



**Before
The Ohio House
Public Utilities Committee
Testimony on Substitute House Bill 554
(Renewable Energy, Energy Efficiency and Peak Demand Reduction
Standards)**

**By
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November 30, 2016**

Hello Chair Dovilla, Vice Chair Roegner, Ranking Member Ashford, and members of the House Public Utilities Committee. I am Bruce Weston, the Ohio Consumers' Counsel. Thank you for inviting stakeholder testimony on these issues involving the energy mandates that affect millions of Ohio electric customers. My testimony is regarding the "dash-5" version of the bill.

The Consumers' Counsel supports reinstating energy standards at reasonable levels. I have appreciated the thoughtful approach of the bill sponsor to these and other issues affecting utility consumers over the years.

Our agency vision is for Ohioans to have "affordable, quality utility services with options to control and customize their utility usage." Energy efficiency and reducing peak demand for electricity can help meet our vision for Ohioans. These measures ("negawatts") are cheaper per kWh saved than energy supplied (megawatts). And energy efficiency can benefit both those participating in the programs and those who pay for the programs but do not participate. All customers benefit because

efficiency can be used to reduce the need for power generation. This can save all consumers from paying some costs of capacity (power plants) in the market. These benefits provide a reason for supporting energy standards at a reasonable level.

The value proposition for consumers can become challenged, however, in the absence of consumer protections. Those protections relate to, among other things, what consumers ultimately pay on their electric bills. Here are my recommendations for consumer protections regarding the energy standards.

First, there should be a limit on the profits that electric utilities can charge Ohio consumers. In this regard, there should be a limit on the measures that qualify for shared savings or other utility incentives. Senate Bill 310 included limits on these charges to consumers in a couple places [Revised Code Sections 4928.66(A)(2)(d)(ii) and 4928.662(E)]. Similar language should be used to protect consumers from various other potential charges related to shared savings (profits).

As the General Assembly considers this legislation and any amendments, it should preclude utilities from charging consumers for profits (shared savings) related to two items that are not addressed in the bill. One of those items is energy efficiency savings and peak demand reductions achieved by customers on their own without utility-administered programs. Utilities should not be allowed to charge consumers for profit where the decrease in electricity usage results from something that happened without the involvement of the distribution utility. It is inappropriate to allow utilities to charge higher electric bills to consumers for economic decisions and spending that consumers made on their own. If consumers spend their own money on energy efficiency, they shouldn't be made to pay something like a tax on that to the utilities.

The other item where consumers should not be charged for utility profits (shared savings) is energy efficiency savings and peak demand reductions not achieved in the year for which the associated cost recovery from customers is being requested. For example, utilities should not be permitted to use

banked savings from one year in any way that would increase shared savings (profits) charged to consumers in a later year.

Second, in connection with the legislation allowing mercantile opt outs (lines 820-821), please add language in the statute to protect residential consumers. Consumers should be protected, by law, from paying charges for any costs associated with non-residential customers who are opting out of the energy efficiency programs. Separately, consumers should be protected from any utility proposals to re-allocate costs of energy efficiency from non-residential consumers to residential consumers.

For example, in AEP's current energy efficiency case we calculate that its application would allocate at least \$75 million in charges for non-residential customers to residential customers. This AEP proposal, and other utility proposals for charges to consumers, are prompting our consideration that residential consumers should be allowed to opt out of energy efficiency programs, like mercantile customers. One way to enable a residential opt out is to give the Consumers' Counsel the authority to opt out all residential consumers of an electric utility.

Third, consumers should be protected in the regulatory process by prohibiting consideration of renewables and energy efficiency in cases other than those specifically intended for implementing the energy standards. For example, AEP recently sought support to charge consumers billions of dollars, in our projection, for a power purchase agreement by offering in a settlement to build 900 megawatts of renewable energy to be paid by its captive distribution customers. FirstEnergy's proposal for its own power purchase agreement, at a cost we projected to be billions of dollars for consumers, included a settlement term to charge consumers much more for energy efficiency and for profit on energy efficiency (which the PUCO mainly denied). Those proposals were presented despite the cases having nothing to do with energy mandates.

Fourth, there should be a cap on what consumers can be made to pay for energy efficiency program costs. Also, charges for utility profits (shared savings) and so-called "lost distribution revenues" should be subject to caps.

