

**Before  
The Ohio Senate  
Energy and Public Utilities Committee**

**Testimony on Consumer Protections Related to Master-Metering, Submetering,  
and Reselling of Utility Services  
Senate Bill 86**

**By  
Jeff Jacobson, Office of the Ohio Consumers' Counsel  
Joe Maskovyak, Coalition on Homelessness and Housing in Ohio  
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Michael Walters, Pro Seniors, Inc.**

**November 12, 2019**

Hello Chair Wilson, Vice Chair McColley, Ranking Member Williams, and members of the Committee. I am Jeff Jacobson of Strategic Insight Group, testifying on behalf of the Office of the Ohio Consumers' Counsel, the state's representative of four million residential utility consumers. Consumers' Counsel Weston thanks you and the Bill sponsor, Senator Maharath, for this opportunity to testify in favor of this important legislation for consumer protection.

Joining in this testimony today are the following consumer groups. The Coalition on Homelessness and Housing in Ohio is COHHIO is a coalition of organizations and individuals committed to ending homelessness and to promoting decent, safe, fair, affordable housing for all, with a focus on assisting low-income and special needs populations. HARCATUS Tri-County C.A.O., Inc, is a private non-profit corporation which serves Harrison, Carroll, and Tuscarawas Counties and contracts with federal, state, and local governments to develop, manage, and deliver human and social

services for the betterment of our communities. The Ohio Poverty Law Center's mission is to reduce poverty and increase justice by protecting the and expanding the legal rights of Ohioans living, working, and raising their families in poverty. Pro Seniors, Inc. is a non-profit legal service provider located in Cincinnati, Ohio that works to expand economic opportunities and improve the quality of life for senior residents of Ohio.

The need for consumer protection from resellers of utility services was brought to light in a series of investigative stories by the Columbus Dispatch in October 2013. (See Attachment) Senate Bill 86 would create much needed balance between consumers of resold utility services and providers of those services.

There is a growing class of Ohioans who lack the regulatory protections that you and your predecessors have enacted over the decades to ensure fairness for consumers of utility services. Providers of resold utility services are exploiting a niche in Ohio law where the usual consumer protections provided by regulation and the competitive market are missing. These resellers have acted as monopolies, impacting consumers with higher bills and fewer service protections than traditional utility monopolies. This loss of consumer protections includes, among other things, the absence of the usual PUCO prohibition against unreasonable disconnection of utility service, especially during Ohio's cold winters.

Some utilities (AEP and Duke) have recommended that reselling should be prohibited "to the greatest extent possible..."<sup>1</sup> The consumer groups agree. However, we also support the general approach of SB 86 (albeit with some improvements) that

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<sup>1</sup> AEP and Duke Reply Comments at 1, PUCO Case No. 15-1594-AU-COI (February 3, 2017).

would require the PUCO to implement more protective rules for consumers of resold utility service than is the PUCO's current approach.

Submetered Ohio consumers lack, but need, the basic price and service protections that are available to other Ohioans who buy utility services directly from their local public utilities and other providers. Beginning in 2014, the Consumers' Counsel and other consumer groups provided testimony in the Senate and the House describing important protections needed for submetered customers. The needed consumer protections include: prevention of excessive pricing; barring charges (except in rent) to consumers for utility service in a building's common areas; equalizing service protections for submetered customers with protections for utility customers; teeth for enforcement and penalties against submeterers; refunds to consumers for improper charges; and deference to local or other state regulations that provide greater consumer protections.

We applaud SB 86 for addressing some of these important consumer protections. And we will be working with the Bill sponsor and others toward adding additional protections for consumers.

As background, in late 2016 and 2017, the PUCO established some oversight of resellers. But legislation is needed because the PUCO's approach is not an adequate response from government for protection of submetered consumers.

One deficiency is that the PUCO's approach does not give submetered consumers the service protections available to other utility consumers, such as protection from unreasonable disconnection. Another deficiency is that the PUCO's approach lacks adequate consumer protection against excessive prices.

