Before
The Ohio Senate Energy and Public Utilities Committee

Testimony on Senate Bill 117
(Repeal of Coal-Plant Bailout for AEP, Duke and AES/DP&L in House Bill 6)

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On Behalf of the Office of the Ohio Consumers' Counsel

May 12, 2021

Hello Chair Peterson, Vice-Chair Schuring, Ranking Member Williams, and Committee members. I hope you and your colleagues are well.

Consumers' Counsel Weston and I thank you for this opportunity to testify in support of Senate Bill 117 and competitive power plant markets. I am testifying on behalf of the Office of the Ohio Consumers' Counsel, for Ohio residential utility consumers. OCC testified seven times against tainted House Bill 6. And we've now testified nine times to repeal it.

OCC thanks the legislature for repealing the FirstEnergy/Energy Harbor nuclear bailout and the FirstEnergy decoupling subsidy in House Bill 6. And we thank you for repealing the profits benefit for FirstEnergy in the 2019 budget bill, House Bill 166.

Please continue that progress for consumer protection by passing Senate Bill 117. The bill will close another bad chapter of House Bill 6 by ending the coal plant subsidies that began with the subsidy culture at the PUCO and continued in the legislature.

The H.B. 6 coal plant subsidy is even worse for consumers than the PUCO's generous subsidy to AEP, Duke and AES/DP&L. The H.B. 6 coal-plant bailout has an extended subsidy period (far beyond the PUCO's original timeline) that the Ohio Manufacturers' Association projects will cost Ohioans $700 million by 2030.[1] This $700 million in projected charges to consumers is in addition to the subsidies the PUCO allowed AEP, Duke and DP&L to charge.

Subsidizing the AEP, Duke and AES/DP&L shares of the OVEC coal power plants (one in Indiana and one in Ohio) has the double whammy of increasing Ohioans' electric bills and increasing air pollution. That's bad on both counts. That subsidy should never have started but it should end with S.B. 117. The current amount of bailout charges and air

[1] "Ohio's Costly – and Worsening – OVEC Situation," J. Seryak and P. Worley (November 12, 2020); https://www.ohiomfg.com/wp-content/uploads/Ohios-Worsening-OVEC-Situation-11.9.2020-Final.pdf

pollution that H.B. 6 coal plant subsidies support can be viewed on the home page of OCC's website (http://www.occ.ohio.gov/).

In this regard, the Ohio Energy Group testified about H.B. 6 repeal in September 2020. In that testimony before the House Select Committee on Energy Policy and Oversight, OEG's witness responded to questioning by saying "OVEC is a thorny problem…. What benefit do customers get from OVEC? Not really much. No. It's a burden…." Regarding OVEC's investment in the installation of scrubbers, OEG's witness said "that was a bad decision … cost a lot of money and they're not economic."[2] We agree.

In 1999, the Ohio legislature chose markets instead of monopolies for generation of electricity. As a result, Ohio consumers are benefiting with lower electricity prices. The market has also brought new sources of generation to the state, such as natural gas plants, without the need for subsidies. Unfortunately, at least two gas plant projects were canceled as a reaction to House Bill 6, costing the state more than a billion dollars in investment.[3]

In this situation, the competitive market for power plants could produce both lower electric bills for Ohioans and less air pollution. But for those consumer benefits to occur, the legislature needs to repeal the coal-plant bailout in H.B. 6 that is interfering with the market. S.B. 117 will get the job done by ending the subsidies to AEP, Duke and AES that are at consumer expense.

One of the key consumer protections of the 1999 electric deregulation law is Ohio Revised Code 4928.38. It states: "The utility's receipt of transition revenues shall terminate at the end of the market development period. With the termination of that approved revenue source, **the utility shall be fully on its own in the competitive market**." (Emphasis added.) Those are words to live by, for electric deregulation and consumer protection.

State government should stop propping up these old inefficient power plants, at consumer expense, that cannot compete in the wholesale markets. The market development period ended over a decade ago. But Ohio utilities still have their hands out for corporate welfare from state government, at public expense. Making Ohioans subsidize AEP, Duke and AES for the OVEC plants may be the worst of the bad H.B. 6 subsidies. That's because the subsidies support higher electric bills for consumers and more air pollution in the environment.

