Senate Bill 155, Senate Public Utilities Committee
Opponent Testimony of Joseph Oliker, Senior Regulatory Counsel, IGS Energy
on behalf of the Retail Energy Supply Association
October 12, 2017

Chairman Beagle, Vice Chair LaRose, Ranking Minority Member Williams, members of the Committee, good afternoon and thank you for the opportunity to present testimony regarding Senate Bill 155 as amended. I am Joseph Oliker, Senior Regulatory Counsel of IGS Energy, a family-owned, Ohio-based competitive supplier of retail electric and natural gas service. I testifying on behalf of the Retail Energy Supply Association, which is a diverse group of retail suppliers who share the common vision that competitive markets deliver a more efficient, customer-oriented outcome than the regulated utility structure.

I am here to discuss the competitive market and to encourage you to oppose attempts to undermine customers' power to make unfettered choices regarding their generation supply. To summarize RESA's position, there are at least three important reasons you should not support this Bill.

1. It's a subsidy and for no good reason.
2. It would allow utilities to privative gains and socialize losses.
3. It is contrary to Ohio law and policy in favor of free markets and customer choice.

A little history is helpful to place RESA's position in the appropriate context.

When the General Assembly restructured the retail electric market, it declared generation service competitive and guaranteed that customers may choose competitive options for generation service that fit their individual needs.

Senate Bill 155 would undermine the goals at the very heart of Ohio law and policy, requiring all distribution customers to subsidize two aging generating facilities—the larger of which is actually located in Indiana. In the process, the Bill would force all distribution customers to become involuntary investors in these generation facilities. Such a mandate would run afoul of the right embedded in Ohio law that customers may choose the competitive services that fit their needs.

The arguments to support this Bill are not well taken. The OVEC sponsoring companies made all currently existing undepreciated investment following the market restructuring that occurred in 2000, and following the decision by those companies to continue the Intercompany Power Agreement (the "Operating Agreement") despite the Department of Energy terminating its obligation to take the power from these facilities. Had these companies not voluntarily extended their Operating Agreement, they could have walked away from OVEC around 2005 and probably sold the units for a profit.

These facts are succinctly stated on Appendix A. But, in short, their investment was made with full knowledge that profits will be dictated solely by the competitive market.

On that point, it is important to note that there was a time when the Ohio utilities did very well in the market with the OVEC facilities, and the utilities kept those profits for themselves. If the OVEC facilities were still profitable, we would not be here today discussing this bill. Given that reality, it is not appropriate to pass legislation that would permit the utilities to privatize their gains and socialize their losses. Moreover, it is not

appropriate to prop up utility earnings that are already robust. For example, AEP Ohio's return on equity in 2016 was approximately 15%,[1] which is well above industry standard.

With that being said, to the extent there is an appetite to entertain the request to provide some sort of relief to the OVEC sponsoring companies, RESA suggests that you tailor amendments that would preserve customers' right to select only the competitive products and services that they desire. To that end, if this Bill moves forward, RESA recommends that any OVEC-related provision be bypassable to customers served by a competitive retail electric service provider. As I discuss in my prior testimony,[2] the structure currently proposed for approval by the Public Utilities Commission in the DP&L Electric Security Plan case contains a more acceptable blueprint.

Thank you for the opportunity to present testimony with respect to this important issue.

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[1] *In the Matter of the Application of Ohio Power Company for Administration of the Significantly Excessive Earnings Test for 2016 Under Section 4928.143(F), Revised Code, and Rule 4901:1-35-10, Ohio Administrative Code*, Case No. 17-1230-EL-UNC, Direct Testimony of William Allen at 5 (May 15, 2017) http://dis.puc.state.oh.us/TiffToPDf/A1001001A17E15B52931E01798.pdf

[2] Opponent Testimony of Joseph Oliker, Senior Regulatory Counsel, IGS Energy on behalf of the Retail Energy Supply Association (June 15, 2017).

Appendix A

OHIO VALLEY ELECTRIC CORP.

A look into the history and financial investments before and after electric market restructuring

OVEC INVESTMENT TIMELINE

1952 — OVEC Constructed at a cost of $292 million

1970s — Electrostatic Precipitators $184 million

1990s — Overfire Air & Low Sulfur Modifications $141.2 million

ELECTRIC RESTRUCTURING

2000s

9/29/2000 Notice of DOE Cancellation

2003 — Selective Catalytic Reduction (SCR) $355 million

4/30/2003 DOE Contract Termination

2006 — ICPA would have expired 3/12/06 without further action. ICPA voluntarily extended until 2026

2011-2013 — JBR Scrubbers $1.32 billion

8/11/2011 ICPA Amended through 6/30/2040

TOTAL: $672 MILLION | **TOTAL: $1.675 BILLION**

Nearly all undepreciated assets stem from investments made after electric restructuring and the cancellation of the DOE Contract

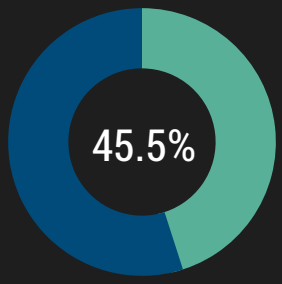
UNDEPRECIATED ASSETS AS OF 2015: $1.45 BILLION

OVEC electrical output represents approximately 3% of the total utility electric load in the state of Ohio.

4 The four publicly traded Ohio Utilities own a combined 38.68% of the generation output.

The U.S. Department of Energy (DOE) gave notice of cancellation of the Power Agreement with OVEC on Sept. 29, 2000.

The Inter-Company Power Agreement (ICPA) would have expired on 3/12/2006 without further action. In 2006, the ICPA was extended until 2026. In 2011 the ICPA was extended until 2040.



Only 45.5% of OVEC generation is located in Ohio