



Office of the Ohio Consumers' Counsel

**Before
The Ohio House of Representatives
Public Utilities Committee**

**Testimony on House Bill 114
(Renewable Energy, Energy Efficiency
and Peak Demand Reduction Standards)**

**Bruce Weston
Ohio Consumers' Counsel
Office of the Ohio Consumers' Counsel**

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Hello Chair Seitz, Vice Chair Carfagna, Ranking Minority Member Ashford, and members of the Committee. I am Bruce Weston, the Ohio Consumers' Counsel. Thank you for inviting testimony on these issues involving the energy mandates that affect millions of Ohio electric customers. I have appreciated the opportunity for discussion with representative Blessing, the primary Bill sponsor, and other members.

Our agency vision is for Ohioans to have "affordable, quality utility services with options to control and customize their utility usage." Energy efficiency and reducing peak demand for electricity can help meet this vision for Ohioans. Ohioans can practice energy efficiency on their own by shopping in the marketplace for things like efficient light bulbs, thermostats, and

EnergyStar appliances. They can also participate in utility-run energy efficiency programs. But these utility-run programs can be expensive for consumers. Consumers pay the costs for these programs: administrative costs of running the programs, customer rebates, utility profits (often called "shared savings" in Ohio), and for some utilities, so-called "lost distribution revenues." Over the next four years, Ohioans could pay hundreds of millions of dollars to their utilities for these programs.

Accordingly, legislation should protect Ohio utility consumers from paying too much for energy efficiency, whether the programs are mandated or voluntary. As an example of a non-mandated program, the PUCO recently approved a six-year program for Columbia Gas that will cost consumers up to \$210 million, even though there are no natural gas mandates in Ohio. This highlights the need for consumer protection whether there are mandates or not.

Therefore, I propose the following consumer protections as changes to the Bill: First, there should be an annual limit on the amount that utilities can charge customers for energy efficiency program costs, utility profits, and lost revenues.

Second, there should be additional limits on the profits that electric utilities can charge Ohio consumers. In 2015, Ohioans paid their electric utilities an additional 39% to 57% for profit, above the cost of the energy efficiency programs. Here is a chart showing the high profit levels that Ohio consumers (and businesses) have paid to their electric utilities:¹

¹ Duke is not listed because it signed a settlement that jointly resolved the amount of profit it would make from energy efficiency programs for 2013, 2014, 2015, and 2016.

Utility	2015 Program Costs	2015 Profits	2015 Profits as % of Program Costs
AEP	\$65.1 million	\$31.1 million	47.8%
DP&L	\$18.0 million	\$7.0 million	38.9%
FirstEnergy	\$27.3 million	\$15.6 million	57.0%

As this chart shows, for every \$2 that customers were charged for energy efficiency programs, they paid roughly another \$1 in profits to their utility. And recall that 2015 was part of the two-year freeze under SB 310, so this was the result for consumers even without any mandates. Energy efficiency programs in Ohio have become a profit center for utilities when the focus should be on well-run programs that benefit as many customers as possible.

Consumers should be protected by limiting utility profits to no more than 8% of program costs. I also urge you to remove lines 1676-1682 from the Bill, which would allow utilities to charge customers for profits even in years when they fail to meet the statutory minimum energy savings. In fact, under the Bill as written, a utility could potentially charge customers for shared savings even in a year in which it had no energy efficiency programs at all. This means higher charges would result without a corresponding value to consumers. The bill should prohibit utilities from collecting profits from customers in a year in which the utility relied on its "banked" energy savings to meet the statutory benchmark.

There should also be a limit on the measures that qualify for shared savings or other utility incentives. The Bill currently prohibits utilities from charging customers for shared savings for heat rate improvements (lines 1522-24, 1557-59). I thank the Bill sponsors for including this customer protection. The Bill should also exclude other non-electric savings from shared savings, including water reductions (lines 1535-36), wastewater treatment improvements (lines 1536-37), and other non-electric savings (lines 1538-39).

The Bill should also preclude utilities from charging customers energy efficiency savings and peak demand reductions achieved by customers on their own without utility-administered programs. Utilities should not be allowed to charge consumers for profit where the decrease in electricity usage results from something that happened without the involvement of the distribution utility. It is inappropriate to allow utilities to charge higher electric bills to consumers for economic decisions and spending that consumers made on their own. If consumers spend their own money on energy efficiency, they shouldn't be made to pay something like a tax on that to the utilities.

Third, the legislation should include an opt-out for residential customers, similar to the one that is currently available for some nonresidential customers. I support the policy in the recent Buckeye Pathway report where it was recommended that energy legislation should provide for "allowing all Ohioans to opt out of the programs."² My recommendation is that the Bill give the Consumers' Counsel the authority to opt out all residential customers of a utility. While that approach is my primary recommendation, there could be additional conditions on the residential opt out

Fourth, in connection with legislation expanding non-residential opt outs, please add language in the statute to protect residential consumers. Residential consumers should be protected, by law, from paying charges for any costs associated with non-residential customers who are opting out of the energy efficiency programs. In other words, utilities should not be permitted to shift costs to residential customers as a result of nonresidential customer opt outs. Separately, consumers should be protected from any utility proposals to re-allocate costs of energy efficiency from non-

² See <http://www.ohiohouse.gov/Assets/Media/BuckeyePathway.pdf>.

residential consumers to residential consumers.

Fifth, consumers should be protected in the regulatory process by prohibiting consideration of renewables and energy efficiency in cases other than those specifically intended for implementing the energy standards. For example, AEP recently sought support to charge consumers billions of dollars, in our projection, for a power purchase agreement by offering in a settlement to build 900 megawatts of renewable energy to be paid by its captive distribution customers. FirstEnergy's proposal for its own power purchase agreement, at a cost we projected to be billions of dollars for consumers, included a settlement term to charge consumers much more for energy efficiency and for profit on energy efficiency (which the PUCO mainly denied). Those proposals were presented despite the cases having nothing to do with energy mandates.

Sixth, the legislation should require charges on customers' bills for energy efficiency to be based on the amount of energy used. Utilities should not be permitted to charge customers a fixed charge for energy efficiency. This disproportionately harms low-use customers. And it discourages customers from reducing their usage, which is the whole point of utility-run energy efficiency programs.

Again, these consumer protections should be enacted whether the utility-run energy efficiency programs are mandatory or voluntary.

Finally, I propose that Section 7 of the Bill be removed. Presently, the Ohio Development Services Agency (ODSA) may use its judgment for spending federal Home Energy Assistance Program (HEAP) funds. ODSA can devote all the funds to assisting low-income Ohioans with utility bill payments or it can provide up to 25% of the funds for low-income weatherization.

Section 7 would require spending 25% of the federal funds on weatherization each year, no matter how cold the winters, how hot the summers or how high the electric bills of low-income Ohioans. This proposal to require using 25% of the funds for weatherization would reduce the bill payment assistance received by a great many more customers than would be reached by weatherization. Fewer Ohioans can benefit from weatherization because it is much more costly per household than bill payment assistance. For example, the cost of weatherization assists one customer. If the weatherization cost is \$2,500 per home, the same amount of money could help nearly ten times as many Ohioans pay to heat their homes in the winter at a cost of under \$300 of benefit per customer. For consumer protection, this section of the Bill should be deleted and the law should remain unchanged. ODSA should be allowed to continue making its judgment for assisting Ohioans in need. It should retain the discretion to consider the consumer-related factors it finds appropriate, which could include changes in energy costs and utility bills, poverty levels, and projected winter weather.

That concludes my testimony. Thank you again for the opportunity to make recommendations on behalf of Ohio consumers.