Before
The Ohio Senate
Finance Committee

Testimony on Substitute House Bill 166 (Budget Bill)
(Consumer Protection Issues Involving FirstEnergy Charges and OCC Budget)

Presented by Jeff Jacobson
Strategic Insight Group

On Behalf of the
Office of the Ohio Consumers' Counsel

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Hello Chair Dolan, Vice-Chair Burke, Ranking Member Sykes and Members of the Finance Committee. Thank you for this opportunity to testify on Substitute H.B. 166 (the budget bill), regarding two separate consumer issues. I am Jeff Jacobson, testifying on behalf of the Office of the Ohio Consumers' Counsel.

A new provision in the House budget bill could subject 1.1 million customers to overcharges by Ohio Edison (FirstEnergy). (Lines 55646-55650, lines 55677-55681, and lines 55701-55702) This new provision should be removed. At a minimum it should be considered in a stand-alone bill instead of in the budget bill.

The bill would change the calculation of "significantly excessive" profits for FirstEnergy under Ohio's 2008 energy law (S.B. 221, 127th General Assembly). This change would artificially dilute Ohio Edison's high profits, on paper, for calculating whether it is improperly charging customers for significantly excessive monopoly profits. Under the bill, Ohio Edison's higher profits would be averaged with the lower profits of FirstEnergy's other Ohio utilities, Toledo Edison and Cleveland Electric Illuminating. Instead of the intended consumer protection against paying for high profits under the 2008 law, the bill would protect FirstEnergy from refunding significantly excessive monopoly profits to a million Ohio Edison customers.

To be clear, the consumer protections in Ohio's 2008 energy law are woefully inadequate. For example, the 2008 law allowed electric utility monopolies to charge Ohioans for *excessive* profits, just not "significantly" excessive profits. But, under the budget bill, Ohio Edison customers would have the unfortunate distinction of losing even that minimal protection. The Consumers' Counsel supported House Bill 247 (Rep. Romanchuk) in the last session which, had it been enacted, would have repealed the anti-consumer ratemaking in the 2008 energy law.

FirstEnergy has already been gaming (against the interests of consumers) the 2008 law's profit standard at the PUCO. In a recent annual PUCO review of Ohio Edison's profits for 2017, the PUCO denied OCC's proposal for a $42 million credit to Ohio Edison consumers for significantly excessive profits. (PUCO Case 18-857-EL-UNC) But the PUCO allowed Ohio Edison to exclude the revenues collected from customers through its so-called "Distribution Modernization Rider" from the law's profits review. That ruling artificially deflated monopoly Ohio Edison's calculation of significantly excessive profits (on paper), from an outrageously high level above 17% to a lower level the PUCO deemed not to be significantly excessive. The questionable legality of this manipulation of FirstEnergy's monopoly profits would now be permanently solved for FirstEnergy in the budget bill, contrary to the interests of Ohio families and businesses who pay for these extra-high monopoly profits.

The Governor's original budget bill did not contain these anti-consumer terms for FirstEnergy's monopoly electric service. For consumer protection, I recommend that these provisions be removed from the Bill. At the very least, this benefit for FirstEnergy should be considered in a stand-alone bill and not in the state's budget bill. Attached is a map showing the service area for Ohio Edison's 1.1 million customers and a list of the counties where Ohio Edison fully or partially serves customers.

A second consumer issue involves OCC's biennial budget that is presently under Senate review. (Lines 96047-96051) I am aware of at least one Senator's intention to submit an amendment for an increase of $600,000 for the Agency's budget. I gratefully support that increase for OCC's services to Ohio consumers. In this regard, the Agency has experienced increased costs since 2015 related to State "parity" increases for employee salaries and for increases in the cost of employee medical coverage benefits. Additional State parity increases for employees are anticipated during the upcoming biennium. Further, the preceding Administration reduced the Agency's budget by $100,000 for the current biennium. Those circumstances together (at about $600,000) have pressed our operating budget resources for services to protect millions of Ohio consumers.

In this regard, at OCC Governing Board meetings there has been interest expressed by several Board members for seeking a budget increase for the Agency's services to Ohioans. We are in a period of change for the electric industry and electric consumers, which is an important time for consumers to have a voice in those changes. Finally, it should be noted that during Consumers' Counsel Weston's tenure as Agency director, he has not sought a budget increase – not even after the budget reduction of about $3 million in 2011 that was initiated by the preceding Administration.

