

Senate Energy and Public Utilities Committee
Interested Party Testimony on Senate Bill 86
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Chairman Wilson, Vice Chair McColley, Ranking Member Williams, and members of the Energy and Public Utilities Committee, I am here today to testify as an interested party on Senate Bill 86 on behalf of Guardian Water & Power, Inc. (Guardian). Guardian is the largest submetering company in Ohio and services apartments and condominiums throughout Ohio and in 42 other states. It is a Columbus-based company with offices in Seattle, WA, San Diego, CA, Ann Arbor, MI and Raleigh, NC. Guardian has been in the business of installing submeters in its customers' multi-unit buildings and billing residents for their share of utility costs for the past 37 years. This straight forward business practice is known as "submetering" – allocating actual utility costs based on consumption *without any markups or profit* for a competitively derived administrative fee.

Guardian appreciates the need to regulate the activities of entities that have gone beyond traditional submetering by building utility distribution plant and marking up underlying public utility services for a profit. Our primary concern is that you do not inadvertently regulate traditional submetering companies as utility service resellers. To that end, we have the following concerns with SB 86 as currently drafted and ask that these concerns be addressed before this legislation is passed.

1) Clarify that traditional submetering is not included in the definition of a reseller

The bill defines a "reseller" to include a person that charges an amount to a residential consumer for utility service measured through a submeter and the amount charged for "the total of all components of a utility service is greater, on a monthly basis, than six dollars above the total amount at which the utility service was purchased from the utility provider." It is unclear what "the total of all components of a utility service" charged means. Are ancillary fees not related to underlying "utility service" included? For example, it is unclear if a nonsufficient funds fee, which commonly exceed six dollars for a single transaction but are not related to underlying utility services, are to be included, which would arguably make the entity a "reseller" subject to the provisions of the Chapter.

It is possible, based on the bill's current language, that traditional submetering businesses could be included in the definition of reseller, which has never been the intent in this legislative effort. If the intent of the bill is to regulate utility resellers who mark up and profit from the underlying utility service, then Guardian proposes that the following clarifying language be added as subsection (4) to Section 4934.01(c):

A reseller does not include a company that allocates costs for a service provided by a public utility, or a public utility owned or operated by a municipal corporation, based on

consumption or a formula agreed to by the end user, without any markup or profit of the public utility service, for competitively-derived administrative fees, if applicable.

2) Cap utility service charges at actual cost not the “allowable residential rate”

SB 86 establishes a cap for utility service charges that uses the “allowable residential rate,” which is the standard service offer (SSO) or an analog rate, as the ceiling. Guardian bills tenants based on the actual cost of utility services directly used by that tenant in the multi-unit building, not by the SSO or an analog rate. For electric service, for example, the “actual cost” is the monthly charge from an electric distribution utility and third party Competitive Retail Electric Service (CRES) provider.

Guardian respectfully requests that the bill be amended to use actual cost as the cap for utility service charges, not the “allowable residential rate.” A cost ceiling has the distinct advantage of enabling tenants to benefit from the economies of scale inherent in multi-unit buildings. The fixed costs embedded in the master public utility charges are driven down on a per unit basis as scale increases. This means that in many cases tenants will be charged less with a submetered bill than they would as a standalone customer of the utility. Conversely, if the “allowable residential rate” is the ceiling, tenants will be charged more than they would under an actual cost ceiling and, in aggregate, will be billed more than the actual cost of utility service to the multi-unit building.

If the “allowable residential rate” becomes the ceiling, the more than 200,000 submetered tenants in Ohio currently billed on a cost basis can expect to see their bills increase as property owners begin to realize that the SSO basis will generate more revenue than the cost of utility service to the property. Thus, these Ohio renters will be denied the benefits of submetering that is billed at actual cost, which has been the prevailing practice in the industry since its inception.

3) The bill should include municipal water

As currently drafted, it is unclear if the bill includes municipal water in the definition of “utility service.” Guardian asks that it be made clear that municipal water be included in the definition of “utility service,” as the majority of submetering in Ohio involves municipal water. Carving municipal water out of the bill creates an unintended consequence of allowing water charges to be marked up above cost – or as the bill is currently drafted even above the allowable residential rate. Such a result is contrary to the purpose of the legislation and should be addressed.

4) Clarification on PUCO prohibition from requiring resale of utility service

As drafted, it is unclear what problem Section 4934.30 is trying to solve. If it is made clear that traditional submetering is not the resale of utility service, thus, a traditional submetering company is not a “reseller” under the Chapter, Guardian’s concern is addressed.

Thank you for the opportunity to testify today. Guardian looks forward to working with you on SB 86, and I would be happy to answer any questions you may have.