

**Before
The Ohio House of Representatives
Public Utilities Committee**

**Testimony on Consumer Protections Related to Master-Metering, Submetering,
and Reselling of Utility Services
House Bill 249**

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October 17, 2017

Hello Chair Cupp, Vice Chair Carfagna, Ranking Member Ashford, and members of the House Public Utilities Committee. I am Jeff Jacobson of Strategic Insight Group, Ltd., testifying for the Ohio Consumers' Counsel on behalf of Ohio residential utility consumers.

This testimony is jointly submitted by the following consumer groups in support of House Bill 249, with the Ohio Consumers' Counsel presenting both in writing and in person, and the following groups submitting the testimony as written only. The Ohio Poverty Law Center is a statewide law office that pursues statewide advocacy to protect, enforce, and expand the legal rights of low-income Ohioans. Legal Aid Society of Southwest Ohio, based in Cincinnati, provides free, comprehensive, civil legal

assistance to address a wide range of major social and legal obstacles. The Greater Edgemont Community Coalition is a non-profit, charitable organization with an office in a largely African American inner-city neighborhood of Dayton that works to expand education and economic opportunities and improve the quality of life for all residents of the neighborhood. Community Shelter Board is a collective impact organization leading the community's response to homelessness by creating collaborations, developing innovative solutions, and investing in quality programs in Columbus and Franklin County.

We thank you and the bill sponsor, Representative Duffey, for this opportunity to testify in favor of this important legislation for consumer protection.

House Bill 249 would create much needed balance between consumers of resold utility services and providers of those services, to provide protections that are currently lacking for consumers of resold services. There is a growing class of Ohioans who lack the protections that you and your predecessors have enacted over the decades to ensure fairness for consumers of utility services. This situation is the result of providers of resold utility services that are exploiting a gap in Ohio law where the usual protections of regulation and the competitive market are missing for consumers. These resellers have acted as unregulated monopolies, and as a result consumers have paid higher bills and lost traditional protections, such as safeguards against unreasonable disconnections and assistance for low-income Ohioans.

Some utilities (AEP and Duke) have recommended that reselling should be prohibited “to the greatest extent possible....”¹ For consumer protection, we could support such a prohibition on the reselling of utility services. However, we also support the approach of House Bill 249. The Bill would require the PUCO to implement rules with certain required consumer protections, and would ban reselling if the PUCO does not promulgate the rules within one year.

Consumers of resold utility services lack, but need, the basic price and service protections that are available to other Ohioans who buy utility services directly from public utilities and other providers. In testimony before this Committee on December 2, 2014, Consumers’ Counsel Weston described important principles necessary to protect customers of resold utility services. Those principles included pricing protections, prohibition on utility charges for common areas, enforcement and penalties for violations, and avoiding preemption of local or other state regulations for consumer protections. We applaud H.B. 249 for addressing important principles for consumer protection.

The requirements in the Bill that provide consumer protections include prevention of price gouging and ensuring that consumers of resold utility service have the type of minimum service standards that customers of regulated public utilities receive. Of course, the PUCO’s rules should be subject to review by the Joint Committee on

¹ AEP and Duke Reply Comments, PUCO Case No. 15-1594-AU-COI, p. 1 (February 3, 2017).

Agency Rule Review (JCARR). In the PUCO's current investigation, it did not promulgate rules for review by JCARR.

Recently, the PUCO established some oversight of resellers, for consumer protection. But we are supporting House Bill 249 because the PUCO's approach is not an adequate response from government for protection of consumers of resold services. In this regard, the PUCO's approach places on individual consumers much of the burden for their protection. That approach is unreasonable for consumers. Consumers would bear the challenges of determining whether their reseller/provider is exceeding price limits. And, if it appears to the consumer that price limits are exceeded, then the individual consumer would have to file a complaint for a remedy at the PUCO.² In the complaint, the consumer would likely bear the burden of proof against the reseller that could be lawyered-up for the litigation. Ohioans have too many priorities for their time, including children, aging parents, and work, to bear this burden of prosecuting their own complaint for protection against reseller price gouging. House Bill 249 is the better solution.

Furthermore, the PUCO apparently is of the view that it lacks the jurisdiction under state law to require resellers to offer other consumer protections unless the reseller is first deemed a public utility. The PUCO's approach would create a rebuttable presumption that a reseller is acting as a public utility if its price for resold services exceeds the local utility's price for the service. In other words, the PUCO is not requiring all resellers to

² Second Entry on Rehearing, PUCO Case No. 15-1594-AU-COI, para. 31 (June 21, 2017).

provide to consumers the non-price protections that public utilities are required to provide, such as protection against unreasonable disconnections and the offering of bill payment assistance to low-income Ohioans. House Bill 249 solves this problem for consumers of resold service by requiring the same or greater protections as what consumers of public utilities have. (Bill lines 100-103)

We would note a technical matter for adding to the Bill. The reference to the undefined term of “standard service offer” on Bill line 132 should be revised to be consistent with other provisions of the bill. The term should be replaced with the terminology used in Bill lines 95-97 (i.e., residential rates, fees, and costs that are charged to other residential customers in the same service territory by the utility provider).

In conclusion, we look forward to working with Members of this Committee, your colleagues in the House and Senate, the Bill sponsor, and other stakeholders to protect Ohio consumers on these issues. Thank you again.