

**TESTIMONY OF ROBERT KELTER
ENVIRONMENTAL LAW AND POLICY CENTER
OHIO SENATE ENERGY COMMITTEE
IN SUPPORT OF SB 2
MARCH 18, 2025**

Good morning Chair Chavez, Vice Chair Landis, Ranking Member Smith and members of the committee. My name is Robert Kelter and I'm a managing attorney at the Environmental Law and Policy Center (ELPC). Thank you for the opportunity to testify today. ELPC is a regional environmental organization with offices in Ohio, Illinois, Michigan, Wisconsin and Iowa. We have litigated numerous cases at the Ohio Public Utilities Commission, as well as other Commissions around the Midwest. I've litigated rate cases and several ESP cases in Ohio. Thus, our testimony today brings that knowledge of both how Ohio operates and how other states handle these issues.

As I have already testified, ELPC strongly supports eliminating the ESP cases and riders. This bill should go along way towards leveling the playing field between utilities and consumers. In most businesses the competitive market protects consumers, but not in the public utility industry. The Commission replaces the competitive market and the best way to evaluate whether utility spending is reasonable, is to analyze it in a rate case.

When it comes to the amendments, the three year ratemaking process with future test years gives utilities a lot of assurances regarding their spending. And given the way the utilities can use future test years, we have to make sure the language that sets out the review process for utility spending actually creates the process we envision. Currently

the legislation, at p. 55, starting at line 1587, calls for true-ups to make sure utilities don't over recover on their spending estimates. At p. 56 line 1604 the language directs the Commission to include only used and useful rate base components in trued-up cost recovery. These directives are critical to protect customers. But parts of that section are unclear.

It seems like at the end of each year, each utility will make a filing laying out all of its costs and expenses, and all of its revenues. Then the Commission will hold a process to review those filings. But the only language on this, at line 1596, merely states "actual expenses shall be trued up via a cost recovery mechanism approved by the commission." And that language does not seem clear. The term "cost recovery mechanism" could mean anything. I think the legislature envisions the Commission holding a hearing to fully review utility spending, but the language doesn't say that. It doesn't say anything about hearings, or the rights of OCC or other interested parties to intervene in the process.

While it makes sense to give the Commission some flexibility to set up the process for this, a little more direction would help ensure that the Commission thoroughly reviews spending and does not merely rubber stamp filings. Even something as simple as the following provides more guidance:

The utility shall make an annual filing 60 days after the end of the year, and the Commission shall hold a hearing to true-up the forecasted and actual spending.

The utility has the burden of proof to demonstrate all spending is used and useful.

How long the process takes and what the process entails can make the difference in the level of scrutiny the Commission gives utility spending. An amendment like this at least gives some direction.

The other issue I want address today is the need to do more to reduce demand. The bill has an excellent provision that creates the school energy performance contracting loan fund that will help schools use less energy, but the legislature can do more to encourage utilities to run programs that reduce customer usage. We understand the desire to get this bill passed, but we support a provision to encourage utilities to run residential and small commercial demand response programs that would pay customers to reduce their demand at peak times. In the final analysis, its faster and cheaper to reduce demand than it is to increase supply.

Thank you for your attention and I'm happy to answer any questions.