Testimony of Jay Silva
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Opposition Testimony for Ohio Senate Bill 320
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Background on Energy Management Solutions (EMS):
EMS has worked in every state in the U.S. and identified/submitted more energy efficiency incentives that any other provider in Ohio. Our objective is to help industrial and commercial customers identify energy saving projects and apply for energy efficiency incentives that are needed to defray the upfront costs of improvements. Last year alone EMS identified and submitted over 120,000,000 kWh in energy efficiency savings. Mr. Swanson testified at the Ohio Senate's SB 310 Hearings in 2014 and was invited to speak to the Energy Mandates Study Committee in the Fall of 2015.

Qualifications:
Jay Silva – Chief Operating Officer of EMS, has worked in the Ohio market for 4 years at DNV GL, managing AEP Ohio's energy efficiency programs. Mr. Silva has been in the energy industry since 1990 managing energy efficiency programs, retail energy marketers as well as installing renewable energy equipment for homes, businesses and municipal facilities.

Gary A. Swanson, PE – President of EMS, Professional Engineer in Ohio and other states, has worked in the Ohio market for 12 years. Mr. Swanson has over 27 years of experience working with utility rates and industrial customers, and is presently working with 200 large industrial customer sites in Ohio ranging from 1,000 kW to 100,000 kW.

Testimony Opposing SB 320

Chairman Balderson, Vice Chairwoman Jones, Ranking Member Gentile, and Members of the Ohio Senate Energy and Natural Resources Committee, thank you for the opportunity to testify today. On behalf of my company, EMS, I urge you to oppose SB 320.

While we support the full reinstatement of both the renewable energy and the energy efficiency standards, I'm testifying today specifically on the energy efficiency standard. EMS has been serving customers in Ohio for over six years and has worked with more than 200 distinct commercial/industrial sites, helping them find ways to operate more efficiently and reduce energy costs using the Energy Efficiency (EE) programs that are made possible by Ohio's energy efficiency standard. During that time, EMS has submitted more commercial and industrial energy conservation rebates than any other company in Ohio. EMS has added an office in Ohio as well as permanent employees to help its customers save energy.

We are very concerned about the impact that SB 320 will have on industrial and commercial customers in Ohio. Specifically, we are concerned with four of the provisions in SB 320 related to the EE standard:

1) Removing penalties and compliance measures associated with the energy efficiency standards, making them voluntary;
2) Expanding the primary voltage opt-out that was passed in SB 310, to include all Mercantile customers in Ohio;
3) Watering down what "counts" as energy efficiency with measures that are not appropriate; and
4) Reducing the cumulative EE standard from 22% by 2027 to 17%.

Given our experience with C&I customers in Ohio and our experience with the programs themselves, it is our conclusion that SB 320 could actually kill the overall rebate effort that has helped customers remain competitive in Ohio. Today's businesses must operate as efficiently as possible to compete in a global market. EMS not only identifies *opportunities* for customers to reduce energy costs, it helps customers find ways to *implement* them. Ohio's EE programs are effective tools in this effort. They allow customers to buy down project costs so they can meet investment hurdle rates that otherwise would not have been attainable. These programs ultimately help customers implement more projects that save energy and lower operating costs. As one customer said: *"Energy conservation improvements save energy, cut costs and improve efficiency, enabling companies to expand and add jobs."* Since all neighboring states have EE programs, killing Ohio's EE program will leave Ohio businesses at a huge disadvantage to other companies in adjacent states.