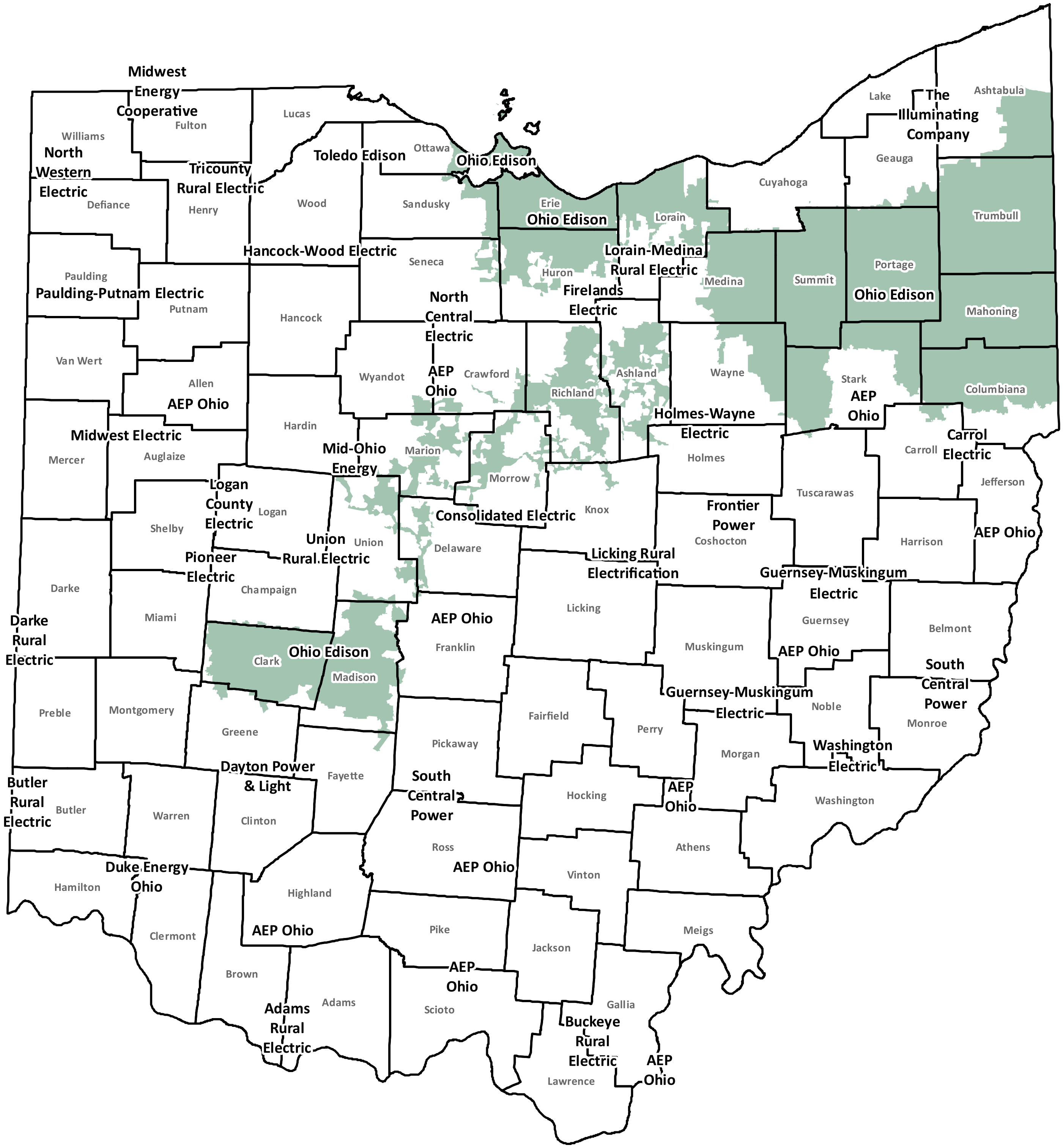
Thank you for this opportunity to testify on these important budget issues.

Counties (Full or Partial) Where Ohio Edison Serves Electric Customers

Ashland	Madison
Ashtabula	Mahoning
Carroll	Marion
Champaign	Medina
Clark	Miami
Columbiana	Morrow
Crawford	Ottawa
Cuyahoga	Portage
Delaware	Richland
Erie	Sandusky
Fayette	Seneca
Franklin	Stark
Geauga	Summit
Greene	Trumbull
Holmes	Tuscarawas
Huron	Union
Knox	Wayne
Lorain	Wyandot

Electric Service Territory of Ohio Edison

As of Aug. 1, 2017



Source: Derived from PUCO website