[2] Testimony of Mike Kurtz for the Ohio Energy Group, House Select Committee on Energy Policy and Oversight (September 23, 2020) (answering questions following his prepared testimony); http://ohiochannel.org/video/ohio-house-select-committee-on-energy-policy-and-oversight-9-23-2020 (at video time marker 2:26:46).

[3] "HB6 fallout: $1.5 billion in natural gas-power plant investments pulled from Ohio," M. Williams Columbus Dispatch August 24, 2019 https://www.dispatch.com/business/20190823/hb6-fallout-15-billion-in-natural-gas-power-plant-investments-pulled-from-ohio

Attached is OCC's Subsidy Scorecard. It shows the subsidies that Ohioans have been made by their government to pay since electric deregulation in 1999.

In 2006, AEP, Duke, DP&L, and others decided to extend the OVEC agreement until 2030. In 2011, they again decided to extend the agreement, until 2040. But as the coal plants became unprofitable, AEP, Duke and DP&L came looking to state government to make consumers share in the losses by paying subsidies. Unfortunately, the utilities were rewarded with a way around the competitive market through subsidies at the PUCO and then at the legislature in H.B. 6.

When the PUCO originally granted the coal plant subsidy, PUCO Chair Asim Haque wrote "This should not be perceived as a blank check, and consumers should not be treated like a trust account."[4] It's too bad that Chair Haque's words have not been heeded by the PUCO – meaning it's too bad for millions of Ohio consumers. By 2030, H.B. 6 will have provided that "blank check" to AEP, Duke and AES for $700 million, according to OMA. And that does not include the many millions of dollars consumers were made to pay for the coal plants under PUCO subsidies prior to H.B. 6.

The PUCO's external auditors who reviewed these subsidy charges revealed that the plant owners do not limit costs enough, as they often run the plants when the wholesale electric prices do not cover the plants' variable costs. The auditor of AEP's OVEC subsidy charge stated "The OVEC plants are offered into the PJM DA [day ahead] market as 'must run,' there are times during which the PJM DA prices [do] not cover the variable rates of running the plants."[5] Two separate auditors have recommended the OVEC Operating Committee meet more frequently to "prevent plants from running when energy prices are too low to cover variable costs."[6] AEP responded to the auditor's recommendation by saying it "felt the current meeting schedule was adequate and do not plan to make any changes."[7] Meanwhile consumers are losing money.

It is obvious the coal plant owners would be making better business decisions if they owned their losses instead of having a bailout from consumers, courtesy of H.B. 6. The H.B. 6 subsidies have worsened the coal plants' response to the market by removing the market's discipline for increasing efficiencies or decreasing expenses. Consumers bear the cost.

AEP is the loss leader for making consumers pay its OVEC coal plant subsidies. While AEP's Ohio share of OVEC is 19.93%, AEP utilities in the region own more than 40% of

[4] In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Purchase Power Agreement, PUCO Case 14-1693-EL-RDR, Opinion and Order, Concurring Opinion of Chairman Haque at p.5 (March 31, 2016); http://dis.puc.state.oh.us/TiffToPDf/A1001001A16C31B40932C01840.pdf

[5] "Audit of the OVEC Power Purchase Agreement of Ohio Power Company" at p. 52, by London Economics, PUCO Case No. 18-1759-EL-RDR (September 16, 2020); https://dis.puc.state.oh.us/TiffToPDf/A1001001A20I17B31207C02236.pdf

[6] Id. at page 53.

[7] Id. at page 10.

the two OVEC plants. So when you think about who is the driver for the coal plant subsidies from state government at consumer expense, especially think about AEP.

It is perhaps not mere coincidence that AEP – a prime recipient of consumer subsidies for coal plants under H.B. 6 – has shown its highest profits right here in Ohio. AEP's most recent financial Fact Book for 2020 is showing that its highest profits, among all of its distribution utilities in the country, are in Ohio.[8] Another recent AEP chart shows its Ohio utility is making the second-highest profits of any AEP utility.[9] (See attached AEP profits charts.) That is not good news for consumers who pay for utility profits.

