

HOUSE BILL 260 OF THE 135th OHIO GENERAL ASSEMBLY
TESTIMONY OF AMY SPILLER, PRESIDENT OF DUKE ENERGY OHIO
BEFORE THE OHIO HOUSE PUBLIC UTILITIES COMMITTEE

May 22, 2024

Chair Stein, Vice Chair Robb Blasdel, Ranking Member Weinstein, and members of the Ohio House Public Utilities Committee,

My name is Amy Spiller, and I am President of Duke Energy Ohio. In this role, I lead the company's business, regulatory, and legislative functions that facilitate the provision of safe and reliable energy services and solutions for our 700,000 electric and 450,000 natural gas customers in southwest Ohio, just as Duke Energy Ohio and its predecessor companies have done for over 185 years. Thank you for the opportunity to testify on House Bill 260 (H.B. 260). As introduced, this legislation presents a significant opportunity to responsibly improve Ohio's energy policy.

The electric industry is in a period of marked transition that is happening at a pace we have not encountered in the past. Demand is increasing in Ohio at rates faster than were predicted, spurred by data centers, Artificial Intelligence, and reshoring of manufacturing. Baseload generation units, some owned and operated in Ohio by independent power producers, continue to retire and the generation that may replace these resources is predominantly intermittent. All the while, federal laws and regulations are adding to the challenges of providing affordable and reliable power to homes and businesses in Ohio and undermining our ability to set our own future in this state.

As we know, energy is the lifeblood of the economy – nothing of value is created without it. And, economic development occurs where there is a synergy between available energy, an innovative spirit and desire to grow, and prospective public policy. At the center of all of this is the critical infrastructure that Ohio utilities build, operate, and maintain. These utility assets support the economic development the state of Ohio desires, but we need financially healthy utilities to put this infrastructure to work in a cost effective manner.

As recently as last year, a respected economic development expert well described the situation:

Utility partners have always been a critical part of the economic development team to attract new business to communities and states, but looking ahead, they will play an even bigger role . . . to win (or lose) large industrial site selection projects.¹

Put another way, utility infrastructure has become the critical path to economic development. This fact brings the costs of infrastructure investments and their timing to the forefront in discussions around Ohio's future, and it underscores the importance of the policy reforms in H.B. 260. Investment delays are costly, and uncertainty is costly. The need for system investments is dynamic and if those investments are not conducted in a strategic, efficient, and orderly fashion, the results are even more costly for customers. Consider, too, that when it comes to economic competitiveness and meeting evolving customer needs and expectations, time is something we do not possess in abundance. In his testimony on reliability at the most recent Ohio-Pennsylvania joint committee hearing on interstate energy and utilities, Asim Haque, witness for the Pennsylvania-Jersey-Maryland Interconnection, remarked that we have some time, but we do not have time to waste. On that last part, at least, I could not agree more.

Duke Energy Ohio appreciates the efforts of Chair Stein, Vice Chair Robb Blasdel, Majority Leader Seitz, and members of this committee who are engaged in resource adequacy and reliability discussions. The importance of this work cannot be overstated. I would like to turn your attention, however, to utility service deliverability, which is equally important and should not be overlooked. For without capable and resilient transmission and distribution grids, no supply solution can be successful. This is the heart of H.B. 260, which seeks to modernize and improve electric utility ratemaking, while striking a balance between the needs of customers and utilities.

As you know, the public utilities industry is capital intensive. Utilities require a recurring cycle of investments and, in the interests of customers, also need timely recovery in the most efficient and cost-effective form. H.B. 260 seeks to improve the process that

¹ Lauren Berry. (2023). *Energy Costs Come to the Forefront*. AreaDevelopment. <https://www.areadevelopment.com/Corporate-Consultants-Survey-Results/Q1-2023/energy-costs-come-to-the-forefront-lauren-berry.shtml>

effectuates this for customers, regulators, and utilities through several interdependent policy improvements, working in concert with each other, which I will now discuss.