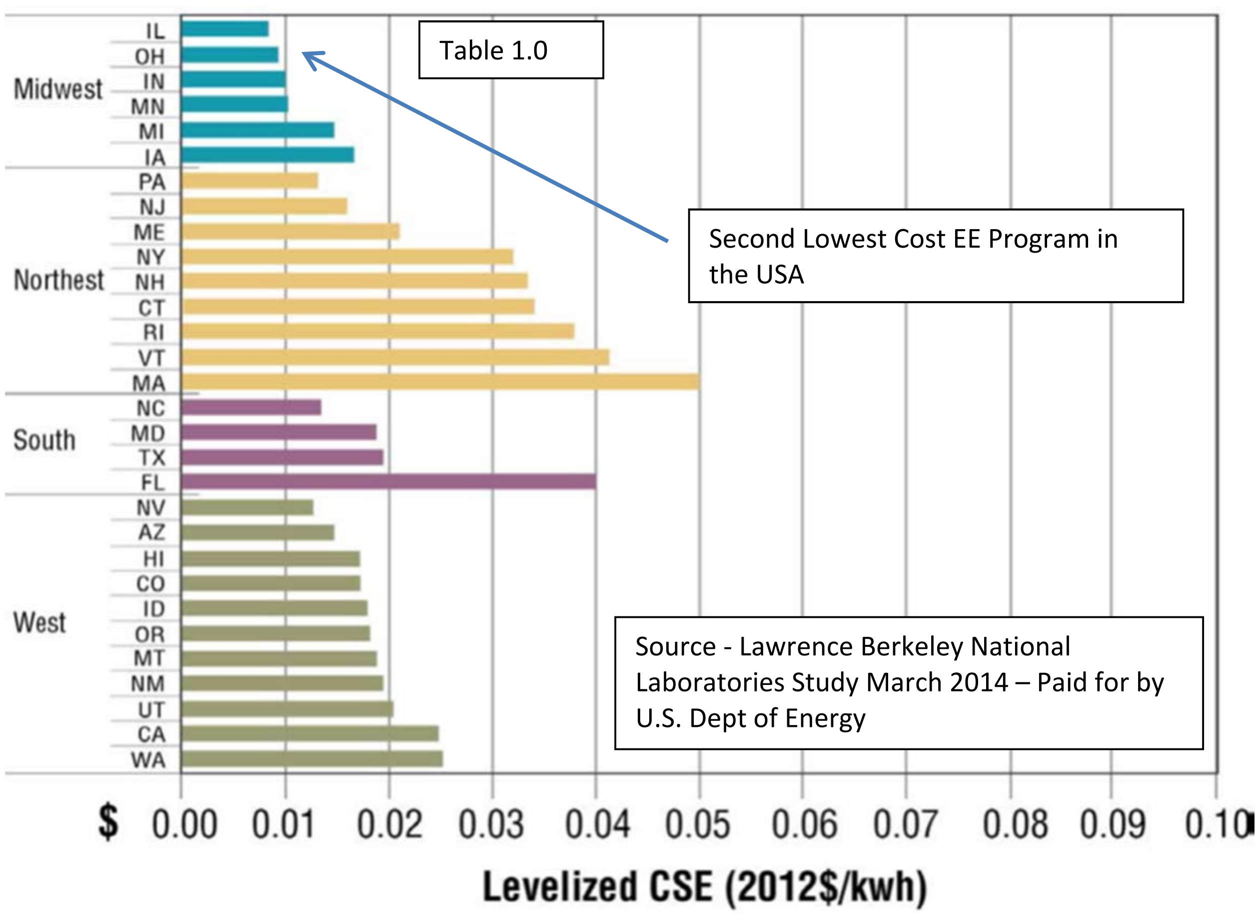
The following is a high level look at some of the issues in this bill that will drastically hurt industrial and commercial customers in Ohio. We are also concerned that many of the issues in this bill are politically motivated without regard to the impact to Ohio Industrial customers.

