

**Before**  
**The Ohio Senate**  
**Energy and Public Utilities Committee**  
**Testimony by Michael Haugh**  
**On Behalf of the**  
**Office of the Ohio Consumers' Counsel**  
**January 28, 2020**

Good morning Chair Wilson, Vice Chair McColley, Ranking Member Williams and members of the Committee. Thank you for inviting the Ohio Consumers' Counsel to discuss the important topic of reliable electric service for Ohio consumers. I am Mike Haugh, a consultant to OCC and former OCC Assistant Director of Analytical Services. OCC is the state representative of millions of Ohio residential utility consumers. We commend the Committee for considering this consumer issue.

For most residential consumers, electric reliability means that the lights turn on and stay on when one flips the switch. Reliability of electric distribution service can be measured by the frequency and duration of outages.

There are three distinct elements of electric service reliability: Generation, which is the creation of the electricity; transmission, which is moving the electricity from where the power plant is located to the individual utility companies; and distribution, which is delivering the electricity to individual homes and businesses.

Reliable service is part of a utility's compact with its consumers under Ohio law. In Revised Code Section 4905.22, the General Assembly stated that Ohioans are entitled to necessary and adequate utility service at reasonable rates:

Every public utility shall furnish necessary and adequate service and facilities, and every public utility shall furnish and provide with respect to its business such instrumentalities and facilities, as are adequate and in all respects just and reasonable. All charges made or demanded for any service rendered, or to be rendered, shall be just, reasonable, and not more than the charges allowed by law or by order of the public utilities commission, and no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service, or in excess of that allowed by law or by order of the commission.

Reliability and utility charges go hand in hand for consumers. You heard testimony on December 10<sup>th</sup> that trillions of dollars are spent on electric transmission and distribution upgrades. Those upgrades are ultimately paid by customers.

One example of the connection between spending on reliability and consumers' utility bills is a regulatory construct known as the Averch-Johnson Effect (named after its authors). Essentially, the Effect is that utilities have a tendency to engage in excessive capital investment to expand profits through higher charges to consumers. Excessive investment is sometimes described as "gold-plating." That concern and other concerns underpin our approach to recommending consumer protections that are needed for regulation of reliable service by utility monopolies. And such concerns support our preference for reliable generation service (capacity) to be provided to consumers through competitive markets.

First, I will discuss distribution reliability. Ohio law contains the structure for utility regulation to protect Ohioans from paying for excessive utility investments. Ohio's 2008 Energy Law, with its too-favorable ratemaking for electric utilities, is unfortunately not a good example of consumer protection. Just one of the problems in the 2008 Law is its allowance of the many so-called "riders" (which are charges). These single-issue charges, some of which result from utility cherry-picking, are stacked on top of base charges to consumers.

For example, AEP charges consumers for a rider with the interesting name of “Enhanced Service Reliability Rider.” Note that we don’t think there should be such an extra charge to consumers. But even after charging consumers for so-called “enhanced” reliability (on top of charges for regular reliability), AEP missed meeting the PUCO’s standards for distribution reliability for consumers in 2018.

Regarding the AEP situation, attached are two relevant charts -- one produced by AEP (regarding its profits) and the other produced by OCC using AEP data (regarding its residential bills). One chart shows that the AEP utility making the most profit of any AEP utility in the country is AEP Ohio. The other chart shows that the highest residential bills charged by an AEP utility in the country are the bills charged to Ohio consumers. This unfortunate situation for Ohio consumers reflects, in part, the results of the 2008 Law with riders enabled for such things as Enhanced Reliability, among other problematic things that are enabled by so-called “electric security plans.” In the last session OCC supported H.B 247 (Rep. Romanchuk) to repeal the ratemaking in the 2008 Law—and OCC still recommends the repeal of electric security plans under that 2008 Law.

The two electric distribution reliability standards that AEP recently missed are System Average Interruption Frequency Index (“SAIFI”) and Customer Average Interruption Duration Index (“CAIDI”). SAIFI measures the average number of outages customers experience annually. And CAIDI measures the average duration of the outages. The utilities’ annual reliability performance reports are publicly filed with the PUCO.

