

Public Utilities Commission of Ohio
Todd A. Snitchler, Chairman

Senate Bill 315 (Jones)
Senate Energy & Public Utilities Committee

March 28, 2012

Chairman Jones, Vice-Chairman Balderson, Ranking Member Schiavoni and members of the Senate Energy & Public Utilities Committee, thank you for allowing me to present proponent testimony on sections of Senate Bill 315 that directly affect and/or fall under the purview of the Public Utilities Commission.

While this bill is a comprehensive package of proposals put forth by the PUCO, ODNR, and OEPA, Title 49 of the Ohio Revised Code contains the laws that govern the public utility sectors in our state. As such, I will only be addressing language modifications in this bill pertaining to that particular section of the O.R.C. Accordingly, the first mention of Title 49 in this legislation occurs on page 114.

Beginning with section 4905.90, which outlines PUCO pipeline safety standards and definitions, we made some modifications to terms in existing statute for clarification purposes and added other term definitions so as to strengthen the statute. For instance, we redefine “gas gathering pipelines” in order to modernize the definition to clear up the confusion that exists as a result of the ambiguity of the current definition. Also, we add definitions of “high-pressure gas gathering pipelines” and “low-pressure gas gathering pipelines” so as to differentiate between the traditionally lower pressure, older gas gathering systems and the newer, typically higher pressure gas gathering systems. We also newly define “processing plant gas stub line,” which is a pipeline that carries transmission quality gas from the tailgate of a processing plant to the inlet of an intrastate or interstate transmission line. We did this to acknowledge the importance of proper safety oversight of this new type of line, which is considered an extension of the processing plant itself and that will become more frequent in Ohio’s gas industry as more processing plants are built within the state. Moreover, we insert and define important industry terms such as “maximum allowable operating pressure” (MAOP) and “specified minimum yield strength” (SMYS) so as to ensure that our pipeline safety standards meet or exceed the federal standards set forth by the U.S. Department of Transportation.

It is very important to point out that in many instances, the standards proposed within this legislation will exceed federal USDOT regulations. For example, the PUCO will have pipeline safety jurisdiction over all pipelines between the “well facility,” which is the

furthest most downstream point from a wellhead where wet gas, condensate, and water are separated, all throughout the process to the intrastate or interstate transmission pipeline. Another example is that all pipelines in Class 1 locations, which are very rural locations that have scarce human habitation levels and extremely low population densities, will now have some form of pipeline safety requirements depending on the pressure of the line. Furthermore, all high pressure gathering lines will have additional construction requirements, such as warning tape, automated shutdown valves, and minimum setback distances. Also, all low pressure lines will now be subject to the same leak inspection requirements as high pressure gathering lines. Along with stricter safety standards, we have also proposed raising our aggregate fee threshold that we can assess for violations and non-compliance by operators from \$500,000 to \$1 million, which will bring us into alignment with the federal standard of the same amount.

As some of you may know, as Chairman of the PUCO I am also the Chairman of the Ohio Power Siting Board (OPSB). The Board is responsible for siting all “major utility facilities” within the state, which includes, electric generating facilities capable of generating 50 megawatts or more of capacity, electric transmission lines capable of carrying 125 kilovolts or more, and natural gas transmission lines that are capable of transporting 125 psi or more. With the recent increase in activity surrounding the shale gas boom in this state, we have decided to raise the aforementioned standards pertaining to natural gas transmission lines, so as to provide adequate oversight over the numerous new lines that will be needed as a result of our shale gas play. Our proposed changes, which begin on line 3857, will define all natural gas transmission lines greater than 9 inches in outside diameter and capable of transporting 125 psi, and natural gas transmission lines capable of transporting gas at pressures in excess of 300 psi, as “major utility facilities” and thus make them subject to OPSB jurisdiction.

