House Bill 554

Reforming Ohio's Electric Portfolio Mandates

House Public Utilities Committee

Prepared Statement of Sam Randazzo
General Counsel
Industrial Energy Users-Ohio

November 30, 2016

Mr. Chairman, members of the House Public Utilities Committee, I am Sam Randazzo and I am here today in my capacity as General Counsel for the Industrial Energy Users-Ohio ("IEU-Ohio"). The purpose of my testimony is to express general support for House Bill 554 ("HB 554") as it has been presented to the Committee today. My perspective on this topic is that of a person who has walked the Ohio energy beat for the better part of five decades and someone who was "in the room" when Ohio, regrettably, made arbitrary portfolio mandates and their hidden taxes part of Ohio law.

In 2008 and as a subordinate part of Amended Substitute Senate Bill 221 ("SB 221"), supply-side and demand-side mandates were made part of Ohio law. There was no analysis to consider their effect on reliability or the affordability of electricity. The mandates were sold based on future predictions of energy scarcity plus high and volatile prices. The considerable cost of the mandates was hidden in electric bills.

At customers' expense, Ohio's electricity portfolio mandates pick winners and losers based on expectations that existed in 2007 and 2008. And the expectations that existed in 2007 and early 2008, when Ohio adopted electricity supply-side and demand-side mandates, are very different than today's realities. They are also very different than reasonable expectations about the future.

For example, the 2008 vintage mandates assumed, among other things, that: (1) our domestic natural gas supply would soon be depleted, leaving us increasingly dependent on imported liquefied natural gas; (2) we would not realize the energy price and reliability benefits that are currently flowing from our abundant domestic shale resources; and (3) an overheated economy would continue rather than be stunningly "corrected" by the Great Recession. None – not one – of these assumptions would be regarded as credible if advanced today to support adoption of the 2008 mandates.

In the face of this undisputed truth, the General Assembly enacted Amended Substitute Senate Bill 310 ("SB 310") to call a two-year time-out in the escalation of the annual mandate compliance "benchmark." During this "time-out," the mandates were evaluated through a study committee process that produced a report and recommendations.

SB 310 also contained counting or compliance measurement provisions that mostly corrected problems created at the Public Utilities Commission of Ohio ("PUCO") during the implementation of SB 221.

And, SB 310 also gave the largest electric users the right to opt out of the cost and benefits of the energy efficiency and peak demand reduction mandates through a streamlined process.

The alternative to these reforms would have been for the General Assembly to ignore the facts and cause electric consumers to pay higher and higher electric bills for the benefit of stakeholders who profit from parasitic technologies which intermittently show up for work.

As the law currently stands, the escalation in the annual mandate compliance requirements is scheduled to resume in just 32 days (on January 1, 2017). And, this is why the **large and small industrial and commercial customers** that are members[1] of IEU-Ohio have, through IEU-Ohio, continued to meet with you and urge you to enact

[1] IEU-Ohio's members are listed on **Appendix A**.

incremental reforms. And, based on our review of Substitute HB 554, we ask that you favorably consider this bill as soon as reasonably possible.

Expanding the Streamlined Opt-Out

As discussed above, SB 310 gave Ohio's largest electricity users the right to get out of the way of Ohio's energy efficiency and peak demand reduction mandates. For most of the state, this right does not go into effect until January 1, 2017. During the SB 310 process, we pushed to extend the streamlined opt-out right to most of Ohio's businesses by making this right available to all "mercantile customers" (a defined term in R.C. 4928.01). This expansion was not included in SB 310 because some utilities asserted that a flash-cut expansion to include all mercantile customers would have, at that time, created administrative problems with regard to mandate compliance plans that were then in process. Since then we have continued to urge you to expand the streamlined opt-out to include all mercantile customers and the Energy Mandates Study Committee Report agreed that this change should be made effective January 1, 2019.

The current version of HB 554 expands the streamlined opt-out to make it available to all mercantile customers effective January 1, 2019. This lag in the effective date will allow ample time for the expansion to be folded into compliance plans.

The streamlined opt-out mechanism requires an adjustment in the energy efficiency and peak demand reduction compliance baselines so that the compliance obligation associated with the opt-out customers' kilowatt-hours ("kWh") or kilowatt ("kW") demand is not shifted to other customers. Below I offer a highly simplified illustration of how this works. In the illustration, I focus on the energy efficiency mandate but the process is exactly the same in the case of the peak demand reduction mandate.

