

Testimony of Leigh Herington
Regarding Sub. S.B. 128
Before the Ohio Senate Public Utilities Committee
October 23, 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 submit this written testimony 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 in 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 testified in person in opposition to the original S.B. 128 bill on June 1. I adopt my June 1 testimony in its entirety and will not repeat it. Moreover, since then, NOPEC has reviewed the Substitute version of S.B. 128 that is on the agenda to be accepted by this Committee this week. The Substitute bill merely reduces the amount of the nuclear subsidies to be paid by NOPEC's and other electric customers of the First Energy utilities in northern Ohio. For all the reasons stated in my earlier testimony, NOPEC opposes this Substitute bill. Despite the reduction, the subsidies continue to be staggering – published estimates are about \$186 million per year for 12 years, at a minimum, totaling over \$2 billion of rate increases for First Energy utility customers.

In addition, there have been new developments since June regarding this matter that makes this subsidy request particularly troubling. The owner of the nuclear plants, FirstEnergy Solutions Corp. ("FES"), has publically announced it is exiting the generation business and is in discussions with its

creditors about a bankruptcy filing. On August 14, 2017, Standard and Poor's ("S&P") downgraded FES to CCC-1 on those creditor discussions. Importantly, S&P stated that

While uplift for nuclear assets via either a state subsidy or the Department of Energy is possible, we consider neither in our base case and believe that even these would not forestall bankruptcy indefinitely." (Emphasis added.)

A copy of the S&P downgrade report is attached as Attachment 1.

This Substitute bill expressly contemplates this bankruptcy event. It provides that a buyer of the nuclear plants in a bankruptcy would receive 100% of the subsidies, even if this buyer was out of state.

Further, another significant new development has occurred since I testified on June 1 before this Committee on S.B. 128. The Federal Energy Regulatory Commission ("FERC"), at the request of U.S. Department of Energy Secretary Rick Perry, is engaged in a fast track proposed rulemaking (FERC Docket No. RM18-1-100) which is proposing market subsidies for nuclear and coal fired baseload generating plants that provide essential grid reliability.

It would be unwise for the Ohio Legislature to act on a nuclear plant subsidy bill paid for solely by Ohio ratepayers for the benefit of future out of state buyer(s) of those facilities in a FES bankruptcy. It would be particularly unwise public policy for the Ohio Legislature to act before the FERC concludes a rulemaking that, if promulgated, could spread the cost of any nuclear subsidy over tens of millions of customers in the entire 13 states (plus District of Columbia) PJM footprint, instead of only the captive Ohio electric customers served by the FE Ohio utilities.

For all of the reasons set forth in my June 1, 2017 testimony, and in light of these recent developments, NOPEC vigorously opposes Sub. S.B. 128. On October 21, 2017, the Cleveland Plain Dealer published an editorial on Sub. S.B. 128, a copy of which is attached as Attachment 2, which is titled "No nuclear subsidies for FirstEnergy – and it should stop asking." The editorial board concludes

that “Enough is enough. Just say no to FirstEnergy.” We at NOPEC agree completely with this conclusion, and ask for this Committee and the Legislature to adopt the same common sense approach.

Thank you for the opportunity to present testimony on this Substitute Bill that means so much to those that you represent.

(Attachments (2))