



**BEFORE THE PUBLIC UTILITIES COMMITTEE OF THE OHIO SENATE
SENATOR BILL SEITZ, CHAIRMAN**

**OMA PANEL TESTIMONY
OF**

**BRADLEY H. BELDEN
THE BELDEN BRICK COMPANY**

**J. RICHARD HORNBY
SYNAPSE ENERGY ECONOMICS**

**JOHN A. SERYAK
GO SUSTAINABLE ENERGY, LLC**

**KIM BOJKO
CARPENTER LIPPS & LELAND**

November 6, 2013

**BEFORE THE
PUBLIC UTILITIES COMMITTEE
OF THE OHIO SENATE**

SENATOR BILL SEITZ, CHAIRMAN

**Substitute Senate Bill 58 Hearing
November 6, 2013**

**TESTIMONY OF
THE OHIO MANUFACTURERS' ASSOCIATION
BY
BRADLEY BELDEN**

Chairman Seitz . . . members of the Senate Public Utilities Committee . . .
Good afternoon. Thank you for the opportunity to testify today on issues and concerns related to Senate Bill 58 and its proposed changes to Ohio's energy efficiency standards and policies.

My name is Bradley H. Belden. I am Director of Support Services for The Belden Brick Company, which is headquartered in Canton, Ohio.

Our company owns and operates six plants in Tuscarawas County and employs approximately 450 people in Ohio. We produce both molded and extruded face brick and pavers.

The Belden Brick Company is the largest family-owned and managed brick company in the nation, and the sixth-largest brick manufacturer overall, as measured by production volume.

Access to reliable, affordable electricity is a big competitiveness issue for our company. Our electric spend represents about 4.5 percent of our overall costs. While that doesn't qualify us as an "electric energy intensive" industry, it still represents a significant annual cost. We are always looking for ways to reduce our

costs – including what we spend on electricity – because that frees up resources that can be used to invest back into the business and create jobs.

So we are keenly interested in public policies that will drive lowest-cost energy resources and solutions.

Energy efficiency is a valuable cost control tool for manufacturers seeking to reduce their energy usage and expenses. And energy efficiency programs are a low-cost strategy for suppressing the price of electricity in the marketplace.

Managing energy consumption and costs in a manufacturing setting has plenty of inherent challenges. Some of the biggest ones include a low threshold for payback, staff time constraints, and limited in-house expertise.

To the extent that our company does engage in energy efficiency, our goal is pretty straightforward: First, we want to be sure that any investment we make in energy efficiency is an investment that ultimately pays itself back with future savings that yield a return for the company. However, we also believe and welcome the fact that efficiency improvements made by us will yield lower rates for the electricity our region consumes.

With that requirement in mind, we are generally very pleased so far with the impact of the energy efficiency standards and policies enacted by Senate Bill 221. For The Belden Brick Company, the energy efficiency programs now available to companies like ours are working as intended.

Let me share with you some specific numbers.

About 3% of our electric bill goes towards the energy efficiency rider. To date, we have recouped about 65% of our rider costs in incentive payments for efficiency projects.

Our two major efficiency investments have been a lighting project in which we re-lamped almost all of our facilities, and the installation of a new, energy-efficient air compressor.

We estimate our annual electricity cost savings due to these efficiency upgrades amounts to about 5% of our prior spend.

Not only is our net benefit considerable, but with the incentives, the payback timeline for our investment in these efficiency projects was reduced by more than a year. The incentives drove the payback down to 2-3 years instead of 3-4 years.

Based on our experience to date, we are planning to embark on additional efficiency projects.

In addition, we are also enrolled in an AEP-sponsored program that educates manufacturers on low-cost/no-cost energy efficiency practices. This project also will pay an incentive if successful – on top of any energy savings we realize. We are hoping to reduce our costs by another 5% per year through this program.

So from the perspective of The Belden Brick Company – based on firsthand experience – Ohio's energy efficiency standards and policies are producing documented, quantifiable benefits in the form of significant reductions in our electricity costs.

Our company is not alone in this regard.

During the past year, The Ohio Manufacturers' Association has commissioned two separate studies to analyze the impact the state's efficiency standards and policies have had on consumers across Ohio.

I'm a manufacturer, not an energy expert, but both studies show the SB 221 energy efficiency provisions are working largely as intended to drive down electricity costs.

The most recent of those studies, which was released just a couple of months ago, reported the results of a detailed cost-benefit analysis. The analysis shows that the price mitigation benefits of the current energy efficiency standards and policies exceed the energy rider costs – for all sizes of manufacturers in all four electric utility service territories in Ohio.

Like most successful businesses today, The Belden Brick Company is strongly data-driven. We believe state policy also should be backed up by hard data, to the fullest extent possible.

We find the results of the data-driven, OMA-commissioned studies to be compelling. Moreover, to date we have not seen any hard data to the contrary. Nor have we seen any studies that quantify the projected impact – in the aggregate or by rate class – of the changes proposed by Senate Bill 58. Until such data turn up, we think any efforts to significantly overhaul state policy on energy efficiency should proceed with great caution.

In closing, let me say again that Ohio's existing energy efficiency standards and policies are working for The Belden Brick Company. Clear data exist documenting that the program is working for other manufacturers across Ohio as well.

Absent any corresponding data to the contrary, efforts to drastically overhaul the current energy efficiency standards and policies strike us as unjustified and unnecessarily risky, however well-intentioned they may be.

Chairman Seitz . . . members of the committee . . . this concludes my prepared remarks. Thank you for your kind attention. I will do my best to try to answer any questions you may have after my colleagues present.

**BEFORE THE
PUBLIC UTILITIES COMMITTEE
OF THE OHIO SENATE**

SENATOR BILL SEITZ, CHAIRMAN

**Substitute Senate Bill 58 Hearing
November 6, 2013**

**TESTIMONY OF
THE OHIO MANUFACTURERS' ASSOCIATION
BY
J. RICHARD HORNBY**

Good afternoon. Thank you for the opportunity to appear before you today.

My name is Richard Hornby. I am a Senior Consultant with Synapse Energy Economics, a consulting firm based in Boston, Massachusetts. I have worked in the energy industry in Canada and the US for more than 35 years. I started in Canada as a project engineer, then served as a senior civil servant. I have been a regulatory consultant since coming to the US in 1986. My primary areas of expertise are resource planning and ratemaking in the electricity and natural gas industries.

As Mr. Belden explained, Ohio's energy efficiency programs are very important to the state's manufacturing companies, as they are to all electricity customers in the state¹. My testimony will explain how Senate Bill 58 (SB58), as written, would lead to lower spending on efficiency and increased electricity rates for your constituents. Mr. Seryak will explain how SB58 limits the reduction in energy use the state would achieve under the Energy Efficiency Resource Standard (EERS). Ms. Bojko will explain how

¹ Neubauer, Max et al. *Shaping Ohio's Energy Future: Energy Efficiency Works*. American Council for an Energy Efficiency Economy (ACEEE), March 2009, <http://aceee.org>

SB58 limits the ability of the Ohio Public Utilities Commission (PUCO) and ratepayers to ensure that electricity rates remain reasonable over time.

My testimony makes two main points:

- First, Ohio's existing EERS policy and ratemaking framework is fundamentally sound. It may need a few refinements, but it is providing the state's investor-owned utilities (IOUs) the opportunity to comply with the EERS, and to receive a reasonable financial incentive when they do so. Under this framework the PUCO sets your constituents' retail electricity rates to recover reasonable costs.
- Second, SB58 as written will change this existing framework in ways that would lead to increases in retail rates that are not reasonable. Specifically, certain provisions of the bill would increase the EERS performance incentives IOUs receive to one of the highest—if not the highest—levels in the country; meanwhile, utilities in other states are achieving comparable reductions with much lower incentive levels. The proposed incentive increases will reduce the amount available for efficiency programs in order to fund these higher utility incentives. Other provisions of the bill would reduce the quantity of reductions IOUs are expected to bid into the PJM capacity auctions, thereby limiting the extent to which IOUs will be expected to 1) monetize EERS demand reduction, and 2) suppress wholesale prices for electric capacity. Both of these limitations will cause your constituents to pay higher than necessary prices for electric supply service.

The fact that I do not address other provisions of SB58 does not mean that I support those other provisions.

To place my key points in context, I am going to quickly summarize three relevant features of Ohio's electric sector.