For those who want the uneconomic coal plants to continue operating, it seems the plants can operate without a bailout. In their joint sponsor testimony on March 31, 2021, Senator Romanchuk and Senator Craig quoted a FitchRatings report that stated "Fitch does not expect a direct impact to OVEC if Ohio House Bill 6 (H.B. 6) is repealed." That is because, according to FitchRatings, House Bill 6 "does not alter the utilities' obligation to pay OVEC as per the terms of the legally enforceable ICPA."[10]

In conclusion, a utility should "be fully on its own in the competitive market," as we quoted above from O.R.C. 4928.38. That means markets, not utility monopolies (and subsidies), should determine what consumers pay for power plant generation. The coal plant subsidies in tainted House Bill 6 for AEP, Duke and AES/DP&L should be repealed for consumer protection. That repeal should result in lower electric bills and less air pollution. Thank you for your consideration.

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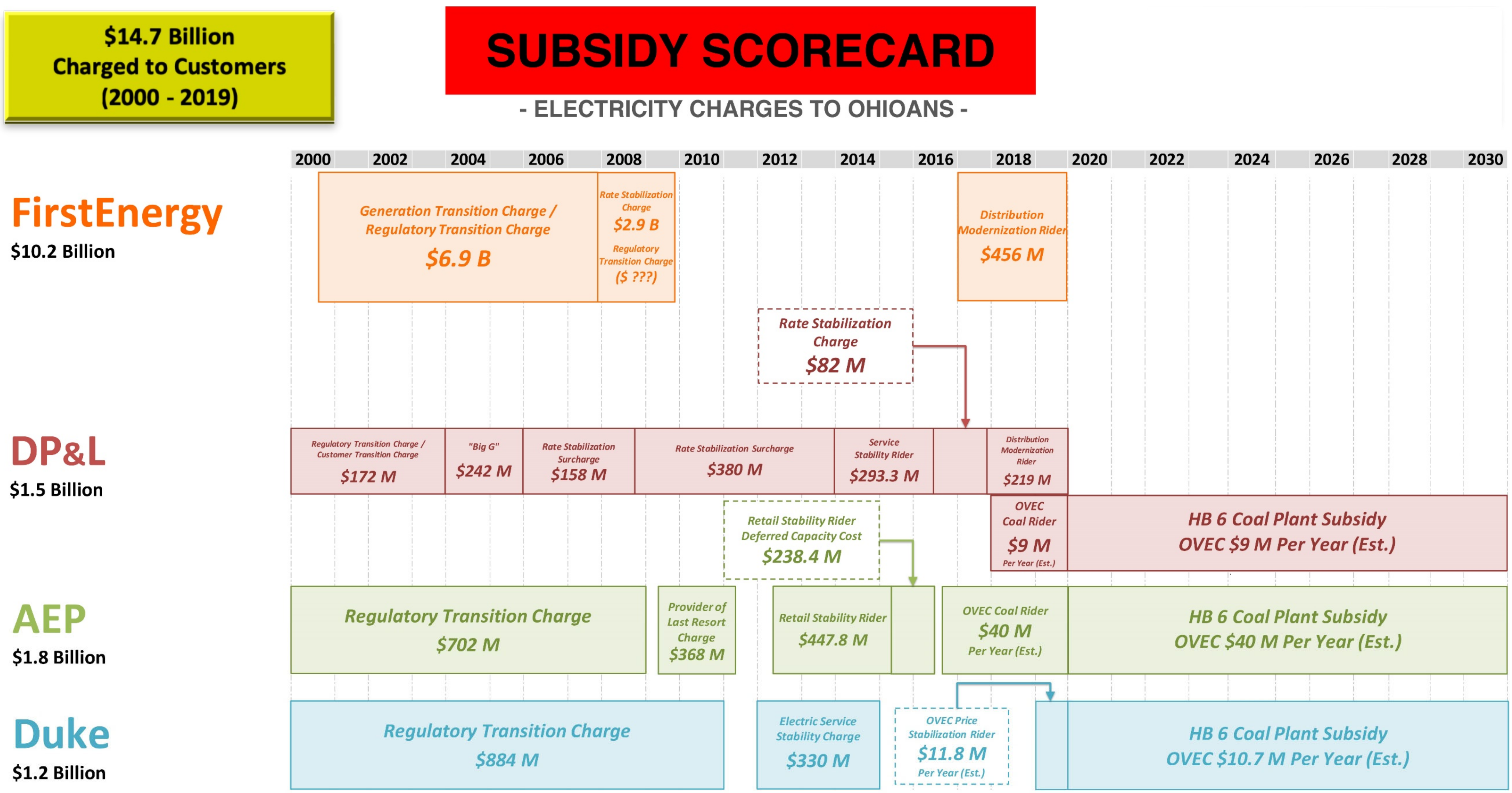
[8] 2020 AEP Fact Book at p. 14, 55th EEI Financial Conference (November 9-10, 2020); https://www.aep.com/Assets/docs/investors/eventspresentationsandwebcasts/2020EEIFactbook.pdf