Fifth, to limit costs to consumers, the utilities should be required to use competitive bidding when retaining providers or vendors for implementing their energy efficiency programs. A PUCO Staff witness recently recommended competitive bidding for some of FirstEnergy's energy efficiency programs.

In support of the above consumer protections, I note that the Consumers' Counsel Governing Board, in its January 2016 report entitled "Everyone Is Unhappy," wrote that "Ohio's 2008 energy law (Senate Bill 221) has ratemaking terms that favor electric utilities and disfavor Ohio consumers, resulting in higher electric rates." According to the U.S. Energy Information Administration, Ohioans pay higher electric rates than consumers in more than 30 other states. And approximately 15.9 percent of Ohioans live in poverty. At a Columbus Metropolitan Club panel earlier this year, Consumers' Counsel Board Chair Gene Krebs commented that "Bob and Betty Buckeye are not happy," when a consumer asked why his electric bill is going up. Chair Krebs further noted his concern about whether the government will respond adequately to consumers' electric bill worries.

These consumer concerns are heightened by recent information that Dayton Power and Light may be seeking a change in the law, possibly for adding to this Bill, to allow for shoring up its finances by charging consumers. (Please see the attached Dayton Daily News story, dated November 15, 2016.) Such a change in the law should be rejected. Consumers should be protected from subsidizing DP&L and/or its unregulated affiliated companies. Since the inception of electric competition in Ohio, DP&L and other electric utilities have already charged Ohioans a lot of money—too much money—in subsidies. Please see the attached "subsidy scorecard" showing these subsidies. Also, note that

Ohio Revised Code section 4909.16 already allows the PUCO to consider both utility and consumer requests for assistance in financial emergencies, as follows:

When the public utilities commission deems it necessary to prevent injury to the business or interests of the public or of any public utility of this state in case of any emergency to be judged by the commission, it may temporarily alter, amend, or, with the consent of the public utility concerned, suspend any existing rates, schedules, or order relating to or affecting any public utility or part of any public utility in this state. Rates so made by the commission shall apply to one or more of the public utilities in this state, or to any portion thereof, as is directed by the commission, and shall take effect at such time and remain in force for such length of time as the commission prescribes.

If such a change in the law is to be considered by the legislature, it would be better to review it in a stand-alone bill with a full public hearing process and not in this limited post-election session.

Additionally, the Ohio Partners for Affordable Energy (a group of weatherization providers) is seeking an amendment to the bill to limit the discretion of the Ohio Development Services Agency (ODSA) in spending federal funds for low-income energy assistance. Presently, ODSA may use its judgment for spending federal Home Energy Assistance Program (HEAP) funds. ODSA can devote all the federal funds to assisting low-income Ohioans with utility bill payments or it can use up to 25% of the funds for low-income weatherization. The weatherization group's proposed change would require spending 25% of the federal funds on weatherization each year, no matter how great the need of low-income Ohioans for assistance with their utility bill payments. This proposal for requiring weatherization would reduce funds available to consumers for bill payment assistance. Bill payment assistance can help a great many more Ohioans in need. Weatherization is much more costly per household than bill payment assistance and thus can help only a fraction of the people who could be served by bill payment assistance. The proposal should be rejected and the law should remain unchanged to allow ODSA to continue exercising its judgment for assisting Ohioans in need. If the General Assembly wants to take up this issue, it would be better addressed in a bill with a full hearing process and not in the post-election session.

That concludes my testimony. Thank you again for the opportunity to make recommendations on behalf of Ohio consumers.

DP&L pushes law that would let state raise rates



Dayton Power and Light is lobbying state legislators to amend existing law that would allow the Public Utilities Commission of Ohio to raise electric rates if a utility's financial integrity is at stake.

If passed, the PUCO could raise or modify rates "if the (PUCO) finds that the utility's financial integrity is threatened and the modification is necessary to preserve the utility's financial integrity," according to a copy of the proposed amendment obtained by the Dayton Daily News.

Rep. Niraj Antani, R-Miami Twp. said Tuesday that DP&L representatives

have approached legislators, asking them to consider the language.

DP&L would like to have this amendment added in the coming weeks of the Ohio General Assembly, which is a post-election "lame duck session," Antani said.

RELATED: Citing 'financial threats,' DP&L seeks new charges.

Antani said consumers do not want rates to go up, but at the same time, "We have to keep the lights on."

