



Office of the Ohio Consumers' Counsel

Before The Ohio Senate Energy Committee

Testimony on House Bill 15 (Amend competitive retail electric service law)

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On Behalf of the Office of the Ohio Consumers' Counsel

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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 as a Proponent of House Bill 15.

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 Ohio's 4.5 million residential utility consumers.

OCC supports H.B. 15 and thanks Rep. Klopfenstein for his work on this legislation. The legislation restores the General Assembly's vision in 1999 to deregulate power plants to bring the benefits of electric competition to Ohio utility consumers. That vision was impaired by the 2008 energy law when so-called electric security plans were created with their increased involvement of government regulators.

There are many good aspects of Sub. H.B. 15, as passed by the House, that provide much overdue and needed protection for utility consumers. We do have suggestions to offer, intended to provide more protection for your constituents. Please consider these "nits" as part of the ongoing process to craft a bill that supports strong economic growth, increases personal well-being, and improves the quality of life for all Ohioans.

We thank Representative Klopfenstein and members of the House for retaining the pro-consumer provisions of earlier versions of H.B. 15¹ and amending the bill to add more consumer protections. We appreciate that the legislation no longer includes the duplicative and costly consumer choice billing program that we testified against. We are also appreciative of the bill's

¹ The pro-consumer provisions of H.B.15 that OCC supported in prior testimony include ending coal subsidy charges at the effective date of the legislation; an end to pro-utility electric security plans; continued prohibition on utility ownership of power plants; preserving the standard service offer; prohibiting cash payments for settlements; requiring electric distribution utilities to file rate cases every three years; and protecting consumers from teaser rates offered by marketers. See <https://www.occ.ohio.gov/testimony/hb15/2025-02-12>.

intent to keep utilities out of behind the meter generation. Utility involvement means less competition, potential cost shifting and risks to utility consumers in Ohio.

H.B. 15 also is a good start for addressing the regulatory gap that exists in Ohio on local (supplemental) transmission projects undertaken by the electric distribution utilities. These are the projects that Ohioans pay billions for but are not being reviewed by anyone. In October 2023, we pursued this issue with FERC, through the filing of a complaint.² (FERC has not ruled on our complaint). The added review should provide consumers some protection against utilities “gold plating” transmission investment and charging utility consumers for that excess. We are also hoping FERC acts on our complaint in the near term, implementing some of the relief we advocated for Ohio consumers.

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. H.B. 15 is on a good path forward for essential regulatory reform.

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. In Ohio, we continue to struggle to retain affordable utility rates. The overall poverty rate is above 13.3%, higher than the 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, utility bills in major Ohio cities have increased considerably. https://analytics.das.ohio.gov/t/PUCPUB/views/UtilityRateSurvey/ScheduleTrend?s?%3Adisplay_count=n&%3Aembed=y&%3AisGuestRedirectFromVizportal=y&%3Aorigin=viz_share_link&%3AshowAppBanner=false&%3AshowVizHome=n

We worked with Rep. Klopfenstein to strengthen the bill and provide clarifying language where needed. We submitted amendments to address various provisions in earlier versions of the bill. I will briefly cover some of the suggestions we have.

Community Energy Facilities: In H.B. 15, as passed by the House, there is a relatively new section that implements a sizable (1,500 MW) community solar pilot program. It appears that the program is similar in many respects to the program sought in H.B. 197 (135th G.A), but with more attention to providing guaranteed savings to those participating in the program. Perhaps an oversight, the pilot program has no end date.

While we support renewable energy, we continue to advocate for its development in the competitive market without subsidies from utility customers.³ Non-participating consumers (those who don’t enroll in a community solar program) should not be paying direct or indirect costs of the community solar program. While H.B. 15 provides this protection for large industrial

² <https://www.occ.ohio.gov/docs/OCC-Complaint-at-FERC-on-Local-Transmission-Projects-092823.pdf>. More recently, a group of industrial consumers filed a broad-based FERC complaint on similar transmission issues. The FERC case associated with that complaint is FERC Docket EL 25-44.

