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**Sponsor Testimony for House Bill 260**

**May 18th, 2021**

**House Public Utilities Committee**

Chairman Hoops, Vice Chair Ray, Ranking Member Smith, and members of the House Public Utilities Committee, thank you for the opportunity to provide sponsor testimony on House Bill 260, which would issue refunds to utility customers who have been improperly charged by their utilities.

This legislation would make all charges paid by customers to a public utility that are later found to be unreasonable, unlawful, imprudent, or otherwise improper by the Supreme Court or other authority to be fully refunded to the customers no later than one year following the issuance of that authority's decision. Why aren't these unlawful, unreasonable, improper charges currently being allowed to be refunded? Because of an Ohio Supreme Court case dating back to the Eisenhower Administration regarding landline telephone charges. This decision, *Keco Industries, Inc. v. Cincinnati Suburban Bell Tel. Co.* held that under Ohio's revised code section 4905.32, "a utility has no option but to collect the rates set by the commission and is clearly forbidden to refund any part of the rates so collected." That statute, which was HB 1 and passed in the 100<sup>th</sup> GA in 1953 states that "No public utility shall refund or remit directly or indirectly, any rate, rental, toll, or charge so specified, or any part thereof, or extend to any person, firm, or corporation, any rule, regulation, privilege, or facility except such as are specified in such schedule and regularly and uniformly extended to all persons, firms, and corporations under like circumstances for like, or substantially similar, service."

Since the passage of HB 1 in 1953 and the subsequent Supreme Court holding in 1957, justices of the Supreme Court have noted the unreasonableness of this provision. Justice Lanziger in her majority opinion *In re Application of Columbus S. Power Co.*, [Slip Opinion No. 2014-Ohio-462](#) acknowledged the unfairness that one utility could keep \$368 million in improperly collected funds based on the current legislative scheme under ORC 4905. Justice Pfeiffer in his dissent went even further and would have granted the refund of the improperly collected POLR funds. He stated, "It is unconscionable that a public utility should be able to retain \$368 million that it collected from consumers based on assumptions that are unjustified."

Here at the statehouse, we routinely throw around the term “common sense.” But I can’t think of anything more common sense or more judicious than returning money that shouldn’t have been received in the first place. If your bank overpays you and you keep it, you could be charged with theft. If the government overpays you and you keep it, you could see the inside of a prison cell. However, if you’re a utility and your ratepayers overpay you, you have this legislature’s blessing to keep it. If any other entity other than a utility had improperly kept millions of dollars of our taxpayer’s money, we’d be calling for their head. In Ohio in just over a decade the amount that the utilities have kept stands at an eye popping \$1.5bn that should have been returned to our constituents. That’s over \$100 million dollars a year for over 12 years. This must stop today. We are here today to correct this legislative injustice that has unfairly enriched Ohio utilities at the expense of our constituents, our local businesses, and our communities.

I will now turn it over to my joint sponsor before taking any questions.