We appreciate that other Ohio electric utilities are meeting their distribution reliability standards. But also recognize there have been massive utility investments, charged to consumers, related to reliability and other objectives. And, for the utilities that are meeting their

reliability standards, those standards have generally not been strengthened to provide consumers with more reliability corresponding to the spending increases and higher charges.

Utility expenditures to date for reliability and grid modernization should be considered before contemplating any future regulatory changes to accommodate more spending and charges to consumers. The utilities' expenditures for "distribution investment riders" include the following:

AEP:	\$1.3 Billion (since 2012)
Dayton Power and Light:	\$159 Million (since 2017)
Duke Energy:	\$1.1 Billion (since fill in 2015)
FirstEnergy:	<u>\$1.9 Billion</u> (since 2011)
Total:	\$4.5 Billion
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The electric security plans under the 2008 Energy Law have been displacing the use of traditional ratemaking for utility investment such as for reliability, to the detriment of consumers. Ohio's traditional ratemaking law (Revised Code Section 4909.15) includes the requirement that consumers are not to be charged for utility investment unless the investment is "used and useful" for their service. Especially given the experience with the 2008 Law, I commend the traditional regulatory standards including "used and useful." And I recommend that the General Assembly be skeptical of future proposals for new ratemaking approaches that depart from the consumer protection of traditional standards.

One other matter related to distribution reliability affecting consumers is that of new "behind-the-meter" services, such as consumer battery storage installed on the customer side of the meter. The electric utilities appear to want to expand their monopolies (and charges to their

monopoly consumers) into services on the customer's side of the meter. Those behind-the-meter services are not traditional monopoly utility services. For consumers to benefit from lower prices and greater innovation, those services should be delivered as competitive market services. If the utilities want to enter that competitive space, they can do so by using an unregulated affiliate that does not have access to charging captive monopoly customers. Currently we are seeking major changes to House Bill 247 (Rep. Stein) so as to preserve behind-the-meter services and products for consumers as a competitive space without utilities exercising market power and charging their monopoly consumers.

Next I will discuss generation and transmission reliability. As the PUCO testified here on December 10<sup>th</sup>, the reliability of generation and transmission facilities is the responsibility of the Federal Energy Regulatory Commission ("FERC"), the North American Electric Reliability Corporation ("NERC"), Reliability First Corporation ("RFC"), and PJM Interconnection. Most customers pay for generation and transmission reliability through charges that appear on their local utility bills. Typically, these charges are about 50 % of a residential customer's bill.

Before Ohio's 1999 deregulation law, the PUCO was responsible for ensuring power plant reliability for Ohio consumers. That process had the challenge for state government of reviewing massive utility investments in power plants and the related charges to consumers in the electric service territories in Ohio. That old structure is to be distinguished from the current (and better) approach where Ohioans benefit from the far greater resources (capacity) that can be called upon in the PJM region for reliability. And Ohioans benefit from competition (instead of state regulation) for better prices and greater innovation for consumers. For the reliability and pricing of Ohioans' electric service, I would not recommend regressing back to the old days of government regulation of monopoly power plants.

PJM's most recent auction for capacity (power plant availability) had a reserve margin of 21.5%. That actual margin for reliability is even higher than PJM's calculation of the reserve margin (15.8%) it needs in the region for reliability. There is plenty of generation available in the region to reliably serve customers. FERC's December 19<sup>th</sup> ruling on preserving competition in the PJM capacity markets (which may be refined on rehearing) should allow for the capacity market to continue as the better approach than government regulation for delivering reliability to consumers now and in the future. Over the long run, that should mean lower prices and greater innovation for electric consumers.