We also take care to clearly define what does not constitute a “major utility facility” in this legislation and I would like to give you some specific examples as they relate to the gas industry. Any “gas gathering line,” “processing facility,” “natural gas liquid finished product line,” “natural gas liquids fractionation plant,” or “stub lines” from a NGL processing plant to an intrastate or interstate gas pipeline does not qualify. We felt that it

was important not to include these facilities under the definition of “major utility facility” because they do not operate in the same manner or with the same scope as the other previously mentioned facilities that do fall under that category. Moreover, traditional Appalachian gathering systems are exempt from the definition of “major utility facility,” and thus are not subject to the OPSB siting process. For this reason, we believe that newer gathering systems that transport gas downstream from horizontal drilling operations should also be exempt as they perform the same function and serve an identical purpose as the traditional systems that transport gas from vertical drilling operations. Furthermore, we clearly define each type of facility (processing plant, NGL product line, etc.) in a detailed fashion, as well as the products that pass in and out of those facilities (wet gas, ethane, propane, butane, etc.) so as to specifically spell out the types of processes and materials that makeup the different aspects of this industry.

In the interest of economic development, we have also proposed streamlining some of the OPSB’s processes to allow for an accelerated review of an application for a construction certificate for certain major utility facilities. Beginning on line 3971, these would include electric transmission lines not more than two miles in length, an electric generating facility that uses waste heat and that is primarily contained within an industrial facility, and a gas pipeline that is not more than five miles in length. Our proposal would provide for an automatic certification of these facilities if the application for construction is not suspended by the Board within 90 days of its submission for good cause. If the application is suspended for good cause, an example of which could be if there was insufficient information provided for OPSB staff to adequately and accurately complete the investigation, then the Board will have an additional 90 days from the date of suspension to re-approve, disapprove, or modify and approve the application. The streamlined process is intended to facilitate construction for benign projects, thus we will not require a full application unless a project requires a significant amount of study and review. As such, we believe that streamlining this process will help foster the development of industry and commerce in previously underserved or unused areas and will prevent the stifling of investment in those businesses by a bureaucratic process, which at times, can be inhibitive and drawn out for such important projects on a reduced scale.

That being said, I would like to point out in lines 3998-4002, however, that any electric generating plant, electric transmission lines, or gas pipeline and associated facilities that are not considered a “major utility facility” under Ohio law are not exempt from other state or local laws and regulations. I highlight this language because I wanted to be clear that we are not simply stripping away all regulatory authority over these entities in the name of unbridled economic development but conversely, that we are making logical changes to our processes in order to make them more efficient and effective, while at the same time maintaining the appropriate level of oversight and keeping the necessary safeguards in place.

Now I will move on and talk about some of the statutory changes we have proposed regarding combined heat and power systems (CHP), which is more commonly referred to as “cogeneration” and that includes all forms of waste heat and waste energy recovery systems. For starters, we propose on line 5038 to allow CHP to count toward an electric distribution utility’s (EDU) energy efficiency standards. On lines 4461-4464, we specify that “advanced energy resource” does not include a waste energy recovery system that is, or has been included in an energy efficiency program of an EDU. While we want this technology to be allowable as both an advanced energy resource and to count toward energy efficiency requirements, we also want to guard against allowing it to be “double-counted” for both. Moving forward you will notice that we also recommend including CHP under the definition of “renewable energy resource” and that we similarly take care not to allow the technology to be “double-counted” toward both renewable energy and energy efficiency requirements in lines 4484-4488. In doing this, I want to be sure to point out that it is not our intention, nor are we advocating for a new standard to be created, or that any of the current percentages set forth in the benchmarks should be increased based on our inclusion of cogeneration.