<u>High Level Look at Problems w/SB 320</u>

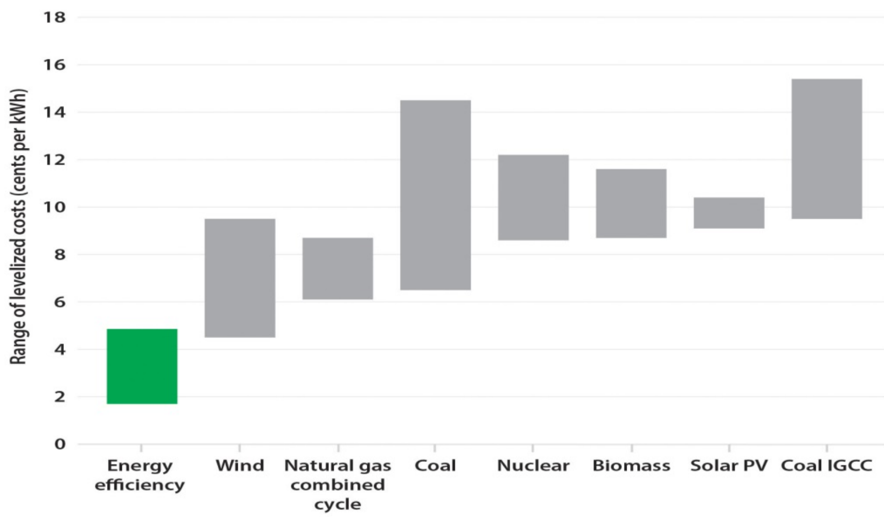
1. **EE program not enforceable for intermittent years through 2027 (compliance not enforced for 2017-2019, then enforced only once every three years)**
   - SB 320 would change the EE standard into a voluntary "goal." This would mean that utilities *could* voluntarily reduce energy costs, but there would no longer be accountability to ensure they actually do it. Bottom line - if there is not a mandate, utilities will not offer a full suite

of programs. This could squander all of the momentum that has been achieved from the last few years in developing an infrastructure for saving energy, as well as customer education. Customers need to count on programs 1-3 years in advance so they can plan for new EE projects and order long lead time equipment.

- Ohio has achieved the second lowest cost EE program in the country according to a Lawrence Berkeley National Laboratories Study (*Table 1.0 below, taken from page 37 of LBNL report*). See Lawrence Berkeley National Laboratory, *The Program Administrator Cost of Saved Energy for Utility Customer-Funded Energy Efficiency Programs*, March 2014, available at https://emp.lbl.gov/sites/all/files/lbnl-6595e_0.pdf
- This incredible achievement shows how well the programs are working in Ohio and will be squandered with a set of "voluntary" goals that are simply not enforceable. The LBNL report also found that EE is the lowest-cost energy resource (*see second table below*).
- There is also a misconception that all the "Low Hanging Fruit" has already been picked. This is not true. 99% of the companies can still save 30% or more of their energy costs if they have access to rebates to help buy down the cost of the improvements.
- Programs need to be measured annually to make sure companies are on track with goals. Measuring every 3 years will not allow companies to meet goals.



Energy Conservation is the lowest-cost form of generation – Lawrence Berkeley National Laboratories



2. **All Mercantile customers (energy usage of 700,000 kWh or more) will be able to opt out – This will kill the rebate programs for commercial and industrial customers.**
    - Under the current SB 310 language, as of January 1, 2017, all "primary voltage" customers can opt out of paying into the rider that supports utility-run industrial EE programs. Those customers (the "largest of the large") represent about 7% if the utilities' loads. Many of these customers will not opt out because they have engineers and consultants who can show them how to take advantage of the EE program and save energy, and for the ones that do, it will likely be because they are doing significant EE on their own.
    - But the "Mercantile" class is a much more diverse group of customers than primary voltage, typically with far less in-house EE experience. Mercantile customers are generally light industrial and commercial customers, and keeping them in the C&I programs is critical to ensure these programs remain viable, and that customers still have opportunities to work with their utilities to save energy. This class of customer still can save 30% of their energy costs but unfortunately they often lack knowledgeable in-house staff or the resources to hire consultants to take advantage of the EE programs. Having the utility-run programs in place helps these customers get technical support and find EE savings opportunities that they often could not have on their own. Further, the Mercantile class represents about 2/3 of the utilities total load. If this class starts to opt out in large numbers, there will not be enough dollars in the EE program to operate efficiently and will eventually kill the programs. It has taken the utilities the last 3 +years to educate this class of customers and develop new programs responsive to their particular energy needs. Allowing them to just opt out will deprive Mercantile customers of the chance to save energy and keep costs low, and will deprive other customers the chance as well since programs will be at risk.
    - Energy savings from EE programs benefit both the individual companies that take part in the rebates, but also all customers across the energy system. It has been well documented that utilities will save in infrastructure costs an estimated 3 times the money spent on EE programs. So a utility that spends $100,000,000 in EE programs that are efficiently operated will actually save all customers $300,000,000 in avoided infrastructure costs. Because this $300,000,000 is avoided costs that would have otherwise been added to rates, EE

investments will actually help reduce future rate increases. Since Ohio has one of the best run EE programs in the country, the programs keep rate increases down. This is by no means a subsidy to customers who use the programs. All customers can use the programs and resulting savings benefit everyone.

