



Senate Energy and Public Utilities Committee
Substitute Senate Bill 102
December 5, 2023

Chairman Reineke and members of the Senate Energy and Public Utilities Committee, thank you for the opportunity to provide written proponent testimony on Substitute Senate Bill 102 (Sub. SB 102).

The Retail Energy Supply Association (RESA) is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail electricity and natural gas markets deliver a more efficient, consumer-oriented outcome than does the monopoly-protected, rate-regulated utility structure. RESA is devoted to working with all interested stakeholders to promote vibrant and sustainable competitive retail electric and natural gas markets in the best interests of residential, commercial, and industrial consumers.

RESA supports Sub. SB 102 as it endeavors to provide long overdue, much needed reforms to Ohio's electric utility regulatory framework. Several of the key provisions in the bill close gaping loopholes in current law, repeal obsolete code sections, correct anti-competitive language, and strengthen consumer protections.

The inclusion of provisions requiring Competitive Retail Electric Suppliers (CRES) and Competitive Retail Natural Gas Supplier (CRNGS) to provide the Public Utilities Commission of Ohio (PUCO) with reasonable financial assurances sufficient to protect consumers in order to be certified, will serve as an effective deterrent and barrier to market entry by unethical companies seeking to use predatory tactics in Ohio. Also, requiring CRES and CRNGS to provide their consumers with written notifications prior to a contract expiring and before a fixed rate converts to a variable rate, keeps consumers informed and in control of their energy costs.

Other pro-consumer provisions of note include inserting a definition for "small commercial consumer" into Ohio law. Doing so will ensure that companies who fall into that category will be afforded the same consumer protections that residential consumers have long enjoyed. Also, prohibiting EDUs from making a cash payment to, or a private financial arrangement with, an intervening party in a PUCO proceeding in order to induce a certain position is way past due.

However, removal of the provision requiring the PUCO to properly allocate all direct and indirect costs associated with procurement of the Standard Service Offer has unfortunately greatly reduced the value and pro-consumer impact of the bill. RESA strongly recommends

reinserting this provision in order to finally protect consumers from continuing to unfairly and uncompetitively subsidize the EDUs. Properly classifying and allocating costs does NOT increase rates for any consumers but ultimately benefits all consumers by properly following long-standing and important cost causation principles and creating transparency. The ongoing misallocation of costs creates inefficient decision making by consumers, distortions, and ultimately higher costs for all consumers.

Several pro-market provisions are included in Sub. SB 102 as well. Namely, prohibiting EDUs from owning or operating an electric generating facility, other than a “legacy generation resource” or a mercantile customer-sited renewable energy resource. Also, replacing the Electric Security Plan (ESP) with the Standard Service Offer Plan (SSOP) greatly reduces not only the amount, but also the types of “Interim Distribution Mechanisms” (IDMs), more commonly known as riders, for which EDUs may recover costs from their consumers outside of a distribution rate case. The bill also caps the amount permissible to be collected by an EDU via an IDM at 4% of the base distribution revenue requirement previously approved by the PUCO. Requirements that no SSOP may have a term shorter than three years or longer than five years, and that an EDU must file a distribution rate case at least once during the course of a SSOP, are major improvements over current law that allows EDUs to veto final PUCO orders in ESP cases, which provides a perverse incentive for EDUs to not file a distribution rate case.

We do, however, recommend further changes to two specific provisions within the bill. Firstly, while we applaud reinsertion of the language prohibiting EDUs from using an electric energy storage system to participate in the wholesale market if it was approved for distribution service, it should also include a prohibition on using one for retail purposes for the exact same reasons. Doing so will ensure that subsidized assets approved for distribution service and paid for by captive distribution customers are not permitted to unfairly impact the market by competing against non-subsidized, competitive assets. Secondly, we suggest reinserting the language that provides for a governmental aggregator to elect not to receive standby service from an EDU as part of a governmental aggregation and replacing the ESP reference in that section with a reference to the new SSOP. This will preserve the protection in current law for aggregation customers to not be charged for additional generation service if their aggregator has chosen not to receive standby service from an EDU.

RESA appreciates the continued efforts of the bill sponsor, interested parties, and the Committee and remains ready to help enact this important legislation.

Thank you again for the opportunity to submit written proponent testimony on Sub. SB 102 and please do not hesitate to contact us if there are any questions or if you would like further information.