Regarding excessive prices, the PUCO's approach burdens consumers with the complicated challenge of determining whether their reseller/provider is exceeding state price limits. And, if it appears to the consumer that price limits are exceeded, then the individual consumer would have to file a complaint for a remedy at the PUCO.<sup>2</sup> In the complaint, the consumer would likely bear the burden of proof against the reseller who could be lawyered-up for the litigation. Ohioans have too many priorities in their lives to bear a burden of deciphering regulatory formulas for excessive prices and then litigating their own complaint for protection against reseller price gouging. Legislation such as SB 86, which requires the state regulator to regulate, is the far better solution for Ohioans.

Furthermore, the PUCO appears to have the concern that it lacks the jurisdiction under current law to impose service protections for consumers unless the reseller is first deemed a public utility. The PUCO's approach creates a rebuttable presumption that a reseller is acting as a public utility if its price of resold services exceeds the local utility's price for the service. In other words, the PUCO is not requiring all utility resellers to provide to their consumers the important non-price service protections that public utilities are required to provide. Those service protections include the offering of bill payment assistance to low-income Ohioans and the prohibition against unreasonable disconnections. SB 86 attempts to solve this problem for submetered consumers by investing the PUCO with the power and jurisdiction to supervise and regulate resellers (Bill lines 69-70). But the Bill's authority for the PUCO should be expanded to expressly

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<sup>2</sup> Second Entry on Rehearing at ¶31, PUCO Case No. 15-1594-AU-COI (June 21, 2017).

provide submetered consumers with other non-price protections afforded to consumers of public utilities.

The following list is a summary of additional consumer protections that should be amended into the Bill:

1. The Bill should vest the PUCO with the power to give submetered consumers service protections that are equal to the protections enjoyed by other utility consumers (e.g., protections against unreasonable disconnection).
2. SB 86 should protect all Ohioans from submetering, including consumers in areas served by utilities, municipalities and co-ops.
3. SB 86 should include in its new regulatory processes the right of the Ohio Consumers' Counsel to participate in any and all cases on behalf of submetered residential consumers.
4. SB 86 should ban charging consumers for utility service to common areas that are not within the consumer's actual dwelling. Also, for setting regulatory pricing limits, submeterers should be barred from charging their consumers the equivalent of the so-called riders that utilities charge when the submeterers do not offer the programs or bear the costs that are the basis of the utilities' riders.
5. SB 86 should be amended to include adequate "teeth" for enforcement and remedies for consumers: The dispute resolution and enforcement provisions of the Bill do not protect consumers. The Bill should afford submetered consumers the opportunity to collect reasonable attorney's fees and treble damages if the reseller is found to be in violation of the law or PUCO rules. Also, the Bill should ensure that refunds to submetered consumers are required for any improper charges. More generally, the Bill should fix the current hole in Ohio law where utility consumers have been denied many millions of dollars in refunds for improper utility charges. Just since 2009, Ohio electric utility consumers have been denied more than a billion dollars in refunds of PUCO-approved charges that the Ohio Supreme Court found to be improper.
6. To protect submetered consumers, additional terms should be defined in the Bill. For example, "standard service offer," "standard choice offer" and "standard rate or offer" on lines 13, 17, and 21 should be replaced with more clear terminology.

In conclusion, we thank you and the Bill sponsor for your consideration.

# The Columbus Dispatch

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## **Shocking cost investigation: Utility middle men charge renters inflated prices**

**Sunday**

Posted Oct 20, 2013 at 12:01 AM

Updated Oct 20, 2013 at 4:58 PM

Consumer protection for utility customers sometimes stops at the apartment door in Ohio. Unlike most states, Ohio allows unregulated, third-party "submeter" companies to make big profits by reselling electricity and water to residents of apartments and condominiums. "They pretty much told me that I don't have a choice and this is how it is," said Rachelle Sexton, who rents at the Enclave at Albany Park in Westerville.

By Dan Gearino, The Columbus Dispatch

Consumer protection for utility customers sometimes stops at the apartment door in Ohio.

Unlike most states, Ohio allows unregulated, third-party "submeter" companies to make big profits by reselling electricity and water to residents of apartments and condominiums.

"They pretty much told me that I don't have a choice and this is how it is," said Rachelle Sexton, who rents at the Enclave at Albany Park in Westerville.

Her August bill was \$176.24, which was 30 percent more than she would have paid for the same usage at regulated prices.