³ Please see my testimony opposing H.B. 197: <https://www.occ.ohio.gov/testimony/hb-197/2024-01-24>

and mercantile consumers, it does not extend the protection to non-participating commercial and residential consumers. Subsidies for community solar may be unintended but are likely to occur under the bill as written. We provided amendments to rewrite this portion of H.B. 15 to prevent such subsidies. We also support a provision allowing for sunset of the program, tied to the results of the PUCO's four-year review. Additionally, in the report to the General Assembly that follows the PUCO's four-year review (Lines 4803-4818), information should be provided on the direct and indirect costs charged to non-participating commercial and residential consumers.

Another option that should be considered is to set the community solar program aside for future legislation.

Multi-year rate plan true-up: In earlier testimony I voiced concerns with the multi-year rate plan which will significantly change standard ratemaking in Ohio.⁴ With the use of a forecasted test year and rates being set three years out, it is especially important to have a strong, defined true-up mechanism. Improvements will be needed to accomplish that.

It would be especially helpful if the legislation more fully defined the true-up process as an opportunity for parties to examine the prudence and necessity of actual expenditures and investments, apart from the review of the initial forecasted application. Additionally, we have questions about the true up allowing for "an adjustment to actual for the rate of return on actual investments." (Lines 1454-1461). This seems a guarantee of earnings instead of the current standard allowing utilities an opportunity to earn a fair return on investment. With the legislation largely addressing regulatory lag, that provision seems to be overkill and may contribute to excessive rates for consumers, as increases are not capped.

The true up process will need to be an open, transparent process that allows for a full and timely review of actual utility data by interested parties, along with the opportunity for discovery, comments, testimony, and an evidentiary hearing. As is customary in cases where riders are being trued up and reconciled, independent, third-party audits for each true-up period are needed as part of a fair process. As written, the legislation does not require these things. I also support adding clarifying language requiring that utilities publicly file (quarterly) actual financial information throughout the three consecutive twelve-month rate periods.⁵ That will assist in assuring timely review of actual data during the true-up process.

Consumer Refunds: H.B. 15 includes a limited refund provision allowing consumer refunds only after a Court's ruling. This provision, while seemingly helpful, is not so helpful. It also may have the unintended effect of prohibiting a refund opportunity that currently exists for consumers.

⁴ As an alternative to the multi-year rate plan, OCC (and NOPEC, OMA, and NOAC) supports a simple rewrite that would allow electric utilities the advanced ratemaking that gas and water utilities currently enjoy (forecasted test year, rate base calculated at end of test year and adjustments for known and measurable changes to expenses and revenues during test year and second year).

⁵ North Carolina requires these quarterly earnings reports, and other reports, as part of their multi-year rate plans.

Today consumers can receive refunds if the PUCO orders rates collected subject to refund or reconciliation and language to that effect is placed in utility tariffs. (Unfortunately, the PUCO rarely orders collection of rates under these conditions.)⁶ For instance, under a current OCC appeal, with oral argument scheduled this month, OCC is seeking refunds to AES consumers for charges collected subject to refund. Should OCC prevail, the language could preclude AES's half a million consumers from receiving full refunds from the time when rates were collected subject to refund. That interference with a pending Ohio Supreme Court appeal seems an overstep by the Legislature.

Please don't make it harder than it already is to get refunds for consumers. We recommend either deleting the refund language altogether (Lines 311-330) or adding a new Section (E) that allows full refunds if rates are collected subject to refund or reconciliation, consistent with current practice.

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

⁶ One exception is for the legacy generation rider, collecting the coal plant subsidy. The PUCO has importantly required the legacy generation rider for all utilities to be "subject to reconciliation, including but not limited to refunds to customers, based upon the results of audits ordered by the Commission in accordance with the Opinion and Order" in various utility cases. The rewritten refund language of H.B. 15 would seem to override the PUCO on this, to the detriment of consumers.