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S.B. 297
136th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Craig and Smith

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SUMMARY

- Excludes an “electric submetering company” (ESCO) from being considered a public utility for purposes of Ohio’s Public Utility law.
- Defines an ESCO as a person or entity that provides facilities for the resale of electricity to a tenant’s dwelling unit by a landlord or landlord’s agent that is based on metered consumption at a point after services provided by an electric light company (ELC) that is a public utility are delivered to the ELC’s metered points of delivery at the customers’ locations.
- Extends eligibility for the Percentage of Income Payment Plan (PIPP) Program to an ESCO’s residential customers who meet other generally applicable customer eligibility criteria.
- Prohibits an ESCO from charging a tenant more than the applicable ELC would charge a residential customer for the standard service offer and all riders associated with electric service.
- Requires ESCOs to do the following:
 - Register with the Public Utilities Commission (PUCO) and comply with rules the bill creates and certain rules found in current law;
 - Provide a separate disclosure and pricing report to the tenants; and
 - Disclose their process and procedures for the disconnection of electric service.
- Requires PUCO to adopt rules to implement the above requirements, including rules to require the ESCO to disclose the ESCO’s name, business address, telephone number, and regulatory contact, and rules for disclosure requirements as prescribed by PUCO.
- Specifies that the rules must be reasonable and must not confer any undue economic, competitive, or market advantage or preference upon any ELC, ESCO, or competitive retail electric service (CRES) provider.

- Allows PUCO to charge ESCOs a registration processing fee of not more than \$200 per biennial registration.
- Exempts rules adopted by the bill's provisions from the regulatory restriction limitation requirements in current law.
- Allows any person, firm, corporation, or PUCO upon its initiative, to file a complaint against an ESCO for noncompliance with the bill's provisions and, should there be reasonable ground for the complaint, requires PUCO to give notice to the ESCO and grant 60 days to cure the noncompliance or face possible PUCO investigation.
- Provides that parties to an ESCO complaint investigation are entitled to be heard, represented by counsel, and have a process to enforce the witness attendance.
- Imposes on an ESCO, after PUCO determined the ESCO violated the bill's provisions, a forfeiture of not more than \$100 per violation or compliance failure, unless the violation/failure is cured within 60 days after the determination; if so, then PUCO must issue an order relieving the ESCO from liability.
- Provides for forfeiture recovery by the Attorney General, that forfeitures are cumulative and recovery for one does not bar recovery for another, and that forfeitures collected must be credited to the General Revenue Fund.

DETAILED ANALYSIS

Discussion

Electric submetering companies

The bill provides that electric submetering companies (ESCOs) are not a public utility for purposes of Ohio's Public Utility law. Under the bill, an ESCO is a person, business, or other entity that, either on its own behalf or under a contract with a property owner, provides, constructs, or installs facilities for the resale of electricity to a tenant's dwelling unit by a landlord or the landlord's agent that is based on metered consumption at a point after services provided by an electric light company (ELC) that is a public utility are delivered to the ESCO's metered points of delivery at the customers' location.

Under current law, unchanged by the bill, a "dwelling unit" is a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. A "landlord" means the owner, lessor, or sublessor of residential premises (which are, generally, dwelling units), the agent of the owner, lessor or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement. A "tenant" is a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others. An "ELC" is a company that supplies electricity for light, heat, or power to consumers in Ohio, including supplying electric transmission service for such

consumers, but excludes a regional transmission organization approved by the federal energy regulatory commission (which, for Ohio, is PJM Interconnection).¹

PIPP eligibility

The bill requires rules adopted by the Director of Development to extend eligibility for the Percentage of Income Payment Plan (PIPP) Program to an ESCO's residential customers who meet other generally applicable customer eligibility criteria.²

Note that since the bill's introduction the PIPP provisions in current law have changed. H.B. 96 of the 136th General Assembly transferred administration of the PIPP Program from the Department of Development to the Department of Job and Family Services. An amendment will be needed to address this update.