- There's also a question of why Ohio needs to expand the opt-out when SB 221 already included a provision for mercantile customers to "self-direct" their energy efficiency projects. This provision already gives mercantile customers flexibility and appears to be working well (ORC 4928.66 (A)(1)(c)).
    - Mercantile customers can opt out of participating in the EE rider as long as they provide some basic information on EE projects they're doing on their own.
    - Here is the form they fill out to qualify (which gets automatically approved within 60 days) –http://www.puco.ohio.gov/puco/index.cfm/puco-forms/mercantile-customer-application-to-commit-ee-and-pdr-programs/

3. **Watering down what "counts" as Energy Efficiency**
    - **Allowing savings at electric generating plants with heat rate improvements to count towards goals –** Any savings at electric generating plants should be captured in the sale of electricity. Heat rate improvements do not have an impact on saving energy at the customer side of the meter; rather these improvements will impact the *cost* of energy. These kinds of measures do not belong in the customer-focused energy efficiency equation. There are a few additional concerns with this provision:
        - It could swallow the annual EE standard whole, and allow utilities to just check off the box and collect EE rider money without delivering any true energy efficiency opportunities to customers (such as rebates needed to help finance energy-saving projects at C&I facilities).
        - Further, the requirement to meet the EE standard in law is on the distribution utilities. Those utilities do not own power plants in Ohio – their affiliate, unregulated generating arms do. So there is a very real question of whether it would even be appropriate to allow heat rate improvements undertaken by unregulated coal plant owners, to count toward the EE standard obligation that is solely on the shoulders of the regulated distribution utilities.

4. **Energy Efficiency goal reduced –** The existing utilities have not had a problem meeting the annual goal. And looking forward, all four Investor-Owned Utilities (Duke, AEP, First Energy and DP&L) have, in fact, submitted new 2017-2019 EE program portfolios to the Commission for approval, with clear parameters for reaching those goals in the next three years. If the utilities anticipated difficulty meeting these forward-looking goals, they would have stated this and asked for a substantial increase to their program costs. But instead, program costs for the next three years are close to previous year's costs. In fact, each of the utilities expects to exceed the standards in each of the next three years, some planning to reach 115% of their goals.
    - **Alternative–** Allow EE goals to stay at 1% for a longer period of time until the overall original 22% savings has been achieved.

If the Committee would like specific customer examples or more details on the topics discussed, EMS is more than willing to provide further information.

Recommendations: Reject SB 320 in its entirety, and specifically:

1. Reject any shift from required EE standards to "voluntary goals." Maintaining required standards is essential to ensure that EE opportunities are captured.
2. Reject the Mercantile opt-out. The SB 310 primary voltage opt-out starts on Jan 1, 2017, and we still don't know its impacts and how many customers will take the option. It would be prudent to wait to expand this opt out until we gather more information on the impacts of the existing opt out. Further, customers already have access to a "self-direct" which gives them plenty of flexibility in the meantime and can help them get a credit for their EE rider payouts if they file a simple form at the Commission.
3. Reject watering down the efficiency standard with unrelated and inappropriate things. It's critical that we maintain the integrity of the EE standard to ensure that customers have access to high-quality, cost-effective energy conservation opportunities. If we start to let unrelated things count under the standard, Ohio's EE programs will turn into nothing more than a counting exercise, rather than delivering new, EE opportunities to consumers.
4. Reject reducing the level of EE savings that Ohio can achieve by 2027. If there is concern about hitting the 2% annual target in the next few years, feather the 22% standard out to achieve it on a more gradual schedule.

We appreciate your time and consideration today, and welcome any questions the Committee may have.