



House Public Utilities Committee
Substitute House Bill 317
November 15, 2022

Chairman Hoops and members of the House Public Utilities Committee, thank you for another opportunity to provide written proponent testimony on Substitute House Bill 317 (Sub. HB 317).

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, customer-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 continues to support Sub. HB 317 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 a \$150,000 surety bond in order for a company to be certified as a Competitive Retail Electric Supplier (CRES) and/or a Competitive Retail Natural Gas Supplier (CRNGS) are pro-consumer and will serve as an effective barrier to market entry by unethical companies seeking to use predatory tactics in Ohio. Furthermore, language requiring CRES and CRNGS to provide consumers with multiple notifications within a 30–90-day window alerting them of an upcoming contract expiration and/or a pending conversion from a fixed rate 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 customer" into Ohio law. Doing so will ensure that companies who fall into that category will be afforded the same consumer protections that residential customers have long enjoyed. The bill also includes a provision requiring the Public Utilities Commission of Ohio (PUCO) to ensure that any direct or indirect costs allocated to procurement of the Standard Service Offer price are not recovered twice from distribution consumers. Lastly, prohibiting an Electric Distribution Utility (EDU) 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.

Several pro-market provisions are included in Sub. HB 317 as well. Namely, prohibiting EDUs from owning or operating an electric generating facility, other than a “legacy generation resource,” a mercantile customer-sited renewable energy resource, or an energy storage system that is used for distribution reliability. 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 SSOPP 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 and that provides a perverse incentive for EDUs to not file a distribution rate case.

The prior substitute bill includes a fair, pro-competition provision prohibiting EDUs from bidding energy into the wholesale market from any electric energy storage system that was approved for distribution service. However, the new substitute bill added the caveat *“unless all revenues derived from such participation, net from any associated system costs, are solely applied to reduce the overall costs of the system to customers.”* This explicitly opens a backdoor way for the EDUs to bid distribution assets subsidized by their distribution customers into the wholesale energy market against nonsubsidized generation assets. The EDUs are not permitted by law to do this currently so this additional language effectively invalidates the spirit and the intent of the original provision. We would strongly urge this new language be removed in full so as to return to the original provision and preserve its practical effect.

RESA appreciates the ongoing efforts of the bill sponsor, interested parties, and the Committee and stands ready to continue to help further improve this important legislation. Thank you again for the opportunity to submit written proponent testimony on Sub. HB 317 and please do not hesitate to contact us if there are any questions or if you would like further information.