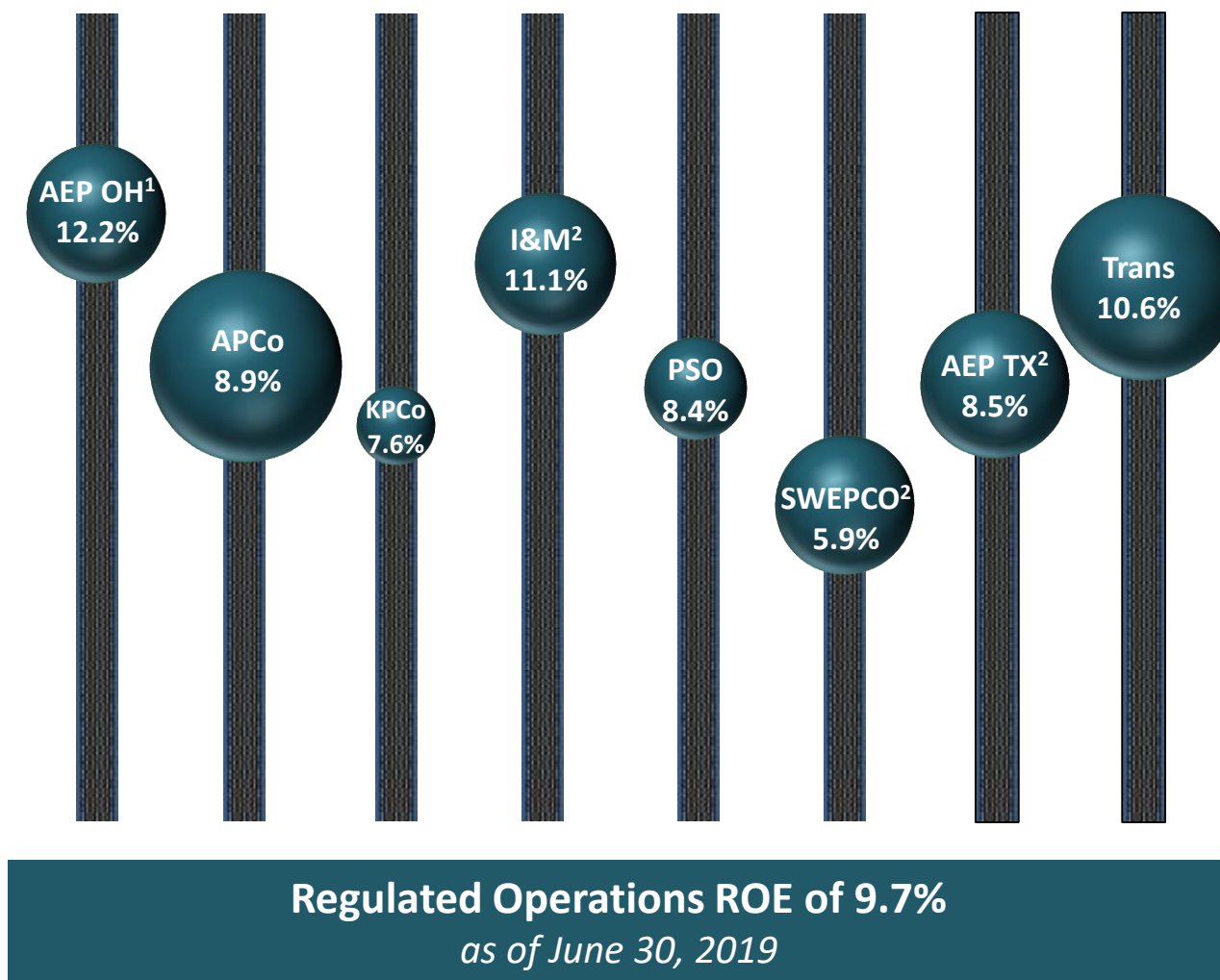
PJM is also charged with moving that generation along the high-voltage transmission lines. There are many transmission projects that PJM is responsible for bringing online at any given time. These projects are for both maintenance of existing transmission and new projects to protect reliability in a constrained area.

One variant of transmission charges to consumers is that of "supplemental projects." These projects, which are not necessarily for system reliability, do not receive the usual Federal and regional scrutiny that projects needed for reliability receive. Ohioans are being charged a lot of money by electric utilities for their investments in supplemental transmission projects - and more scrutiny is needed for consumer protection.

In conclusion, reliability and charges for electricity go hand in hand. Consumers need both adequate reliability and reasonable electric bills. Those twin goals are best delivered by competitive markets, such as for generation reliability, and by effective regulation, for distribution reliability and transmission reliability. Thank you for this opportunity to testify.

