Before
The Ohio House
Public Utilities Committee

Testimony on House Bill 239

Presented by
Michael Haugh

On Behalf of the
Office of the Ohio Consumers' Counsel

June 6, 2017

Hello Chair Seitz, Vice Chair Carfagna, Ranking Minority Member Ashford, and members of the Committee. Thank you for this opportunity to testify.

My name is Michael Haugh. I am the Assistant Director of Analytical Services for the Office of the Ohio Consumers' Counsel. The Ohio Consumers' Counsel is the state's representative of four million residential utility consumers. My background is over 20 years of experience in the energy industry, including work for several deregulated energy suppliers.

I am testifying in opposition to H.B. 239, to protect Ohio consumers from each paying subsidies for power plants. There are four Ohio electric distribution utilities systems that have an ownership interest in the Ohio Valley Electric Corporation ("OVEC") and they would charge Ohio consumers for the subsides. Consumers – and the competitive market – should be spared having to pay utilities for the anti-competitive subsidies.

As background, the Ohio utilities or utility affiliates that have an ownership interest in OVEC are: Ohio Power (19.93%), Dayton Power and Light (4.9%), Duke Energy Ohio (9%) and FirstEnergy Solutions (4.85%), for a total ownership of 38.68%.[1] In October 1952, OVEC was formed by utilities that provided electric service to uranium enrichment facilities being constructed by the Atomic Energy Commission ("AEC") in Southern Ohio through an Inter-Company Power Agreement ("ICPA"). OVEC's two generating plants began operations in 1955. The power agreement with the AEC was signed through December 31, 2005. On December 29, 2000, the U.S. Department of Energy gave notice to OVEC that it would be cancelling the power agreement on April 30, 2003. Since April 30, 2003, the generating capacity from OVEC has been sold into the wholesale electric markets. On August 11, 2011, the owners extended the term to June 30, 2040. The plants included in OVEC have almost 2,400 MW of nameplate capacity and are connected to the PJM wholesale markets.

Of the 50 states and the District of Columbia, Ohio has the 18th highest average residential rate for electricity—meaning 33 states have lower residential rates. (See Attachment 1) Of the restructured states—those that have moved towards the free market—Ohio has the second highest residential price increases from 2008 to 2016. (See Attachment 2)

Ohio has these higher electricity costs for consumers despite being awash in shale natural gas that has given us historically low gas prices. The U.S. Energy Information Administration has projected that natural gas prices will be relatively stable for a couple

[1] OVEC 2015 Annual Report at page 1

decades or more. Given deregulation and low natural gas prices, Ohio has a growing number of new gas-fired power plants under planning or construction. (See Attachment 3)

Competition is working in the electric generation market. A recent study by Ohio State University and Cleveland State University researchers found that Ohio consumers had saved about $12 billion from the utilities' competitively bid standard service offers during 2011 to 2015. And the researchers project another $12 billion to be saved for consumers in the next five years because of having the market-based standard service offer. We thank the Ohio General Assembly for giving consumers those benefits of the competitive electric generation market in the 1999 law.

But there are at least a couple problems preventing Ohio families and businesses from realizing the full benefits of lower prices in the market. One problem is the continuing requests by Ohio electric utilities for consumers to pay subsidies above the market price of electricity. Consumers already have paid billions of dollars in subsidies to electric utilities since the enactment of Senate Bill 3 in 1999. We are now years beyond the 1999 deregulation law's allowance of charges for the transition to competition.

But the utilities are continuing their efforts to increase the cost of electricity for Ohioans. The owners of OVEC are asking for passage of a bill that would make millions of Ohio customers pay more subsidies. For several reasons I will now discuss, I recommend that you protect Ohio consumers from paying these subsidies and reject this legislation.

One reason to reject this legislation is because the utilities had the opportunity to withdraw from the Inter-Company Power Agreement in 2011. In 2011, the OVEC plants' revenue was nearly $700 million[2] and the utilities were reaping profits—but not sharing all of those profits with customers. In 2011, all four Ohio utilities were obtaining all or a portion of their generation through competitive wholesale auctions and did not have a need to own generation to serve customers. The utilities' extension of the OVEC agreement allowed them to profit from these plants in the wholesale markets.

But now that the revenues for the plants have declined ($586 million[3]) as a result of declining wholesale electric prices, the utilities want to be protected from their own decisions to continue operations at OVEC. And that means seeking to charge consumers for a subsidy. The utilities are seeking to shift the investor risk for OVEC to their customers. That is unfair to Ohio families and businesses who would pay this subsidy.

