Before
The Ohio Senate
Energy Committee
Testimony on Senate Bill 2, Sub Bill 0333 x1

(Increase power generation; improve Ohio's electric grid)
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Hello Chairman Chavez, Vice Chair Landis, Ranking Member Smith, and Committee members. I hope you and your colleagues are well. Thank you for this opportunity to testify. I am testifying as an Interested Party on Senate Bill 2, Sub Bill 0333x1.

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 Office of the Ohio Consumers' Counsel, for Ohio's 4.5 million residential utility consumers.

There are many good aspects of the 2/21/25 version of S.B. 2 Sub Bill, that provide much overdue and needed protection for utility consumers. We thank Senator Reineke for retaining the pro-consumer provisions of S.B. 2[1] and amending the bill to add more consumer protections by:

- Removing the duplicative and costly consumer choice billing program;
- Eliminating cash payments in settlements;
- Requiring electric distribution utilities to file rate cases every 5 years;
- Requiring solar generation funds that were unused to be refunded to consumers;
- Fully repealing the coal plant subsidy (legacy generation rider).

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. S.B. 2 Sub Bill, as amended on 2/21/25,[2] is on a good path forward for essential regulatory reform.

The legislation recognizes that regulatory reform is needed. In Ohio, we continue to struggle to retain affordable utility rates. In Ohio the overall poverty rate is above 13.3%, higher than the

[1] The pro-consumer provisions of S.B. 2 that OCC supported in prior testimony include full and prompt refunds to consumers for charges determined to be unlawful or unreasonable; an end to the coal subsidy charges, an end to pro-utility electric security plans; continued prohibition on utility ownership of power plants; preserving the standard service offer; and protecting consumers from teaser rates offered by marketers. *See* https://www.occ.ohio.gov/testimony/sb-2/2025-02-18.

[2] *See* https://search-prod.lis.state.oh.us/api/v2/general_assembly_136/committees/cmte_s_energy_1/meetings/cmte_s_energy_1_2025-02-25-1000_143/submissions/l_136_0333-2.pdf.

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

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. We ask that you write into this legislation a requirement that the PUCO must consider the economic impact of charges it approves on all consumers and the areas served by the public utility in standard distribution cases and the mini-rate cases.

We remain concerned about one aspect of the bill: the mini-rate case provision (Lines 1490-1528; 1432-1436). In the prior version of S.B. 2, the mini-rate case concept was introduced but left largely undefined. In the S.B. 2, Sub Bill of 2/21/25, some details have been filled in that propose limited constraints on utility capital expenditures that can be charged to consumers. But more consumer protection is needed to ensure that essential utility service is available to all Ohioans at reasonable and affordable rates. Otherwise, the mini-rate cases should be shuttled.

S.B. 2, Sub Bill allows "mini-rate cases" to be filed by a utility so long the utility applies within 24 months of the PUCO approval of its rate case application. (Lines 1490-1497). The legislation does not limit the number of mini-rate cases filed within the 24-month period. It should only allow one mini-rate cases in the 24-month period and the utility should not be able to file a new mini-rate case until the prior mini-rate case has been decided.

The mini-rate case limit sets a threshold of $50 million (one project) in capital expenditures (rate base) by a utility as a pre-requisite for filing a mini-rate case. (Lines 1498-1502). That is a reasonable limit. And the requirements that the utility complete the project, and it not be included in prior approved rates, are essential safeguards. (Lines 1503-1506). However, other ratemaking criteria should be added for consumer protection.

Under standard ratemaking utility investment must be shown to be "prudently incurred" before the PUCO can approve charges to consumers. Another important consumer protection that exists under standard ratemaking is the "used and useful" standard. For a utility to charge consumers for capital investment (or rate base), the utility must show at a given time (date certain) that the investment is being used (and is useful) to provide service to consumers. While the utility may undertake capital expenditures that may be more than needed for currently serving consumers (i.e. oversizing capital investment to allow for future expansion), they cannot charge current consumers for investment that will serve future consumers.

These consumer protections are especially important in keeping rates to consumers affordable and reasonably related to the cost of providing them essential utility service. They should be written into the mini-rate case provisions.

We can appreciate that the provisions seem intended to limit the scope of mini-rate cases. Limiting the capital expenditures charged to consumers under a mini-rate case is appropriate because otherwise we are creating needless exceptions to Ohio ratemaking law. Under standard Ohio ratemaking law utility expenses, revenues, plant, and profits would be considered together. The use of single-issue capital expenditure charges harkens back to the numerous "riders" or "trackers" allowed under utilities' electric security plans.

The electric utilities should only be allowed to file a mini-rate case under extraordinary circumstances that are truly unexpected and outside their control. While some of the capital expenditures in a mini-rate case provisions contain such a restriction (Lines 1511-1525), others lack this requirement.

For instance, in defining the types of capital expenditures that a utility may seek in a mini-rate case (Lines 1507-1525), expenditures determined "necessary" for "maintaining or improving safety, reliability, system efficiency, security, or resiliency" (Lines 1508-1510) are allowed. The wording is very broad and would allow a wide range of distribution charges to consumers such as those being currently collected under electric security plans like "distribution investment" riders, and SmartGrid riders, to name a few. With the use of a fully forecasted test year and true-ups under the legislation, such broadly defined capital expenditures do not need the extraordinary mini-rate case process.

We also do not support the use of the mini-rate case process to fund capital expenditures for replacement plant, irrespective of the reason for replacement. (Lines 1516-1519). Without a corresponding adjustment to base distribution rates (which is not required in the legislation) consumers could end up paying (at the same time) for new plant and old plant that has been retired and is not being used to provide utility service. That would be unfair to consumers. The cost of plant replacement should be collected only through a standard distribution rate case.

We note that another provision of S.B. 2 Sub bill allows for the PUCO to approve other programs through the mini-rate case process (Lines 1432-1446). One of the programs is for "energy-intensive consumers to implement economic development, job growth, job retention, or interruptible rates." This provision appears unnecessary given that the PUCO already has a process in place. Utilities, as well as mercantile customers, can file for an economic development arrangement with the PUCO under existing Ohio law (R.C. 4905.31) and PUCO rules (Ohio Adm. Code 4901:1-38). This process has worked well in the past and has not created undue delays in getting arrangements approved.

Economic development is good for the state. It can bring jobs, tax revenues, and other benefits to the public. But it raises the question of who should pay for utility investment or discounted utility rates that are offered to induce businesses to locate in Ohio. We urge the General Assembly to take a measured approach that does not require utility consumers to subsidize the development to such a degree that it makes utility service unaffordable for Ohioans. And, between the utility consumer, the utility, and the potential business (i.e. Meta, Amazon, Google), the Legislature should consider many factors, including who can best afford to underwrite the investment or discount.

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