April 8, 2025
Before the Senate Energy Committee
Opponent Testimony on House Bill 15

Chair Chavez, Vice Chair Landis, and Ranking Member Smith, my name is Steve Nourse, VP-Legal for AEP Ohio. Thank you for allowing me to testify today in opposition to House Bill 15 (HB15).

I have been in the regulated utility industry for 35 years – a lifetime for some and more than a career-long practice for most. During that time, I have been closely involved with the telephone deregulation era through the end of the 1990s and have been integrally involved in all phases of the electric deregulation and restructuring from both inside the PUCO and in the electric industry. When I say all phases, I mean internal PUCO deliberations to implement restructuring and litigation before the PUCO, litigation of the restructuring issues before the Supreme Court of Ohio of SB 3 extensive involvement in the subsequent restructuring adjustments in SB 221 and consideration of such legislation up until today.

During those 3+ decades of my career, what I can tell you is this…the legislation you are hearing today will have long-standing impacts on the electric industry in Ohio well into the future. Yet, as I read through the various changes in HB15 to one of the most technical areas of the law, I am concerned about numerous technical and substantive errors in the legislation, explained more below. I would urge you to spend more time considering these widespread changes.

Behind the Meter Generation

Current law allows for a business to contract directly with a utility for behind the meter renewable energy, so long as ratepayers do not pay a single penny for these projects, and only the business contracting with the utility does. Both HB15 and SB2 would end this practice, but each bill does it differently.

HB15 would repeal existing R.C. 4928.47 entirely, but rightfully grandfather agreements entered into prior to the effective date of HB15, so long as those agreements are on file with the PUCO prior to the effective date of HB15.

SB2 would retain R.C. 4928.47 in law, but enact a new section of permanent law (R.C. 4905.311), which appears to not allow that law to continue to operate, but for any existing contracts that have facilities in operation prior to the effective date of SB2.

It is hard for me to understand why the state wants to eliminate this option for new generation at a time when an "all of the above" approach is needed to solve the lack-of-generation problem that currently plagues this state. As you have previously heard, AEP Ohio relied on current law (R.C. 4928.47) when it entered into separate contracts with Cologix Johnstown, LLC in November 2024 and Amazon Data Services, Inc in January 2025. Once the PUCO approves the agreements, AEP/Cologix and AEP/Amazon will solely pay for any direct or indirect costs associated with these respective agreements.

AEP Ohio has no objections to HB15's grandfather language in its current form. While overall AEP Ohio still recommends that you maintain the current law as is, if that is not the intent of this body, at the very least, the language in HB15 that grandfathers contracts that were entered into prior to the effective date of this legislation should be adopted by this committee. If they are not grandfathered, any such law would be an unlawful impairment of contracts prohibited under the Ohio Constitution.

Community Energy

This program, as well-intended as it may be, socializes subsidies on all ratepayers in Ohio by shifting costs from participating customers to non-participating customers. Specifically, it would allow participating customers to avoid paying for distribution and transmission system charges (i.e., not just generation charges), despite receiving power through those facilities. And instead, it would require other customers to cover those costs. In other words, it will cause rate increases for non-participating customers so that solar developers can get a subsidy.

More importantly, a Community Energy developer can already build these projects under current law. No new laws are needed to let them build these projects. However, current law does not give developers credits to socialize the costs of their projects on to non-subscribing ratepayers. And that is the main reason why the current proposed language is needed; specifically, to have sophisticated residential customers pass off their costs on to less-sophisticated, non-subscribing customers.

OPSB Jurisdiction

The proposed changes in the bill for expanding Power Siting regulations and jurisdiction should also be rejected. These changes will provide nothing but increased bureaucracy, increased litigation and longer delays that will be detrimental to economic development and to the provision of adequate service to customers.

Heat Maps

The so-called "heat maps" (as codified in new sections 4928.83 and 4928.87 of the Revised Code) will create new regulations and oversteps the bounds of the PUCO's retail jurisdiction. Even more troubling is how these "heat maps" will (1) jeopardize grid security by disclosing key infrastructure data to foreign adversaries, (2) be very expensive, (3)

provide little benefits, and (4) bureaucratically micromanage a utility's grid planning function.

Thus, the net effect of these new provisions will be additional regulation and no demonstrated benefit.

Self-Build Transmission

Under new division (B) of R.C. 4928.151, mercantile customers should not be permitted to self-build transmission lines or line extensions that are outside the customer's own property. Customers should not build assets that the utility will eventually own and operate and will be relied on to transfer power over the grid, especially for high-impact transmission assets. This type of activity also undermines the basic public utility model and would end up raising costs for other customers due to diminished utility investment and return. It is not clear how this would apply to other wholesale transmission providers involved in building facilities to support new load and illustrates how such a proposal would likely be preempted by federal law. And customers cannot exercise eminent domain rights to build or operate facilities in a right of way or other private property – or transmit/distribute power outside of their own property. Such activities are strictly limited to public utilities under Ohio law.

OVEC

If the General Assembly wishes to remove ratepayers from OVEC, AEP Ohio is merely asking for a reasonable transition out of the current law that permits cost recovery for EDUs. Under current law, OVEC cost recovery is permitted until the end of 2030. Accelerating that time frame by 2 ½ years to May 31, 2028, or even shortening the current recovery period by 4 years to December 31, 2026, would be more reasonable than an abrupt ending, which HB15 currently does. The abrupt withdraw of cost recovery for OVEC will financially injure AEP Ohio and harm customers by limiting its ability to invest in grid upgrades needed to fuel the growing economy in Ohio.

Alternatively, if some sort of transition out of OVEC recovery is not permitted, then this Committee, at the very least, should allow the PUCO to reconcile any unrecovered expenses, just like SB 2 did with expiring ESP riders.

EDU Definition

The inclusion of a restriction on owning or operating generation as part of the definition of "electric distribution utility" in lines 1907-1908 is redundant and conflicts with utility ownership of OVEC assets. And a similar overbroad cross-reference remains in R.C. 4928.17 (line 2995) in HB15 that could be interpreted to restrict activities electric utilities lawfully do today under provisions not affected by the bill. More accurate cross-references like the one in lines 2413-2414 of the substitute bill are needed to be consistent and to more accurately exempt activities done under current law.

Self-Generator Facilities

Having behind-the-meter generation on a customer site is a good way to supplement existing generation resources. However, by providing no geographic location on where the owner builds the facility, HB15 would permit virtual power plants that would impose substantial costs on the grid, which again would be funded by other customers. Like SB2, the "self-generator" definition in R.C. 4928.01 should be amended to include a geographic limitation on the generation facility that requires it to be adjacent to the customer site like it was in the parallel provision for mercantile customer self-power system.

Conclusion

I urge the committee to carefully consider the implications of this legislation and AEP Ohio stands ready to provide solutions that puts Ohioans first – by working to amend the bill in a way that addresses the major concerns outlined above. I am happy to answer any questions at this time.