



**BEFORE THE FINANCE AND APPROPRIATIONS COMMITTEE
THE OHIO HOUSE OF REPRESENTATIVES
REPRESENTATIVE RON AMSTUTZ, CHAIRMAN**

**HOUSE BILL 483
TESTIMONY
OF
KIM BOJKO, PARTNER
CARPENTER LIPPS & LELAND LLP
OMA ENERGY COUNSEL**

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Chairman Amstutz, Vice Chairman Boose, Ranking Member Sykes and members of the House Finance and Appropriations Committee, my name is Kim Bojko. I am an attorney with the law firm Carpenter Lipps & Leland, and I lead the firm's energy and utilities practice. I am testifying today on behalf of The Ohio Manufacturers' Association (OMA) to describe why the OMA opposes the manufactured gas plant remediation provision included in House Bill 483.

By modifying and weakening Ohio's longstanding "used and useful" rate-making legal standard, this provision of HB 483 could result in Ohio utility customers paying hundreds of millions of dollars in environmental clean-up costs for obsolete manufactured gas plants (MGPs). This would be harmful to Ohio manufacturers, as well as to utility customers at large.

Current Ohio law allows utilities to recover costs to maintain their assets only when they are "used and useful" for the benefit of their Ohio customers. Current law also allows the recovery of expenses that are related to the provision of public utility service. HB 483 would expand the "used and useful" standard to allow the Public Utilities Commission of Ohio (PUCO) to authorize utilities to recover environmental clean-up costs associated with MGPs that are – *or were in the past* – used to provide public utility service. The proposed expansion of the "used and useful" standard would significantly increase clean-up cost recovery for utilities, and customers would be left holding the bill.

The parties seeking this change are doing so for the purpose of recovering from customers, costs associated with the environmental clean-up of MGPs, many of which ceased operations more than fifty years ago and produced the manufactured gas for the benefit of customers outside of Ohio. If successful, this would lead to significant cost-shifting from utility shareholders to utility customers who are not now benefitting from -- and likely have never received utility service from -- the MGPs. It is not an exaggeration that clean-up of such sites could range to hundreds of millions of dollars. A recent Cleveland Plain Dealer editorial (March 19, 2014) noted that there may be more than 90 such obsolete MGPs in Ohio.

The OMA urges continued adherence to Ohio's traditional rate-making standards, including the "used and useful" standard that has served Ohio well and protected consumers for decades. In order to set just and reasonable rates for consumers, the PUCO should only grant utilities recovery of clean-up costs that are prudently incurred and that are associated with property that is currently used and useful in the provision of utility service to Ohio consumers.

I also want to note the PUCO has acted on a case that will have bearing on this matter. Appeals are under way and any possible legislative revision would be premature at this time.

Finally, Ohio manufacturers support reasonable public policies that promote environmental clean-up. Manufacturers are concerned, however, about any proposal that would allow a public utility to pass unlimited costs that should be borne by shareholders on to customers without having appropriate consumer protections in place. This is why manufacturers oppose efforts to modify and weaken the "used and useful" standard, and urge members of the committee to amend HB 483 by removing the troublesome MGP provision.

I would be happy to answer any questions that Members might have.

Thank you.