[9] American Electric Power "1ST QUARTER 2021 EARNINGS RELEASE PRESENTATION" dated April 22, 2021 page 6 https://www.aep.com/newsroom/resources/earnings/2021-04/1Q21EarningsReleasePresentation.pdf

[10] "Fitch Affirms Ohio Valley Electric Corp. at 'BBB'; Outlook Stable," FirtchRatings (Feb. 26, 2021).



B=Billions; M=Millions

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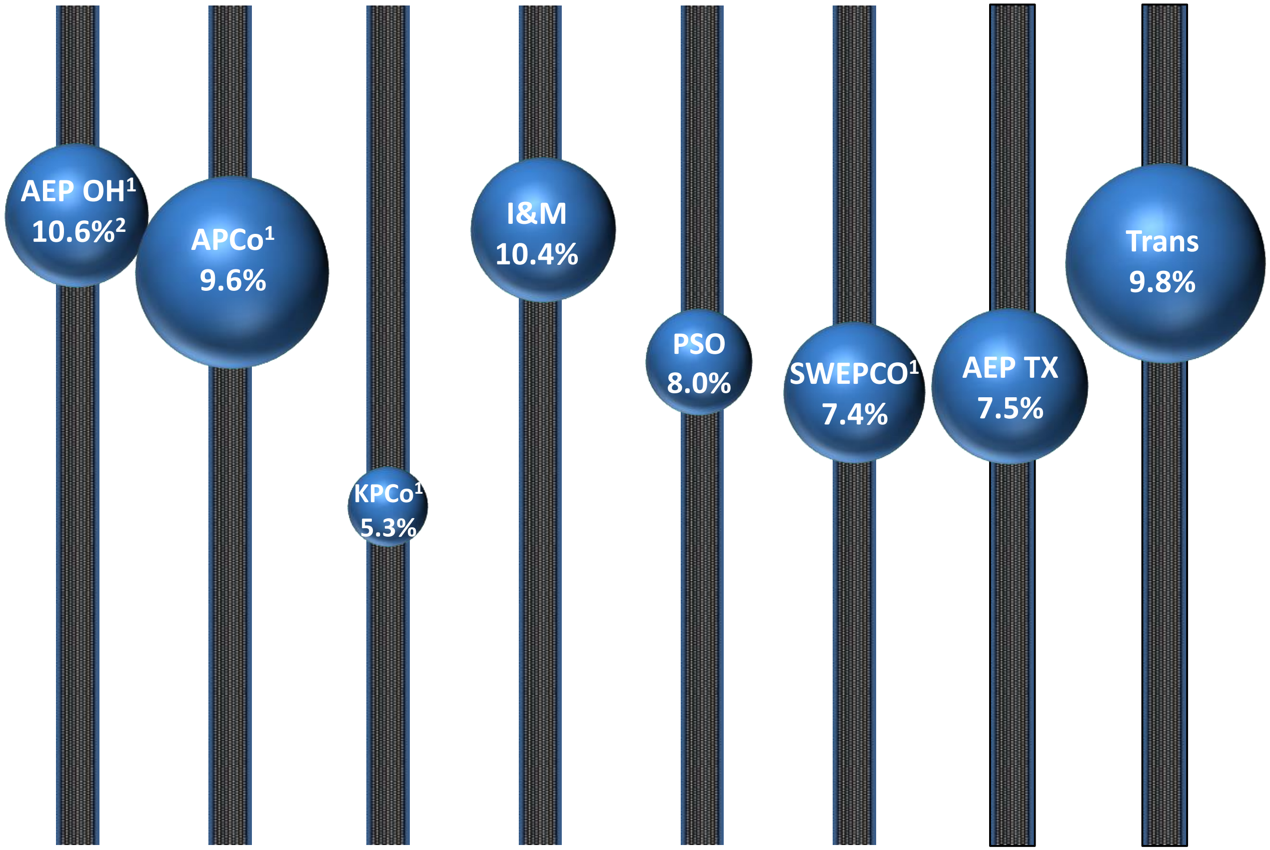
Regulated Returns

