Before
The Ohio House
Energy Committee

Testimony on House Bill 142
Regards natural gas company rate plans, property valuation

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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 in opposition to House Bill 142.

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 of Ohio residential utility consumers for almost fifty years. I am testifying on behalf of Ohio's 4.5 million residential utility consumers.

Though the legislation aims to boost economic development, infrastructure investment, and modern regulation, it falls short and risks raising gas utility bills for consumers. This "me too" legislation goes far beyond what was provided for electric utilities in H.B. 15. And it greatly surpasses the favorable provisions already existing for gas utilities such as alternative regulation, riders and future test periods. H.B. 142 hands gas utilities everything but the kitchen sink – and they may be getting that too.

I urge you not to enact H.B. 142. Unlike H.B. 15, this legislation fails to further the important mission of this Committee. In fact, it leads to the opposite for everyday consumers.

The system already works for gas utilities – it's everyday consumers who are left behind.

- **Alternative rate plans are a backdoor way for utilities to lock in profits without going through a standard rate case.**

Under Ohio Revised Code Chapter 4929, Ohio's gas utilities, such as Columbia Gas of Ohio (Columbia), The East Ohio Gas Company (Dominion or Enbridge) and Vectren Energy Delivery of Ohio (CenterPoint), can file for an alternative rate plan. Under an alternative rate plan they can use single-issue ratemaking to increase rates to consumers. The use of riders allows these gas utilities to accelerate (within one year) cost collection from consumers for profits, depreciation and other costs associated with certain capital investments. Ohio gas utilities have used alternative regulation riders extensively since 2008. Columbia, Dominion, and other Ohio gas utilities collect profits on a substantial portion of their capital investments without any regulatory lag under alternative rate plans.

Examples of these riders sanctioned under alternative rate plans include: the pipeline infrastructure replacement program rider (PIR), the capital expenditure program rider (CEP), Infrastructure development rider (IDR), and infrastructure replacement program rider (IRP).[1] These riders would remain under H.B. 142, unlike the riders that disappeared for electric utilities under H.B. 15.

In the case of Columbia, the total capital investment collected from consumers through these riders is approximately $1.8 billion currently.[2] This represents over half (54%) of Columbia's rate base ($3.5 billion) approved in the last rate case. This capital investment (rate base) collected through riders is not subject to regulatory lag under alternative rate plans. Drastic changes to gas regulation are not needed given the extensive use (abuse) of riders under current law.

Under H.B. 15 the General Assembly wisely got rid of riders and for good reasons. But this legislation embraces riders and doubles down giving gas utilities even more latitude in alternative rate plans. Under these plans a gas utility will be able to use a fully or partially projected test period for its annual rider applications. The test year can be up to two years from the date of the rider application. Alternatively, a gas utility can seek money from consumers for construction work in progress. (Lines 911-914). There are no caps on rider charges to consumers. (Lines 899-910).

If the last law (Revised Code Chapter 4929) establishing alternative gas plans was a spark, this one's a wildfire. It spreads faster, burns hotter, and does far more damage to consumers.

- **Gas utilities in Ohio already have power to pass along forecasted expenses to consumers. H.B. 142 only adds more fuel to the fire.**

Currently, gas utilities may propose test periods extending beyond the filing of an application by nine months. (R.C. 4909.15(C)(1)). And the date certain must be no later than the end of the test period. (R.C. 4909.15(C)(1)). This flexibility has allowed gas utilities to keep regulatory lag in check. Gas utilities already have the upper hand, but they're back for more – at the consumer's expense.

Under the bill, natural gas utilities can pick a test period that can extend an additional 15 months, for a total of 24 months from the date of the rate application filing. (Lines 392-398). And they can establish three future date certains to charge consumers for future projected investment. (Lines 399-418). And the gas utilities can adopt a hypothetical capital structure for calculating profits (Lines 434-441, 454-461). Utility consumers are being pushed into a lose-lose situation: more risk, fewer rights and no upside.