# Regulated Returns

Twelve Months Ended 6/30/2019 Earned ROE's (non-GAAP operating earnings, not weather normalized)

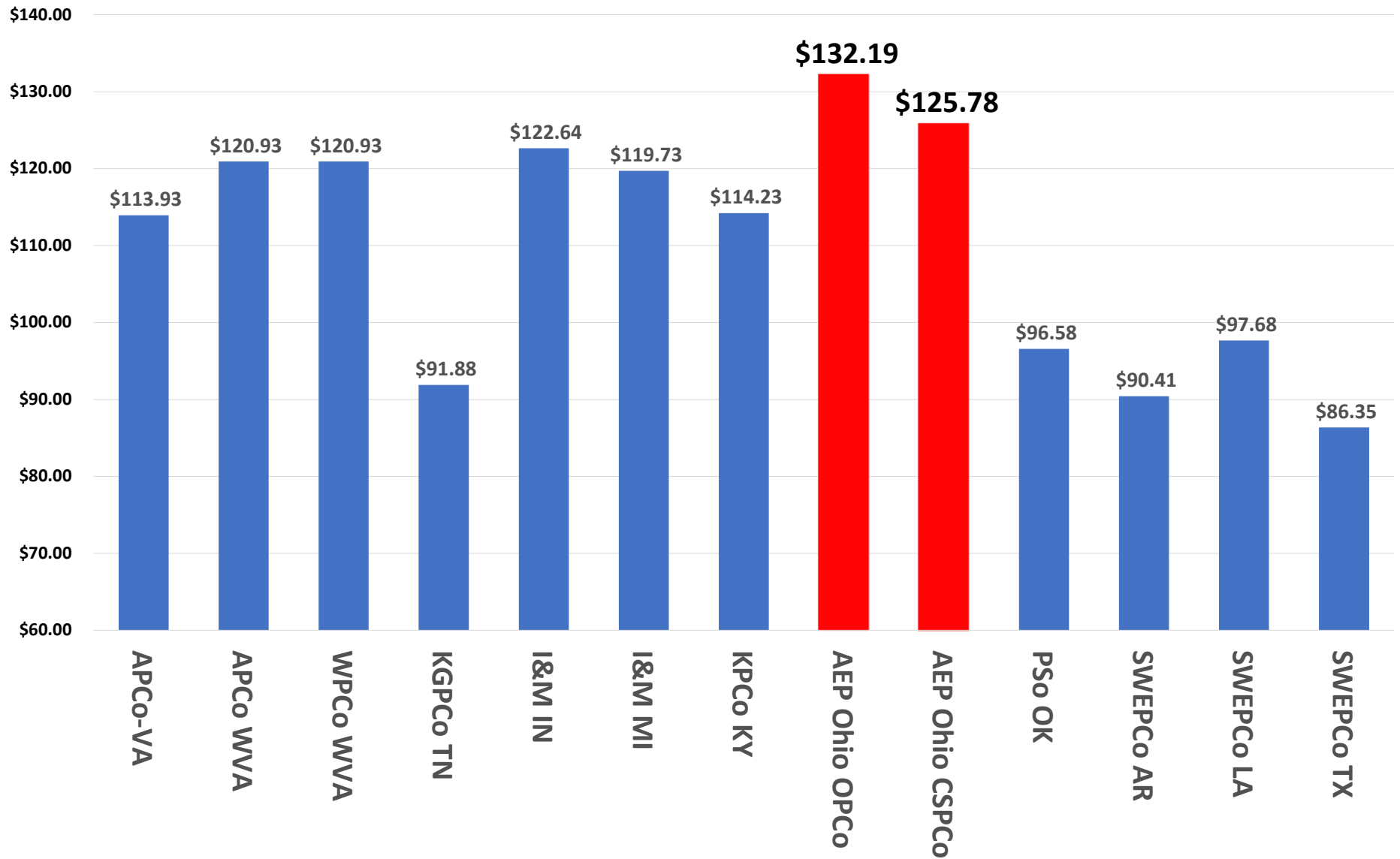


<sup>1</sup> Adjusted to reflect ROE after roll-off of legacy items | <sup>2</sup> Current base rate cases

*Sphere size based on each company's relative equity balance*

# AEP Residential Bill Comparison for its Operating Companies in 2018\*

(Showing Ohio with the highest bills)



\* Based on typical residential usage of 1000 Kwh per month.  
Source: 2018 AEP Fact Book