First, H.B. 260 imposes a requirement for a regular and frequent tempo of electric distribution base rate cases, with filings to occur no less often than every five years. Codifying such a mandate would be a first for Ohio law and should not be taken lightly. However, Duke Energy Ohio finds this change to be reasonable when considered in conjunction with the package of reforms contained within this legislation.

Second, the bill contains the ability for utilities to propose base rates supported by quantitative estimates using forecasted test periods. Opposition to this approach appears rooted in fears that higher than necessary revenues will be recovered through rates during the period between base cases. Yet, these fears are unsubstantiated in the nearby Commonwealth of Kentucky, where customers today enjoy low distribution rates² and where utilities such as Duke Energy Kentucky – an affiliate company which I also lead – routinely utilize fully forecasted test periods. Notwithstanding this empirical evidence, an amendment to H.B. 260 recently adopted by this committee will require the use of actual figures for the setting of final rates at the end of the test period, thereby providing a belt-and-suspender assurance that long-term overcollections will not occur.

Third, H.B. 260 provides the potential for approval of four tracking mechanisms intended to capture prudent investments and expenses that occur between base rate cases. These trackers are one each for distribution investments, storm restoration costs, investments to meet cybersecurity threats, and regulatory compliance. Each tracker's eligibility requirements are provided for in the plain language of the bill. These mechanisms will provide the opportunity for utilities to make prudent investments between rate cases that are necessary to meet the evolving needs of customers, communities, and the economy. These trackers would be reciprocal to provide credits to customers as circumstances dictate. To provide affordability protection for customers, the distribution investment tracker is capped, limited to no more than a 4 percent increase in the utility's distribution revenue requirement. Of note, approval of these trackers would be accomplished in a

² *Electric Power Monthly: Average Price of Electricity to Ultimate Customers by End-Use Sector, by State, February 2024 and 2023*. (2024). U.S. Energy Information Administration. Retrieved May 13, 2024, from https://www.eia.gov/electricity/monthly/epm_table_grapher.php?t=epmt_5_6_a

base distribution rate case, when intervenors – historically critical of such mechanisms – have an opportunity to fully scrutinize the entirety of utility financial data.

H.B. 260 also contains process improvements for base rate cases that should be considered in statute to provide customers, utilities, and regulators with a more predictable, efficient, and transparent process. Non-directory deadlines with reasonable and defined consequences are a good start. As is the elimination of inefficient and costly redundancies in the auditing of assets multiple times over their investment recovery lifetimes. Also important is the bill's imposition of proportionality through responsible and reasonable guardrails on the discovery process of rate cases, thereby vastly improving process efficiency. The Ohio Supreme Court, the final authority over PUCO decisions, endorsed this doctrine in 2020 when it amended Civil Rule 26(B)(1) to incorporate proportionality into civil proceedings.³

Given Ohio's abundant natural and manufacturing resources and its historic "build-it-here" culture, the state can reassert itself as a leader in a national industrial renaissance. But to do so, we need efficient utility regulatory policies that facilitate deliverability, support reliability and affordability, and promote economic competitiveness. Of paramount importance to Duke Energy is providing reliable and affordable energy to our customers.

Chair Stein, Vice Chair Robb Blasdel, Ranking Member Weinstein, and members of the House Public Utilities Committee, thank you again for allowing me to testify on H.B. 260. The legislation, as introduced, contains a suite of reforms that provides customers, regulators, and utilities with tools necessary to move our great state forward. Duke Energy Ohio will continue to work with the bill sponsors, members of this committee, and other stakeholders to enhance and advance this important policy.

³ *Ohio Rules of Civil Procedure*. (2020). Ohio Supreme Court. Retrieved May 14, 2024, from <https://www.supremecourt.ohio.gov/docs/LegalResources/Rules/civil/CivilProcedure.pdf>.