Some of you may have heard Ohio referred to as the “Saudi Arabia of cogeneration,” which alludes to our state’s significant, wide-ranging potential for the implementation of this recyclable, reusable and efficient technology in our commercial and industrial sectors. For this reason, we believe it is not only applicable but logical to include this

technology as a “renewable energy resource” in our statute. This is not an attempt to minimize wind, solar, or other renewable technologies, which are important to Ohio’s energy portfolio and economy, but a step toward expanding usage and fostering development of a burgeoning technology that is cost-effective and that will aid Ohio utilities in achieving the renewable energy benchmarks the Legislature put in place in SB 221. Our case experience has shown that as we progress into the future, it will become less and less likely that we attain our renewable energy benchmarks with current technologies and their performance. Thus, we believe that including CHP in the “renewable energy resource” definition will help bring the cost-benefit curve down and allow us to have a more realistic shot at achieving our renewable energy goals.

I would like to point out that we have recommended some terminology changes to the current working draft of the bill. You have heard me use the term combined heat and power, or CHP when in the legislation it uses the term “waste energy recovery system.” While both terms are real and applicable, CHP is the overarching technology, of which waste energy recovery is a subset and waste heat recovery is a synonym. I know that sounds a bit confusing but I will attempt to delineate the terms for you. CHP refers to a conventional combined heat and power system that simultaneously generates heat and electricity. A waste energy recovery system is one that generates electricity through the conversion of exhaust heat from engines in a commercial or industrial setting. A waste energy recovery system can also be a system in a gas pipeline in which a reduction in pressure in the line is attained prior to the gas being distributed in the line, provided that the conversion of that pressure reduction into electricity is achieved without using additional fossil fuels. Thus, we are recommending that all references to “waste energy recovery system,” except for its definition, be changed to CHP as the meaning and intent of the former is captured within reference to the latter.

Now I would like to touch on a few suggestions and proposals that we have made in relation to the electric industry. First off, we define the term “smart grid” as any capital improvements to an EDU’s distribution infrastructure, including, but not limited to, advanced metering and automation of system functions. Several of the large investor-owned utilities are already utilizing these and other similar technologies to varying

degrees of scale and scope. While some of these technologies are more developed than others, much research and development is currently being done in both the private and public sectors to further develop these and other technologies that strive to achieve maximum efficiency in the distribution and usage of electricity, which over time will lead to reduced and “smarter” usage habits by consumers. As I said, many “smart grid” technologies are still in the early stages of development, or have not even been thought of yet, so for that reason we drafted the language in the open-ended manner that we did so as not to unintentionally preclude any technology that may be developed and deployed in the future from qualifying under Ohio law. Accordingly, we include smart grid programs under O.R.C. section 4928.02 (D), which states (on line 4569) that it is the policy of Ohio to encourage innovation and market access for cost-effective supply and demand-side retail electric service through programs such as smart grid. It is our hope that doing so will show our state’s commitment to becoming more efficient and market-driven in our electric sector and will thus incentivize the continued development and deployment of technologies designed to that end.

We have also included language, beginning on line 4619, which requires the Commission to analyze and assess our state’s transmission and distribution infrastructure. Our proposal will require us to consult all of the EDUs in our state, as well as our regional transmission organization (which is the electric grid that operates in our state and others), and any other entities that own or control transmission facilities to review the state of Ohio’s transmission and distribution infrastructure. After our evaluation, the Commission will be required to order any necessary upgrades, additions, or improvements to ensure safe, adequate, reliable service to Ohio’s electric consumers and for the purposes of enabling new electric generation and promoting new industry in this state. While the Federal Energy Regulatory Commission (FERC) has the sole authority to order transmission upgrades, Ohio has one of the largest and most reliable transmission networks in the country and we intend to keep it that way and improve upon it by identifying bottlenecks, areas of constraint, underserved areas and other potential problem areas that could threaten diminished service to our distribution systems that deliver essential electricity to our homes and businesses. I believe it is important to clarify that this language is simply suggesting that we conduct a review to identify areas

of need based on an EDUs Long-Term Forecast (LTF) report and that we are not in any way attempting to procedurally circumvent the Electric Security Plan (ESP) process, or deny an EDU cost recovery based on the resultant recommendations of this study.