ESCO regulations

Tenant charges

The bill prohibits an ESCO from charging a tenant more than the bill for the standard service offer and all riders that the ELC, in whose certified territory the tenant's dwelling unit is located, would charge its residential customers for electric service.³

PUCO requirements

The bill requires an ESCO to do the following:

- Register with the Public Utilities Commission (PUCO) every two years and comply with rules adopted by PUCO regarding ESCOs that are required by the bill to be adopted (explained in detail below);
- At minimum, comply with the requirements for the disconnection of electric service established in continuing law, unchanged by the bill, and rules adopted pursuant to those provisions, as applicable;⁴
- Provide a separate disclosure and a report of pricing to its tenants solely for purposes of compliance with the pricing requirements for resale of electricity under the bill's provisions (see "**Tenant charges**" above).
- Disclose its process and procedures for the disconnection of electric service.⁵

¹ R.C. 4905.02(A)(6) and (C); R.C. 4905.03 and 5321.01, not in the bill.

² R.C. 4928.53(B)(3). The bill's provision uses the term "percentage of income plan program." A technical amendment can correct the omission of "payment."

³ R.C. 4933.51 and 4933.52.

⁴ R.C. 4933.121 and 4933.123, not in the bill.

⁵ R.C. 4933.53.

PUCO Rules

The bill requires PUCO to adopt rules to implement the requirements stated directly above. The rules must also require the ESCO to disclose: its name, business address, telephone number, regulatory contact, and other disclosure requirements as prescribed by PUCO.

The bill specifies that rules adopted under the bill's provisions, including requirements regarding classifications, procedures, terms, and conditions, must be reasonable and cannot confer any undue economic, competitive, or market advantage or preference upon any ELC, ESCO, or competitive retail electric service (CRES) provider.⁶

Registration fee

The bill allows PUCO to charge ESCOs a registration processing fee of not more than \$200 per biennial registration. The bill further provides that no ESCO shall operate in Ohio without first being registered with PUCO.⁷

Regulatory restriction reduction exemption

All rules required to be adopted by PUCO under the bill's provisions are exempted from the regulatory restriction limitation in existing law.⁸

ESCO complaints

The bill allows any person, firm, or corporation, or PUCO upon its own initiative, to file a written complaint against any ESCO for a failure to comply with, or violation of, any of the bill's requirements. The bill further requires PUCO, if it appears that reasonable grounds for the complaint exist, to provide notice of probable noncompliance to the ESCO and grant the ESCO 60 days to cure the noncompliance. If the noncompliance is not cured during the 60-day cure period, PUCO may open an investigation into the ESCO's compliance with the bill's requirements.

The bill provides that parties to a complaint investigation are entitled to be heard, represented by counsel, and to have a process to enforce witness attendance.⁹

Forfeitures

The bill provides that an ESCO that PUCO determines (after reasonable notice and a hearing and by a preponderance of the evidence) has violated or failed to comply with the bill's requirements, is liable to the state for a forfeiture of not more than \$200 for each violation or compliance failure, unless the violation/failure is cured within 60 days after the date of the determination. Should the violation/failure be cured within that 60-day period, the bill requires PUCO to issue an order relieving the ESCO from that liability.

⁶ R.C. 4933.54(A) and (B).

⁷ R.C. 4933.54(C) and 4933.55.

⁸ R.C. 4933.54(D); R.C. 121.95 to 121.953, not in the bill.

⁹ R.C. 4933.57.

The bill requires forfeitures to be recovered by action prosecuted in the name of the state and may be brought in the court of common pleas of any county in which the ESCO who committed the violation/failure is located. The bill directs the Attorney General to be the one to commence and prosecute the action at PUCO's direction.

Lastly, the bill specifies that all forfeitures are cumulative, and an action for recovery of one does not bar the recovery of another. Forfeitures for violations/failures must be credited to the General Revenue Fund.¹⁰

HISTORY

Action	Date
Introduced	10-21-25

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¹⁰ R.C. 4933.58.