



**BEFORE THE SENATE ENERGY COMMITTEE
SENATOR BRIAN M. CHAVEZ, CHAIRMAN**

SUBSTITUTE SENATE BILL 2 PROPONENT TESTIMONY

**TESTIMONY
OF
KIM BOJKO
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Chairman Chavez, Vice Chair Landis, Ranking Member Smith, and Members of the Senate Energy Committee, my name is Kim Bojko and I am a partner with Carpenter Lipps LLP. I specialize in energy, public utilities, and regulatory law, as well as energy policy, and have been practicing in this area for over 26 years. I am here today on behalf of the Ohio Manufacturers' Association (OMA) in support of Substitute Senate Bill 2 (Sub. S.B. 2) as accepted on February 25, 2025.

The OMA 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 as a community of manufacturers, which is based on guiding principles, data-driven research and analysis, and member input. OMA has approximately 1,300 members of all sizes, many with multiple facilities and meters in the state. It is impossible to competitively operate a modern manufacturing facility without affordable energy. Simply stated, energy is very important to Ohio's manufacturing competitiveness.

Ohio has operated a competitive electric generation market for almost twenty-five years, which has allowed customers to choose who supplies their power. Competitive power markets has led to lower wholesale energy prices, advancements in technology, and new power plants. Ohio should stay the course with competitive markets while instituting common-sense policy reforms to expand competition and free markets.

Because the cost of electricity is a major expense for energy-intensive manufacturers, manufacturers are keenly interested in public policies that will drive lowest-cost energy resources and solutions. Competition is working as intended. Increased choices and savings have served customers well.

But, we can continue to improve the competitive market place to produce even better results. The latest version of Sub. S.B. 2 provides many of these positive improvements to the competitive markets. For example: the elimination of Electric Security Plans (ESPs) will remove the many above-market charges that have been passed on to customers through unwarranted riders over the years. The repeal of the anti-competitive subsidies authorized in 2019 under House Bill 6 that mandate that customers pay hundreds of millions of dollars to two very old coal plants (one of which is in Indiana) owned by the Ohio Valley Electric Corporation (OVEC) and millions of dollars to a few solar companies.

Ohioans have already paid over \$670 million in total subsidies to OVEC's utility owners since 2017. Based on historical and predicted future electricity prices, it is estimated that if the OVEC subsidies are not repealed, Ohioans could pay over \$1.1 billion total by

2030 to OVEC's utility owners. Additionally, Ohioans currently pay \$20 million in subsidies to a solar fund that provides subsidies to a few solar companies. Sub. S.B. 2 appropriately ends the OVEC and solar subsidies immediately. It also refunds the majority of the unused solar funds back to customers. These are important provisions to send a message that Ohio welcomes competitive generators and will allow generation to compete fairly in the market without anti-competitive subsidies.

Sub. S.B. 2 also requires more frequent rate cases, eliminates cash payments in settlements, encourages the building of generation, continues economic development programs, prohibits distribution utilities from owning generation, encourages on-site generation, and promotes customer billing and data options.

While this bill addresses many key energy policy components, it is important to not overturn decades of ratemaking law that has stood the test of time and provided important protections to customers.

For example, authorizing the electric utilities to forecast their test years in rate cases will encourage higher projected costs and lower projected revenues, leading to an increase in customers' bills. New language in the bill will also allow projected used and useful determinations, requiring customers to pay for electric facilities that are not yet used and useful in the provision of electric service to customers. This change in the law will also increase costs to customers. True-up mechanisms are insufficient to protect customers from inflated projected costs that are not trued up until after another "rate case" where it will be determined what costs and revenues the utility actually incurred and received—all while the utility has the benefit and use of customers' money, not the customers. Limiting discovery and stakeholder involvement in rate cases is also bad public policy and will eliminate important customer protections.

The current ratemaking statutory scheme is not broken. When the utilities need to increase their rates to operate or earn a higher return, they file a rate case and will continue to do so.

Sub. S.B. 2 ensures the continuation of certain customer programs to foster economic development, transmission, and demand response programs, which are important tools to reduce transmission costs for all customers and alleviate grid constraints during peak periods. But, these important programs need to be available on a non-discriminatory basis, available to all energy-intensive or mercantile customers. Additionally, as you heard last week, transmission costs are on the rise and utility spending on "supplemental" transmission projects receives little regulatory oversight and little transparency. While upgrades to the grid can be beneficial, Ohioans are paying about

\$1 billion per year for transmission improvements without proof that the utility upgrades are actually improving grid reliability or increasing transmission capacity in order to deliver power to businesses that would like to locate in Ohio. Encouraging new or expanding businesses to locate where transmission infrastructure exists could decrease the need for expensive transmission upgrades or costly expansions. A heat map of the electric system could allow power generators and customers to more timely determine where constraints on the system exist and where they could locate without extensive infrastructure upgrades. It would also allow power generators to know where competitive power generation is needed.

These changes and additions to the Sub. S.B. 2 that I have presented in my testimony and on the attached document will enable Ohio consumers to avoid many above-market charges and will reduce manufacturers' operating costs while protecting and creating Ohio jobs. OMA's suggestions can make our Ohio stronger and more competitive.

Mr. Chairman and members of the committee, that concludes my testimony. The OMA thanks the bill sponsor for his leadership on Sub. S.B. 2 and looks forward to working with this committee as this legislation is being considered. I would be happy to answer any questions you may have.