**>> More stories in our 'Shocking Cost' investigation**

A 10-month investigation by *The Dispatch* found that residents pay markups of 5 percent to 40 percent when their landlords enter into contracts with certain submeter companies. If the customer fails to pay, the companies sometimes resort to collection tactics that would be illegal for regulated utilities, including shutting off heat in winter and even eviction.

The problems stem from an absence of regulation, a blind spot in Ohio law that affects an estimated 18,000 to 20,000 housing units in the Columbus area, and that has the potential to affect any of about 3 million Ohioans who live in apartments or condominiums.

"What it gets down to is the individual consumer," said Ohio Attorney General Mike DeWine in response to the *Dispatch* findings. "We made a public-policy decision years ago in this state that we were going to put in place certain protections for the individual utility consumer.

"It seems to be a problem when you have a small minority of consumers who do not have those protections. That, to me, would raise a lot of questions."

Yet no state agency has the authority to respond. That would require action by the Ohio legislature, DeWine said.

Here's how it works: A submeter company buys the utility meters and distribution system within an apartment complex. It then buys electricity or water, or both, from utilities and sells them to tenants, often at inflated prices and with fees.

In some cases, the submeter companies are owned by principal owners of the apartment complexes. And the submeter companies have names that sound like big, well-known businesses - names such as Nationwide Energy Partners and American Power & Light.

Complaints and questions about these companies are on the rise, with 5,137 inquiries to the Central Ohio Better Business Bureau about submeter companies since October 2012, up 33 percent from the year before.

The most-common complaints are about high bills and unresponsive customer service, said Joan Coughlin, a vice president in the office. "We had consumers state that they moved from a larger residence to a smaller apartment and had their utility costs increase," she said.

And, when a building is served by a submeter company, tenants are not eligible for money-saving programs available to most Ohioans. This includes the "choice" program, which allows customers to select a utility provider from among several. Instead, the submeter company is the only option.

Submeter customers also are ineligible for PIPP Plus, a federally funded subsidy for low-income residents available to anyone served by a state-regulated utility. The program served 41,160 households in Franklin County last year.

"We're being victimized," said Dustin Flowers, who rents at Northpark on the Far North Side. His most-recent bill was 23 percent more than it would have been at the regulated price.

He said high bills have thrown off his budget and forced him to cut back on spending in other areas. "I've lost sleep over this."

In many other states, this type of utility resale is banned by law or rule. That leaves just a few other states where it is allowed: Alabama, Georgia, Kansas, Pennsylvania, South Carolina, Utah and Washington.

What those states do not have is evidence that companies are using gaps in the system on a large scale. In this way, Ohio is unique, with companies whose business models depend on the lack of rules.

"Allowing markups for submetering is just bad policy," said Janine Migden-Ostrander, the former Ohio Consumers' Counsel who is now a principal at the Regulatory Assistance Project, a national nonprofit group that advises regulators on utility policy. "They aren't providing the customer with any real service that they wouldn't otherwise get from the utility company. There is no value added for the customer."

## **Made in central Ohio**

The *Dispatch* investigation focuses on two central Ohio companies: American Power & Light and Nationwide Energy Partners. They sell services to property owners, read meters and handle billing and collections.

By acting as intermediary between utility and resident, the businesses perform functions of a utility without regulation.

Both companies have close ties to large apartment owners in the region, serving their tenants and others. American Power is part of a group that includes Ardent Property Management, and Nationwide Energy was founded by the chief executive of Lifestyle Communities.

While there are many similarities, the companies have some big differences. Nationwide Energy provides a detailed explanation of its fees, and it has a call center to respond to customers. It also works to resolve complaints and help those unable to pay, customers said.

In contrast, American Power is less responsive to customers and consumer groups, and it is more aggressive in collections. It gets a grade of D from the Better Business Bureau, compared with a B- for Nationwide Energy.

"We are moving toward complete transparency with the residents and the developers," said Mike Palackdharry, Nationwide Energy's president, interviewed at the company's Arena District offices.

He said his company delivers value that justifies the costs, including the convenience of a combined bill for water and power, and helping consumers reduce energy use.

"We are trying to do things the right way and to bring a positive impact to our residents," he said.

When presented with examples of customers paying more than the regulated price, Palackdharry said it was not a fair comparison, because his company's bills include charges for electricity use in common areas, such as hallways. If the tenants were not served by his company, those costs would lead to higher rents, he said.