"Their financial integrity truly is at stake," Antani said of DP&L.

A DP&L spokeswoman confirmed that the company is pursuing such an amendment.

"It's just one of those tools that the PUCO has when they address ESP (electric security plan) cases," said DP&L spokeswoman Mary Ann Kabel. "As you know, the PUCO has a very, very rigorous process. It would have to pass the scrutiny of the PUCO, the (case) intervenors, the hearing process. There are a lot of checks and balances along the way."

Ryan Augsburger, vice president and managing director, public policy services, for the Ohio Manufacturers' Association, said such legislative language would "effectively (insure) utility companies from business risk with customer dollars."

"Ratepayers should not be the unwilling guarantor of a utility's every business decision," said Todd Snitchler, a former PUCO chairman and a principal for Vorys Advisors, a subsidiary of a Columbus law firm.

RELATED: Manufacturers group wary of DP&L charges.

In June, the Ohio Supreme Court reversed a PUCO decision that allowed DP&L to charge customers extra in its own "electric security plan."

"I think that the Supreme Court really overreached here," Antani said. "I think that PUCO should be able to set reasonable rates."

"Look, I don't want to see anybody's electric rates go up," he added. "That's not what I want. But that said, we have to be able to keep DP&L, their financial integrity, solid."

The Ohio Supreme Court's ruling saved local consumers \$80 million they would have paid the utility this year, the Ohio Consumers' Counsel said in June.

In recent weeks, DP&L has applied to the PUCO for a new "distribution and modernization" rider — or additional charge — to customers' bills, citing "significant threats to its financial integrity."

A message seeking comment was left with the office of State Sen. Bill Seitz, R-Cincinnati, chairman of the Senate Public Utilities Committee.

Matt Schilling, a spokesman for PUCO, said PUCO is aware of DP&L's efforts, but the commission does not comment on pending legislation.

Some electric utilities are facing a challenging time. Natural gas has been less expensive than coal in recent years, making coal-fired power generation facilities more expensive to operate. Many coal plants are older, which can make them less efficient.

Wallace Tyner, professor of agricultural economics at Purdue University, said coal is also more expensive under the federal government's Clean Power Plan, which the Obama administration has proposed but has been held up in courts.

"That plan requires utilities to reduce substantially the use of coal," Tyner said. "You can't meet the emission requirements with coal."

Coal has recently gone down in cost compared to natural gas, Tyner said. But

coal still has "huge environmental issues," Tyner said.

Building a new coal-powered plant today would be "problematic for a number of reasons," he said.

"Utilities are switching out," Tyner said. "Today, there are hardly any new coal plants coming on because the capital costs are so high."

DP&L co-owns with other utilities five plants that are coal-fired. About two-third of its power generation is coal-fired and a third is natural gas-generated, DP&L President and Chief Executive Tom Raga told the Dayton Daily News in February.

SUBSIDY SCORECARD - ELECTRIC UTILITY CHARGES TO OHIOANS

2000 2001 2002 2003 2004 2005 2006 2007 2008 2009 2010 2011 2012 2013 2014 2015 2016 2017 2018 2019

Distribution Reidentification Rider
\$204 Million Per Year
For At Least Three Years

Generation Transition Charge / Regulatory Transition Charge \$6.9 Billion	Rate Stabilization Charge \$2.9 Billion
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FirstEnergy \$9.8 Billion

Regulatory Transition Charge / Customer Transition Charge \$727 Million	"Big G" \$242 million	Rate Stabilization Surcharge \$158 Million	Rate Stabilization Surcharge \$380 Million	Service Stability Rider \$293.3 Million	Electric Service Stability Charge \$76 Million Per Year
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DP&L \$1.9 Billion

Ohio Valley Electric Corporation
PPA Rider
\$31.11 Million Per Year
(at current market rates)

Retail Stability Rider \$447.8 Million	Retail Stability Rider Capacity Cost \$238.4 Million
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Provider of Last Resort Charge \$368 Million

Regulatory Transition Charge \$702 Million

AEP Ohio \$1.76 Billion

Electric Service Stability Charge \$390 Million
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Regulatory Transition Charge \$884 Million + Carrying Costs 14.23%

Duke Ohio \$1.21 Billion

\$14.67 Billion 2000 - 2016

\$235.11 Million eppr estimates additional yearly charges beginning 2017
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