- First, the state's retail customers receive their service from companies in one of three categories: IOUs, rural electric cooperatives, and municipal electric suppliers. There are four IOUs: FirstEnergy, American Electric Power (AEP), Duke Energy Ohio, and Dayton Light and Power (DP&L). In aggregate, these IOUs distribute the vast majority of electricity to retail customers in Ohio. My understanding is that SB58 only applies to the IOUs, so my remaining remarks are limited to them.
- Second, traditional electric service has been unbundled into three separate services: generation, transmission, and distribution. As a result of deregulation and restructuring, Ohio's IOUs are essentially providing distribution service, only; they have divested, or are in the process of divesting, their generation and transmission assets. As a result retail customers of all IOUs acquire their electricity supply service either through the Standard Offer Service (SSO) or a Competitive Retail Electricity Supplier (CRES). A key point of distinction is that distribution (provided by IOUs) is a regulated service in Ohio, whereas electricity supply is a competitive service. The majority of the retail electricity supply price is set through the operation of competitive wholesale markets, not by a regulator. In contrast, the PUC sets the retail rates that IOUs charge for distribution service based on their cost of providing that service, as determined in rate cases.
- Third, because the majority of the retail electricity supply price is set through the operation of wholesale capacity and energy markets, reductions in retail customers' peak demand and annual energy resulting from EERS programs tend to "suppress"

the prices that all customers pay for capacity and energy. This is one of the many ways that EERS programs benefits all customers in Ohio, not just the subset of customers who participate in EERS programs in a given year. Exhibit JRH-1 provides a high-level illustration of price suppression, using the wholesale capacity market as an example, based on an April 2013 ACEEE report and a paper I presented on that report.^{2,3} Page 1 of that exhibit illustrates that under a Business as Usual (BAU) case the price for capacity would be set at \$136 per MW-day, the point where the BAU supply curve intersects the BAU demand curve. In contrast, page 2 illustrates that under a Capacity Price Mitigation case in which Ohio IOUs bid 208 MW of peak demand reduction as a capacity resource the price for capacity would be set at a lower price of \$126. This is an example of wholesale price suppression, it does not analyze the remaining two phases of price suppression: (i) the process and time period through which the reduction in wholesale capacity prices is reflected in retail prices for electricity supply, and (ii) the process and time period through which the reduction in wholesale capacity prices eventually dissipates due to actions taken by suppliers in response to the lower market price.

Price suppression is a generally accepted component in the modeling and operation of wholesale capacity and energy markets, as indicated by the range of parties who have developed the estimates listed in Exhibit JRH-2. Parties may, and do, disagree over the

² Neubauer, Max et al., *Ohio's Energy Efficiency Resource Standard: Impacts on the Ohio Wholesale Electricity Market and Benefits to the State*, ACEEE, April 2013.

³ Hornby, Rick and Neubauer, Max, *Demonstrating How EE in Ohio Saves Money for All Ratepayers*, ACEEE Energy Efficiency as a Resource Conference, September 2013.

calculation of certain aspects, such as magnitude and duration, but there is general agreement that it does occur.

I will now expand on the two main points of my testimony: 1) Ohio's existing EERS policy and framework is fundamentally sound, and 2) provisions in SB58 would lead to less spending on efficiency and higher retail rates for supply service.

1. Ohio's existing EERS policy and ratemaking framework is fundamentally sound

Ohio's existing EERS policy and ratemaking framework is based upon the policies set out in SB221 and the state's traditional ratemaking practices and procedures. SB221 set the annual targets for reductions in peak demand and in annual energy that IOUs were expected to achieve each year beginning in 2009 and continuing through 2024.⁴

The existing EERS framework has two key features relevant to my discussion of SB58. First, it aligns the financial interests of the IOUs with achievement of the EERS targets. Second, it ensures that the rates customers pay for electricity are reasonable.

a. Aligns financial interests of IOUs with achievement of EERS targets

The existing EERS framework enables IOUs to collect three categories of revenues from their retail customers: EERS program costs, lost distribution revenues, and an EERS performance incentive. EERS program costs are the costs of labor and materials to install efficiency measures. Lost distribution revenues are the shortfalls in recovery of fixed distribution system costs the IOUs experience as a result of retail customers using,

⁴ Peak demand is the highest electricity use of a customer (or group of customers) in a year, while annual energy is the quantity of electricity a customer uses during a year.

and paying for, less energy. The performance incentive is a payment the IOU receives when it meets, or exceeds, its EERS target.

Under this framework the IOUs, as “distribution only” utilities, should be financially neutral in terms of whether their retail customers reduce their requirements through efficiency measures or meet all of their requirements through electricity supply purchases. In fact, the IOUs should have a financial preference to encourage efficiency since they receive a financial incentive if they achieve, or exceed, their target reductions under the EERS.

The EERS performance incentive provides the IOUs a share of the net benefits, or dollar savings, resulting from the EERS measures. Under the current framework, an IOU receives 5% of the net benefits if it achieves 100% of its EERS target in a year, and an increasing percentage for exceeding its EERS target, up to a maximum of 13% for reaching 115% of the target. It is interesting to note that since 2009 Duke Energy and AEP each entered settlements agreeing to meet their EERS targets under these financial terms, and DP&L has entered a proposed settlement. All three IOUs were aware of the long-term EERS targets when they entered those settlements. FirstEnergy is the only IOU whose financial arrangements were established through a litigated proceeding. As I discuss later, SB58 is proposing to increase this incentive dramatically.

b. Ensures rates customers pay for electricity are reasonable.

The second key feature of the existing EERS framework is that it helps control the rates your constituents pay for electricity. The framework accomplishes this by giving the

PUC the responsibility and authority to monitor and rule upon the amounts IOUs can recover from ratepayers.

The PUC has traditionally exercised this responsibility and authority in rate proceedings by determining the amount of each category of revenues that is reasonable for the IOU to collect for its distribution service and for its EERS programs. For example, the PUC has excluded certain categories of savings from the calculation of net benefits and has set dollar caps on the amount of EERS performance incentives each IOU can receive. It is important to note that the PUC exercises its responsibility and authority over these amounts on an ongoing basis. For example, if an IOU's circumstances change substantially, the IOU always has the opportunity to file a request with the PUC to increase the amounts it can collect. When an IOU makes such a request, representatives of ratepayers have the opportunity to intervene and examine the merits of the IOU application in detail through the discovery process.

More recently, since PJM began allowing parties to bid demand reductions into its capacity market auctions, the PUC has begun monitoring the extent to which IOUs are bidding demand reductions from their EERS programs into PJM auctions. These bid quantities are important for several reasons. First, PJM compensates IOUs for the quantity of reductions they bid, providing revenues to help fund EERS programs and thereby reducing the amount IOUs need to collect from ratepayers. Second, the demand reductions have a price suppression effect beneficial to all ratepayers, as I described earlier. Third, if the IOUs do not bid these reductions into the auctions, PJM may not realize the extent to which Ohio customers are reducing their peak demand and, as a result, may base its plans on incorrectly high forecasts of peak demand.

I understand that IOUs must exercise judgment when determining the quantity of demand reduction from a given EERS program to bid into a PJM auction—particularly for new EERS programs with limited performance histories. IOUs must bid conservatively because they are submitting bids into PJM auctions conducted up to three years in advance of the year the capacity must be provided and because PJM will impose a financial penalty on them if they cannot provide the reduction when PJM requests it. However, my experience in New Jersey, Maryland, and New England⁵ indicates that a conservative bid is approximately 75% of the projected demand reduction, not the zero percent SB58 is proposing.

2. Provisions in SB58 would lead to unreasonable less spending on efficiency and increases in retail rates

a. Increases EERS Performance Incentive to Unprecedented and Unreasonable Level

Provisions in the bill increase the financial incentive IOUs receive for complying with the EERS in four ways:

- i. Increasing the amount of net benefits subject to sharing. Section 4928.6611 (C) describes the shared savings incentive IOUs would receive for the after-tax net benefits from compliance activities. That section refers to compliance activities described in Sections 4928.6627 and 4928.6640, which include improvements in power plant efficiency retroactive to 2006 (bill line 2043-2058), and what appears to be savings from federal appliance standards (bill lines 2012-2019). Allowing utilities to include such claims in the calculation of net benefits from energy efficiency

⁵ The New England ISO conducts similar capacity auctions three years in advance.

programs is unprecedented based on my experience and my review of utility energy efficiency performance incentives in other states.^{6,7,8} In addition it is not reasonable to provide IOUs a shared savings performance incentive for upgrades to transmission and distribution lines (bill line 1904) if those upgrades result from investments in rate base on which the IOUs will earn their allowed rate of return.

