



State Senator Mark Romanchuk
Substitute Senate Bill 10 Sponsor Testimony
Ohio House Public Utilities Committee
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Chairman Hoops, Vice Chair Ray, Ranking Member Smith and members of the committee, thank you for giving me the opportunity to testify on Sub SB 10. Sub SB 10 seeks to repeal the decoupling mechanism passed in HB 6-133 and to repeal changes made in the biennial budget HB 166-133 pertaining to the Significantly Excessive Earnings Test (SEET). Both of these provisions are harmful to electric consumers and our economy.

SB 10 Repeals the Decoupling Provision Passed in HB 6 and Requires Refunds to Consumers

As part of HB 6-133 passed in July of 2019, a revenue decoupling mechanism was created which has only benefited the three operating companies of one Ohio utility. Traditional decoupling mechanisms are intended to offset lost distribution revenue due to mandated energy efficiency requirements. Once a decoupling mechanism is implemented, charges are levied in the form of a “rider” on ratepayer bills. According to LSC, decoupling mechanism proceedings first started at the PUCO after the passage of SB 221-127 which created energy efficiency requirements. The purpose of the mechanism was to allow the utility to recover lost distribution revenue due to the implementation of energy efficiency programs, and to create an incentive for the utility to pursue such programs. Since mandatory energy efficiency requirements were eliminated by HB 6, the need for decoupling mechanisms no longer exists.

Until the passage of HB 6, decoupling mechanisms were created by the PUCO, not the legislature. In the past, when the PUCO created decoupling mechanisms, factors such as weather and economic conditions were factored into the rider calculations so the utility would not “over-recover” revenue lost as a result of factors other than the energy efficiency programs. Neither weather nor economic conditions were included in the HB 6 language for use in calculating the decoupling mechanism rider created by HB 6. Also, 2018 was chosen as the base year to calculate the HB 6 decoupling rider. Coincidentally or not, 2018 represented the highest distribution sales in the last ten years for said utility.

In 2018, the utility received \$978 million in distribution revenue. Since 2018 was chosen as the base year to calculate the HB 6 decoupling rider, the utility will receive \$978 million annually in distribution revenue regardless of consumer usage (demand) for the foreseeable future. This

transfers the risk of weather and economic conditions to the ratepayers. The nation (and Ohio) is currently experiencing an economic slowdown caused by the pandemic. Because the decoupling rider did not account for lower consumption due to economic conditions, the utility will continue to receive \$978 million in distribution revenue at a time when businesses are shut down and families are struggling to make ends meet. But that is not all. The decoupling mechanism rider created by HB 6 ensures the utility an additional \$66 million per year above and beyond the 2018 base year and revenue level. This \$66 million was previously collected through an energy efficiency rider for the mandated efficiency programs, but HB 6 authorized the collection of the revenue through the decoupling rider with the termination of the energy efficiency rider. Thus, the \$66 million per year is additional unearned revenue adding to the utility's bottom line. Despite these economic conditions and in order to ensure that the utility receives 2018 revenue, the utility's HB 6 decoupling rider increased by \$85 million in one year, reaching \$102 million in charges to Ohioans, beginning January 1, 2021.

The utility's former CEO was quoted as saying the HB 6 decoupling language "essentially it takes about one-third of our company and I think makes it somewhat recession-proof." It's not the legislature's job, especially at the expense of Ohioans, to make utilities "recession-proof."

SB 10 Repeals the HB 166-Passed Changes to the Significantly Excessive Earnings Test (SEET) and Requires Refunds to Customers

Utilities are considered monopolies. Since a monopoly lacks consumer choice, the state protects consumers by regulating its activities. This is necessary to ensure fair consumer pricing, reasonable utility profits, and appropriate service levels.

As an attempt to regulate profits, so called consumer protection language was passed in SB 221-127 guarding against any one utility earning *significantly* excessive earnings. Odd as it may seem, the utility monopoly under this language, may earn "excessive" profits but not "significantly excessive" profits. Through various SEET proceedings, the PUCO has determined that utility profits are considered significantly excessive when they exceed a threshold percentage, which the PUCO has previously established to be around 17% or higher. When compared to other industries, 17% or more is extremely generous. When compared to other utility companies that average 9.7%, the picture painted is even worse. If the PUCO determines a utility profit exceeds the threshold that it establishes (which has been around 17%), they are ordered to refund money back to consumers.

Up until the passage of HB 166, all utilities were subject to this test individually. In HB 166, however, three operating companies, Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison, were no longer subject to this test individually but could calculate their profits as a group. By allowing them to calculate profits as a group, if one company had high profits that exceed the established threshold, that company could shield those high profits by averaging them

with less profitable utility companies. This would prevent one company from being required to return the significantly excessive profits to the ratepayers.

Again, coincidentally or not, at the time this provision was added to HB 166, the utility was part of a case at the PUCO that would determine how a distribution modernization rider would be used to calculate a utility's profits. If the PUCO ruled that the rider revenue had to be included in the utility profit calculation under the SEET, a utility would be at risk of exceeding the SEET threshold and would be required to refund significantly excessive profits to customers. If the PUCO ruled that the distribution modernization rider revenue would not be included in the SEET calculation and the profits stayed below the SEET threshold, a refund would not be required. The Supreme Court of Ohio later ruled that the revenue collected by the distribution modernization rider shall be included in the SEET calculation to determine whether a utility had significantly excessive profits.

Unfortunately for the very profitable operating company, Ohio Edison, which serves 1.1 million Ohio customers, the Supreme Court ruling meant that the additional revenue collected by the rider had to be used to calculate its profits to determine whether the company significantly excessively earned. Before the language change in HB 166, the ruling would have caused the SEET calculation for Ohio Edison to possibly exceed the threshold and result in significantly excessive profits which Ohio Edison would have had to return to customers. After the change to the SEET language in HB 166, Ohio Edison's profits are now calculated collectively with the other two less profitable operating companies, thus diluting their profits and keeping the aggregate profit level below the typical SEET threshold of around 17%.

The Decoupling Provision and Changes to SEET Did Not Have Any Policy Value

The decoupling provision and SEET changes did not in any way improve our electric system or the lives of Ohioans. It did not improve our reliability, it did not lower costs for consumers, it did not upgrade our grid to make it more resilient to cyber or weather events, it did not contribute to less pollution, and it did not advance our economy. These policy changes were simply designed to financially benefit a single company at the expense of Ohioans. I urge immediate passage of Sub SB 10.

Mr. Chairman, thank you for the opportunity to testify, and I would be happy to answer any questions.