Public Utilities Commission of Ohio

Todd A. Snitchler, Chairman

Senate Bill 315 (Jones)
House Public Utilities Committee

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Ohio | Public Utilities Commission

Chairman Stautberg, Vice-Chairman Roegner, Ranking Member Williams and members of the House 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 and ODNR, 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.

From the onset, it was our goal at the PUCO to ensure that we had sufficient pipeline safety regulations in place to hold operators to a high standard and to protect Ohioans. We believe the bill before you today accomplishes just that. Within SB 315, we have strengthened PUCO pipeline safety jurisdiction from the original version of the bill by no longer differentiating between lines based on the pressures at which they are capable of operating. Moreover, we have expanded our pipeline safety jurisdiction by bringing all lines in Class I locations, which are located in very rural areas that have scarce human habitation levels and extremely low population densities, under our purview and requiring mandatory leak surveys be conducted on all lines regardless of the pressures at which they operate.

It is very important to point out that in all instances the standards proposed within this legislation will meet or 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. 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, in concert with the Ohio Gas Assn., have decided to better 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 will define all natural gas transmission lines greater than 9 inches in outside diameter and designed for transporting gas at a maximum allowable operating pressure in excess of 125 psi as a "major utility facility." This change clarifies the existing definition by updating the terminology used within to that which is used by the USDOT.

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. 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 4333-4337, 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 come to an agreement on regarding combined heat and power systems (CHP) and waste energy recovery systems (WER), which are more commonly referred to as "cogeneration." After extensive negotiations between several interested parties it was determined that fuel-fired CHP systems, which require a

fuel source for the simultaneous generation of heat and electricity, would only count toward an electric distribution utility's (EDU) energy efficiency standards. Whereas CHP is already considered an "advanced energy resource" under current law, we specify that "advanced energy resource" does not include a combined heat and power 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 recommend including WER systems, which capture exhaust heat or gas from industrial processes that would otherwise be vented and convert it to electricity, under the definition of "renewable energy resource," as well as allow it to qualify toward energy efficiency standards and that we similarly take care not to allow the technology to be "double-counted" toward both. In doing this, I want to be sure to point out that no new standard is being created, nor are any of the current percentages set forth in the benchmarks being changed based on our inclusion of cogeneration technologies.

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 these recyclable, reusable and efficient technologies in our commercial and industrial sectors. For this reason, we believe it is not only applicable but logical to include WER as a "renewable energy resource" in our statute and to allow both WER and CHP to count toward energy efficiency standards. The aforementioned solution was agreed upon by the CHP/WER industry and wind and solar interests. I wanted to make that clear so that you know this was 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.

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 originally defined 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. After talking with the OCC, however, we agreed that it would be prudent to add the language that is currently in the bill in order to strengthen the definition. Accordingly, we include smart grid programs under O.R.C. section 4928.02 (D), which states 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.

The Commission has also made recommendations pertaining to green power pricing programs. 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 competitive 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 twelve other states around the country (CO, OK, WY, PA, UT, ME, NM, WV, KY, TX, MS, OH, LA) 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.

Prior to closing, I would like to mention two specific provisions that were made part of the omnibus amendment to the As Passed version of the bill from the Senate as they have garnered much attention in the past. First, there was a provision included that creates a requirement for all pipeline operators to have to disclose with the PUCO the country in which each tubular steel product was manufactured that is used in the upstream, midstream, and downstream processes of the oil and gas industry. While this language is not ours I wanted to point out its inclusion as we have been receiving several questions about its origin and intent. Secondly, there was a provision included that prohibits biologically derived methane gas and coal-bed methane gas from being required to be converted to electricity in order to qualify for renewable energy credits (RECs). This is not our language either but again we felt it was pertinent to point out its inclusion as we have received several inquiries regarding its nature and intent, as well as the potential impact it could have on the Ohio REC market.

In closing, I 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 ODNR 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.

I would also like to intimate that the language affecting Title 49 in the bill you have before you was crafted with an open dialogue between the PUCO and several interested parties. We made every effort to both provide and solicit feedback on any number of issues and concerns related to

this legislation. In doing so, I believe that we have struck the right balance between the wants and needs of respective industries and the must have regulatory guidelines and protections to which the citizens of Ohio are entitled.

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.