- ii. Eliminating the threshold level of achievement. Section 4928.6611 (C) implies that utilities would receive the proposed 33 percent after-tax share on all net benefits, rather than having to achieve 100% of their target reduction before starting to receive an incentive.
- iii. Increasing the maximum after-tax percent of net benefits IOUs receive from the current 13% to 33%. At this level Ohio IOUs would be receiving one of the highest, if not the highest, shared saving performance incentive in the country based on my experience and my review of utility energy efficiency performance incentives in other states. As illustrated in the chart on page 1 of Exhibit JRH-3, other than Ohio only six states have explicit state wide reduction targets and allow their utilities a shared saving incentive. The sharing percentages in those states range from 10% to 20% on a pre-tax basis. Moreover, there is no evidence that Ohio IOUs need such a high incentive to achieve their EERS targets.⁹
- iv. Eliminating the cap on the incentive. Section 4928.6611 (C) makes no reference to a cap or to the ability of the PUC to set a cap. Under the current framework, the PUC

⁶ S. Hayes et al., *Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency*, January 2011, available at <http://aceee.org/research-report/u11>.

⁷ ACEEE data base, "State Energy Efficiency Policy," available at <http://aceee.org/sector/state-policy>.

⁸ IEE 2013, *State Electric Efficiency Regulatory Frameworks*, July 2013

⁹ Wilson, John D. et al., *Seeking Consistency in Performance Incentives for Utility Energy Efficiency Programs*, ACEEE 2010 Summer Study.

has set utility-specific caps on the absolute dollar amount each IOU can receive in a given year.

The resulting increase in the EERS performance incentive will reduce amounts spent on efficiency in order to fund the higher performance incentives.

b. Reduces obligation of IOUs to achieve reasonable levels of demand-reduction monetization and capacity price suppression

As I noted earlier, the quantity of demand reductions from EERS programs that IOUs bid into PJM auctions provides Ohio ratepayers with several important benefits: compensation from PJM that offsets EERS program costs, capacity price suppression that benefits all ratepayers, and more accurate PJM forecasts of peak demand. Synapse helped ACEEE prepare a report estimating the magnitude of capacity price suppression benefits to all Ohio customers if IOUs bid a reasonable quantity of demand reductions from EERS programs into the PJM auctions for 2017 through 2020.¹⁰ The report also estimates energy price suppression benefits from EERS reductions in annual energy use.

Provisions in SB58 reduce the obligation of IOUs to achieve reasonable levels of demand-reduction monetization and capacity price suppression in two ways:

- Reducing IOU peak demand reduction requirements. Section 4928.665, starting at line 1708, reduces the quantity of peak demand reductions the IOUs would have to achieve. The lower the quantity of demand reductions, the lower the MW reduction the IOUs will have available to bid into the PJM capacity auctions.

¹⁰ Neubauer, Max et al., *Shaping Ohio's Energy Future: Energy Efficiency Works*, ACEEE, March 2009, available at <http://aceee.org>.

- Prohibiting bidding of projected demand reductions. Section 4928.6659 (b) starting at line 2187, prohibits the PUC from requiring IOUs to bid projected reductions into PJM auctions. Again, the lower the quantity of demand reductions, the lower the MW reduction the IOUs will have available to bid into the PJM capacity auctions.

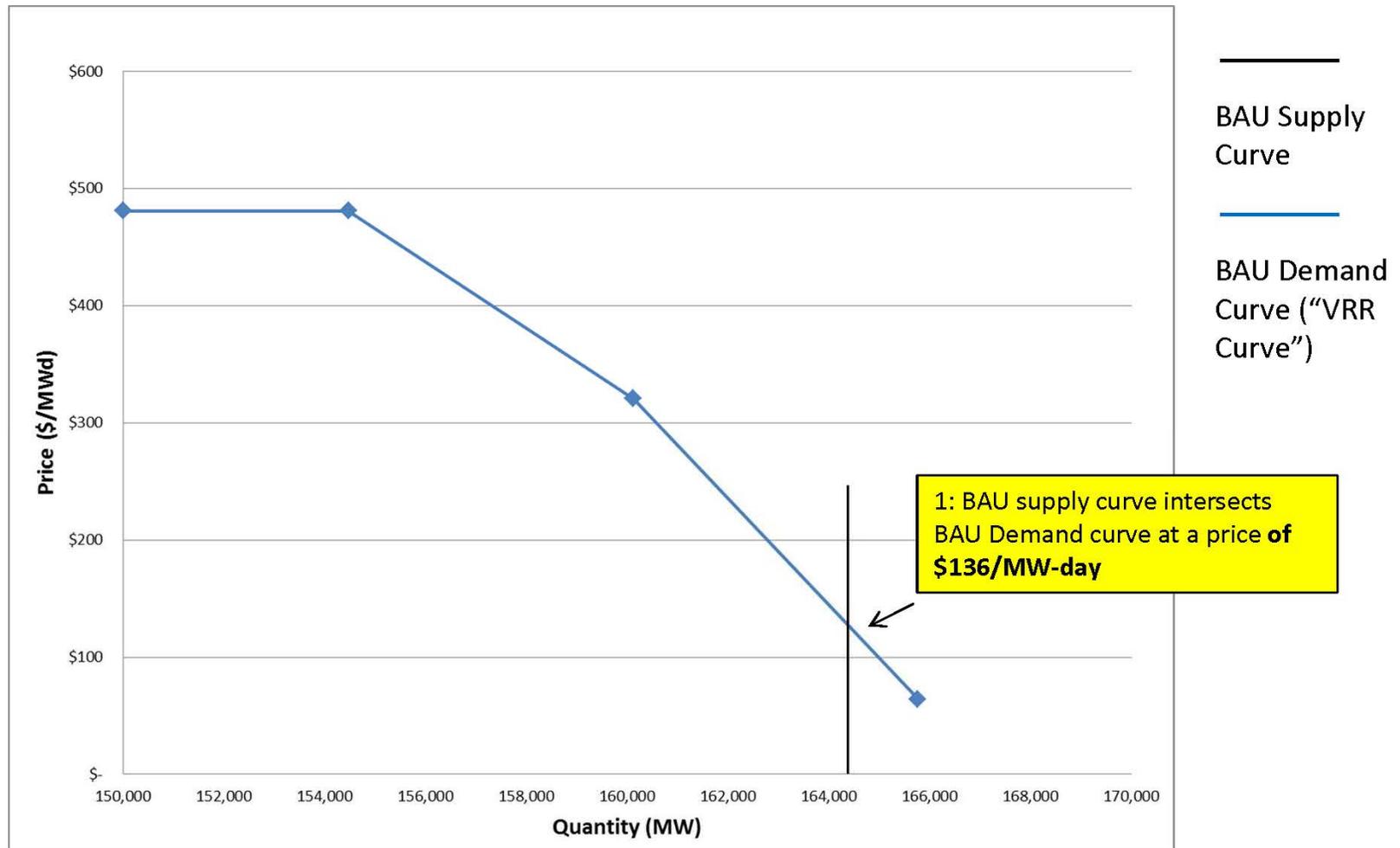
These restrictions will ultimately result in your constituents paying higher than necessary prices for electric supply service.

Conclusion

Ohio's existing EERS policy and ratemaking framework is fundamentally sound. It provides the state's IOUs the opportunity to comply with the EERS and to receive a reasonable financial incentive when they do so. It also controls the retail rates your constituents pay for their electricity. If SB58 is passed as written, it will increase the energy efficiency performance incentives IOUs receive to one of the highest, if not the highest, levels in the country. At the same time, it would limit the extent to which IOUs are expected to monetize EERS demand reduction, and suppress wholesale prices for electric capacity. These changes will ultimately lead to your constituents paying higher, and unreasonable, prices for their electricity.