Another matter is that the legislation is described as for national security. But the plants have not been shown to be needed for national security at this time. Moreover, regardless of a past national security connection, the Ohio utilities had an extended opportunity over sixty years for charging consumers for profits and for the costs of the plants. Consumers do not owe the utilities anything more at this point.

I will also discuss the reliability of generation service, which is more than adequate for Ohio consumers with or without these plants. In 2017, reliability is a regional issue and managed by PJM, the regional authority (not by Ohio). There is plenty of generation provided through the PJM wholesale markets, and the reliability index (reserve margin) exceeds PJM standards.

[2] 2010 OVEC FERC Form 1 Statement of Income Operating Revenue.
[3] 2016 OVEC FERC Form 1 Statement of Income Operating Revenue

And there are at least five new state-of-the-art natural gas-fired power plants that are in different stages of planning and construction in Ohio. The plants will benefit from the plentiful shale gas as a fuel resource in Ohio. And that will mean the plants can be expected to provide lower priced power for consumers in the region including Ohio. It would be bad for competition and bad for consumers for these new Ohio power plants to have to compete against subsidized utility power plants in the market.

According to the Fiscal Analysis of the Ohio Legislative Service Commission (LSC), this bill will cost Ohio utility customers over $256 million per year. I understand there was a mention in this Committee last week that LSC may issue a revised Fiscal Analysis. If the Fiscal Analysis is revised regarding the cost to consumers, then I will write to this Committee with any updated cost calculations for my testimony, if needed. Otherwise, the $256 million would cost an average residential customer $1.60 per month, about $20 per year and $420 over the 22-year term of the Inter-Company Power Agreement. That calculation assumes the Inter-Company Power Agreement is cancelled in 2040, when the plants are 85 years old. But with this legislation's subsidy, there would be less incentive to close these plants. The bill does allow for the subsidy to be reduced with revenues earned by the OVEC plants if the power is sold in the wholesale market. (Lines 769 to774) However, there appears not to be a requirement for the plants to participate in the wholesale markets. Also on the topic of revenues offsetting the costs of the subsidy, the bill allows for utilities to collect OVEC costs from consumers through the standard service offers. But this approach would not result in there being the offsetting wholesale revenues. (Lines 496 to 500)

The bill provides that if an EDU offers the generation into the wholesale market, any revenues will be credited to customers. This process can lead to incorrect signals in the market by removing key factors a plant should consider when participating in the wholesale markets. This legislation can be harmful to both the competitive markets and to consumers. It can be harmful to the competitive wholesale markets by allowing an inefficient, expensive generating plant to run while a more efficient, less expensive plant will be displaced. It can harm customers if these plants' costs are too high and they are never called upon to run. In this instance the plants will sit idle and customers will be saddled with paying the subsidy for a plant that is not even running.

There is another issue in the legislation. That is, who will pay for the charges to subsidize these power plants? The legislation appears to make the subsidy charges bypassable. (Lines 496 to 500) It would be unfair to make the charges bypassable, which means the full burden would fall to standard service offer customers alone to pay all the subsidy charges, with many other customers not paying. All customers should share in the burden of paying the charges that are said to be related to national security. I emphasize that making the charges non-bypassable would not justify enacting this bill – far from it.

A related issue is that the bill allows any revenues collected through the wholesale markets to be given to all customers through a non-bypassable credit. (Lines 769 to774) This approach denies consumers who paid for the costs of the plants the full credit that should be associated with their payments of plant costs. In the event of enactment of the legislation, the fair approach for consumers is to make the subsidy charges and revenues non-bypassable and shared by all consumers.

