

Chairman Chavez, Vice Chair Landis, Ranking Member Smith, and Energy Committee members, thank you for the opportunity to provide opponent testimony on Sub. Senate Bill 2. While this opposition testimony is directed to current working language, we see the bill as a constructive effort to ratemaking modernization and believe we have a path to be supportive if several key amendments are incorporated.

My name is Sharon Schroder, and I am Senior Director, Regulatory & RTO Affairs for AES Ohio. I have over three decades of experience in the utility industry and have extensive experience in matters before the Public Utilities Commission of Ohio.

We at AES Ohio share Senator Reineke's goal of ensuring an abundance of reliable and affordable energy as Ohio continues to grow and be a hub for economic development. We believe that thoughtful, balanced reforms will help achieve that aim, and we see favorable concepts in several aspects of this bill. We look forward to working with the sponsor and Committee on this important piece of legislation.

AES Ohio, formally The Dayton Power and Light Company, serves over 530,000 customers in west-central Ohio. Our 2,900 employees and retirees have served as the backbone for reliable and affordable electricity across a 6,000 square mile service territory in 24 counties for over 100 years. Our Dayton roots mean that we are completely invested in the Miami Valley community. AES is a US-based, global power company giving us a unique perspective to develop and deliver energy solutions. We use this global experience to bring innovation and a broad range of solutions to Ohio.

As you know, there are three components of the electric grid: Generation, Transmission, and Distribution. Since deregulation, Generation is provided by unregulated generators and suppliers. AES Ohio and the state's other electric distribution utilities do not generate electricity for retail customers. Instead, we are responsible for delivering that electricity to customers safely and reliably over our Transmission and Distribution systems. We are the critical link between the competitive market and customers.

To provide that essential service, support our existing customers and economic development, AES Ohio must regularly make significant investments in our Transmission and Distribution systems. To acquire the funding that is necessary to do so, there must be a fair and efficient process for setting just and reasonable rates – both for utilities and customers. That process should provide predictable, gradual rate changes for customers.

While our Transmission rates are regulated by the Federal Energy Regulatory Commission, our Distribution rates are regulated by the Public Utilities Commission of Ohio. Today, our Distribution rates are set through two primary Commission proceedings: base distribution

rate cases based on past investments, and Electric Security Plans, or ESPs, which allow quarterly updates for certain, limited investments.

Although criticized, ESPs have provided significant customer benefits by enabling utilities to make timely, regular investments in their Distribution systems, supported by and consistent with defined state policies. It is no accident that our current ESP is the result of a near-unanimous settlement including 17 parties with varied interests, many of whom are also proponents of this bill.

Despite our concerns about the elimination of ESPs and other aspects of this bill, we believe that its ratemaking modernization provisions are an encouraging step to replace ESPs with a more transparent, efficient, and holistic approach to ratemaking. I would like to focus on those provisions first.

### **Ratemaking Modernization**

AES Ohio appreciates language in the bill that would encourage swifter resolution of rate cases at the PUCO; we agree that rate cases can and should be resolved within 275 days. We do, however, recommend the Committee clarify, as current law provides, that any PUCO order must set just and reasonable rates. The current “grant or deny” language in Senate Bill 2 could be misconstrued as requiring an “all or nothing” approach.

AES Ohio also appreciates the language that would allow electric utilities to propose forecasted investments in rate cases with a true-up to actuals. This framework would more closely match a utility’s investments with its rates when those rates are charged. However, we suggest the Committee also consider multi-year forecasts, that would then be trued-up annually. Doing so would provide the PUCO, customers and interested parties with an annual, transparent review of the utility’s books.

AES Ohio has filed three rate cases at the PUCO in the last ten years; we welcome the PUCO and stakeholder review. However, the current rate case process, particularly if it were to continue without ESPs, has inherent and significant regulatory lag. We are optimistic that Senate Bill 2 – with the multi-year clarification – can alleviate that concern. Doing so will position AES Ohio and other Ohio electric distribution utilities to deliver safe, reliable, and affordable electricity at the speed of business.

### **Ohio Power Siting Board reforms**

In addition to ratemaking modernization, AES Ohio welcomes the bill's more efficient timelines at the Ohio Power Siting Board. This process will ensure prompt review so that we can complete transmission projects that support existing customers and economic development.

### **Tangible Personal Property Tax (TPP)**

We also want to thank Senator Reineke for the more prudent approach to incentivizing development of new generating facilities by waiving TPP obligations on new generation. This language does not require a tax shift or increase and the potential devastating effects on local taxes found in House Bill 15. We believe customers will be better served by the proposed Senate language.

### **Retroactive ratemaking provision**

The retroactive ratemaking provision as written in Senate Bill 2, would undermine the bill's promising ratemaking modernization provisions and upend nearly a century of clearly-established legal precedent in Ohio. To be clear: utilities implement rates only after they have been reviewed and approved by the PUCO. If utilities were forced to refund rates that they had authority to collect because years later the Court reached a different result, the uncertainty would chill needed investment.

AES Ohio would support a clarification in the bill that strikes an appropriate balance of allowing utilities and customers to rely on decisions of the PUCO while providing prospective relief if the Court, later, reaches a different conclusion.

### **Legacy Generation Resource**

AES Ohio is troubled by and opposes repeal of the Legacy Generation Resource (LGR) provision. The current LGR statute clarifies preexisting authority that the PUCO has long recognized and that the Ohio Supreme Court affirmed for utilities to pass any profit or loss from their interests in the Ohio Valley Electric Corporation ("OVEC") to customers.

Since Ohio's electric utilities were required to divest their generation assets as part of deregulation, there has been recognition that OVEC's unique history and structure makes divestiture extremely difficult. OVEC is jointly owned by twelve companies spanning five different states. AES Ohio does not profit from OVEC in any way; AES Ohio is contractually obligated to cover a certain percentage of OVEC's costs, which is netted against revenues

received from PJM markets, and those net costs or net revenues are passed on to customers.

AES Ohio has repeatedly attempted to divest its ownership interest in OVEC, but to date has been unsuccessful. AES Ohio believes that OVEC provides important baseload generation for the region as energy needs proliferate, and the LGR provides a hedge for customers against fluctuating market prices, especially since PJM has identified future potential generation shortages.

### **Consumer Choice Billing**

Finally, AES Ohio urges the Committee to carefully examine the creation of the customer choice billing program. This program would have unintended consequences, including increased costs for customers to support additional utility billing capabilities and duplicate billing systems for both utilities and suppliers.

Under the current proposal, Ohio utilities would continue to have responsibility to provide meter data to suppliers, to connect and disconnect customers, and to stand ready to bill all customers. Therefore, utilities would still need to maintain robust billing systems, in addition to adding enhancements to provide all required data to suppliers who choose to provide customer choice billing. We believe it would be more efficient and less expensive for customers for utilities to continue providing billing services, subject to regulatory oversight by the PUCO.

An alternative proposal would be to require all suppliers to perform billing services for customers, subject to regulatory oversight by the PUCO. Doing so would remove some of the duplicative billing functions while leveling the playing field for all competitive retail electric service suppliers.

In closing, Ohio has announced major economic development wins over the past few years and we believe the state will continue to do so. These wins have been supported by the current regulatory framework. We urge the Committee to strike a balanced approach for customers, utilities, and market participants. We look forward to working with you on that endeavor.

Thank you Mr. Chairman and I'd be happy to answer any questions.