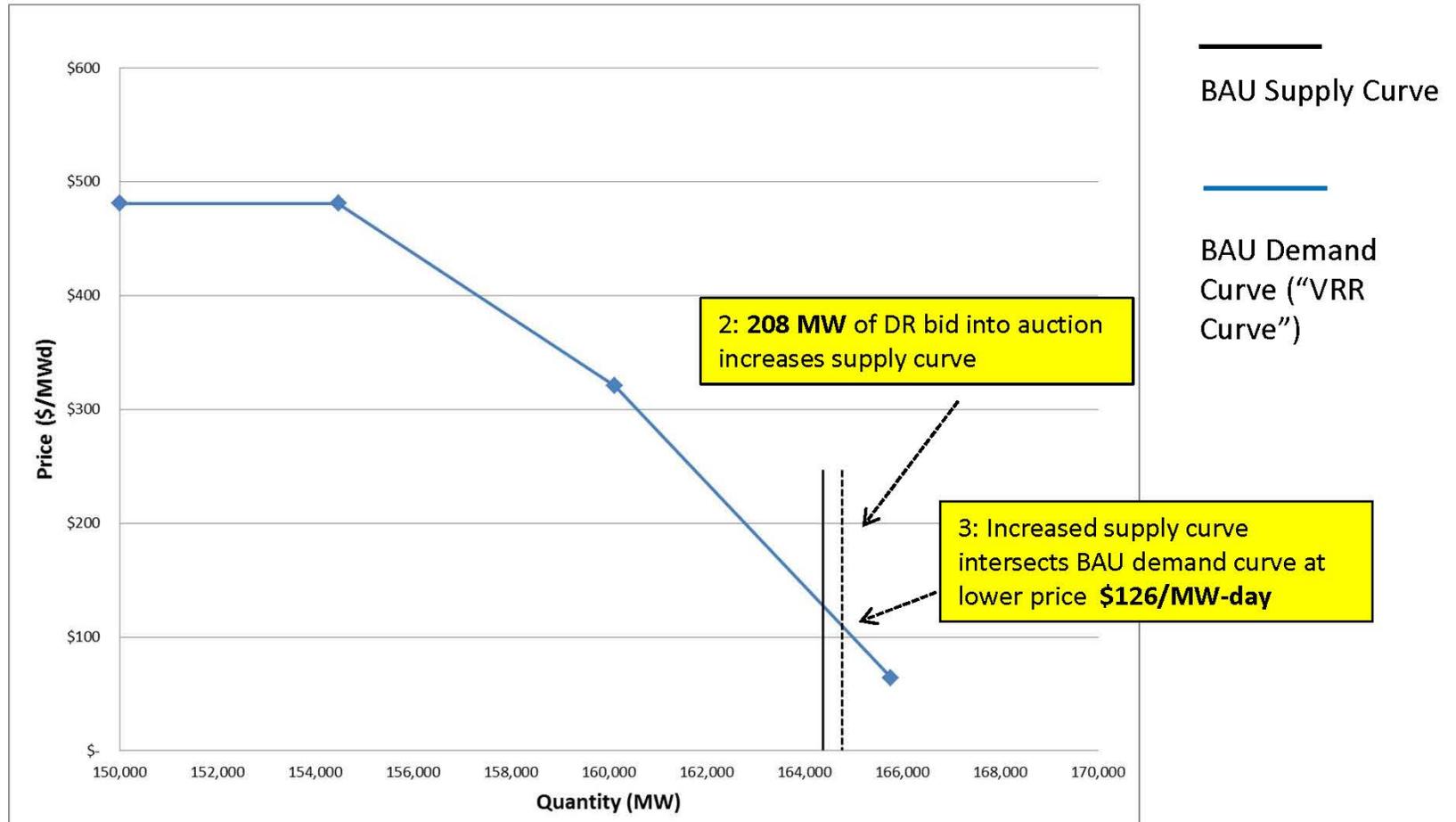
Wholesale Capacity Price Mitigation

Step 1 – Business as Usual (BAU) Demand; BAU Supply; BAU Price



Wholesale Capacity Price Mitigation

Step 2 – BAU Demand; Increased Supply; Lower Price



Wholesale Capacity Price Mitigation (annual)

Ohio fraction of PJM RTO excluding ATSI

Scenario	Capacity (MW)	Price (\$/MW-day)	Cost (million \$)
BAU	14,439	\$136	\$716.7
BAU + EE	14,459	\$126.2	\$ 666
Change	20 **	(9.8)	(\$ 50.7)
	0.14%	(7.2%)	(7.1)%

0.14% increase in supply
reduces price by 7.2%

**20 MW is Ohio fraction of 208 MW bid into PJM RTO

Estimates of Price Suppression in Wholesale Electricity Markets

	Date	Region	Resource	Citation
Ohio PUC	2013	Ohio	Renewable energy	OH PUC, 2013.
Lawrence Berkely National Laboratory	2013	MA	Energy Efficiency	LBNL, 2013
Baltimore Gas & Electric + Potomac Electric Power Company	2012	MD	Energy efficiency and Demand response	BGE & PEPCO, 2012
New England Independent System Operator	2012	New England	Energy Efficiency	ISO-NE, 2012
Frank A. Felder, Ph.D. Director, Center for Energy, Economic & Environmental Policy, Rutgers University	2011	various	various	Felder, 2011.
National Association of Regulatory Utility Commissioners	2011	VT	Renewable energy	NARUC, 2011
Black & Veatch	2010	PA	Energy Efficiency/ renewable energy	Black & Veatch, 2010
Charles River Associates	2010	ISO-NE	Cape Wind project	Charles River Associates, 2010
Levitan Associates Inc.	2010	RI	Wind	RIEDC, 2010
PJM	2009	PJM	Wind	PJM, 2009
Lawrence Berkely National Laboratory	2009	various	Renewable energy	LBNL, 2009
Tudor Pickering Holt & Co	2009	ERCOT	Wind	Tudor Pickering Holt & Co., 2009
KEMA Inc	2009	NYISO	Renewable energy	NYSERDA, 2009a
Summit Blue Consulting	2009	NYISO	Energy Efficiency/ renewable energy	NYSERDA, 2009b
The Brattle Group	2007	PJM	Demand response	Brattle Group, 2007
Christensen Associates Energy Consulting	2007	various	Renewable energy	Christensen Associates, 2007

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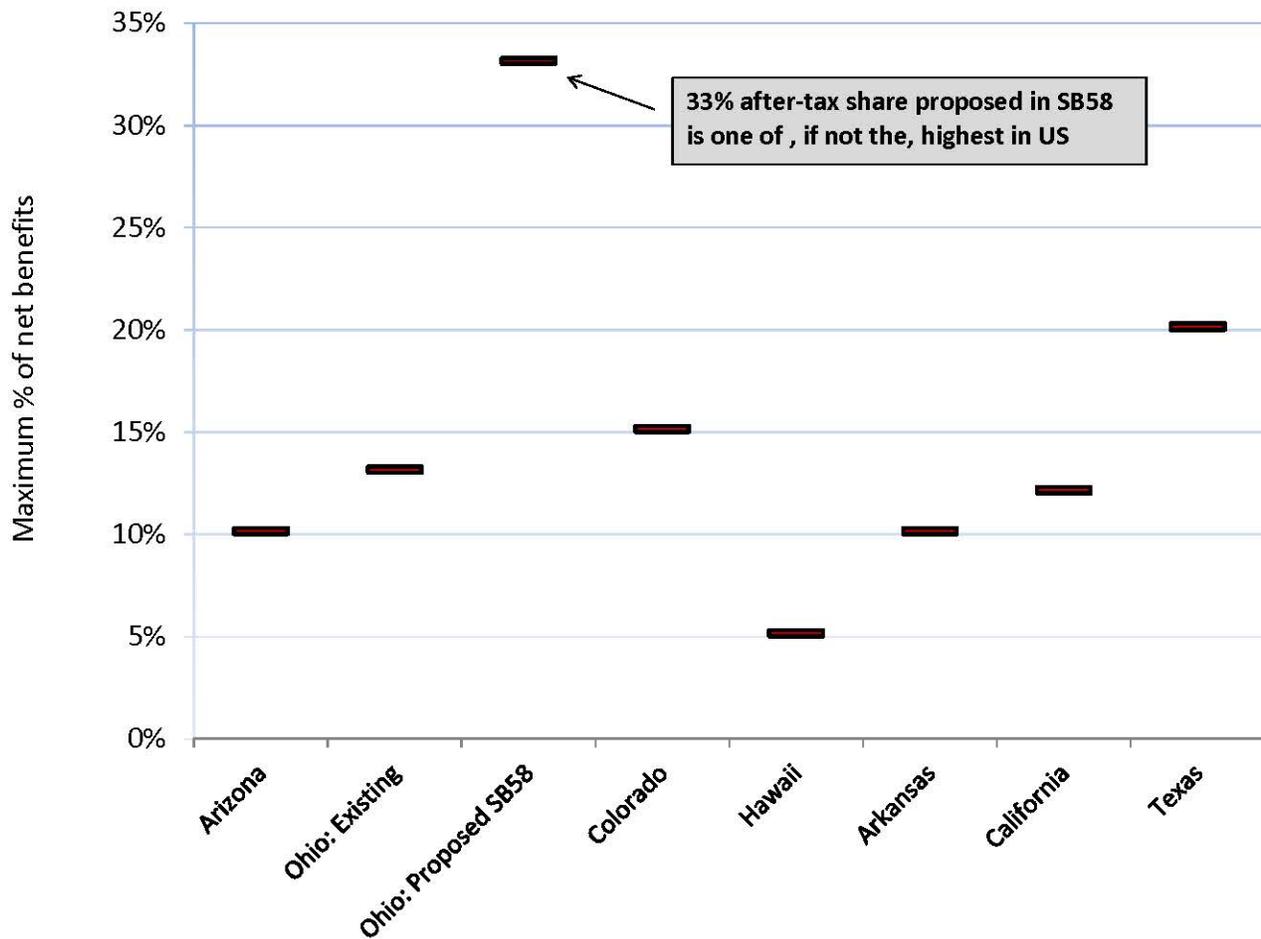
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Maximum Percent of Net Benefits* Available to Utilities under Shared Savings Performance Incentives in States with Explicit State-Wide Energy Reduction Targets