If there was a real and effective true-up like that written into H.B. 15, some of the risks to consumers from inflated, projected utility rates might be mitigated. But this bill's true up process is fundamentally flawed. Only plant and capital structure are trued up—there is no expense true

[1] The exact names and format of these riders may be slightly different among Ohio's gas utilities.

[2] The total monthly fixed charges of these riders for a residential consumer served by Columbia is also quite significant at $12.02 ($5.33 for PIR, $4.73 for CEP, $1.50 for IDR, and $0.46 for PHMSA IRP). Once again, these fixed monthly rider charges are also expected to increase significantly, probably double, over the next few years.

up. There is a truncated true up process of 60 days which makes it virtually impossible to examine and review actual expenditures and investment for prudence. There is a delayed process for adjusting rates to consumers with the risk that overstated rates (based on utility projections) will be in effect far too long. With three date certains (instead of one under H.B. 15), the true up will be even more complicated.

It's a one-sided process that leaves consumers exposed and unprotected. There are no rate caps, no performance metrics, no earnings sharing, no reduced profits, no sunset, no off-ramp. Consumers are left empty-handed.

Comparing H.B. 142 to H.B. 15 is like calling a wrecking ball an upgrade. It lacks most, if not all the fundamental safeguards written into H.B. 15. H.B. 15 eliminated riders, established a true-up process with consumer protections and required, among other things, a rate case filing every three years. H.B. 142 lacks that and more. Instead, H.B. 142 goes backward, embracing and enlarging the collection of costs and investments from consumers through riders. The bill lifts the most problematic aspects of electric security plans (which are ending under H.B. 15), the very tools that electric utilities have exploited for years.

Ohio gas utilities treat regulatory lag like a get of out jail free card, bypassing the checks that gas rate cases are meant to provide.

Ohio gas utilities have caused a "regulatory lag" by delaying a rate case for a long time. Despite this, Columbia and Dominion's delivery charges to consumers still increased. Columbia's monthly fixed delivery charge for residential consumers has increased from $16.75 to $34.65 from 2008 to 2021.[3] For Dominion consumers the fixed monthly delivery charges has increased from $17.58 to $43.27.[4] Columbia and Dominion have continued to significantly increase their delivery charges to consumers over the years through riders such as PIR and CEP. And all without coming in for a rate case where all expenses, revenues and investments are being scrutinized.

This regulatory lag has worked well for gas utilities. Columbia and Dominion were able to continue using the highly inflated rate of return (allowed profits) authorized in 2008 in setting the rider charges to consumers as late as 2019.

For example, OCC estimated Dominion's actual cost of debt in 2019 to be 2.29% (the PUCO and Dominion did not dispute). Yet Dominion charged its consumers a 6.50% cost of debt, set in 2008, for its 2019 CEP rider charges. This inflated rate cost consumers $97 million from 2020 to 2025.

The regulatory model advanced by H.B. 142 further entrenches utility advantages. Crucially, it omits the periodic rate case requirement included in H.B. 15—an essential mechanism for transparency and consumer protection.

[3] *See* PUCO Case No. 21-0637-GA-AIR, Schedule E-4.1.

[4] *See* PUCO Case No. 23-0894-GA-AIR, Schedule E-4.1.

H.B. 142 hands gas utilities even more power while sticking consumers with the bill.

H.B. 142 introduces some provisions regarding the settlement of proceedings before the PUCO. Far from improving the process, codifying the PUCO's settlement standard locks in a flawed and one-sided approach that often sidelines consumer interests.

Under it, the PUCO may only consider a settlement if the utility supports the settlement (Lines 17-22). This gives the gas utilities veto power over any potential settlement.