After not responding to requests for an interview, Bill Finissi, American Power's vice president, provided *The Dispatch* with emailed responses to questions.

"(A)ll tenants enter into agreements with our company with eyes wide open and with full knowledge of the leasing contract provisions," he said.

"Our costs also include a share of common-area electrical usage, and a charge for submetering and administration," he said. "This is our business model which prospective tenants have complete freedom to accept or not. By the way, if we didn't do it this way, these extra costs, which are essential costs of providing apartment housing, would need to be included in the rent."

Consumer advocates say they would prefer that such charges were included in rent to make it easier for tenants to see the true costs when they shop for housing, as opposed to being surprised by high utility bills.

While submetering is legal throughout Ohio, the large majority of consumer complaints are in the Columbus area. Why not in other places? Consumer advocates can only guess. They point to a lack of well-organized tenants'-rights groups and the fact that Nationwide Energy and American Power happen to be based in the area.

Ohio's unique regulatory structure means that the business model easily could spread across the state. The model also could spread to other states with a similar lack of rules.

"Columbus is absolutely ground zero for these rebilling schemes," said Spencer Wells, a former tenant-outreach coordinator for the Coalition on Homelessness and Housing in Ohio, an advocacy group.

If residents are late with payments, American Power will sometimes evict them, even if the consumer's rent is up to date and even though American Power is not the landlord.

"Once you enter this slippery slope, where a third party has the ability to order evictions, that's shocking," said Emily Crabtree, a lawyer with Columbus Legal Aid who has defended American Power customers.

American Power initiated 51 eviction cases last year, according to Franklin County Municipal Court records. The company has opened 159 of the cases since 2010. Nationwide Energy opened 278 such cases from 2002 to 2011, but none since.

**No connection to AEP**

Despite familiar-sounding names, Nationwide Energy and American Power are not affiliated with two of Columbus' most-prominent companies, Nationwide Insurance and American Electric Power.

Housing-rights advocates say American Power's name is confusing for tenants who think they are dealing with the local utility, AEP. It's not as much of an issue for Nationwide Energy because Nationwide Insurance doesn't sell electricity.

Many of their practices would be illegal if the provider was a state-regulated utility like FirstEnergy or AEP.

In central Ohio, AEP sells electricity to the submetered complexes. The difference is that it sells in bulk to the property owner or submeter company, instead of to the end user.

Although AEP does not directly serve submeter customers, the company still gets calls from confused residents. AEP would prefer it if those customers were hooked up to AEP meters, but the company understands that submeter companies are following Ohio law, said spokeswoman Terri Flora.

"As people make choices to rent in an apartment, they need to be fully aware of what that choice involves," she said of the possibility of paying higher prices with a submeter company. "It's a different environment than consumers are used to."

According to AEP, there are about 130 submetered apartment or condominium complexes in central Ohio. When asked to estimate how many units are in the complexes, AEP said it is likely 18,000 to 20,000.

The state regulatory system was developed early in the last century to stop utilities from abusing local monopolies over the meters, wires and other delivery systems. Submeter companies did not exist then.

"As a matter of policy, we want all customers to be treated fairly and equally," said Todd Snitchler, chairman of the Public Utilities Commission of Ohio, which regulates utilities and is the type of agency that oversees submetering in many states.

While that might be the aim of Ohio's regulation, his agency lacks jurisdiction over submeter companies. He said that the Ohio General Assembly would need to take action for the PUCO to assert authority.

"That's a policy call for them to make," he said.

## Customer bills tell story

When a customer questions the rates of Nationwide Energy or American Power, the companies reply that the charges are the same as those charged by the local utility. But that's not accurate, based on a *Dispatch* analysis of bills from a wide variety of customers.

In each case, the bills are based on the equivalent rates that would be charged by regulated utilities, except with added fees. When you include fees, customers are paying an extra 5 to 40 percent.

At the same time, the bills do not give customers the benefit of bulk-buying discounts and other savings that the submeter companies use to make their wholesale cost much lower than the regulated price.

To illustrate this, *The Dispatch* looked at a hypothetical 100-unit apartment complex in which each tenant used 750 kilowatt-hours of electricity in a month, which experts say is typical. At AEP's central Ohio regulated price, each household would get a bill for \$113.57, a figure confirmed by the utility.

