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House Bill 173 Sponsor Testimony Before the Ohio House Energy Committee May 7, 2025

Chair Holmes, Vice-Chair Klopfenstein, Ranking Member Glassburn, and fellow members of the House Energy Committee, thank you for the opportunity to give Sponsor Testimony on HB 173, an effort to provide consumer protection and savings regarding submetering in Ohio. This bill has a companion bill in the Senate, Senator Brenner's SB 108.

A business (office building, mall, apartments, industrial parks, etc.) has a choice to receive a single commercial utility account billed to their business by the local utility or to have each renter set up an individual account with the local utility. These accounts can be for energy, water, or sewer. The benefit from one commercial account is that the business can receive a discounted commercial price, versus the higher residential price. How the business determines who pays what is the basis of HB 173.

If a business decides not to divide the energy bill among tenants based on a formula or bake it into rent, but rather installs a submeter per unit and charges tenants based on actual usage, that is submetering. This is a new practice to me, however it is very common among multiunit dwellings here in central Ohio and is growing across the state as more Ohioans are living in non-single-family homes.

Submetering has been a practice for decades, however in recent years growing challenges and questions about its use have now required legislation to protect property rights and consumers by giving clear definitions and safeguards.

For example, Submetering does not constitute a Public Utility. This has been tested before the PUCO and Ohio Supreme Court and the rights of private property owners have been upheld. Public utilities cannot operate in another

public utility's territory, a public utility is by definition a monopoly in the public domain but not on private property. This caselaw has not stopped very expensive and time-consuming legal challenges to the property owner's authority, however.

For example, a recent case was brought in 2021, where a utility asserted that a submetering company was operating as a "public utility." Public utilities cannot operate in another public utility's territory, therefore if the PUCO had agreed with their claim, it would have had the immediate effect of putting the company out of business. After a two-year, multi-million-dollar litigation process, the PUCO sided with the submetering company to determine that they are not operating as public utility because these properties are still being served by the host utility.

Almost immediately following this decision, that utility and others filed additional complaints against the same submetering company, intending to interfere with and delay development projects of the company's clients. Just last week the PUCO dismissed all three of the cases. These types of regulation interference delays housing projects, increases costs, and makes Ohio less business friendly.

Senator Brenner and I believe legislation is needed to solidify these private property rights and also give more concrete consumer protections to the individuals using the services. I have had nearly as much outreach by Ohioans following introduction of this bill, who have had negative experiences with submetering, as I have on tax policy. It is clear the practice when done correctly is good, but consumer protection is needed also.

This legislation accomplishes both goals by:

- Putting into code, similar to our work on HB 15, that the monopoly public utility ends at the meter and that an entity that provides "behind-the-meter utility services" such as submetering is not considered a public utility.
- Protects consumers by giving clear jurisdiction to the PUCO to oversee the practice and hear complaints.
- Includes explicit language to cap the total amount a landlord may bill a residential tenant for electricity services to ensure residents will never be billed more for their usage than if they were a customer of the local host utility.

This legislation is equal parts clarity and consumer protection. With that, I am happy to take any questions, thank you for your time.