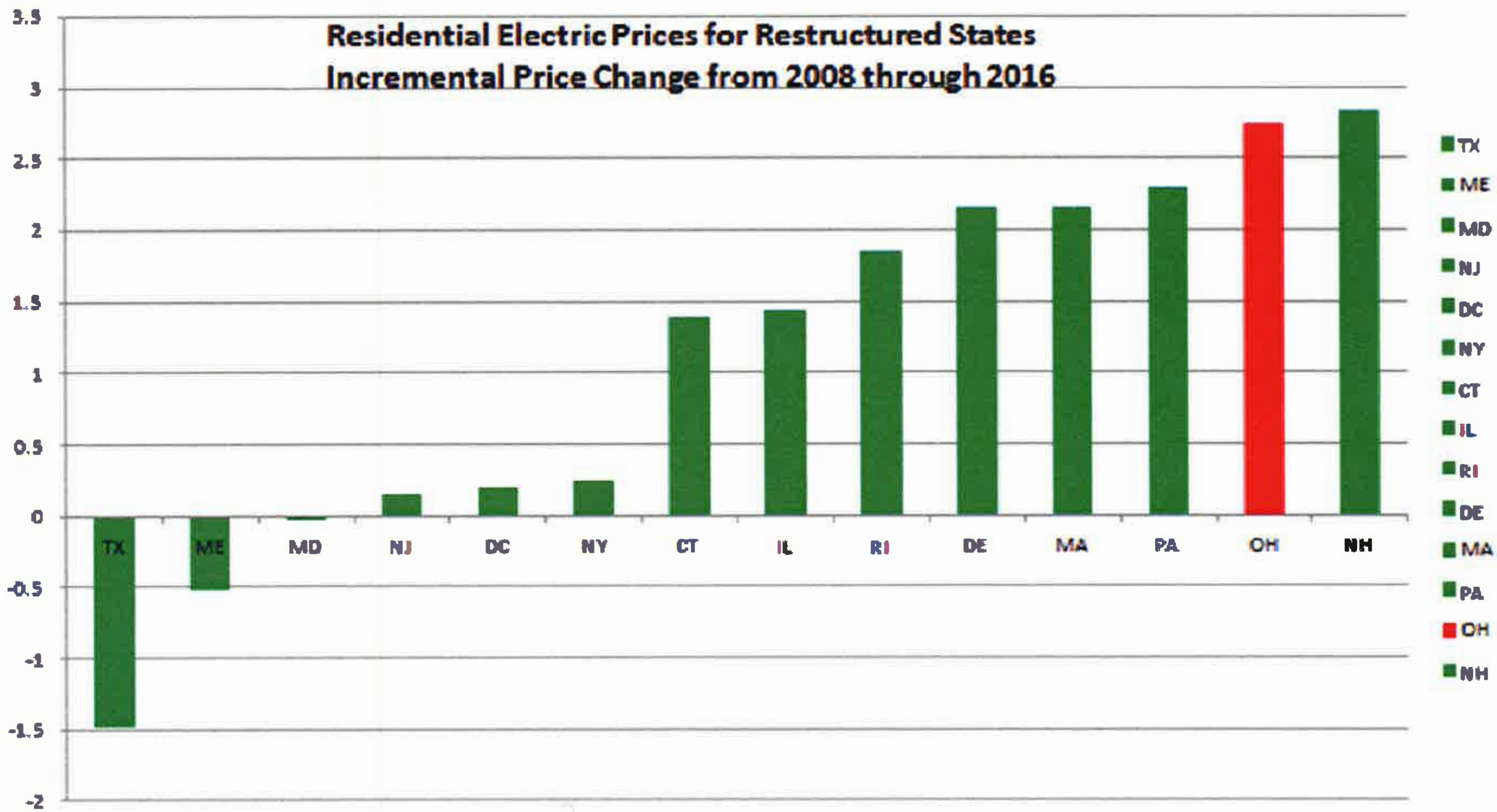
Ohio Revised Code Section 4928.38 states that at the end of the market development period a utility "shall be fully on its own in the competitive market." This bill does not put the utilities "on their own" but instead once again would enable them to be subsidized by customers. Therefore, I respectfully urge you to protect over four million Ohio businesses and families, by rejecting House Bill 239. Thank you.