33% after-tax share proposed in SB58 is one of , if not the, highest in US

States plotted from left in order of energy reduction targets - Highest to Lowest

* Note - Calculation of Net Benefits Varies by State - See Page 2 of Exhibit

States with Utility Energy Efficiency (EE) Performance Incentives Tied to Net Benefits - Examples of Policy and Ratemaking Frameworks

State	Annual Target for Reductions from Energy Efficiency	Recovery of EE Program Costs	Mechanism(s) to Minimize Erosion of utility earnings Due to lower Throughput	Utility EE Performance Incentive features						Sources
				Threshold Performance to Receive Incentive	Penalty for failure to achieve threshold	Lowest level of incentive @ % of annual target	Incentive at 100% of annual target	Highest level of incentive @ % of annual target	Cap	
	a	b	c	d	e	f	g	h	i	
Arizona	2.50%	Yes	Lost revenue adjustment mechanism (LRAM)	Minimum annual expenditure on EE programs	None	10%	100%	10%	10% of program costs	1, 7
Ohio: Existing	2.00%	Yes	Decoupling or LRAM	100% of annual target	None	5% @ 100%	5%	13% at 115%	Yes, \$ amount varies by Utility	2
Ohio: Proposed SB58	2.00%	Yes	Decoupling or LRAM	<i>NONE</i>	<i>NONE</i>	33% at 1%	33%	33%	<i>None</i>	3
Colorado (a)	1.66%	Yes	#N/A	80% of annual target	None	1%	5%	15%	20% of program costs or \$30 million; total for performance incentive and disincentive credit (a)	4, 5, 7
Hawaii	1.40%	Yes	Decoupling	100% of annual target	None	1%	1%	5%	5% of net benefits; \$4 million	1, 7
Arkansas	0.90%	Yes	LRAM	80% of annual target	None	10%	10%	10%	8% of program budget at 120% of annual target	5, 6
California	0.85%	Yes	Decoupling	85% of annual target	Penalty if savings less than 65% of goal	-12%	9%	12%	\$150 million per year for award and penalty	1, 7
Texas (b, c, d)	0.40%	Yes	#N/A	102% of annual target	None	1% @ 102%	0%	20%	20% of program costs	1, 8
Georgia €	n/a	Yes	#N/A	None	None	3%	10%	10%	None	1, 4, 5
Kentucky (Duke, AEP) f	n/a	Yes	LRAM	100% of annual target	None	10% @ 100%	10%	10%	10% of program costs	1

Sources

- 1 ACEEE 2011. Carrots for Utilities: Providing Financial Returns for Utility Investments in Energy Efficiency. January 2012 available at <http://aceee.org/sector/state-policy>
- 2 PUCO Orders in Cases 11-5568-EL-POR (AEP), 11-4393-EL-RDR (Duke), and 12-2190-EL-POR (FirstEnergy), and proposed Stipulation and Recommendation in Case No. 13-0833-EL-POR (DP&L).
- 3 SB58
- 4 ACEEE data base. "State Energy Efficiency Policy", available at <http://aceee.org/sector/state-policy>
- 5 IEE 2013. State Electric Efficiency Regulatory Frameworks, July 2013 available at http://www.edisonfoundation.net/iee/Documents/IEE_StateRegulatoryFrame_0713.pdf.
- 6 AR PSC 2013. Docket Nos. 13-002-U. Order No. 7, page 29
- 7 ACEEE 2013. State Energy Efficiency Resource Standards: EERS Approaches by State (as of July 2013), available at <http://aceee.org/policy-brief/state-energy-efficiency-resource-standard-activity>.
- 8 Public Utility Commission of Texas Electric Substantive Rules, §25.181(e)(1)

Notes

- a incentive data is for Public Service of Colorado (PSC). Disincentive credit is comparable to lost revenue adjustment
- b A utility that meets at least 120% of its demand reduction goal with at least 10% of its savings from hard-to-reach programs receives an additional 10% bonus.
- c Energy efficiency includes measures that reduce electric energy consumption, peak demand, or both. The 0.4% savings target is measured against summer peak demand.
- d Utility must achieve ≥30% reduction in R & C annual demand growth in 2013.
- e Incentives are based on projected program kWh savings.
- f A 2008 statewide plan proposes energy efficiency to offset at least 18% of projected demand in 2025, per ACEEE data base (source 4)

**BEFORE THE
PUBLIC UTILITIES COMMITTEE
OF THE OHIO SENATE**

SEN. BILL SEITZ, CHAIRMAN

**Substitute Senate Bill 58 Hearing
November 6, 2013**

**TESTIMONY OF
OHIO MANUFACTURERS' ASSOCIATION
BY**

**JOHN A. SERYAK
GO SUSTAINABLE ENERGY, LLC**

Chairman Seitz, Vice Chair LaRose, Ranking Minority Member Gentile, and members of the Committee:

I thank you for the opportunity to testify today on behalf of The Ohio Manufacturers' Association (OMA).

In addition to working with OMA as a technical consultant, I am also the CEO of Go Sustainable Energy, an independent energy-efficiency consulting firm I founded in 2006. I have a Masters' Degree in Mechanical Engineering with a concentration in thermo and fluid dynamics from the University of Dayton. I am a licensed Professional Engineer in Ohio, and a pumping systems' energy expert for the US Department of Energy. I have been working with manufacturers for over 12 years on matters of energy-efficiency, personally working with over 125 manufacturing facilities, and publishing 25 academic papers on energy-efficiency.

It is my opinion that under SB 58, Ohio's efficiency standards will deliver little to no value to ratepayers, while creating unprecedented new costs.

In my testimony, I focus on the following topics:

1. What should count as energy-efficiency?
2. How do SB 58's provisions regarding "what counts" impact the efficiency resource standards?
3. Do the efficiency resource standards benefit Ohio's manufacturers?

1. What should count as energy-efficiency?

I suggest we look to PJM, the Regional Transmission Organization (RTO) that is charged with maintaining reliability for all of Ohio. Without central planning for generation, PJM has instituted auctions to procure capacity in future years based on their load forecasts. It is worth noting that PJM uses the terms capacity, and reliability, interchangeably.

To maintain system reliability, PJM counts several types of capacity resources while also planning transmission:

- Traditional generation – Coal and gas fired power plants, nuclear plants
- Renewable and advanced energy generation – Wind, solar, hydropower, fuel cells
- Demand response
- Energy efficiency

PJM considers capacity from energy efficiency equal to that of any other resource. In fact, these resources compete against each other to the benefit of consumers. PJM states that their model has "...reduced costs by fostering competition". And, they give energy efficiency special mention, saying the market has produced a

"Generally level playing field [that] has reduced costs by attracting investments in low-cost supplies from demand response, efficiency and uprates" ¹

To maintain reliability PJM has rules on "what counts" as energy-efficiency. This is to prevent "double dipping" on energy savings that are essentially already factored in to load forecasts; to ensure that savings claimed are realized, and persist; in other words, to let the markets work, and produce energy-efficiency that wouldn't have otherwise

¹ Slide 11, http://www.caiso.com/Documents/Presentation-AndyOtt_PJM.pdf

happened. As PJM defines energy efficiency, it is “exceeding building codes, appliance standards, or other relevant standards...”²

Energy efficiency which moves the markets should count, and PJM counts it.

We do need some flexibility in our programs for new sources of energy efficiency. However, to foster competition and reduce costs, PJM should not be ignored.

As I will show, SB 58 unfortunately does the opposite, in expanding “what counts” to types of efficiency that will never count, and simultaneously limiting the abilities of ratepayers to participate in the markets.

