

SENATE BILL 275 OF THE 135TH OHIO GENERAL ASSEMBLY
TESTIMONY OF ROCCO D’ASCENZO,
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BEFORE THE OHIO SENATE ENERGY & PUBLIC UTILITIES COMMITTEE

November 19, 2024

Chair Reineke, Vice Chair McColley, Ranking Member Smith, and members of the Ohio Senate Energy & Public Utilities Committee:

My name is Rocco D’Ascenzo, and I am Deputy General Counsel for Duke Energy Corporation. In my current role, I lead the team of attorneys who provide legal advice on the legislative and regulatory issues faced by Duke Energy Ohio and Duke Energy Kentucky. These companies provide safe and reliable utility services and solutions for approximately 750,000 electric and 450,000 natural gas customers in Southwest Ohio and Northern Kentucky, just as these utilities and their predecessors have been doing for over 185 years.

I appreciate the opportunity to submit Duke Energy Ohio’s views on the policy contained within Senate Bill 275 (S.B. 275), as it appears now before your committee. Although S.B. 275 addresses Ohio’s important interest in repurposing former coal mines, brownfields, and landfills, Duke Energy Ohio is concerned with several elements of the underlying policy. Currently, S.B. 275 includes unreasonable cost shifting, a violation of decades old ratemaking principles, and undue administrative and cost burdens to utilities and customers, thereby undermining the perceived benefits. For these reasons, Duke Energy Ohio is opposed to the bill.

I. S.B. 275 would unfairly burden non-virtual net metering customers with costs caused by virtual net metering (VNM) customers served by the same electric distribution utility.

Unlike what occurs with ordinary net metering, which directly offsets a customer’s actual electricity usage at the source, a VNM customer relies upon the utility’s transmission and distribution systems to deliver 100% of their electric consumption needs. An ordinary net metering customer, with generation located behind the meter, will first consume the electricity their resource is generating in real time. While a portion of the customer’s consumption may still come from the grid, the self-generated electricity is at least partially reducing reliance on the utility’s transmission and distribution systems. Under S.B. 275, the VNM customer’s “virtual” self-generation occurs at another location and therefore never actually offsets any of the VNM customer’s own consumption. Moreover, VNM does not mitigate any stresses the customer’s electric consuming facilities places on the electric distribution system at the location of that demand. Although monthly kilowatt-hour netting—as currently provided for with ordinary net metering and proposed for VNM—shifts costs in both cases, the shift is even larger in the case of VNM. This is because VNM customers rely on the transmission and distribution systems to deliver 100% of the

electricity they consume to their site, but S.B. 275 would allow them to potentially avoid paying any of the volumetric transmission or distribution costs they cause on the system.

II. The crediting system proposed in S.B. 275 creates an unfair subsidy and is out of alignment with the ongoing debate over the valuation of dispatchable (base load) versus intermittent resource types.

As proposed, S.B. 275 allows VNM customers to use the distribution system at any time of any day during a given month to satisfy their demand, regardless of whether the VNM system, located somewhere else, is producing electricity at that time. Under the bill, the netting of production versus usage occurs once per month and is disassociated from when the customer's actual peak demand occurs. Thus, the bill treats as equivalent the electricity from the VNM system and the electricity that the utility purchases through the wholesale market under terms set through its standard service offer competitive auction. This equivalency is inappropriate because one form of electricity may be intermittently available while the obligation of the utility to serve is constant. The cost and value of constantly available power is higher than intermittently available power, meaning that the system proposed in the bill provides VNM customers with a credit that is greater than warranted by the value of any net surplus of generated electricity. Non-VNM customers will bear the cost of that differential and thus be unfairly subsidizing VNM customers.

PJM Interconnection, LLC, (PJM), the Regional Transmission Operator that manages the bulk transmission system and wholesale power markets serving Ohio, is currently grappling with questions of valuation of generation resources with varying attributes and dispatchability. The standard service offer prices established in competitive auctions conducted by the utility and paid by non-shopping customers of Ohio's electric utilities contain elements of generation supply from both dispatchable (base load) and intermittent resources. Providing VNM customers with a credit based on a utility's standard service offer price, regardless of the type of resource being employed by the VNM customer, could skirt recognition of the need to value resources differently based on reliability attributes, which is at the heart of ongoing discussions at PJM and the Federal Energy Regulatory Commission.

III. The crediting system contained with S.B. 275 violates the cost causation principle, which is central to the regulated ratemaking paradigm.

S.B. 275 would create a fundamental shift in how utilities recover their costs from customers who have accounts located on multiple sites. When VNM customers aggregate (for billing purposes) their demand and usage across multiple metered locations that are spread across the utility service territory, these large and sophisticated customers avoid paying for the demands they are placing on the electric distribution system. This approach undermines the well-established and fundamental ratemaking principle of cost causation. At its core, this principle dictates that each class of customers should be responsible for the costs of using the distribution system in proportion

to the costs they actually and physically impose on that system. As previously explained, S.B. 275 would cause cost shifting, which is anathema to this key ratemaking principle.

IV. S.B. 275 could negatively affect Ohio's competitive market supply paradigm.

S.B. 275 could create risks that translate into additional costs in the wholesale market procurement process for generation services in Ohio. The integrity of the wholesale market is critical to the functioning of Ohio's marketplace for electricity, as this is where Ohio's electric distribution utilities obtain electricity to serve customers who do not take generation supply from a competitive retail electric supplier. Wholesale generation providers bid for the opportunity to serve a portion of the utility's load based on forecasted amounts of load they would serve. S.B. 275 would permit an unpredictable amount of electricity to be supplied to the utility's system outside of the standard service offer process, causing wholesale producers offering supply into the utility's competitive auction to bear the risk that load they win the right to serve would suddenly disappear. That risk could translate into higher premiums in prices offered by wholesale power producers in competitive auctions and ultimately force higher prices to be paid by customers who either cannot or will not choose to switch to a competitive supplier.

V. S.B. 275 would increase the complexity of utility bills, leading to additional confusion and cost issues for customers.

The requirements placed on utilities to comply with S.B. 275 would necessitate changes to the companies' billing systems. For example, VNM usage and credits would need to be tracked and verified and issues such as payment application (for multiple metered customers) and partial payments will need to be addressed. These issues are complex and not insignificant for Duke Energy Ohio, which is a combination electric and natural gas utility with many customers who take both services and receive a single bill. Arguably, compliance with S.B. 275 would necessitate changes to our data systems, the cost of doing so being incremental to the current state. As these types of costs are paid by all customers, many customers would bear the cost for matters that do not benefit them, but rather only those who have the means and ability to access a VNM resource.

VI. Conclusion

Duke Energy Ohio appreciates the opportunity to share its informed perspective with this committee. For the reasons described above, however, the company opposes passage of the bill in its current form. Since the relevant policy affects the customers that we serve, our leadership, legal, and government affairs team members stand ready to work on this legislation in the future with the bill sponsor, this committee, and other parties.