However, if a submeter company bought the same amount of electricity for all 100 units, it would qualify for a commercial rate and it could also shop for a bulk-buying deal on Ohio's open market. Based on the commercial prices available in central Ohio, the complex could obtain the power for the equivalent of \$70.93 per unit.

By reselling power to the tenant at the full AEP rate of \$113.57, the submeter company's rate is 60 percent higher than its own wholesale power cost. And that doesn't include a host of submeter fees, which can easily exceed \$30 a month.

When presented with this, Palackdharry said the example overstates the potential profit because it does not take into account seasonal factors and other technical issues.

His boss, Nationwide Energy founder and CEO Mike DeAscentis Jr., went into great detail about the business model in a 2010 presentation to investors. "How we make money is we buy power at a commercial rate and we resell it at the residential rate and there is arbitrage in the rate structure," he said, according to a transcript obtained by *The Dispatch*.

DeAscentis is also the CEO of Lifestyle Communities, an apartment developer. He is the son of that company's founder and chairman, Mike DeAscentis Sr. Nationwide Energy provides its services to Lifestyle Communities and other large property managers, such as Crawford Hoying, which is owned by Brent Crawford and former Ohio State football player Bob Hoying.

Property owners are willing to sign these contracts because submeter companies often cover costs of setting up meters. Also, the submeter company will bill customers for electricity and water used in common areas and pass the money to the property owner. A regulated utility will not handle such payments.

"Our philosophy here is we are a real-estate company," said Dave Carline, president of Crawford Hoying's apartment division, explaining why his company hired Nationwide Energy. "We really wanted to get out of any energy business. We wanted to allow energy companies to do their own thing and let customers deal directly with them."

Nationwide Energy began in 1999 by installing its metering systems in newly built apartments. It later expanded to also serve older properties, including some in which tenants previously had individual meters and billing from the utility, and had no choice but to switch to the new provider. The company has about 40 employees.

"NEP is the new utility," DeAscentis said in the 2010 presentation. "We do everything that a utility does except generate power. NEP builds electrical-distribution systems for residential communities, and we were very deliberate when we started the business 10 years ago to put it in a place where it was not regulated."

He spoke of plans to expand into Pennsylvania, New York and the Washington, D.C., area. The company is now active in Pennsylvania.

"Our business is very unique," he said. "As we went across the country and did management presentations of people who see 300 or 400 deals a year in the energy space, no one ever saw a business that had a model like ours and what we were doing."

American Power was founded in 2003 by developer Donald R. Kenney Sr. It shares office space with many of his other ventures, including Ardent Property Management, Village Communities and Metro Development. His companies have built more than 35,000 apartments or condominium units, according to the Metro website.

## Outside the mainstream

There are reasons other companies have not tried this. It is illegal in most states, and established submeter companies say that such a model has a high risk of lawsuits, intervention by regulators and blowback from angry consumers.

The submeter industry has been around for decades and has customers across North America and Europe. Most of these companies make money by selling equipment and services, and they comply with industry standards that say it is unethical to charge a markup on the cost of electricity or water.

"When you start trying to get creative (with pricing), you create problems for the entire industry, and we don't want that," said Matt White, president of Meter Technology Works of Tampa, Fla. He sells meters to submeter companies and is past president of the national submeter trade group, the Utility Management and Conservation Association.

The current president, Arthur Blankenship, owner of Argen Billing, an Atlanta-area submeter company, said he is concerned by reports of "rogue companies" in Ohio.

"Our industry doesn't have anything to hide, and if there are companies out there doing something dubious, that needs to be addressed," he said.

Neither Nationwide Energy nor American Power is a member of the trade group. But another local submeter company, Guardian Water & Power of Grandview Heights, is a longtime member.

Founded in 1983, Guardian has customers in 30 states. For its Ohio customers, Guardian typically charges about a \$3-per-month service fee for each apartment served, which the landlord can pay or pass along to the tenant. The company makes no profit from marking up water or power, and it has never evicted anybody.

Harry Apostolos, Guardian's co-founder and owner, declined to comment specifically about

Nationwide Energy or American Power, which he said are competitors.

In general, he said, some companies have chosen business models that go against industry best practices, and they have "created a black eye for the industry in central Ohio."

