



**Sub. House Bill 33
Interested Party Testimony
The Honorable Matt Dolan, Chair
May 30, 2023**

Chairman Dolan, Vice Chair Cirino, Ranking Member Sykes, and members of the Senate Finance Committee, my name is Kim Bojko. I am a partner with the law firm Carpenter Lipps LLP where I specialize in energy and public utilities law. I also serve as energy counsel to both The Ohio Manufacturers' Association (OMA) and the OMA Energy Group. I appreciate the opportunity to present testimony on Sub House Bill 33.

Our testimony today is limited to a provision of the bill that does not heavily impact state finances, but certainly impacts households and businesses.

As the state's largest business association representing manufacturers, which, collectively, make the largest GDP contribution of any Ohio business sector, we offer concerns regarding a costly new Ohio utility law.

Sub. House Bill 33, as passed by the House, includes a House amendment that creates new electric utility statutes, sections 4928.85, 4928.86, 4928.88, and 4928.89. Collectively, this language would subject electric customers to new energy costs imposed by electric utilities. The added language would also remove important customer protections. Certainly, economic development and infrastructure investment are important to our state's economy, but this language is not about that.

The Ohio Manufacturers' Association urges removal of lines 76543 through 76615.

Background

Under current law, public utilities may recover new infrastructure costs from customers if they can demonstrate to the PUCO that such charges are "used and useful" and prudently incurred. This important standard has served to balance the needs of public utilities and customers for decades.

The House language would enable public utilities to bypass the used and useful standard, layering a new above-market charge on customers' power bills.

Practical Effect

This purposefully drafted provision is intended to provide additional benefits to electric utilities who are already poised to benefit from recovery of costs associated with infrastructure expansion under the Ohio Future Fund. This new language would grant electric utilities swift cost recovery from customers for all additional costs associated with infrastructure development

and economic development projects. This includes funds used during construction, depreciation, a return on equity, ongoing operation and maintenance expenses, tax expenses, project planning costs, and right of way costs.

The amount of money to be collected and the method of collection from customers to support potential site-ready economic development projects, which may never come to fruition – or infrastructure that may never be used – is unlimited and unspecified. This would leave much discretion to the utilities and the PUCO to choose winners and losers among Ohio businesses.

There are no caps on spending or cost recovery from customers, nor is there any guidance as to how the costs would be allocated or collected. Especially concerning are the broad types of costs that could be recovered for an infinite number of projects and infrastructure upgrades by electric utilities, which would be unwieldy for customers.

Conclusion

The new law created erodes important customer protections and enables electric utilities to be fully compensated for potential “economic development” or “infrastructure” projects, regardless of whether the facilities are ever used or the projects ever come to fruition.

At a time of surging electricity costs facing Ohio residents and businesses, we urge the House to remove the unjustified provisions that have been proposed.

Thank you. I would be happy to answer any questions.