2. How do SB 58’s provisions regarding “what counts” impact the efficiency resource standards?

Counting kWh as Btu – SB 58 orders the commission to “count energy savings...on a British thermal unit (Btu) equivalent basis”. Electrical energy is always counted in terms of kWh, and never in terms of Btu. The units of measurement “watt” and its derivatives, like kWh, were adopted for international use in 1960. SB 58 deviates from a 50-year-old internationally accepted standard, with no clear technical or regulatory need for this change.

However, it is clear to a practiced engineer how counting electricity in terms of Btu would affect the energy-efficiency resource standards. It would automatically cut the efficiency benchmarks by 2/3.

This is because the “equivalent basis” is 3,412 Btu/kWh which would replace the 9,952 Btu/kWh heat rate³ normally used to correlate end use electricity consumption with supply-side fuel consumption.

Chairman Seitz, Vice-chair Larose, members of the committee, this single, seemingly innocuous provision ignores over 50 years of international agreement, while

² Slide 27, <http://www.pjm.com/~media/training/core-curriculum/ip-lse-202/reliability-pricing-model.ashx>

³ Hedman, B., “Fuel and CO2 Emissions Savings Calculation Methodology for Combined Heat and Power (CHP) Systems”, ASHRAE Transactions, 2011

surreptitiously shrinking the efficiency standards by 2/3. This would significantly reduce the amount of efficiency we achieve, and with it the cost savings to consumers.

Appliance standards & building codes – Under SB 58, energy savings that result from federal appliance standards and building codes would count toward utility compliance with their efficiency benchmarks. These are energy savings that already occur. PJM explicitly rejects them. The benefits are already factored in to business and consumer decisions and wholesale energy and capacity markets.

ACEEE and the Appliance Standards Awareness Project quantified the impact of this provision on Ohio's efficiency resource standards. For example, in some years appliance standards could result in 800-900 GWh of savings. Though, in 2014 alone, including appliance standards and building codes could account for an estimated 2,650 GWh of savings in Ohio. This is more than double the state's probable annual benchmark of about 1,300 GWh.

With this provision, utilities could meet their annual benchmark requirement with little effort. In doing so, they would provide no value to ratepayers, but they would be allowed to take profit. Additionally, they could substantially increase their lost revenue recovery, with no precedent, and outside of the proposed cost cap. This would raise electricity costs to consumers.

Energy Intensity – SB 58 provides a broad definition of energy intensity, and counts improvements in intensity as both advanced energy and energy efficiency. This overly broad definition would include energy intensity per unit of production, sales, economic output, and any other “measure of service” or “end-use...functionality”. As a reference point, Ohio's kWh/\$ GDP reduced on average about 1.9% from 2001 to 2010. SB 58 would allow cherry-picking only businesses with improvements in energy intensity, and thus savings would be much greater than the state average.

I personally, and with OMA, have advocated for including a carefully tailored, fair, normalized method of quantifying energy savings from productivity improvements. This is not what SB 58 has put forward.

Instead, SB 58's provisions and definitions would allow utilities to collect profit and lost revenue on improvements businesses make to their own processes, with no value-added from the utility. For the majority of the improvements, there would be no direct or indirect savings to ratepayers.

These provisions and definitions would raise electricity costs on consumers.

Power Plant Upgrades – SB 58 counts as efficiency heat rate and energy intensity improvements made to electric generating plants. These upgrades have a marginal impact on wholesale prices, and would displace consumer energy-efficiency which has large impacts on prices. The benefits of these upgrades would accrue to generation company shareholders, not consumers. Moreover, while these improvements are excluded from cost recovery, it would allow the distribution utility to make a payment to its unregulated subsidiary. As we established SB 58 allows for higher rates of profit, from which the regulated distribution utility could make this payment to its unregulated subsidiary.

This provision would displace consumer efficiency projects, raising electricity costs on consumers.

3. Do the efficiency resource standards benefit Ohio's manufacturers, and how does SB 58 impact this?

As the committee has heard, OMA commissioned a study by ACEEE and Synapse Energy Economics to investigate the costs and benefits of the efficiency resource standards to Ohio's ratepayers. We extended this analysis to determine the financial impact on individual manufacturers. We found that for the all-benefits to all-costs snapshot we selected, that all manufacturers small, medium, and large in all utility territories receive higher benefits than costs.

Conclusion

In conclusion, the provisions of SB 58 would result in Ohio's efficiency resource standards delivering little to no direct savings and universal benefits to ratepayers.

However, it would expand the types of projects a utility could collect profit on without precedence. Lost revenue collections would also increase substantially without precedence, and outside the cost cap.

For these reasons, SB 58 significantly worsens the benefits to cost ratio of Ohio's efficiency resource standards for Ohio consumers.

PJM's chief economist, Dr. Paul Sotkiewicz, wrote that the

“Capacity Market monetizes the value of demand response and energy efficiency...[the] value in the energy market is in the form of avoided energy costs”⁴

Thank you for your time today, and I am happy to answer any questions at the end of our presentation.

⁴ “Demand Response Opportunities Facilitated by Smart Grid Technologies in PJM”, Paul Sotkiewicz, Ph.D.

**BEFORE THE
PUBLIC UTILITIES COMMITTEE
OF THE OHIO SENATE**

SENATOR BILL SEITZ, CHAIRMAN

**Substitute Senate Bill 58 Hearing
November 6, 2013**

**TESTIMONY OF
THE OHIO MANUFACTURERS' ASSOCIATION
BY
KIM BOJKO
CARPENTER LIPPS & LELAND**

Chairman Seitz, Ranking Minority Member Gentile, and members of the Senate Public Utilities Committee, thank you for the opportunity to testify today on issues and concerns related to Substitute Senate Bill 58 ("Sub. SB 58" or "the Bill") and its proposed changes to Ohio's energy efficiency standards and policies. I am Kim Bojko, with Carpenter Lipps & Leland, and I am testifying today on behalf of the Ohio Manufacturers' Association. OMA appreciates some of the stated concerns surrounding the existing energy efficiency and peak demand response requirements, but, as evidenced by the OMA witnesses that have previously testified (as well as others), as currently drafted, Sub. SB 58 is not the solution, and will create problems greater than those it is intended to fix. Accordingly, OMA opposes Sub. SB 58 as currently drafted.

You have heard a great deal about circumstances changing in the past 5 years since the passage of Senate Bill 221, but you have not heard how the industry has already adapted to those changes. Since the passage of Senate Bill 221, the PUCO has drafted rules and

issued decisions in several proceedings on many technical items being discussed in the Bill.¹ The PUCO has revised its decisions when circumstances have warranted or have demonstrably changed, and has further specifically stated that it will continue to revise its rules and findings prospectively as the industry evolves and new technologies are developed.² The numerous orders and entries on rehearing that have established the most current set of rules and regulations have addressed the technical issues raised in Sub. SB 58 several times. Issues such as the “benchmark-comparison” method for calculating rider exemption periods, the “as found” methodology for calculating energy savings, the appropriateness of incentivizing behavioral modifications, and the appropriate payback period for mercantile projects have been debated for several years and continue to be debated today. The PUCO has held technical workshops on the issues and possible alternatives, and

