

House Public Utilities Committee
Dynegy Proponent Testimony H.B. 247

December 5, 2017

Testimony of Dean Ellis, Executive Vice President, Regulatory Affairs, Dynegy

Good afternoon Chairman Cupp, Vice Chair Carfagna, Ranking Member Ashford and members of the Committee.

My name is Dean Ellis, and I am Executive Vice President for Regulatory and Government Affairs for Dynegy.

Thank you for the opportunity to appear before you today to testify in support of HB 247. If this legislation is enacted it will properly rebalance the interests of utilities, market participants and consumers. In the end, this legislation will further Ohio's successful transition to a competitive electric market.

House Bill 247 offers Ohio the opportunity to further the transition to competitive markets that started back in 1999.

Dynegy is the largest owner and operator of electric generation units in Ohio. No utility and no other independent power producer owns more generation in Ohio than Dynegy. We have more than 6,200 MW of generation capacity in Ohio and can produce enough electricity in Ohio to power more than five million homes. Dynegy's Ohio generation fleet is made up of coal and natural gas generation. We operate in twelve states and in all six (6) competitive wholesale power markets across the U.S.

In addition to generating electricity, Dynegy is also a retail supplier of electricity as well. Dynegy serves more than 250,000 homes and business in Ohio. Last year, JD Power recognized Dynegy with an award for the "Highest Residential Customer Satisfaction with Retail Electric Service in Ohio."

Dynegy employs over 450 Ohio-based employees that work throughout the state at our generation facilities and at our retail office in Cincinnati.

We're proud of our Ohio business and its Ohio roots. Dynegy made an affirmative decision to invest in Ohio almost three years ago when we invested nearly \$3 billion to acquire our existing fleet. We came here by choice in no small part because of the reputation Ohio had developed as one of the country's premier electric energy markets.

Even though Ohio's transition to a fully competitive retail electric market is not yet complete, thanks to your leadership and the leadership of past Ohio General Assemblies, as well as to the work of the Public Utilities Commission, Ohio has already seen benefits from the ongoing transition, including:

- Billions of dollars in savings for standard service offer consumers and customers who take supply from competitive retail electric suppliers;
- New natural gas fired electric generation plants that are now operational as well as more units under construction, approved by the Ohio Power Siting Board or in the advanced planning stages; and
- More than adequate reserve margins across the PJM region demonstrating a high degree of grid reliability.

As I mentioned previously, House Bill 247 offers Ohio the opportunity to further the transition to competitive markets.

It does so in a way that is targeted and direct and in a manner that has attracted a wide and diverse set of supporters. In addition to Dynegy the following organizations have expressed support for HB 247:

- AARP
- Ohio Farm Bureau
- The National Federation of Independent Businesses/Ohio
- Office of Ohio's Consumers' Counsel
- Ohio AgriBusiness Association
- Ohio Hotel & Lodging Association
- Ohio Manufacturer's Association

In the interest of time, I'd like to briefly highlight three reasons why we support H.B. 247.

- 1. The phase out of Electric Security Plans will make for a simple, straightforward market based approach for procuring utility standard offer service supply and provide for a more comprehensive review of non-supply related proposals, or “riders”.**

Electric security plans (or ESPs) were first allowed after passage of Senate Bill 221 in 2008. The ESP is one of two mechanisms available to Ohio’s utilities to set the rates for utility standard offer service supply. The other mechanism—the Market Rate Option (MRO) was more narrowly focused on utility procurement of standard service offer supply.

No Ohio utility has completed the Market Rate Option to date. The PUCO and Ohio utilities have incorporated competitive bidding processes to procure standard offer service supply into their ESPs.

ESPs can also include non-supply related proposals and costs for such things as distribution system investment, grid modernization, economic development, job retention, and energy efficiency measures.

The ESP Process allows for what has effectively become a recurring settlement process among interested parties and PUC Staff to consider a wide range of proposals and their associated costs, many of which have nothing to do with securing the lowest competitive market price available for standard offer service supply and are well outside the statutory framework established in SB 221 (e.g. credit support rider).

Consequently, rather than a clean, straight-forward, market-based approach to securing electricity for standard offer service customers, the ESP process is instead a muddled conglomeration of delivery service related costs, supply related costs, and other proposals. The right place for resolution of these non-generation issues -- such as the need to provide credit support for a distribution utility -- is in a distribution rate case.

From one ESP plan to the next (historically they have been for 3 year terms), the current process provides market participants like Dynegy and Ohio residents alike with little certainty from plan to plan as to whether a viable competitive market for electricity will remain long-term. The recent battle in ESP cases over non-bypassable charges to support uneconomic generation underscores this point. What is more, utilities and their investors crave certainty; a 3-year cycle of uncertainty is completely the wrong prescription for what ails the Ohio market.

Dynegy is not suggesting that all proposals brought up in ESP proceedings are egregious. Many are certainly worth considering.

But by eliminating ESPs, the General Assembly will push all of these non-supply, delivery service related issues back to the utility's distribution rate cases where they belong. The correct proceeding to resolve these issues is in the utility's distribution rate case where the Commission is best able to perform a comprehensive review of all the utility's delivery service related expenses and revenues and in so doing better assure that both the customers and the utility are treated fairly.

2. H.B. 247 makes it clear that Ohio's utilities and their affiliates cannot own generation.

The second reason Dynegy supports H.B. 247 is because it makes clear that Ohio's electric utilities and affiliated entities cannot own and control any installed generation capacity located in Ohio, beginning January 1, 2019.

As an independent power producer, Dynegy has no captive ratepayers to recover from when faced with difficult cost recovery decisions. We have to sink or swim based on our ability to efficiently operate our generation facilities.

For this reason it is so important not only to Dynegy specifically, but also generally to the continued efficacy of competitive energy markets. Competitors that have affiliated utilities should not be able to rely on their affiliated utility's captive ratepayers to subsidize the cost of their generation-related operations. Such

subsidies not only force the utility's captive customers to pay above-market charges in the short term, but they also threaten the viability of the competitive market to provide customers with savings and pricing options in the future.

3. H.B. 247 provides a path to refund charges paid by consumers that were later determined to be improper.

The third reason we support H.B. 247 is because it makes a much needed correction to current law which permits a utility to keep charges assessed on customers even after those charges have been deemed by the PUCO or the Ohio Supreme Court to be unreasonable, unlawful, imprudent or otherwise improper.

Utilities should not be allowed to use the delay in the legal review process to unfairly enrich themselves.

H.B. 247 would require such amounts to be promptly refunded to the customers who paid the charges.

This change would introduce extra caution into utility spending proposals, which, considering they are spending their customers' hard-earned dollars, is good thing. This is not an effort to punish utilities but to restore the proper balance between utilities and their customers.

One additional point that I'd like to make and cannot understate: Dynegy has invested in and desires to continue to invest in Ohio. We do so with private investment, not ratepayer money. However, Ohio's current hybrid approach – and the constant threat of backsliding toward a re-regulated structure – chills the investment environment. Investment dollars by our company and others will go to states with a firm commitment to a defined regulatory outcome.

For all of these reasons, Dynegy believes H.B. 247 is the next logical step in completing Ohio's transition to competitive electricity markets and will provide benefits to its residents for years to come.

Thank you again for the opportunity to testify today.

I am happy to answer any questions you might have.