



Talks Continue on Bills Eliminating Electric Security Plans, Authorizing Community Solar

June 6, 2022

Heading into last week, a pair of bills facing stiff opposition from utilities appeared on the cusp of advancing from the House Public Utilities Committee.

That is until Chair Rep. James Hoops (R-Napoleon) canceled the planned hearings to buy sponsors and stakeholders more time for behind-the-scenes talks.

"The bills weren't ready yet and I just felt people are still talking about it," Rep. Hoops said in an interview.

Despite ongoing discussions "it just felt it wasn't productive" to hold committee hearings on the two bills, he said. "But we'll be meeting over the summer to see if we can bring people together."

Both bills were marked for possible amendments and a vote, but are now among issues pushed back to the House's expected return for lame duck sometime after the November general election.

Among the bills is a long-in-the-works reshaping of utility rate law (HB 317) – a plan from Rep. Shane Wilkin (R-Hillsboro) that has drawn opposition from utilities for its approach to abolish Electric Security Plans.

Since its first hearing one year ago, the bill has been through three substitute versions and would currently replace ESPs with a new "Alternative Regulation Plan" lasting between two and five years.

The goal in part is to require utilities to file more frequent rate cases – one at least every five years – and to cap the annual growth of distribution riders at 3% of a utility's prior annual total distribution revenue or at the inflation rate.

But utilities pushed back on the measure, arguing the bill could drive up prices and impair their ability to shoulder unanticipated cost increases from federal regulators.

Given that pushback, Rep. Wilkin said he is "trying to work through a couple of issues."

"Of course, my version would be if I were the utilities, I probably wouldn't want to change anything either," he said.

An interested party meeting is planned for later this month.

"We're not going to let it just sit," he said.

The Ohio Consumers' Counsel has also opposed the bill and repeatedly pushed for stronger customer protection provisions.

In prepared testimony the counsel's office had expected to present at this week's hearing, Jeff Jacobson reiterated the agency's opposition, arguing that "consumer protections continue to be outweighed by consumer risks in HB 317."

"The support of stakeholders for the bill can be at least partly understood by what policy, precedent or law will be overruled to their benefit in the bill," he added.

He also criticized a draft amendment he said would enable utilities to charge their consumers more subsidies.

The proposed change, which has yet to be formally unveiled, would undermine statutory requirements prohibiting the charging of consumers for any investment not "used and useful" to customers, he said.

By declaring future transmission plants fit that category, "the amendment would overrule years of precedent and law," Mr. Jacobson wrote.

"The utilities would get to charge consumers for the cost of these projects before a single megawatt is transmitted over the lines – maybe years before a single megawatt is transmitted," Mr. Jacobson added.

The OCC instead is more favorable to a pair of amendments prepared by Rep. Daniel Troy (D-Willowick). Those too have yet to be offered in committee.

One, Rep. Troy said, would ensure any customer charges the Ohio Supreme Court rules unlawful are refunded back to the date they were first charged.

"The way it's worded now just they did have to be refunded back from the date of the decision, which means if the decision's six months later they'd make a little bit of extra profit there they shouldn't have gotten," Rep. Troy said.

His other would require the Public Utilities Commission of Ohio to act on rehearing decisions within 90 days instead of the 150 days currently outlined in the bill.

The other legislation (HB 450) that remains paused in committee is a plan to legalize development of community solar projects authored by Rep. Brian Baldrige (R-Winchester) and Rep. Laura Lanese (R-Grove City).

Over five hearings the bill has received broad support from witnesses, but its most recent hearing saw its first opposition via AEP Ohio which argued the bill would increase charges for nonparticipating customers to benefit "out of state developers and trade associations that do not care about Ohio's benefit."

Rep. Baldrige attributed the delay to lawmakers needed more time to vet information provided by the companies.

"Utilities were very busy on both those bills and I think it put some questions in members and fired up a little longer discussion members in the caucus are going to have to have," Rep. Baldrige said.

Rep. Troy said Chair Hoops indicated "both bills need a lot of work."

"I'm surprised the community solar bill needs a lot of work," Rep. Troy said. "I'm just wondering if at the last, at the end the typical huge claw of the utilities is basically slowing this down."

House Speaker Bob Cupp (R-Lima) has said his chamber is unlikely to return before November, but Rep. Hoops said talks will continue in search of a resolution heading toward lame duck session.

"It's just a matter of just bringing so people understand the positions and kind of take a step back and try to work something out," he said.

This June 6, 2022 news story is reprinted with permission of Gongwer.