BEFORE THE SENATE PUBLIC UTILITIES COMMITTEE
SENATOR SHANE WILKIN, CHAIRMAN

SUBSTITUTE SENATE BILL 103 OPPONENT TESTIMONY

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OF
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Chairman Wilkin, Vice Chair Reineke, Ranking Member DeMora, and Members of the Senate Public Utilities 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 Senate Bill 103 (Sub. SB 103), the -6 version as adopted by the Committee today.

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 under competitive markets for both electric and natural gas services for decades, which has led to lower wholesale energy prices and advancements in technology. Ohio should stay the course with competitive markets while instituting common-sense policy reforms to expand competition and free markets.

OMA thanks this General Assembly's leadership on important energy issues included in Substitute SB 2 and HB 15 and thanks the Committee for working to protect customers.

While Sub. SB 103 is a vast improvement over prior versions, OMA remains opposed to SB 103 as it contains several proposed changes to the ratemaking process and utility policy that would undermine consumer protections and harm the affordability and fairness of utility rates for businesses and Ohioans.

While SB 2 and HB 15 helped to protect customers by addressing unfair, anti-consumer provisions embedded in the old law that cost customers billions of dollars, Sub. SB 103 does not. For example, SB 2/HB 15 eliminated above-market charges, anti-competitive subsidies, and electric security plans. But, while Sub. SB 103 expands the favorable provisions of SB 2/HB 15 to natural gas, water, and sewer utilities, it does not eliminate the above-market charges and subsidies that were eliminated for the electric utilities. So natural gas, water, and sewer utilities are able to take advantage of forecasted test years while continuing to enjoy the revenue from capital investment riders. In essence, the natural gas and water companies will get to "double dip" under the new Sub. SB 103, receiving revenue through both expedited rate cases that are forecasted and capital investment riders that are also forecasted.

The language authorizing all 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 and without truing up to the actual costs incurred by the natural gas utilities as is required for the electric utilities.

In addition, Sub. SB 103 adds provisions that weaken customer protections. For example, on line 185, the sub bill eliminates the requirement for all utilities to file schedules and data required to determine the valuation of utility property, depreciation, and used and useful requirements. This will fundamentally change the valuation of utility assets and have the effect of increasing utility revenue from forecasted test years.

Additionally, the new Sub. SB 103 allows a natural gas company to enter into negotiated contracts to serve large load customers. The language requires all customers to pay for a portion of the additional infrastructure required to make these large infrastructure investments, only offsetting a small portion if the utility has an infrastructure development rider in place (lns 659-672). Thus, it appears that the natural gas utilities will be able to "double dip" again and on an expedited basis. Notably, the utilities will also be able to exclude any revenue that they receive from the negotiated contracts from a rate case proceeding, thereby skewing its revenues vs. expenses analysis in the rate case.

Furthermore, the sub bill increases water costs to customers by allowing the water utility to replace and collect from all other customers the costs associated with replacing customer-owned water service lines.

At a time of rising energy prices, the OMA encourages the Committee to protect markets by not adopting or adding any of these additional provisions to Sub. SB 103 that were not in SB 2/HB 15. Moreover, OMA asks that the Committee eliminate the alternative rate plan mechanism that allows gas utilities to obtain above-market charges. Similar to the elimination of riders in the electric security plans for the electric utilities, above-market charges are no longer necessary if the gas utilities are now allowed to forecast their test years, which will include forecasted capital investments.

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