The Commission has also made recommendations pertaining to green power pricing programs. Starting on line 5162, we propose that the Commission do a periodic review of any green energy pricing programs that the EDUs and competitive retail electric suppliers (CRES) may be offering as part of their retail electric service. From that review the Commission will then make recommendations for ways to improve or expand the programs. Several green power pricing programs are currently available from certain EDUs and CRES providers but are scarcely utilized. Our goal is to work with the companies to raise consumer awareness of these programs and to encourage increased utilization by those who are so inclined. Eventually, we would like to see a wide range of programs offered by numerous companies in which customers have the ability to essentially choose what generation source their electricity comes from (wind, solar, etc.) by giving them an opportunity to sign up and pay the going rate for their power source of choice if they so choose. Doing so will enhance customer choice and promote further development of renewable sources of electric generation within our state.

Continuing on, the Commission has also proposed a required study that examines whether or not energy efficiency, demand response, generation, and transmission provide increased opportunities for customer choice in Ohio. The study will require the Commission to evaluate emerging technologies as well and will require that the study be undertaken not more than eighteen months after the effective date of this legislation. At the conclusion of the study, the Commission will be required to prepare and submit a report on its findings. As we fully implement the principles set forth in SB 3 and SB 221 and move into a competitive electric environment, it is important that we understand the mechanisms that enhance or retard competition and as a result, customer choice. Identifying the best practices in the aforementioned areas will allow us to more beneficially foster the growth and development of Ohio's competitive electric environment and will aid us in smoothly transitioning over to a statutorily required market-based approach for the purchase of electricity service.

Lastly, but certainly not least, I would like to touch on the topic of compressed natural gas (CNG). We are proposing that the Commission and ODOT work in tandem to develop a multi-state study on the development of CNG infrastructure for transportation purposes. As some of you may know, Governor Kasich recently signed on to a memorandum of understanding (MOU) with eleven other states around the country (CO, OK, WY, PA, UT, ME, NM, WV, KY, TX, MS, OH) that describes a coordinated effort between the signatories to attract, develop, and invest in CNG infrastructure and that encourages increased usage of CNG fueled vehicles. With the abundance of natural gas that has recently been discovered in our state, incentivizing and encouraging state and private fleet conversions should be a top priority for our state for a number of reasons. Not the least of which being the continually high cost of oil as well as steadily increasing gas prices as a result. With the average cost of gas in this state nearing \$4 and the average cost of CNG less than half that in most areas of the state and surrounding states where it is available, the ability for significant cost savings is real and attainable for those willing to convert to CNG powered vehicles. Furthermore, doing so would go along way in helping Ohio and the U.S. become more energy independent as developing a domestic fueling source would no longer require us to directly fund foreign countries hostile to our way of life, or put us at their mercy when it comes to the price of a barrel of oil. Moreover, CNG is a much cleaner burning fuel than gasoline or diesel, thus we could greatly lower harmful emissions from vehicles and other mobile source polluters that are responsible for a large share of our nationwide emissions. CNG as a transportation fuel makes a business case and an environmental case and for those reasons it is being feverishly pursued by public and private entities alike throughout this country. Not only are we working in conjunction with our fellow signatories to the MOU but we have also been in close contact with many of our Midwestern and Mid-Atlantic neighbors about the possibility of constructing a CNG fueling infrastructure corridor through our respective regions so as to take advantage of this great technology to the benefit of our states and our nation as a whole.

In closing, I also want to be sure to say that we have closely considered the environmental impacts of all of our proposals, as I know my colleagues at the other

involved agencies have done as well. The safety of Ohio's environment and the health of its citizens are of the utmost importance to the administration as they are to us.

Accordingly, those components were paramount to our decision making as we formulated the proposals before you.

With that I conclude my testimony. Thank you again for the opportunity to present the Commission's proposals as part of the governor's larger energy policy overhaul. I would be happy to answer any questions that members of the committee most assuredly have.