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Written Proponent Testimony – House Bill 317

Kevin Schmidt, Executive Director
The Energy Professionals of Ohio

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Chairman Hoops, Vice Chair Ray, Ranking Member Smith, and members of the committee thank you for the opportunity to submit testimony on HB 317. My name is Kevin Schmidt and I serve as the Executive Director of the Energy Professionals of Ohio. The EPO thanks you for the opportunity to provide proponent testimony today for House Bill 317, legislation that would replace Ohio's Electric Security Plan with the Competitive Power Plan as the method for setting electricity prices for those customers in Ohio who do not shop for power.

The EPO was founded in 2014 and represents companies who assist customers with the procurement of energy, both electricity and natural gas. These contracts can be extremely challenging to understand, and customers no longer look for just the lowest price. The market has evolved to the point that energy management services including how a customer uses energy, energy efficiency, renewable energy, among other items that are necessary in any successful energy management strategy. Because energy has become so complex, nearly two-thirds of all the energy purchased in Ohio goes through brokers to ensure contracts and risk management is tailored to each individual customer.

Competitive Power Plan (Section 4928.143 starting on line 563) – The EPO supports HB 317 as the Competitive Power Plan significantly reduces the number of riders that a distribution utility can layer onto customers' bills. The EPO testified back in March of 2020 before the Senate Energy and Public Utilities Committee regarding the harm that these questionable riders are inflicting on Ohio's customers. In that testimony the EPO showed that the ESP evolved from a safety valve intended to protect customers from "rate shock" into an ever-increasing mechanism for giveaways and single issue rate making that increased customers' bills unnecessarily. The EPO showed that non-bypassable riders supported by intervening parties and approved by the PUCO offset the decreases market forces delivered on the commodity side of customers' bills. Our members worked overtime helping customers save on their kilowatt hours so their bill's would remain stable. But for the free market working as intended, customers would have seen dramatic total bill increases due to the abuse of these riders. HB 317 gets rid of this corrupted process in favor of a much simpler Competitive Power Plan.

The EPO does have suggestions regarding the CPP – The bill currently allows a handful of distribution related riders to sneak into these plans that are supposed to set generation prices. These provisions should be stripped from the bill. Distribution utilities have the ability, and

under HB 317, the requirement, to file distribution rate cases. It was the allowance of distribution riders in generation cases that led to the corruption we have seen robbing customers of saving afforded to them by the free market. Distribution cases should be for distribution issues and generation cases (the Competitive Power Plan) should be exclusively for generation related issues.

Keko Decision (lines 32 – 49) - The EPO is also supportive of the incremental improvement to the *Keko* decision handed down in 1957 emptying the pockets of customers since. That Ohio Supreme Court decision allows utilities to keep the money collected by riders that are later found to be unlawful. HB 317 would allow customers to be refunded the dollars collected after a rate is determined to be unlawful by the court but before the PUCO can approve a new tariff. The EPO is pleased to see movement in favor of customers; however, the EPO suggests that once a rate or tariff is challenged and certified by the Court for a review and order, those rates should either be paused, or collected and held separate should a refund order be the result.

Small Commercial Customer Definition (lines 477 – 492) - HB 317 also provides, for the first time every, a clear definition of small commercial customer in Ohio law. Right now, this definition changes by utility rate schedule. This leads to confusion in the marketplace because the PUCO had appropriately codified in rule disclosure and consumer protection provisions that contracts for residential and small commercial customers must contain. I have been personally contacted several times by EPO members who review a contract from a supplier that may not contain these provisions. This typically stems from suppliers having standard contracts for deals which are drafted for statewide use. This small change will ensure that the consumer protections afforded residential and small commercial customers are protected and do not affect the freedom of larger and more sophisticated actors from assigning risk differently in their own contracts.

Significantly Excessive Earnings Test (lines 892 – 963) - HB 317 simplifies the “significantly excessive earnings test” (SEET) to a clear 250 basis points above the return on common equity most recently authorized by the Commission. This replaces the current SEET that was intended to ensure utilities earned enough to attract investment, but not so much that it exceeded industry expectations, which is roughly 10% - 12%. The current SEET allows for results as high as 19%, which I can tell you was not its intention.

Registration Suggestion – Finally, the EPO suggests one addition to the legislation – a simple registration requirement for any subcontractor hired by third party vendor who is paid to solicit business via door-to-door or telemarketing. These solicitors are not currently required to be licensed and certified by the PUCO, as they sell under the license of the hiring third party.

By simply requiring any individual from a marketing entity to register their full name, contact information, and the company they are working for or on behalf of would help ensure accountability is being place at the right level in those instances where “slamming” occurs and would help the PUCO’s enforcement division to find and punish people who are undermining the free market by willfully or recklessly breaking the law.

Thank you for allowing me to testify today regarding the EPO’s support for HB 317. I’m happy to take any questions the committee may have.