Assumptions

- Assume an Ohio electric distribution utility ("EDU") has two customers (a residential customer that uses 10,000 kWh per year plus a mercantile customer that uses 1,000,000 kWh per year) and, accordingly, an energy efficiency mandate compliance baseline of 1,010,000 kWh.

- Assume that the energy efficiency compliance benchmark for a particular compliance year is five percent (5%) of the compliance baseline and that the total kWh of energy efficiency required is 50,500 kWh (.05 x 1,010,000) if the mercantile customer does not opt out using the streamlined opt-out provision.

- Assume that the mercantile customer elects to opt out using the streamlined process effective at the beginning of the particular compliance year.

Based on the above assumptions, and the compliance baseline adjustment that is **required by current law** whenever a streamlined opt-out becomes effective, the compliance baseline for the compliance year after the effective date of the streamlined opt-out is reduced to 10,000 kWh and the energy efficiency compliance quantity is similarly reduced to 500 kWh. The net effect of this mandatory baseline adjustment is to produce a compliance obligation that is based on the kWh usage of the remaining customer.

In addition to the mandatory compliance baseline adjustment that occurs with a streamlined opt-out, the compliance plan process at the PUCO has resulted in a separation of the overall compliance effort into two buckets. One bucket is for residential customers and the other bucket is for mercantile customers. Maintaining this current compliance plan separation also protects against cost and compliance obligation shifting as between residential and mercantile customers.

Thank you for your service and your attention. If you have any questions, I will do my best to provide answers.

Appendix A

IEU-OHIO'S MEMBER COMPANIES

Abbott Nutrition
Air Liquide Industrial U.S. LP
Airgas Inc.
AMAC Enterprises, Inc.
American Greetings Corporation
American Manufacturing Inc.
Anheuser-Busch Companies, Inc.
Appvion, Inc.
Area Aggregates, LLC
ASHTA Chemicals Inc.
Ashtabula Rubber Co.
Aurora Plastics, Inc.
Automation Plastics Corporation
Avon Lake Regional Water
Barberton Steel
Bescast, Inc.
Burton Rubber Processing
BWX Technologies
ClarkDietrich
Cleveland Cavaliers
Cleveland Indians
Cleveland Museum of Natural History
Cobra Plastics, Inc.
Component Repair Technologies, Inc.
Cristal USA Inc.
DRS Industries Inc.
Duramax Marine, LLC
Energizer Manufacturing, Inc.
Eramet Marietta Inc.
Falcon Foundry Company
Federal Metal Company, The
Ferriot, Inc.
Flambeau, Inc.
Glen-Gery Corporation
Globe Metallurgical, Inc.
GoldKey Processing, Inc.
Higbee Mothership LLC
Independent Franchises DBA McDonald's
Iten Industries
J.H. Routh Packing Company
Jack Thistledown Racino
Jacobson Manufacturing LLC
Jet Rubber Company
John Carroll University
Kent Elastomer Products, Inc.
Kent State University
Kraton Polymers U.S. LLC
Landmark Plastic Corporation
Lincoln Electric Company
Marathon Petroleum Company
McGean-Rohco, Inc.
Mercury Plastics, Inc.
MetalTek International
MICA
Milliron Iron & Metal, Inc.
Mondeléz International
Neff-Perkins Company
Norman Noble, Inc.
Ohio Star Forge Co.
P.H. Glatfelter Co.
Paulo Products Company
Plastipak Packaging Inc.
Pressure Technology, Inc.
Quaker City Castings
Rothenbuhler Cheesemakers, Inc.
RTS Companies, Inc.
Saint Gobain Companies
SAJAR Plastics, LLC
Salem-Republic Rubber Company
Sauder Woodworking
Tarkett USA
Tate & Lyle Americas, Inc.
TimkenSteel Corporation
Toledo Refining Company, LLC
Tri-Cast Ltd.
Trilogy Plastics
U. S. Steel Seamless Tubular Operations, LLC
U.S. Casting Company, Inc.
University of Akron
USG Corporation
Vallourec Star
Viking Forge Corporation
Welded Tubes, Inc.