



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

SUBSTITUTE HOUSE BILL 15 PROPONENT TESTIMONY

**TESTIMONY
OF
KIM BOJKO
OMA ENERGY COUNSEL**

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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) to testify on Substitute House Bill 15 as passed by House (HB 15) and now before the Senate.

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 led to lower wholesale energy prices, advancements in technology, and new power plants. Ohio is a low-cost place to generate electricity with abundant natural resources. Ohio should stay the course with competitive markets while instituting common-sense policy reforms to expand competition and free markets.

To this end, we thank this Committee's leadership on important energy issues included in Substitute Senate Bill 2 and HB 15 and thank the Committee for working to protect customers.

HB 15 will help protect customers by addressing unfair, anti-consumer provisions embedded in current law that cost customers billions of dollars. For example, the repeal of non-bypassable, above-market charges for customers who choose to shop for their generation, and the immediate elimination of the anti-competitive subsidies that customers pay for a few solar companies and two very old coal plants (one of which is in Indiana) owned by the Ohio Valley Electric Corporation (OVEC) will save customers hundreds of millions of dollars. Ohioans have already paid over \$670 million in total subsidies to OVEC's utility owners since 2017. For 2023 alone, customers paid over \$125.9 million for OVEC. Based on historical and predicted future electricity prices, we project that this trend will continue. If the OVEC subsidies are not repealed, we estimate that Ohioans could pay over \$1.1 billion total by 2030.

It is important to note that the plants are not being operated in an economic manner and allowing the utilities to continue to operate the old plants in the same manner will only

exacerbate the harm to customers. We support HB 15's immediate termination of these subsidies.

As many of you have heard me say, words matter and every change to the current ratemaking law will have lasting impacts on customers' bills and will likely result in some unintended consequences.

For example, the language authorizing electric utilities to forecast their test years in rate cases will incentivize utilities to forecast higher projected costs and lower projected revenues, leading to increases in customers' bills. Additionally, the language allows annual increases to the utilities' forecasted rates to provide them with an additional return on projected projects that were already included in the forecasted test year, and therefore, base rates. These changes to current ratemaking law eliminate important customer protections and allow customers' bills to increase every year based on forecasted projects. Truing up any rate base additions the following year will not result in rate certainty for customers and will eliminate any rate stability between rate cases.

While we do not believe that the current ratemaking statutory scheme is broken, the new language in the current version of HB 15 improves the true-up mechanism contained in prior versions of HB 15 and SB 2, which will ensure that the utility's forecasted test years are annually trued up to actual, including the utility's profit.

As this Committee is aware, transmission costs are on the rise and reform is needed. While all customers benefit from useful upgrades to the grid that make it more resilient, there is good reason to question the efficacy of recent utility transmission spending, most of which emanates from so-called "supplemental" projects, which receive little regulatory oversight.

In an effort to bring more oversight to some supplemental transmission projects, a prior version of HB 15 revised the size of transmission projects that will receive accelerated review by the OPSB from two miles to one mile (line 613). This was a positive change that would have limited the number of projects that receive accelerated review and, therefore, receive less scrutiny and oversight by the OPSB. This change was an important, positive change because, over the past 6 years, \$266 million dollars have been spent on transmission lines between one mile and two miles in length that have been approved by the OPSB through the accelerated process. OMA encourages the Committee to modify the current language (lines 613, 615, and 532) to only allow for accelerated review if the transmission lines are not more than one mile in length (see lines 525-534 of version 3 of HB 15).

The OMA also encourages the Committee to protect markets by not adopting or adding any provisions to HB 15 that would allow a competitive service to be provided by a regulated utility without the protection of corporate separation rules and law (e.g., behind the meter generation included in Sec. 4905.311 of SB 2). Ohio's corporate separation laws exist to prevent unfair competitive advantage and the abuse of market power. Current law does not allow regulated utilities to own generation (it only allows utilities to construct renewable generation on a nondiscriminatory basis if approved by the PUCO). There are currently no PUCO approvals for regulated utilities to construct behind the meter renewable generation. Allowing regulated utilities to own competitive generation directly contravenes the purposes of deregulation and corporate separation by allowing ratepayer subsidies to support monopolistic utilities' provision of an unregulated competitive service, which would be anti-competitive and thwart competitive on-site deals that customers might have entered with third parties.

While OMA continues to be concerned about allowing electric utilities to forecast their test years in rate cases and overturning decades of ratemaking law, we believe HB 15 is a step in the right direction that will allow competitive markets to work without subsidies and without numerous electric security plan riders, and will provide much needed improvements to the electric grid through transmission spending oversight and hosting capacity maps.

Mr. Chairman and members of the committee, that concludes my testimony. I would be happy to answer any questions that you may have.