



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

**TESTIMONY  
OF  
KIM BOJKO  
OMA ENERGY COUNSEL**

**MAY 21, 2025**

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 regulatory law and have practiced around the PUCO and energy policy for over 26 years. I am here today on behalf of the Ohio Manufacturers' Association. I serve as the chief energy counsel for the OMA.

The Ohio Manufacturers' Association 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 on legislation as a community of manufacturers. The OMA's positions are based on guiding principles, data-driven research and analysis, and member input.

The OMA is opposed to House Bill 142 as it contains several proposed changes to the ratemaking process and energy policy that would undermine consumer protections and harm the affordability and fairness of energy rates and energy policy for businesses and Ohioans.

The provision permitting gas utilities to propose partially or fully forecasted test periods is an expansion of problematic language that was previously allowed for electric utilities in House Bill 15. Forecasted test periods allow utilities to project future costs and revenues, which can result in consumers paying higher rates based on speculative estimates rather than actual, verifiable data. This is not only unfair but creates unnecessary complexity in rate cases, which will lead to higher costs for intervenors and consumers alike and ultimately increases regulatory uncertainty as the Public Utilities Commission of Ohio (PUCO) will be required to approve forecasted rates, guessing what investments may be needed, and truing up the actual expenditures in subsequent annual proceedings.

The bill also includes language that bases the rate of return on the utility's capital structure as of a specific date or projected date certain. This provision allows utilities to lock in a potentially outdated or overly generous rate of return that may not reflect current market conditions or the actual financial status of the company. It removes flexibility that is necessary for the PUCO to evaluate rates based on up-to-date and accurate data.

House Bill 142 also allows gas utilities to put projected rates into effect immediately upon a PUCO order and then adjust those rates to actual sixty days after actuals are filed. The bill further eliminates customer projections by allowing projections to be deemed used and useful even if the investments are not serving or being used to serve customers.

House Bill 142 allows for the shortening of time for the PUCO to rule on rate cases and alternative rate plan cases and requires utilities to put new rates into effect on the 365<sup>th</sup>

day after its application is filed without any provision for refunds if the rates are later determined to be unjust or unreasonable and the ability to adjust those rates based on multiple dates certain. This creates a serious risk that customers will end up paying higher rates for extended periods, with no recourse for getting those funds back. Speeding up the decision-making process at the expense of thorough review does a disservice to Ohio ratepayers, including businesses, and will likely result in more costly and less effective regulation.

House Bill 142 eliminates other consumer protections such as requiring approval of above-market charges without any caps or limits on the amounts collected from customers, allowing cost recovery for infrastructure, allowing utilities to veto modifications made by the PUCO to the utilities' application (this is similar to the ESP withdrawal provision that was recently repealed), and allowing recovery of costs for projected federal and state mandated rules, which the PUCO has historically rejected. Additionally, the bill requires the PUCO to approve all commercial agreements, and not consider any revenue from those agreements as revenue received in rate proceedings.

The bill also allows utilities to collect money from customers for capital expenditure riders on a projected basis, regardless of whether those funds are actually used. This provision enables utilities to collect money upfront and retain it, even if they do not use it as planned. This is not how customer funds should be handled, and it shifts unnecessary financial risks onto customers who have no control over how those funds are utilized by utilities.

Also of concern in House Bill 142 is a provision that requires the utility to support a settlement in order for the PUCO to consider and approve it. Settlements should reflect a fair and balanced negotiation, taking into account the interests of all stakeholders, including customers, who often face increased costs. Affording the utilities veto power over all settlements and the settlement process gives the utilities undue leverage and undermines the role of the PUCO in ensuring that the public interest is adequately represented.

Thank you, Mr. Chairman and members of the committee. I would be happy to answer any questions.