igsenergy | 6100 Emerald Parkway
Dublin, OH 43016

Senate Bill 102, Energy and Public Utilities Committee Testimony of Joseph Oliker
Deputy General Counsel, IGS Energy
May 23, 2023

Chairman Reineke, Vice Chair McColley, ranking member Smith and members of the Energy and Public Utilities Committee, thank you for the opportunity to provide testimony to the as introduced version of Senate Bill 102. My name is Joseph Oliker and I am Deputy General Counsel for IGS Energy.

IGS Energy is a diverse energy company that is family-owned and privately held. IGS is headquartered in Dublin, Ohio and employs approximately 1200 people, with approximately 750 located in Ohio.

IGS directly contributes over $100 million to the Ohio economy in payroll and taxes. IGS provides over $1 million to Ohio charities and our employees volunteer over 7,000 hours per year. IGS serves over 1,000,000 retail energy customers nationwide and we conduct business in over 20 states.

IGS consistently receives accolades for its positive impact on Ohio. We were rated “Best Employer” by Columbus CEO Best of Business, and we were rated “Best Place to Work” by Columbus Business First.

IGS serves residential, commercial, and industrial customers in the service territories of each of the four investor owned electric utilities.

I’m testifying today regarding reform to the Electric Security Plan (“ESP”) statute. Having participated in nearly every electric security plan case in some capacity, my testimony is informed by my personal experience.

Senate Bill 221 was enacted in 2008 based upon assumptions regarding implementation that never occurred. Senate Bill 221 provided two paths—an ESP and a market-rate offer (“MRO”). Under the MRO option, it was anticipated that utilities would divest their generation and establish default service generation rates through a competitive bidding process. Of course, no MRO has ever been approved. Under the ESP option, utilities were permitted to use their own generation to serve customers. But only if they could beat the anticipated outcome under an MRO. Based upon the believed protection this provided to customers from rising market prices, utilities were also given the ability to establish a host of different riders as a carrot.

Contrary to the intent of the law, the utilities picked the best of both worlds. They transferred their generation, established default generation service prices through a competitive bidding process, but continued to operate under ESPs. This gave the utilities the benefit of ESP-related riders without the risk of owning and operating generation resources. Of course, it makes little sense to permit the utilities to reap the benefits of

ESP-related carrots when they are establishing default service prices in the exact same manner that is envisioned by an MRO.

The law is outdated and should be changed to restore balance to the regulatory paradigm. The current version of SB 102 vastly improves the retail energy landscape in Ohio.

My testimony will discuss four important improvements in the bill that will enhance the retail energy market and improve the regulatory process at the Public Utilities Commission of Ohio for all customers.

First, the bill removes the ability of a utility to impose above-market non-bypassable charges on shopping customers. It does this through the removal of the: (1) so called "stability charges" typically used to prop up utility profits; and (2) utilities' ability to apply to build new power plants under an antiquated integrated resource plan process completely unneeded in today's market paradigm. The elimination of these provisions in the law will ensure lower customer rates. These changes will also reduce the litigation and appeal churn so often present in Commission cases. As a result of these changes, Commission proceedings will be significantly streamlined.

Second, the bill eliminates the utilities' right to withdraw from an electric security plan. Such a right is unnecessary and unreasonable, given that the utilities have divested their generation resources. This change will mitigate the utilities' undue influence over Commission proceedings.

Under current law, if the Commission issues an order modifying a utility's proposed electric security plan in any way, the utility may withdraw the plan. Historically, utilities have leveraged this right—either by threatening to withdraw or by actually withdrawing their plan—to obtain unearned concessions or to preserve mechanisms that insulate the utility from the risk of the competitive market. Consequently, utilities have undue influence over every part of the ESP process. This change will improve the Commission process and facilitate a more level playing field than exists today.

Third, the bill improves the structure of default generation service pricing. The bill ensures that the default service rate is truly a retail rate as initially envisioned by the General Assembly when it restructured the electricity market.

The cost of providing default generation service includes more than simply energy, capacity, and market-based ancillary services. There are several other direct and indirect costs any competitive provider must incur simply to provide a generation product to customers. For example, any competitive product must incur costs related to uncollectible expenses, customer care, IT, legal and regulatory, and administrative agency fees, just to name a few. By requiring default service rates to be based upon all direct and indirect costs, the current version of the bill ensures that shopping customers do not pay for services they do not receive. Currently, over half of Ohio residential customers have shopped for electricity—this change is necessary to ensure that these customers do not subsidize the provision of default service for non-shopping customers.

By allocating all default service costs to that service, the bill will ensure that shopping customers can make a more informed price comparison of all options available in the market.

To be clear, this change to the law will not increase customer rates. It is "revenue neutral" to customers and the utility. This provision does not prevent the utility from recovering its cost of providing default generation service. Rather, the bill provides for a reallocation of existing costs to ensure that shopping customers are not unnecessarily burdened with paying for services that they do not receive, while simultaneously ensuring that default service customers are paying for their fair share of the costs of their service. This change will ensure a level playing field for competitive generation services and promote investment in Ohio.

Fourth, the bill restores balance in the ratemaking process. The bill eliminates the uncapped rider opportunity presented by the ESP statute and replaces it with more frequent rate review and caps on discretionary distribution riders. The bill provides significant benefits to the utilities by streamlining the ratemaking process and permitting the utilization of a "future test year," which will reduce regulatory lag and ensure utilities can recover their expenses. Consequently, the bill provides benefits for both the utilities and customers.

IGS appreciates the opportunity to submit testimony regarding the current version of SB 102. In any remaining time, I would be happy to answer any questions that you may have.