Alliance for Energy Choice

House Public Utilities Committee
House Bill 317
May 26, 2021

Chairman Hoops and members of the House Public Utilities Committee, thank you for the opportunity to provide written proponent testimony on House Bill 317 (HB 317).

The Alliance for Energy Choice is an Ohio non-profit corporation that seeks to promote fairness and competition in electric utility service. The Alliance advocates for free-market solutions that will ensure an adequate and fairly priced supply of electric power to Ohio's residents, businesses, and industries. The Alliance also advocates for policies that do not favor one supplier or one form of energy over another.

Ohio's transition to a competitive retail electricity market has been a successful one and the benefits of it are well-documented. Chiefly, the state's ratepayers have saved billions of dollars since the Ohio Legislature restructured the market with SB 3 in 1999. The state's competitive retail electricity market has also given rise to significant new generation investments in our state, as well as in innovative new energy technologies and services. These additional benefits continue to attract new business investment, stimulate economic growth, and spur job creation in multiple sectors all over the state.

However, certain ratemaking provisions that were later enacted in 2008 as part of SB 221 are still in current law and they are anti-competitive and bad for Ohio ratepayers. Our membership is encouraged that HB 317 proposes to eliminate the most anti-competitive and anti-ratepayer of these provisions – Electric Security Plans (ESPs). Doing so will properly rebalance the interests of Ohio's Electric Distribution Utilities (EDUs), other market participants, and the state's ratepayers, thus furthering the state's successful transition to a more fully competitive retail electricity market. What is more, ESPs are an outdated regulatory tool no longer needed now that the EDUs have moved into compliance with the requirements of Ohio law by divesting their generation assets.

Lower average electricity prices should translate to lower electric bills on average for Ohio families and businesses, but the ESP statute has time and again led to routine rate increases for the EDUs, causing ratepayers to pay more than the going rate of electricity. Rider after rider has been continually layered on Ohio ratepayers' electric bills to the point where the retail price they pay is so artificially inflated that it is nowhere near indicative of the true cost of delivering electricity to homes and businesses in this state. This legislation is a major step toward limiting the EDUs' advantage in setting rates while also helping to stabilize the price that ratepayers pay for electric utility service.

Eliminating ESPs is a simple, straightforward, market-based approach to procuring the Standard Service Offer (SSO) supply for EDUs and provides for a more comprehensive review of non-supply related charges – the riders mentioned above – via traditional distribution rate cases. ESPs, which were initially touted as mechanisms that would protect ratepayers from significant rate increases, have resulted in EDUs charging customers above-market prices for electricity generation and in favorable terms for EDUs to obtain other rate increases. Distribution rate cases, however, ensure that all potential rate increases are properly scrutinized as a cost-benefit analysis is conducted during those proceedings on behalf of ratepayers as to the merit of potential future rate increases. The only true manner in which to ensure that ratepayers are being fairly charged for the provision of safe, reliable, adequate electric utility service is through conducting regular distribution rate cases.

Ohioans should be benefitting more from the historically low prices for electric generation the market has been delivering for years now. The other mechanism in current Ohio law that could help ratepayers better realize that benefit, the Market Rate Option (MRO), exists as a more narrowly focused tool for procurement of SSO supply. While no EDU has completed the MRO to date, the PUCO has incorporated competitive bidding processes to procure SSO supply into their ESPs. That said, ESPs also allow for the inclusion of other non-supply related proposals and costs for such things as grid modernization, economic development, job retention, and energy efficiency. HB 317 specifically authorizes EDUs to implement economic development and job retention programs under an MRO and permits them to apply to the PUCO to recover all nonbypassable prudently incurred costs of those programs from their ratepayers.

The ESP process has effectively become a recurring settlement negotiation between various interested parties and PUCO Staff where they consider a wide range of proposals and their associated costs. Many of the proposals have absolutely nothing to do with securing the lowest competitive market price available for SSO supply and are well outside the statutory framework established by SB 221. Consequently, rather than a clean, straight-forward, market-based approach to securing electric service for SSO ratepayers, the ESP process is instead a muddled conglomeration of distribution related costs, supply related costs, and other unrelated proposals. The right mechanism for dealing with non-supply issues is a distribution rate case where the proper level of examination is given to all EDU costs associated with the distribution rates that will ultimately be borne by ratepayers. This is the long-standing means of ensuring EDUs earn an adequate return for necessary investments in their systems that are just and reasonable.

Moreover, repealing the ESP statute will increase certainty for ratepayers as the EDUs will become more efficient in their operations. Also, EDU cost structures by necessity will have to become more efficient and reflective of their current posture as they will no longer receive near automatic adjustments to their various riders through the ESP process. The distortion of the ESP process to add literally dozens of riders to ratepayer bills has disguised the actual cost of providing the SSO and allowed the EDUs to avoid regular distribution rate cases for decades. Rather than continuing to layer riders on riders, EDUs investing in grid modernization and other areas would have every incentive to file regular distribution rate cases to capture the true value of those investments and earn a return on them while also letting ratepayers see the real impacts of those investments on their electric bills*.* The information provided within a distribution rate case proceeding by the EDUs to the PUCO for evaluation and a determination as to what is just and reasonable is completed using reasonably current information for the time period in question and thus, yields the most accurate, fair results for the EDUs and ratepayers alike.

The Alliance urges the Ohio House to act swiftly, on behalf of Ohio's citizens and businesses, in passing HB 317. Making this long overdue fix of transitioning SSO procurement to an MRO process will enhance the state's competitive retail electricity market, level the playing field for other market participants, and protect ratepayers from incurring any further unnecessary non-supply related charges. The PUCO is perfectly capable of performing regular distribution rate cases, in which a thorough review of all EDU distribution related expenses and revenues can assure that both the ratepayers and the EDUs are treated fairly. Further, expressly authorizing the ability for EDUs to apply to recover costs associated with significant economic development and job retention programs will allow adequate dollars to flow to those opportunities while still retaining an appropriate level of regulatory scrutiny.

We appreciate this opportunity to submit written proponent testimony on HB 317. As always, please do not hesitate to contact us if you have any questions or would like further information regarding this document or the Alliance for Energy Choice.

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The Alliance for Energy Choice membership currently includes Calpine, Eastern Generation, The Energy Professionals of Ohio, LS Power, and Vistra Energy.