¹ See, e.g., *In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technology, Resources, and Climate Regulations, and Review of Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, Pursuant to Chapter 4928.66, Revised Code, as Amended by Amended Substitute Senate Bill No. 221*, Case No. 08-888-EL-ORD, Opinion and Order (April 15, 2009); Entry on Rehearing (June 10, 2009); Entry Nunc Pro Tunc (June 17, 2009); Entry on Rehearing (August 12, 2009); Entry (October 28, 2009); Entry on Rehearing (December 9, 2009); Sixth Entry on Rehearing (July 17, 2013); *In the Matter of Protocols for the Measurement and Verification of Energy Efficiency and Peak Demand Reduction Measures*, Case No. 09-512-GE-UNC, Entry (June 24, 2009); Entry (July 8, 2009); Entry (September 30, 2009); Finding and Order (October 15, 2009); First Entry on Rehearing (December 11, 2009); Entry (January 27, 2010); Entry (February 3, 2010); Entry (March 17, 2010); Entry (April 28, 2010); Second Entry on Rehearing (June 16, 2010); Third Entry on Rehearing (July 29, 2010); Fourth Entry on Rehearing (July 31, 2013); *In the Matter of the Application of The Lubrizol Corporation and The Cleveland Electric Illuminating Company for Approval of a Special Arrangement Agreement with a Mercantile Customer*, Case No. 09-1100-EL-EEC, Finding and Order (February 11, 2010); *In the Matter of the Adoption of a Portfolio Plan Template for Electric Utility Energy Efficiency and Peak-Demand Reduction Programs*, Case No. 09-714-EL-UNC, Entry (August 28, 2009); *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Portfolio Plans for 2009 through 2011*, Case No. 09-1947-EL-POR, Proposal for Incentivizing Utility Energy Efficiency Performance (October 24, 2011); *In the Matter of the Applications of Various Mercantile Companies and Electric Utilities for Approval of Special Arrangements and Exemptions from Payment of Energy Efficiency and Peak Demand Reduction Riders*, Case No. 10-0833-EL-EEC, Finding and Order (June 23, 2010); *In the Matter of a Mercantile Application Pilot Program Regarding Special Arrangements with Electric Utilities and Exemptions from Energy Efficiency and Peak Demand Reduction Riders*, Case No. 10-834-EL-POR, Entry (September 15, 2010); Entry on Rehearing (November 10, 2010); Second Entry on Rehearing (May 25, 2011); Third Entry on Rehearing (July 15, 2011); Fourth Entry on Rehearing (September 20, 2011); Fifth Entry on Rehearing (November 9, 2011); Sixth Entry on Rehearing (October 31, 2012); Seventh Entry on Rehearing (March 6, 2013); Entry (June 5, 2013); Finding and Order (July 17, 2013); *In the Matter of the Commission’s Review of its Rules for Energy Efficiency Programs Contained in Chapter 4901:1-39 of the Ohio Administrative Code and In the Matter of the Commission’s Review of its Rules for the Alternative Energy Portfolio Standard Contained in Chapter 4901:1-40 of the Ohio Administrative Code*, Case Nos. 13-651-EL-ORD and 13-652-EL-ORD, Entry (March 15, 2013).

² Id.

continues to develop industry standards in its technical reference manual (TRM). The PUCO issued a Finding and Order as recently as July 17, 2013, addressing several of these issues in the context of the mercantile self-direct pilot program, and also initiated a rulemaking proceeding this year to review and evaluate Chapters 4901:1-39 and 4901:1-40, Ohio Administrative Code (O.A.C.), which are the rules associated with energy efficiency programs and alternative energy portfolio standards.³

A good example of how the industry has adapted to the changing environment is the mercantile self-direct program that I previously referenced. The PUCO initially established a process through the adoption of its rules in Chapter 4901:1-39, O.A.C., which included a self-direct application, Staff review and recommendation of each application, and an order issued by the PUCO on the merits of each application.⁴ When the number of pending, filed applications grew too large and industry stakeholders notified the PUCO that the established process was not working effectively, the PUCO investigated the matter, ultimately agreed with the industry, and thereafter modified its process.⁵ Three months later, the PUCO further refined its process by establishing a pilot program with a

³ See *In the Matter of the Commission's Review of its Rules for Energy Efficiency Programs Contained in Chapter 4901:1-39 of the Ohio Administrative Code and In the Matter of the Commission's Review of its Rules for the Alternative Energy Portfolio Standard Contained in Chapter 4901:1-40 of the Ohio Administrative Code* Case Nos. 13-651-EL-ORD and 13-652-EL-ORD (March 15, 2013).

⁴ See, e.g., *In the Matter of the Adoption of Rules for Alternative and Renewable Energy Technology, Resources, and Climate Regulations, and Review of Chapters 4901:5-1, 4901:5-3, 4901:5-5, and 4901:5-7 of the Ohio Administrative Code, Pursuant to Chapter 4928.66, Revised Code, as Amended by Amended Substitute Senate Bill No. 221*, Case No. 08-888-EL-ORD, Opinion and Order (April 15, 2009); Entry on Rehearing (June 10, 2009); Entry Nunc Pro Tunc (June 17, 2009); Entry on Rehearing (August 12, 2009); Entry (October 28, 2009); Entry on Rehearing (December 9, 2009); Sixth Entry on Rehearing (July 17, 2013); Rule 4901-1-39-05(G), O.A.C.

⁵ *In the Matter of the Applications of Various Mercantile Companies and Electric Utilities for Approval of Special Arrangements and Exemptions from Payment of Energy Efficiency and Peak Demand Reduction Riders*, Case No. 10-0833-EL-EEC, Finding and Order (June 23, 2010).

standardized application and automatic approval process.⁶ Now, the applications are automatically approved in 60 days, unless an issue with the application is detected that cannot be resolved within the 60-day period. A filed review and recommendation from the Staff or PUCO order approving the application are no longer required. The revised, streamlined automatic approval process seems to be working very well. To this end, in July, the PUCO permanently adopted the self-direct pilot program with its simplified application filing and approval process.⁷

Earlier today you heard more examples of how the PUCO reviews and approves programs for the utilities to meet the benchmarks, which include such things as program costs, lost distribution revenues, and incentives. The PUCO reviews and approves each utility's plan every three years. Thus, the PUCO has had, and will continue to have, under the existing law, the opportunity to review the plans in light of the circumstances that exist at the time for each individual utility. The PUCO also has the benefit of weighing the input of its technical experts on Staff and other stakeholders prior to making any decisions on these important topics. The PUCO is equipped with the technical experts to make these decisions, and it has been working on these issues or similar technical and regulatory energy issues for decades. The PUCO has the institutional knowledge to determine when circumstances warrant change and the PUCO has the ability to request or rely on stakeholder input when it believes it is necessary. The PUCO is in the best position to balance the interests of all stakeholders, including customers' interests and the utilities' interests. Is the system perfect?

⁶ *In the Matter of a Mercantile Application Pilot Program Regarding Special Arrangements with Electric Utilities and Exemptions from Energy Efficiency and Peak Demand Reduction Riders*, Case No. 10-834-EL-POR, Entry (September 15, 2010); Entry on Rehearing (November 10, 2010); Second Entry on Rehearing (May 25, 2011); Third Entry on Rehearing (July 15, 2011); Fourth Entry on Rehearing (September 20, 2011); Fifth Entry on Rehearing (November 9, 2011); Sixth Entry on Rehearing (October 31, 2012); Seventh Entry on Rehearing (March 6, 2013); Entry (June 5, 2013); Finding and Order (July 17, 2013).

⁷ Id.

Of course not, but without an independent authority to balance the interests of all, the system is at risk for parties overreaching at the expense of others. Sub. SB 58 disturbs this balance by removing the PUCO's authority to deal with these highly technical issues.

As currently drafted, the Bill enriches the utilities at the expense of all ratepayers who are unable to opt-out or otherwise avoid paying the energy efficiency rider (cost recovery mechanism for compliance). Through the cost recovery mechanism, manufacturing companies will be asked to pay for the utility companies to receive 33 percent of the after-tax net benefits associated with the programs implemented to meet compliance prior to achieving compliance. (Ln 1759-76.) This is compared to today's mechanism whereby the utility also receives full cost-recovery for any expenditures of implementing the programs, but the utility does not receive profits until the utility meets the compliance standards (for one utility, the utility does not receive any incentive payment until the utility achieves savings beyond those required by the standards). Manufacturers will be paying utilities 33% for doing what they are doing today, which will ultimately reduce the amount that may be spent on energy efficiency programs. In essence, the utility will receive profits to implement programs necessary for it to meet compliance. Utilities will be receiving full compensation for costs incurred as a result of the programs, without any attenuated risk. The concern is further exacerbated by other provisions in the Bill which will allow the utilities to receive this same profit for doing less than what they do today. For instance, as noted by previous witnesses, if energy efficiency projects dating back to 2006 are now counted, utilities will earn 33% of the after-tax net benefits associated with the savings already realized, without any additional action necessary on their behalf.

The programs currently approved or pending approval, afford utilities an opportunity to earn a profit on the savings achieved when the benchmark is achieved or when the

benchmark has been exceeded. (See attached chart.) However, those profits range from 5 percent to 13 percent, depending on the level of savings achieved. In no case are manufacturers asked to pay an amount greater than 13 percent on the savings achieved—let alone 33 percent. An increase in the amount of profit conferred to the utilities under the Bill (regardless of whether the utility achieves the benchmarks) will result in an unreasonable windfall to the utilities.

The level of shared savings currently afforded to the utilities has been accomplished through PUCO proceedings. The level of shared incentives and profits afforded to utilities which meet and/or exceed the statutory benchmarks has been negotiated and/or litigated by stakeholders and the PUCO's staff, and ultimately approved by the PUCO. For all but one utility, these incentives include a cost cap on the amount that can be paid to the utility. Each utility, with one exception, has agreed to this structure in its respective PUCO proceeding. Nonetheless, the Bill questions the expertise of the industry stakeholder process and supplants its wisdom for that of the Commission and those in the industry.

