OHIO SENATE PUBLIC UTILITIES COMMITTEE
TESTIMONY IN OPPOSITION TO SENATE BILL 155
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Chairman Beagle, Vice-Chair LaRose, Ranking Member Williams, and members of the committee, my name is Barry Matchett and I am Director of External Affairs for NRG Energy. It is a pleasure to speak with you today.

NRG Energy is the largest independent power producer in the country. We have 48,000 megawatts of generation capacity in virtually all organized markets including Ohio. We also operate several retail electric companies, providing a wide suite of energy choices to over three million residential, commercial and industrial customers, including tens of thousands here in Ohio. We are proud of our work in the many communities where we are important members of the business and civic communities. Recently, we have spent tens of thousands of hours and millions of dollars on Hurricane Harvey relief and clean up in Texas as we help our customers there recover from that massive storm.

This committee has heard hours of testimony on Senate Bill 155 just as your colleagues have in the House on its companion House Bill 239. As you know, these bills seek to subsidize what are called the OVEC power plants. At the conclusion of those many hours, this committee (and your counterparts in the House) decided to recess for the summer break without taking action on either bill. Before the recess it was noted that there should be discussions among the parties over the summer to make this a better bill. While there were discussions and slight modifications to the bill, none were substantial or significant enough to justify passage of this subsidy bill. NRG opposes this legislation.

We oppose for several reasons, three of which I'll briefly highlight:

United States Department of Energy "Grid Resiliency Pricing Rule"
Just 12 days ago, the United States Department of Energy issued a directive to the Federal Energy Regulatory Commission to take emergency action on their Grid Resiliency Pricing Rule. This rule, as proposed, suggests that some types of resources, specifically coal and nuclear energy, are not being appropriately valued for their "resiliency attributes". Many of us in the energy industry are still digesting exactly how the proposed rule will be interpreted and what type of market modifications FERC may consider to address the underlying issues in energy markets. However, what is clear is that coal and nuclear issues should be addressed at the federal level.

Any organized market pricing issues are national market issues and they require federal solutions. Any state-based subsidies would unnecessarily burden Ohio ratepayers with costs more appropriately borne by ratepayers throughout the regional transmission organizations. In plain English, a solution to an Ohio generator's revenue problem is much cheaper if it's borne by 35 million ratepayers in PJM ranging from Illinois to Delaware than if it's borne just by Ohioans. At a minimum, SB 155 should be held until the federal process is complete.

The Public Utilities Commission of Ohio Ruled in Favor of OVEC Cost Recovery
SB 155 is unnecessary because what it seeks to codify is already possible. In fact, this is legislation that's looking for a problem rather than a problem in need of a legislative solution. Under the existing statute, Ohio utilities who are involved in OVEC ownership can seek cost recovery at the PUCO. DP&L has an application in for recovery of these costs before the Commission now and Duke has been approved in the recent past. Most recently the ruling in AEP's ESP case was handed down and they won seven years of full recovery of their OVEC costs. This means these costs are fully recoverable, fully PUCO approved through 2024. The Ohio General Assembly can revisit this issue at a later date if regulatory cost recovery becomes an issue.

Non-Ohio Power Plant Subsidized by Ohioans

One of these plants is in Indiana. I want to emphasize this point: one of these plants is in Indiana and was built in the 1950's. This legislation asks Ohio legislators to raise rates, really impose an energy tax, on Ohioans to pay for one power plant that's in Ohio and one that's in Indiana. Both plants were fully paid for during the initial 50 year power purchase agreement between the federal government and OVEC, a contract that ended back in 2003. I'm not aware of any other entity coming to the Ohio General Assembly asking for a rate increase to subsidize their operations in other states.

In summary it's important that the General Assembly be clear on the facts around this issue. We started with this legislation being characterized as necessary for national security but that argument has been debunked. The reprocessing plant that the Indiana and Ohio coal plants were dedicated to serve during the Cold War is no longer in operation. In fact, not only was the contract terminated in 2003, but the US Department of Energy actually paid the OVEC owners a settlement of $97.5 million for post-retirement benefit costs.

We then heard that there was an iron-clad contract that prevented the Ohio entities from amending the terms of the arrangement. That also turned out to not be accurate despite their testimony before you. The OVEC owners have operated for almost 15 years without a state subsidy and they've passed on the several opportunities they had to modify that so called "iron-clad" governance structure of the organization to better account for the risks associated with purchasing power from a plant operating in the competitive market. The companies that make up OVEC chose not to account for that risk and now seek a long term extra bailout from the Legislature. They want to shift the attention away from them and on to you.

Lastly, you will soon hear the argument that there are now limits placed on the number of years and a cap on the amount of the monthly charge for customers. But what they won't tell you or explain is the fact that the bill still contains a deferral mechanism. What is a deferral? If those caps don't raise enough to cover their costs, then the utilities will defer those charges and accrue interest. At the end of 2030, an additional reconciliation payment (or through another regulatory mechanism) will be due from customers that could be significant. The caps are an illusion because the full costs and interest will be paid by customers to the utilities.

In many ways it's odd that we're debating this bill in Ohio. Ohio has one of, if not the most robust new power plant construction markets in the country. As this committee has heard in previous hearings, there are more than 10,000 megawatts of electric generation capacity under construction or development in the state. None of those plants are seeking state subsidies or rate increases on Ohioans. They are building here because the Ohio economy is good, the energy market is competitive and the gas under Ohio is plentiful and affordable.

This legislation seems to ignore all the positives going on in the Ohio market as it raises an energy tax to subsidize a certain group of power plant owners for an old plant in Ohio and one in Indiana that are in financial distress because of the decisions management of those companies made over the past two decades. We think this is the wrong approach for our business and our customers, wholesale and retail, and therefore we oppose this legislation.