Twelve Months Ended 9/30/2020 Earned ROE's (non-GAAP operating earnings, not weather normalized)



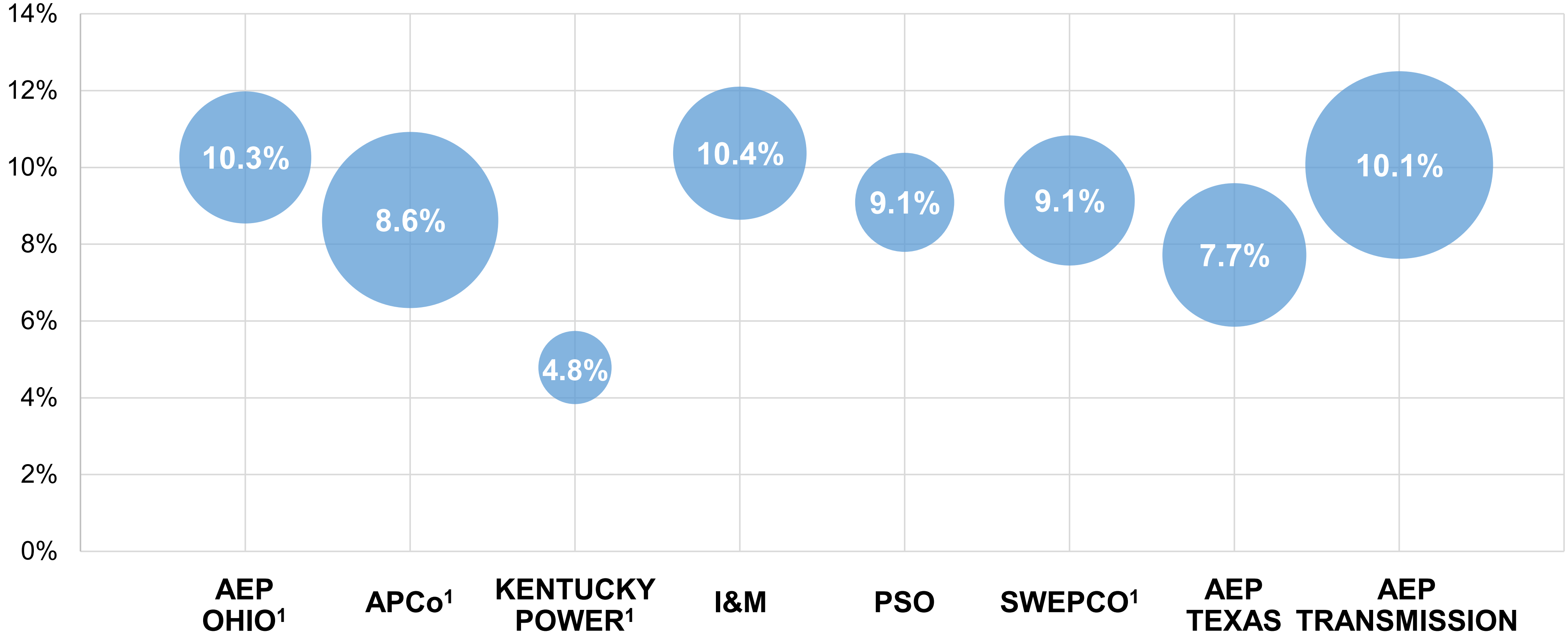
Regulated Operations ROE of 9.0%
as of September 30, 2020

[1] Base rate cases pending I [2] AEP Ohio ROE at end of year expected to be in the 10% range

Sphere size based on each company's relative equity balance

Regulated Returns

Twelve Months Ended 3/31/2021 Earned ROE's
(non-GAAP operating earnings, not weather normalized)



Regulated Operations ROE of 9.1%
(as of March 31, 2021)

[1] Base rate cases pending/order recently received

Sphere size based on each company's relative equity balance