[Click here to read more about Guardian Water & Power's business practices](#)

## State officials no help

Consumers often do not know what is happening. When they find out, they are shocked that this is legal in Ohio.

"It was inexplicable," said Gabriel Santiago of Reynoldsburg, a former Nationwide Energy customer who moved out of his apartment this year because of what he saw as excessive electricity charges.

Guy Fulcher, a former American Power customer who now lives in Galena, was fed up with the response when he tried to file a complaint.

"The attorney general back then was Richard Cordray, and his office just rolled over and said, 'We don't regulate that,??' he said. "They said to go to PUCO. PUCO said, 'We don't regulate that.??'"

Consumer advocates say that these extra charges, and the fact that they are legal in Ohio, should be a source of shame.

They would like to see the Ohio General Assembly or PUCO rein in the most-abusive of the practices. But first, they say, there must be awareness that a problem exists.

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# The Columbus Dispatch

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## **Shocking cost investigation: Lawmakers call for action on electricity markups**

**Tuesday**

Posted Oct 22, 2013 at 12:01 AM

Updated Oct 22, 2013 at 9:41 AM

Rules protecting utility customers do not apply to thousands of apartment residents in Ohio, and that's a problem that should be fixed, according to a wide range of elected officials and regulators.

By Dan Gearino, The Columbus Dispatch

Rules protecting utility customers do not apply to thousands of apartment residents in Ohio, and that's a problem that should be fixed, according to a wide range of elected officials and regulators.

Over the past two days, a *Dispatch* investigation showed how some "submeter" companies use a lack of regulation to make a profit on the resale of electricity to apartment and condominium residents. The companies charge premiums that are 5 to 40 percent higher than regulated prices, often with little disclosure.

Submetering markups are legal in this state - although not in many others - but most state officials contacted were not aware of it.

They said the General Assembly should investigate.

"I didn't know this problem existed," said Sen. Bill Seitz, R-Cincinnati, chairman of the Ohio Senate Public Utilities Committee. "This bears some degree of looking into and some degree of regulation."

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Ohio Attorney General Mike DeWine, who also learned of this issue from the newspaper report, said he would welcome action by the legislature to investigate and potentially regulate these practices.

"Really, the regulations that are in place for most consumers are not in place for a certain minority of consumers that fall into this category, and that's really no fault of their own. It's just by chance of where they live," he said.

He thinks the use of evictions by submeter companies also should be part of the discussion. One of the companies, American Power & Light, goes to court to evict some tenants who fall behind on their utility bills, a practice that consumer advocates say is unconscionable.

Rep. Mike Foley, D-Cleveland, was the only legislator interviewed who was familiar with submetering in Ohio. He is former executive director of a tenants-rights group in his city and has sponsored several bills that deal with water submetering.

"It's something that isn't too hard to fix," he said.

What might be difficult, he said, is raising awareness and concern about rental-housing issues among his colleagues. Such issues don't come up often at the Statehouse.

"It's not something that people have a high knowledge base on," he said.

That isn't the case elsewhere.

In 29 states, officials have addressed submetering, making illegal at least some aspects of the practices employed by submetering companies doing business in Ohio.

For example, George Jepsen, the Connecticut attorney general, helped to arrange refunds for tenants in his state. "Submetering of electricity is restricted by state law because it does not afford consumers the same protections the law provides for utility customers," he said in a statement in June.

Ohio lawmakers seeking a model to emulate could look to Texas, a state whose electricity market is structured much like Ohio's. Texas is different because the state offers additional protections for apartment residents.

In Texas, a submeter company must pass through its cost of electricity to tenants. So, if the company uses its bulk buying power to get a big discount, the customers must receive all of the benefit. To verify that this is happening, the landlord must disclose the wholesale electricity cost to tenants. Submeter companies there make their money from service fees, which the law caps at 10 percent of the electricity bill.

Unlike Ohio, in which no agency regulates submeter companies, the Texas utility commission will investigate complaints. Since 2002, the agency in Texas had received 583 complaints about submetering, according to records provided in response to a request from *The Dispatch*.

That works out to about 50 per year, not a huge number to investigate, said Carol Biedrzycki, executive director of Texas Ratepayers Organization to Save Energy, an advocacy group.

"On this narrow issue, I would say this is a good rule and it's been well-enforced," she said.

