

Testimony of Leigh Herington
Regarding S.B. 128
Before the Ohio Senate Public Utilities Committee
June 1, 2017

Chairman Beagle, Vice Chairman LaRose, Ranking Minority Member Williams and members of the Ohio Senate Public Utilities Committee. My name is Leigh Herington. I come before you today on behalf of the Northeast Ohio Public Energy Council (NOPEC). NOPEC is a non-profit council of governments that provides retail electricity and natural gas aggregation service to customers of about 219 communities throughout 13 counties in northern Ohio. NOPEC serves approximately 500,000 residential and small business electricity customers who have saved over \$275 million dollars in the past sixteen years through governmental electricity aggregation supplied by NOPEC.

I am testifying today in opposition to S.B. 128, which would further limit and decrease the benefits that have been gained by electric customers served by First Energy. I am joined by NOPEC's general counsel, Attorney Glenn Krassen, who has lived through the transition from regulated to deregulated markets since the inception of NOPEC in 2000.

I had the honor of serving in the Ohio Senate at the time electric deregulation became the law of Ohio in 1999. I also had the honor of serving as one of the seven members of the legislature who worked on Senate Bill 3 for 18 months before its passage.

At the time of its passage, most of us had no idea of the positive impact that electricity deregulation would have on the residents of the State of Ohio. And I want to thank you all for staying the course on promoting deregulation and opt-out governmental aggregation which has benefited residential customers and small businesses throughout the state in ways that would not have been possible without deregulation.

It was not until recently, however, that we were able to understand the full impact of deregulation in Ohio.

In November of last year, NOPEC released a white paper on Electricity Customer Choice in Ohio on “How Competition has outperformed traditional monopoly regulation” in Ohio. The study, conducted jointly by The Ohio State University John Glenn College of Public Affairs and the Cleveland State University Maxine Goodman Levin College of Urban Affairs, clearly articulates the benefits that have been derived from electric deregulation and Opt-Out governmental aggregation.

The study indicates that since 2011, a robust retail market for electricity has developed in Ohio. As a result, “deregulation of electricity has saved consumers an average of \$3 billion per year, for a total of \$15 billion over five years. Moreover, it is projected to continue to save consumers nearly that amount for the next five years, through 2020, totaling another \$15 billion in savings.” For your benefit, I have submitted copies of this study for your further review and research.

Why is this study important for your review of SB 128? Well, for two very good reasons.

The first is that moving away from open competitive electric generation markets and back toward reregulation does not make sense for your constituents. Competition in the generation market has not only lowered prices, it has also improved system reliability, stimulated technical innovation, and has resulted in capital investment and entrepreneurship. There are now operating cost savings for Ohio employers, new sources of construction employment as new generation plants are built, and improved regional competitiveness as the relative price of electricity has declined. Deregulation has also reduced consumption (NOPEC study, page 12).

The second is that the study clearly indicates that the kind of non-bypassable riders that would be authorized by this legislation have kept Ohio from being as competitive as it could have been since

2000. The cost of non-bypassable riders in Ohio has been rapidly rising and, as a result, they have become controversial, especially when they are used to support deregulated activities, such as power generation. These riders in Ohio now represent approximately 14 percent of a consumer's cost of electricity usage. This legislation would significantly increase these non-bypassable charges.

Before we passed Senate Bill 3 in 1999, there was a negotiation with First Energy and the other Ohio Investor Owned Utilities. Because of those negotiations, in 2001, First Energy received PUCO approval to collect \$6.9 Billion dollars of so called "Stranded Costs," to cover the costs of transitioning from a regulated to deregulated electric generation market in Ohio. On January 1, 2017, the Company began receiving an additional \$204 million per year in unrestricted funds called a "Distribution Modernization Rider" for up to 6 years (up to \$1.2 billion) because of "alleged financial problems that First Energy's subsidiaries are facing." In all, First Energy has already collected billions from northern Ohio rate payers for transitioning from regulated to unregulated markets.

SB128 would require that First Energy's customers pay an additional \$300 million per year for sixteen (16) years to subsidize First Energy's aging nuclear plants, costing customers between \$5.25 billion and \$8.82 billion in nuclear subsidies, according to LSC's figures. This is a huge tax on northern Ohio residential and business consumers, and will contribute to making Ohio less competitive in the future.

Importantly, subsidization of First Energy's nuclear power plants will distort the very competitive electricity generation markets that have provided customers \$15 Billion in savings from 2011-2015, which savings have made Ohio more competitive than surrounding states.

If I were sitting where you are sitting today, I would appreciate First Energy's request. But I hope you also understand and appreciate how successful deregulation has been in Ohio for the past 16 years and how open competitive markets for electric generation have been the right policy course for

the citizens of Ohio. These competitive markets should be expanded and not suffer from movement toward reregulation and subsidies for a particular market participant.

Mr. Chairman, members of the Committee, thank you for the opportunity to present testimony on this Bill that means so much to those that you represent. I will be happy to answer any questions you may have.