

**Substitute Senate Bill 102
Proponent Testimony of Joe Price
On Behalf of the Ohio Energy Group
Before the Senate Energy and Public Utilities Committee**

December 5, 2023

Chairman Reineke, Vice Chair McColley, Ranking Member Smith, and fellow distinguished Members of the Senate Energy and Public Utilities Committee, I am here today to give proponent testimony regarding substitute S.B. 102.

My name is Joe Price and I serve as Executive Director for the Ohio Energy Group (OEG). OEG is a trade organization formed in 2003 by large energy-intensive industrial companies with one or more plants in Ohio to promote low-cost, reliable electric power. Our 26 members¹ spend more than \$1 billion annually on gas and electricity and we provide more than 55,000 good paying direct jobs in Ohio.

OEG is appreciative of the work of the bill sponsor and the members of this Committee to repeal the existing Electric Security Plan (ESP) statute and replace it with a modernized ratemaking process that is fair to both customers and the investor-owned electric utilities. For OEG member companies, energy represents one of the largest costs in their manufacturing processes. For example, for many OEG members, a change of merely one-tenth of one penny per kilowatt-hour is more than \$1 million per year. Because energy is so important to our operations, we view the utilities as suppliers of an essential service – after all, we cannot manufacture our products and succeed in a fiercely competitive global marketplace without affordable and reliable electricity.

OEG testified in support of S.B. 102 and remains supportive of the recently adopted substitute bill because we believe that the legislation achieves the desired balance in both protecting customers and providing a reasonable framework for which utilities to continue investing to keep the grid safe, reliable, and secure.

There are essentially three buckets of costs when it comes to electricity: generation (power plants), transmission, and distribution.

Under the bill, generation will continue to be a competitive service. Any customer that wants to shop for generation may continue to shop at any time, effectively receiving a market price just as they do today. Non-shopping customers will also continue to receive a market-based price through the Standard Service Offer (SSO). The second bucket, transmission costs, will continue to be recovered through annually adjusted riders, as they are today.

¹ Current OEG membership: Air Products and Chemicals, Inc., Amsted Rail Company, Inc., ArcelorMittal Tubular Products Shelby, Cargill, Incorporated, Charter Steel, Cleveland-Cliffs Inc., Ford Motor Company, GE Aviation, General Motors LLC, Greif, Inc., Howmet Aerospace Inc., Johns Manville, JSW Steel USA, Inc., Linde Inc., Martin Marietta Magnesia Specialties, LLC, Materion Corporation, Messer LLC, Molson Coors Beverage Company, Nature Fresh Farms USA LLC, North Star BlueScope Steel LLC, POET Biorefining, PTC Alliance Holding Corporation, Stellantis, Three Rivers Energy LLC, TimkenSteel Corporation and Worthington Industries.

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The third bucket, distribution costs, is where the legislation makes the most significant changes. Specifically, electric distribution utilities would be required to file a base rate case at least once every five years but would be free to file rate cases more frequently at its discretion. While mandatory regular rate cases should benefit consumers, the bill also makes some commonsense reforms to the rate case process to the benefit of the utilities, such as firmer deadlines on rate case decisions (365 days) and elimination of outdated provisions like the requirement that rate changes be published in the printed newspapers. The bill also allows for the use of a fully projected future test year instead of a historic test year but specifies that the projections be trued up with actual figures.

In-between rate cases, the utility would be permitted to use riders to collect costs, just as they do today. However, unlike today, those riders would be more limited. For discretionary distribution investments, riders may be approved by the Public Utilities Commission of Ohio (PUCO) for maintaining or improving safety, reliability, system efficiency, security or resiliency, but may not exceed four percent (4%) of utility's the base distribution revenue. Under current law, investment categories are broader and completely uncapped. The utility would be permitted to file for these riders no more frequently than every 12-months and may have no more than three active at any time.

The effect of the cost caps does **not** mean that the utility will not be paid for its work. If the utility is unable to fully recover its costs because of the cost cap, it is still free to file a rate case at any time. Rates cases are used in every state as a way for utilities to receive recovery of its costs and a reasonable rate of return (i.e. profit).

In addition to these capped riders, the bill does allow for uncapped riders for certain costs that are outside of the utility's control. Specifically, uncapped riders may include costs for which the utility does not earn a profit, or for which are related to external conditions or were not reasonably foreseeable. For example, the utility could recover costs via rider due to storm damage, the relocation of infrastructure necessary for building a road, or collecting the kilowatt-hour tax without limitation.

The substitute bill adopted by the Committee made some notable changes that appear to be responsive to some concerns raised in the Committee as well as during meetings of interested parties. Specifically, the substitute bill:

- Requires the PUCO to exclude recovery of costs that are not found to be “used and useful” in rendering service. This change was included in the previously mentioned true up language contained in the future test year provision to ensure that customers are not paying for things unless they are used and useful.
- Allows for carryover of unused questions during the discovery process. S.B. 102 put a limitation on discovery of five rounds of questions consisting of fifty questions per round. With this change, if an intervening party does not use its full allotment of fifty questions in one round, that party can reserve those questions in future rounds.
- Broadens the use of depositions versus the original bill. S.B. 102 originally limited the use of deposition unless PUCO finds “extraordinary circumstances”. The sub. bill also allows deposition if PUCO finds “egregious obstruction of the discovery process”.
- Specifies that during a base distribution rate case, if interim rates are temporarily approved, those would not apply to revenues being collected under a PUCO-approved Interim Distribution Mechanism (IDM).

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- Clarifies that PUCO will determine whether recovery of costs for replacement infrastructure is appropriate if caused by weather or other factors outside of the utility’s control.
- Preserves the prohibition on cash payments to parties to induce settlements but specifies that PUCO may approve payments for low-income weatherization programs. However, those payments must be reasonably tailored to the costs of providing the program, the program must be subject to audit, and may not be applied to “education” programs.
- Clarifies that for transmission costs, PUCO shall authorize collection for any nonmarket transmission costs imposed by FERC as well as any imposed by a regional transmission organization (RTO), which would be PJM today. This is consistent with existing policy.
- Clarifies that a competitive affiliate of utility may own a power plant but the utility cannot subsidize that affiliate or power plant.
- Removes the language that permitted a natural gas utility to include the cost of planning, obtaining rights of way, and constructing economic development projects held for future use as costs eligible for recovery through the natural gas utility’s infrastructure development rider.

The bill also encourages manufacturing in the state by codifying existing PUCO-approved programs for cost-effective interruptible rates and alternative methods of transmission billing. Interruptible rates allow customers to provide a valuable reliability benefit to the grid in exchange for a discounted electric bill. For example, during Winter Storm Elliot on December 23-24, 2022, PJM and Ohio benefited when participating customers halted their operations for approximately 18 total hours, preventing a bad situation from being even worse. The transmission pilots also provide a dual benefit of affordability and reliability by encouraging customers to voluntarily reduce their operations during anticipated periods of peak demand. When successful, these programs reduce overall transmission costs for all customers.

S.B. 102 is important energy legislation that creates new consumer protections, makes reasonable ratemaking reforms, and enhances tools for economic development. Substitute S.B. 102 retains these policies and improves them.

OEG urges the Committee’s full consideration and support for substitute S.B. 102. I welcome any questions that you may have for me. Thank you.