ATTACHMENT 1

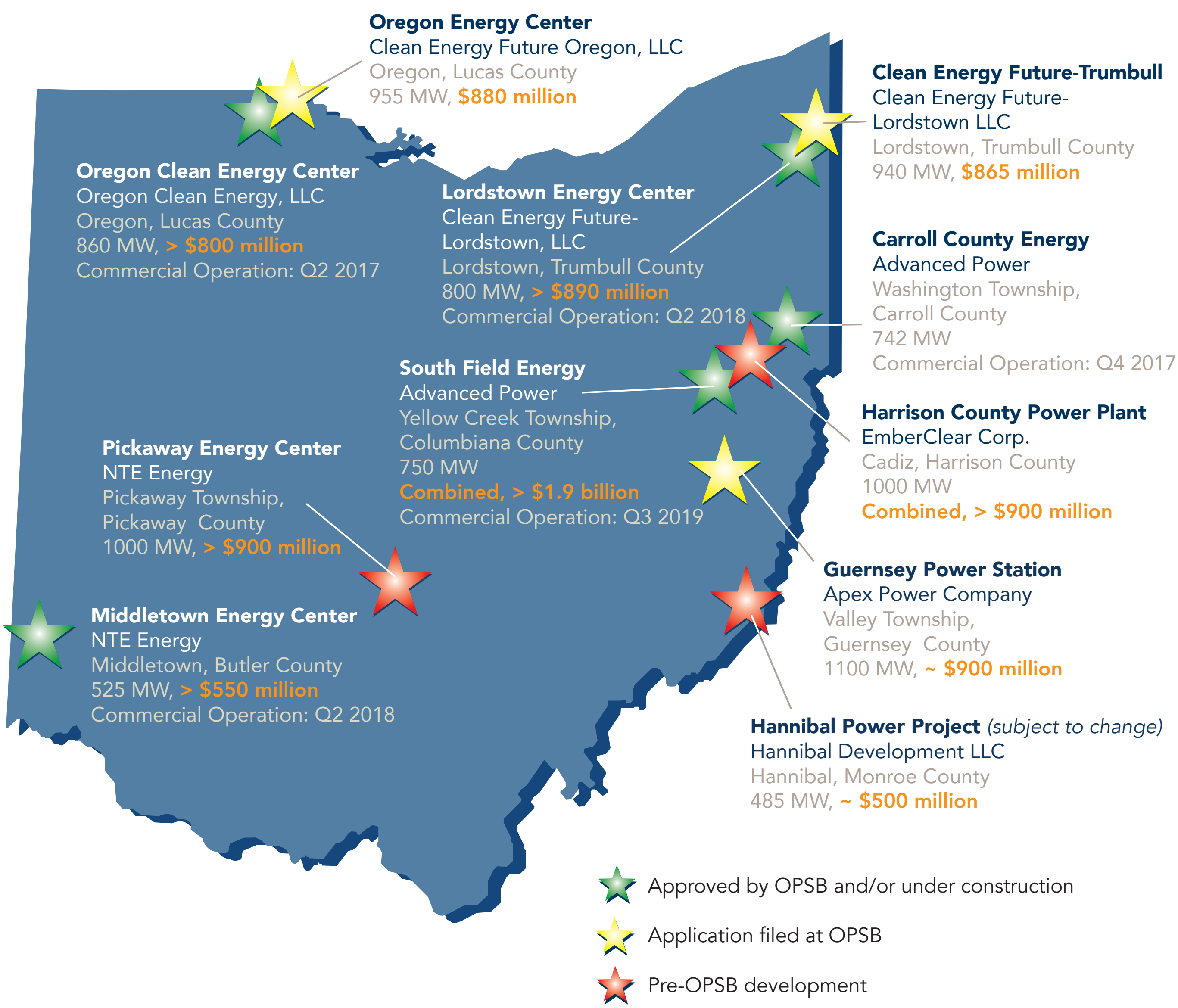
U.S. Energy Information Administration Data: Table 5.6.B. Average Retail Price of Electricity to Ultimate Customers by End-Use Sector, by State, Year-to-Date through December 2016 (Cents per kWh)

	Residential	
	State	December 2016 YTD
1	Washington	9.09
2	Louisiana	9.33
3	North Dakota	9.62
4	Arkansas	9.82
5	Idaho	9.93
6	West Virginia	10.08
7	Oklahoma	10.14
8	Kentucky	10.24
9	Tennessee	10.30
10	Nebraska	10.60
11	Oregon	10.66
12	Montana	10.88
13	Utah	10.88
14	Wyoming	10.97
15	South Dakota	11.08
16	Missouri	11.21
17	Mississippi	11.27
18	North Carolina	11.28
19	Virginia	11.37
20	Georgia	11.54
21	Texas	11.56
22	Indiana	11.57
23	Florida	11.58
24	Iowa	11.63
25	Alabama	11.70
26	Minnesota	12.12
27	Colorado	12.12
28	Arizona	12.13
29	Kansas	12.34
30	New Mexico	12.47
31	Illinois	12.50
32	South Carolina	12.57
33	Nevada	12.76
34	Ohio	12.80
35	District of Columbia	12.99
36	Delaware	13.42
37	Pennsylvania	13.64
38	Maryland	13.82
39	Wisconsin	14.11
40	Michigan	14.42
41	Maine	15.61
42	New Jersey	15.81
43	California	16.99
44	Vermont	17.09
45	New Hampshire	18.50
46	New York	18.54
47	Rhode Island	19.29
48	Alaska	19.83
49	Massachusetts	19.83
50	Connecticut	20.94
51	Hawaii	29.60
	U.S. Total	12.67

ATTACHMENT 2



Source: U.S. Energy Information Administration



Compiled by Bricker & Eckler LLP