Concern about workload was one of the reasons that Ohio regulators at one point decided not to get involved in regulating submeter companies.

In 1992, the PUCO ruled that it would not intervene in a dispute between a landlord and tenant over water submetering in a mobile-home park. That 4-1 ruling has served as a precedent when similar issues have come up.

The dissenting vote was from Ashley Brown, who now works for an energy research group at Harvard's Kennedy School of Government. He is not surprised to learn that some companies have built businesses on the idea of unregulated utility markups.

"It's an abusive monopoly power," he said. "These guys are providing nothing but gouging people."

Neither the PUCO nor the General Assembly has revisited the issue in a substantial way since then. This is despite major changes in the state's electricity market that stem from the 1999 decision to let consumers choose their electricity provider.

The 1999 law is what allows landlords and submeter companies to shop for the best deal, and it has no requirement that residents receive any of the savings. So a system designed to provide options and savings has instead led to monopolies and high prices for a subset of consumers.

This outcome was not the intention of the lawmakers who wrote the 1999 law, said Priscilla Mead, an Upper Arlington Republican and former legislator who co-sponsored the measure.

"There's a void in the law. That's all there is to it," she said.

She thinks the remedy is clear.

"It's up to the legislature to step in and do something about it," she said.

If lawmakers want to look at the issue, the Office of the Ohio Consumers' Counsel wants to be part of the discussion, said spokesman Marty Berkowitz. His agency is the state's consumer advocate on utility issues.

"(W)e are troubled by what we've read in the *Dispatch* articles," he said. "We are assessing options for protecting these customers who lack the usual state oversight for their utility services."

The Ohio Poverty Law Center, an advocate for low-income consumers, also would like to be at the table.

"There should be some reasonable regulations about what kind of charges are reasonable as far as administrative costs and commodity costs," said Joe Maskovyak, an attorney for the group.

For now, though, the best way to change the system is for renters to contact their legislators and ask for new rules, said Foley, the Cleveland lawmaker.

"Part of this is organizing within your own building," he said.

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# The Columbus Dispatch

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## Shocking cost investigation: Summary

**Tuesday**

Posted Oct 22, 2013 at 12:01 AM

Updated Oct 22, 2013 at 8:51 AM

At one time, apartment rent included just about every utility except the telephone. Gradually, property owners have switched to having tenants pay separate bills for the services.

By Dan Gearino, The Columbus Dispatch

### Bottom line

At one time, apartment rent included just about every utility except the telephone. Gradually, property owners have switched to having tenants pay separate bills for the services. This often means the tenant has individual meters with electricity, natural gas and water companies. Sometimes, however, the property owner hires a "submeter" company to install meters in each unit and handle billing. For the tenants, the submeter company functions much like a utility.

[>> Read all stories in the series](#)

### What we found:

-\*- Lack of regulation allows Ohio submeter companies to charge residents more for electricity than the customers would pay to a regulated utility -- currently 5 percent to 40 percent more.

-\*- One local submeter company, American Power & Light, uses evictions as a tool to help with collections, going far beyond the methods available to regulate utilities.

-\*- No Ohio agency, including the Public Utilities Commission of Ohio and the Ohio attorney general's office, has any authority over submetering. The agencies often refer calls to the Better Business Bureau, which has seen a dramatic increase in inquiries about the companies.

-\*- This submeter business model is legal only in the following other states: Alabama, Georgia, Kansas, Pennsylvania, South Carolina, Utah and Washington. There is no evidence that similar companies are using the model on a large scale in any of those states.

-\*- The national trade group for submeter companies said some Ohio companies are outside the industry mainstream and pushing the envelope with their business practices. The Ohio companies are not members of the group.

## **How we did it:**

-\*- *The Dispatch* interviewed residents at apartment and condominium complexes across the region and analyzed their bills and reviewed their claims of unfair treatment. State officials, consumer advocates and energy-company executives also were interviewed.

-\*- The bill analysis was done with the assistance of Riverside Energy of Dublin, a company that advises businesses on how to manage energy costs. American Electric Power also reviewed and confirmed the figures. The source documents were customers' bills and AEP's rate schedules.

-\*- The information about state laws is based on interviews with officials in each state, with assistance from the Utility Management and Conservation Association, a national trade group for submeter companies.