay_count=n&%3Aembed=y&%3AisGuestRedirectFromVizportal=y&%3Aorigin=viz_share_link&%3AshowAppBanner=false&%3AshowVizHome=n)

We have been working with Rep. Klopfenstein to strengthen the bill and provide clarifying language where needed. We submitted five amendments to address various provisions in the Dash 5 version of the bill. I will briefly address three of those in my testimony today.

**Community Energy Facilities:** In the Dash 5 version of H.B. 15 there is a new section that implements a sizable (1,500 MW) community solar pilot program. It appears that the program is similar in many respects to the program sought to be implemented in H.B. 197 (135<sup>th</sup> G.A.). While we support renewable energy, we continue to advocate for its development in the competitive market without subsidies from utility customers.<sup>3</sup> Non-participating consumers (those who don't enroll in a community solar program) should not be paying direct or indirect costs of the community solar program. While H.B. 15 Dash 5 provides this protection for large industrial and mercantile consumers, it does not extend the protection to non-participating commercial and residential consumers. Subsidies for community solar may be unintended but

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<sup>2</sup> <https://www.occ.ohio.gov/docs/OCC-Complaint-at-FERC-on-Local-Transmission-Projects-092823.pdf>. More recently, a group of industrial consumers filed a broad-based FERC complaint on similar transmission issues. The FERC case associated with that complaint is FERC Docket EL 25-44.

<sup>3</sup> Please see my testimony opposing H.B. 197: <https://www.occ.ohio.gov/testimony/hb-197/2024-01-24>

are likely to occur under the bill as written. We provided amendments to rewrite this portion of H.B. 15. Another option would be to set the community solar program aside for future legislation.

**Multi-year rate plan true-up:** In earlier testimony I voiced concerns with the multi-year rate plan which will significantly change standard ratemaking in Ohio.<sup>4</sup> With the use of a forecasted test year and rates being set three years out, it is especially important to have a strong true-up mechanism. Improvements will be needed to Dash 5 to accomplish that. S.B. 2 Dash 5 provides good direction in that respect.

It would be especially helpful if the legislation more fully defined the true-up process as an open, transparent process that allows for a full review of utility data by interested parties, along with the opportunity for discovery, comments, testimony, and an evidentiary hearing. Dash 5 does not require these things. While that may well be what is intended as the true-up process, the legislative direction is absent. I also support adding clarifying language requiring that utilities publicly file (quarterly) actual financial information throughout the three consecutive twelve-month rate periods.<sup>5</sup>

**Consumer Refunds:** H.B. 15 Dash 5 includes a limited refund provision allowing consumer refunds only after the Court's ruling. It also may have the unintended effect of prohibiting a refund opportunity that currently exists for consumers. Today consumers can receive refunds if the PUCO orders rates collected subject to refund or reconciliation and language to that effect is placed in utility tariffs. (Unfortunately, the PUCO rarely orders collection of rates under these conditions.)<sup>6</sup>

Please don't make it harder than it already is to get refunds for consumers. We recommend either deleting the refund language altogether (Lines 311-330) or adding a new Section (E) that allows full refunds if rates are collected subject to refund or reconciliation, consistent with current practice.

I appreciate the opportunity to provide testimony on these important energy matters and look forward to continued dialogue with members. Thank you again, Rep. Klopfenstein, for your efforts on the many positive regulatory reforms presented in this legislation.

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<sup>4</sup> As an alternative to the multi-year rate plan, OCC (and NOPEC, OMA, and NOAC) supports a simple rewrite that would allow electric utilities the advanced ratemaking that gas and water utilities currently enjoy (forecasted test year, rate base calculated at end of test year and adjustments for known and measurable changes to expenses and revenues during test year and second year).

<sup>5</sup> North Carolina requires these quarterly earnings reports, and other reports, as part of their multi-year rate plans.

<sup>6</sup> One exception is for the legacy generation rider, collecting the coal plant subsidy. The PUCO has importantly required the legacy generation rider for all utilities to be "subject to reconciliation, including but not limited to refunds to customers, based upon the results of audits ordered by the Commission in accordance with the Opinion and Order" in various utility cases. The rewritten refund language of H.B. 15 Dash 5 would seem to override the PUCO on this, to the detriment of consumers.