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June 20, 2023
Before the Senate Energy and Public Utilities Committee
Opponent Testimony on Senate Bill 102

Chairman Reineke, Vice Chair McColley, Ranking Member Smith, and committee members, my name is Steve Nourse and I am Vice President, Legal for American Electric Power. AEP operates in 11 states, including in Ohio where we have our headquarters in Columbus, 1.5 million customers and 6,500 employees. AEP Ohio applauds efforts to enact a regulatory framework for Ohio electric distribution utilities (EDUs) that provides stability, predictability, and certainty for the company and our customers. While we understand that this is the intent of Senate Bill 102 (SB 102), the current version of the bill not only falls short of this goal but actually stifles progress by requiring rate increases while arbitrarily limiting needed utility investment.

SB 102 is a continuation of efforts to make significant changes to the way that EDUs provide access to a standard service offer (SSO) for the state's non shopping customers. Current law requires that in order for an ESP to be approved, there must be a finding by the Public Utilities Commission (Commission) that, in the aggregate, it is more favorable than a market rate offer. Since 2008, AEP Ohio has secured Commission approval of four ESPs after this finding and our current plan expires in May 2024. Currently, AEP Ohio has a pending ESP filed that is undergoing scrutiny at the Commission and in the middle of the stakeholder process to resolve the issues presented. While ESPs are not perfect, they have generally achieved balanced and reasonable outcomes for AEP Ohio and our customers, and our current proposed ESP is no different. SB 102's requirement to hard-wire the *status quo* for SSO procurement is unwise and would preclude many of the significant reforms currently under active consideration by the experts at the Commission. This legislation is also untimely and unfair since it would retroactively disrupt ESPs that are already in place and others that will likely be resolved by the time the legislation becomes effective – setting up an incoherent and inequitable approach for consumers and utilities across the State.

The proposed legislation fails to enact the robust regulatory framework that our customers deserve. Ironically, while the legislation on its face states it would preclude special interest results at the Commission based on cash payments, many provisions included in the bill will guarantee increased cash flow for select special interests supporting the legislation at the expense of consumers, regardless of whether those consumers shop or take default SSO service. The proponents of this legislation falsely claim that the bill is simply an effort to modernize Ohio's utility ratemaking process. The truth, however, is that the bill contains several provisions that are harmful to customers and reverse progress on the economic development front. One such provision is language that arbitrability raises the price to compare of the SSO by forcing the Commission to add ill defined "indirect costs" to the SSO price.

This legislatively mandated bill increase that will fall disproportionately on residential customers. Another such provision takes away the requirement for certification by the Commission of financial, managerial and technical expertise before bidding the serve PIPP loads in an auction. Another such provision eliminates the standby service charge regime (enacted when governmental aggregation was created 15 years ago) that protects non-shopping SSO customers from municipal aggregation failures. As this committee knows, recent volatility in energy markets has already led to unfortunate increases in SSO prices. SB 102 stands to increase the SSO price even higher and lock in *status quo* approaches that have been proven to be in need of reform. This impact is ironic given that the industrial customer supporters of this bill represent clients with the resources to ensure they are not adversely impacted by SSO pricing changes while the other CRES supporters of this legislation also get to enhance their own business model through the increased SSO rates. Again, the primary loser on all these “reforms” is the residential consumer – regardless of whether they shop or take the SSO.

SB 102 also creates new interim distribution mechanisms (IDM) that proponents say is intended to allow for much needed investment in the grid. The mechanism, however, falls well short of the flexibility needed to allow AEP Ohio to keep up with demands from both customers and the communities we serve. The Commission as an expert agency, and subject to judicial review by the Supreme Court of Ohio, is in the best position to determine what investments are prudent and for maintaining just and reasonable rates – including the establishment of rate caps where appropriate. The revenue caps included for IDMs are unworkable and will chill necessary utility investment. Another huge mistake in the bill is to reverse a century of ratemaking precedent to require mandatory base rate increase filings every 5 years – eliminating a utility’s longstanding incentive to cut costs and minimize rate increase filings. From a ratemaking and ratepayer standpoint, these parts of the bill are also a step backward and not a valid modernization or reform effort.

Finally, there are also, unfortunately, significant limits in SB 102 on the ability of utilities to provide the infrastructure upgrades necessary to ensure sites in Ohio remain competitive for development. Companies looking to locate to Ohio demand access to robust infrastructure. The bill allows for utilities to construct infrastructure at sites selected by our economic development partners, but the caps on this spending make it unlikely that these projects will ever be completed. If the State of Ohio wants to keep landing large projects like Intel and many others, this kind of economic development rationing cannot be implemented.

In sum, AEP Ohio’s currently pending ESP is carefully designed to balance necessary grid investment and innovation with providing rate certainty through May 2030. The current law gives the Commission the tools it needs as the expert ratemaking agency to balance customer and utility needs without mandating rate increases or arbitrarily limiting investments needed for a modern grid and to promote economic development in Ohio. SB 102 would move Ohio away from this approach in a way that will both raise default electric supply costs and will result in fewer investments by AEP Ohio. We urge this committee to not move SB 102 until these very serious concerns are addressed.

I appreciate the opportunity to testify, and I am happy to answer any questions.