Similarly, the Bill awards the utilities another means of compensation to be recovered from ratepayers through the cost recovery mechanism, and allows the utility to choose, for each rate class, the form of that additional compensation. (Ln 1756-58.) The utility may choose, for each rate class, whether it will receive compensation in the form of a lost revenue mechanism or a revenue decoupling mechanism. These types of compensation have historically been awarded to utilities on a case-by-case basis in proceedings that have resulted in settlements or that have been fully vetted and litigated by all parties. (See attached chart.)

As currently drafted, the Bill establishes a cost cap on compliance costs. While a cost cap would presumably function as a protection for customers, a closer look reveals

otherwise. The cost cap provision does not afford the PUCO the ability to establish the appropriate methodology to implement the cost cap. Rather, the Bill allows the utility to choose which methodology is more advantageous to it, not customers. (Ln 1806-20.) Additionally, the Bill affords the utilities, in their sole discretion, the opportunity to “not be subject to a cost cap” under certain circumstances. (Ln 1797-1800.) The Bill also provides exceptions to the cost cap for items such as compliance costs, shared savings incentives, temporary over compliance, and compensation for lost revenue or revenue decoupling. (Ln 1797-1800, 1847-52, 1853-60, 1861-63, 1866-68, 1869-72.) One of the most notable exceptions appears in Section 4928.6621, wherein the *effects* of lost revenue recovery or revenue decoupling are not included. (Ln 1861-63.) The Bill seemingly eliminates all PUCO oversight of a mechanism that was intended to be a benefit to consumers. As drafted, the cost cap created by the Bill is not a true cost cap and is not a real protection for consumers.

Furthermore, the proposed Bill explicitly removes the PUCO’s oversight and the discretionary authority that is typically afforded to an agency with the subject matter expertise that it possesses. For example, the Bill requires the PUCO to liberally construe the energy efficiency/peak demand requirements in the law in favor of counting the savings achieved by customers or through the utility programs. (Ln 2094-2100.) The Bill prohibits the PUCO from requiring the utilities to exceed the benchmarks, without exception. (Ln 2090-93.) The Bill restricts the energy efficiency resources that the PUCO can require a utility to bid into a regional transmission organization’s capacity markets. (Ln 2173-93.) The Bill also specifically mandates what the PUCO shall recognize and count with regard to energy savings and peak demand reductions achieved without regard to current circumstances and without any regulatory flexibility. (Ln 2008-75.)

As currently drafted, other problematic provisions exist in the Bill. The Bill eliminates the mandatory penalty for non-compliance with the benchmarks. (Ln 2153-54.). The Bill affords the utility an option to select which measurements should be included in the determination of compliance with the benchmarks (currently, this is done in collaboration with customers through a stakeholder collaborative). (Ln 2076-80). The Bill further ties the discretionary penalty for failure to meet the energy efficiency and peak demand reduction benchmarks to the value of a renewable energy credit. (Ln 2153-63.) The Bill sunsets the energy efficiency and peak demand reduction requirements. (Ln 2194-2200.)

In light of the several pieces of testimony that you have heard here today and over the past few weeks, OMA is deeply concerned with Sub. SB 58 as currently drafted. Although manufacturers need protections, Sub. SB 58 is not the solution.

Chairman Seitz, Ranking Minority Member Gentile, and members of the Senate Public Utilities Committee, thank you for your kind attention. I am happy to answer any of your questions.

POR Cases and Decoupling/Lost Distribution Programs

Ohio Electric Distribution Utilities

EDU	Shared Savings Percentage	Shared Savings Cap?	Program Cost Allocation	Decoupling or Lost Dist. Rev Considered?																				
<p>DP&L</p> <p>(Pending in Case No. 13-833-EL-POR)</p>	<table border="0"> <tr> <td>Incremental Energy Savings Achievement %:</td> <td>Shared Savings Incentive</td> </tr> <tr> <td><100%</td> <td>0.0%</td> </tr> <tr> <td>100-105%</td> <td>5.0%</td> </tr> <tr> <td>>105-110%</td> <td>7.5%</td> </tr> <tr> <td>>110-115</td> <td>10.0%</td> </tr> <tr> <td>>115%</td> <td>13.0%</td> </tr> </table>	Incremental Energy Savings Achievement %:	Shared Savings Incentive	<100%	0.0%	100-105%	5.0%	>105-110%	7.5%	>110-115	10.0%	>115%	13.0%	<p>Yes, \$13.5 million total; \$4.5 million annually</p>	<ul style="list-style-type: none"> • Non-residential customers: 30% of non-residential EER costs allocated to non-residential tariff classes based on the most recent 12 months of distribution revenue • 70% of non-residential EER costs allocated to non-residential tariff classes based on the most recent 12 months of billed sales (kWh) 	<ul style="list-style-type: none"> ▪Lost distribution revenues recovered (Case No. 08-1094-EL-SSO) 								
Incremental Energy Savings Achievement %:	Shared Savings Incentive																							
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100-105%	5.0%																							
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<p>Duke</p> <p>(Pending in Case No. 13-431-EL-POR; adopted previously in 11-4393-EL-RDR)</p>	<table border="0"> <tr> <td>Achievement of Annual Target:</td> <td>After-Tax Shared Savings:</td> </tr> <tr> <td>≤100%</td> <td>0.0%</td> </tr> <tr> <td>>100-105%</td> <td>5.0%</td> </tr> <tr> <td>≥105-110%</td> <td>7.5%</td> </tr> <tr> <td>≥110-115</td> <td>10.0%</td> </tr> <tr> <td>≥115%</td> <td>13.0%</td> </tr> </table>	Achievement of Annual Target:	After-Tax Shared Savings:	≤100%	0.0%	>100-105%	5.0%	≥105-110%	7.5%	≥110-115	10.0%	≥115%	13.0%	<p>No</p>	<ul style="list-style-type: none"> • Program costs are assigned to rate classes where customers are directly participating 	<ul style="list-style-type: none"> ▪Decoupling rider approved (Case No. 11-5905-EL-RDR) ▪Lost distribution revenue recovery may be requested from customers not subject to decoupling rider (Case No. 11-4393-EL-RDR) 								
Achievement of Annual Target:	After-Tax Shared Savings:																							
≤100%	0.0%																							
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≥115%	13.0%																							
<p>FirstEnergy</p> <p>(Approved in Case No. 12-2190-EL-POR, et al.)</p>	<table border="0"> <tr> <td>Achievement (after tax) Target: Percentage:</td> <td>Shared Savings</td> </tr> <tr> <td><100%</td> <td>0.0%</td> </tr> <tr> <td>100-105%</td> <td>5.0%</td> </tr> <tr> <td>>105-110%</td> <td>7.5%</td> </tr> <tr> <td>>110-115</td> <td>10.0%</td> </tr> <tr> <td>>115%</td> <td>13.0%</td> </tr> </table>	Achievement (after tax) Target: Percentage:	Shared Savings	<100%	0.0%	100-105%	5.0%	>105-110%	7.5%	>110-115	10.0%	>115%	13.0%	<p>Yes, \$10 million per year</p>	<ul style="list-style-type: none"> • Assigned on the basis of rate class, according to general rate design • Classes included are: <table border="0"> <tr> <td>RS</td> <td>GT</td> </tr> <tr> <td>GS</td> <td>STL</td> </tr> <tr> <td>GP</td> <td>TRF</td> </tr> <tr> <td>GSU</td> <td>POL</td> </tr> </table> 	RS	GT	GS	STL	GP	TRF	GSU	POL	<ul style="list-style-type: none"> ▪Decoupling rider approved for residential and small commercial customers (Case No. 11-351-EL-AIR)
Achievement (after tax) Target: Percentage:	Shared Savings																							
<100%	0.0%																							
100-105%	5.0%																							
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RS	GT																							
GS	STL																							
GP	TRF																							
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<p>AEP</p> <p>(Approved in Case No. 11-5568-EL-POR)</p>	<p>Achievement of Annual <u>Target:</u> <u>Percentage:</u></p> <p><100% 100-105% >105-110% >110-115 >115%</p>	<p>Shared Savings</p> <p>0.0% 5.0% 7.5% 10.0% 13.0%</p>	<p>Yes, \$20 million per year, after tax</p>	<ul style="list-style-type: none"> • Program costs assigned to respective rate classes whose customers are eligible for the program • Distribution costs by tariff used to allocate program costs, net lost distribution revenue and shared savings 	<p>▪Decoupling pilot program established (Case No. 11-351-EL-RDR)</p>
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