H.B. 142 gives gas utilities the right to withdraw and terminate any alternative rate plan if the PUCO modifies the plan (Lines 1009-1014). By giving utilities the right to terminate a plan if the PUCO alters it, H.B. 142 strips the PUCO of meaningful authority and shifts control to the very entities it's supposed to regulate. It also contributes to uneven bargaining power of gas utilities in the settlement process. This unilateral right of withdrawal has turned out to be one of the worst parts of electric security plans over the last 17 years. It has been repeatedly used by the Ohio electric utilities (AES and FirstEnergy), resulting in higher energy bills for consumers. Thankfully, it will end soon with the recent enactment of H.B. 15. Why do we want to resurrect this for the gas utilities in Ohio?

H.B. 142 also lets gas utilities pocket interest earned on cash supplied by customers or keep refunds that should go back to consumers by excluding them from the cost of service. The result? Consumers may be charged too much and may lose out on refunds.

H.B. 142 allows gas utilities to collect costs for projected or anticipated federal and state mandates (Lines 915-928). The costs of complying with any future mandates should only be charged to consumers when they are known and capital investment made. Utilities should not be charging consumers for speculative costs. Gas utilities can seek recovery of these costs through a rate proceeding after they have incurred expenses or made capital investments to comply with mandates.

H.B. 142 allows natural gas utilities to implement alternative rate plans for large load customers, defined as those consuming over 1.2 million Mcf annually. While the bill requires a credit to the infrastructure development rider to protect non-large load customers—like everyday Ohioans—these credits may not fully offset the costs of new infrastructure. By excluding payments from large load customers, H.B. 142 lets utilities ignore major sources of revenue, skewing the books and setting the stage for higher rates on everyone else (mainly residential and small commercial consumers).

Two of the specific provisions that will contribute to cost shifting from large consumers to small commercial and residential consumers include the following provisions:

- Large load customer arrangements provide only limited protection to other customers from "risks associated with initial infrastructure costs" (Lines 962-965). But many other significant ongoing risks, higher capital costs, stranded investment, etc. to other consumers are not addressed.

- The standard for approving large load customer arrangement (commercial

agreement) is not protective of consumers – there is no requirement that it be reasonable, just that it meets standards under R.C. 4929.55 (Lines 990-994).

Giving utilities a free pass while gutting PUCO oversight

H.B. 142 makes numerous changes to rate case proceedings and alternative rate plans in Ohio Revised Code Sec 4909.42 and 4929.052.

The bill's automatic approval mechanisms are deeply concerning. If the PUCO does not act within 90 days of a gas utility's alternative rate plan (Lines 1003-1008) or 45 days for commercial agreements (Lines 990-994), these plans are deemed approved. This limits the PUCO's ability to thoroughly review and ensure that these plans are fair and reasonable. Without robust oversight, utilities could prioritize their profits over consumer interests, leaving Ohioans vulnerable to unjust rate increases. These specific provisions we are concerned with include the following:

- A shortened time for PUCO to rule on rate cases with utilities able to put rates into effect on the 365th day after application filed with NO REFUNDS (Line 725-735).

- Changes to alternative rate plans making them no longer subject to rehearing or appeal – taking away parties' due process rights under current law (Lines 937-941).

- Shot clock changes taking away consumer refunds if rates are not ruled on within 365 days; no definition of which rates can be implemented, lacking the protection in H.B. 15 that rates can be no greater than those recommended by the PUCO Staff (Lines 725-735).

Ohio's families deserve an energy policy built around their needs – not utility wish lists

Ohio's energy policies should prioritize affordability, transparency, and fairness for all consumers. H.B. 142, however, tilts the balance toward natural gas utilities, offering them significant financial and regulatory advantages while placing the burden of potential cost increases on everyday Ohioans. Instead of advancing this bill, I urge the Committee to consider amendments to strengthen consumer protection and enhance PUCO oversight.

House Bill 142, in its current form, offers nothing that serves the best interests of Ohio consumers. Its provisions pave the way for higher energy costs, weakened regulatory oversight and limited consumer participation- while overwhelmingly advancing the interests of natural gas utilities. I respectfully urge you to reject H.B. 142.

Thank you for your time and consideration.