Before
The Ohio Senate
Energy and Natural Resources Committee
Testimony on Substitute Senate Bill 320
(Renewable Energy, Energy Efficiency and Peak Demand Reduction Standards)

By
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Hello Chair Balderson, Vice Chair Jones, Ranking Minority Member Gentile, and members of the Committee. I am Bruce Weston, the Ohio Consumers' Counsel. Thank you for inviting stakeholder testimony on these issues involving the energy mandates that affect millions of Ohio electric customers. My testimony is regarding the "dash-5" version of the bill.

The Consumers' Counsel supports reinstating energy standards at reasonable levels. Our agency vision is for Ohioans to have "affordable, quality utility services with options to control and customize their utility usage." Energy efficiency and reducing peak demand for electricity can help meet our vision for Ohioans. These measures ("negawatts") are cheaper per kwh saved than energy supplied (megawatts). And energy efficiency can benefit both those participating in the programs and those who pay for the programs but do not participate. All customers benefit because efficiency can be used to reduce the need for power generation. This can save all consumers from paying some costs of capacity (power plants) in the market. These benefits provide a reason for supporting energy standards at a reasonable level.

The value proposition for consumers can become challenged, however, in the absence of consumer protections. Those protections relate to, among other things, what consumers ultimately pay on their electric bills. Here are my recommendations for consumer protections regarding the energy standards.

First, there should be a limit on the profits that electric utilities can charge Ohio consumers. In this regard, there should be a limit on the measures that qualify for shared savings or other utility incentives. Senate Bill 310 included limits on these charges to consumers in a couple places [Revised Code Sections 4928.66(A)(2)(d)(ii) and 4928.662(E)]. Similar language should be used to protect consumers from various other potential charges related to shared savings (profits). An expanded list of what counts for energy efficiency savings should not translate to more utility profit charged on consumers' electric bills. The General Assembly should preclude utilities from charging consumers for shared savings that are not the direct result of utility programs or that are unrelated to electricity sales. Thank you for adding language that heat rate improvements and other efficiency and energy intensity improvements (lines 1562-1573) do not qualify for shared savings (lines 1574-1576).

The Bill should be amended to disallow the following measures (lines 1550-1559) from qualifying for utilities to charge consumers for profit. Those measures are reductions in water usage or reductions and improvements in wastewater treatment and nonelectric energy efficiency savings or nonelectric peak demand reductions.

Additionally, utilities should be precluded from charging consumers for profit related to two other items that are not addressed in the bill. One of those items is energy efficiency savings and peak demand reductions achieved by customers on their own without utility-administered programs. Utilities should not be allowed to charge consumers for profit where the decrease in electricity usage results from something that happened without the involvement of the distribution utility. It is inappropriate to allow utilities to charge higher electric bills to consumers for economic decisions and spending that consumers made on their own. If consumers spend their own money on energy efficiency, they shouldn't be made to pay something like a tax on that to the utilities. The other item where consumers should not be charged for shared savings is energy efficiency savings and peak demand reductions not achieved in the year for which the associated cost recovery from customers is being requested. For example, utilities should not be permitted to use banked savings from one year in any way that would increase shared savings (profits) charged to consumers in a later year.

Second, in connection with legislation allowing non-residential opt outs, please add language in the statute to protect residential consumers. Consumers should be protected, by law, from paying charges for any costs associated with non-residential customers who are opting out of the energy efficiency programs. Separately, consumers should be protected from any utility proposals to re-allocate costs of energy efficiency from non-residential consumers to residential consumers.

For example, in AEP's current energy efficiency case we calculate that its application would allocate at least $75 million in charges for non-residential customers to residential customers. This AEP proposal, and other utility proposals for charges to consumers, are prompting our consideration that residential consumers should be allowed to opt out of energy efficiency programs, like mercantile customers. One way to enable a residential opt out is to give the Consumers' Counsel the authority to opt out all residential consumers of an electric utility.

Third, consumers should be protected in the regulatory process by prohibiting consideration of renewables and energy efficiency in cases other than those specifically intended for implementing the energy standards. For example, AEP recently sought support to charge consumers billions of dollars, in our projection, for a power purchase agreement by offering in a settlement to build 900 megawatts of renewable energy to be paid by its captive distribution customers. FirstEnergy's proposal for its own power purchase agreement, at a cost we projected to be billions of dollars for consumers, included a settlement term to charge consumers much more for energy efficiency and for profit on energy efficiency (which the PUCO mainly denied). Those proposals were presented despite the cases having nothing to do with energy mandates.

Fourth, there should be a cap on what consumers can be made to pay for energy efficiency program costs. Charges for shared savings and so-called "lost distribution revenues" should also be subject to the cap.

Fifth, to limit costs to consumers, the utilities should be required to use competitive bidding when retaining providers or vendors for implementing their energy efficiency programs. A PUCO Staff witness recently recommended competitive bidding for some of FirstEnergy's energy efficiency programs.

In support of the above consumer protections, I note that the Consumers' Counsel Governing Board, in its January 2016 report entitled "Everyone Is Unhappy," wrote that "Ohio's 2008 energy law (Senate Bill 221) has ratemaking terms that favor electric utilities and disfavor Ohio consumers, resulting in higher electric rates." According to the U.S. Energy Information Administration, Ohioans pay higher electric rates than consumers in more than 30 other states. And approximately 15.9 percent of Ohioans live in poverty. At a Columbus Metropolitan Club panel earlier this year, Consumers' Counsel Board Chair Gene Krebs commented that "Bob and Betty Buckeye are not happy," when a consumer asked why his electric bill is going up. Chair Krebs further noted his concern about whether the government will respond adequately to consumers' electric bill worries.

These consumer concerns are heightened by recent information that Dayton Power and Light may be seeking a change in the law, possibly for adding to this Bill, to allow for shoring up its finances by charging consumers. (Please see the attached Dayton Daily News story, dated November 15, 2016.) Such a change in the law should be rejected. Consumers should be protected from subsidizing DP&L and/or its unregulated affiliated companies. Since the inception of electric competition in Ohio, DP&L and other electric utilities have already charged Ohioans a lot of money—too much money—in subsidies. Please see the attached subsidy scorecard showing these subsidies. Also, note that Ohio Revised Code section 4909.16 already contains a statute allowing the PUCO to consider both utility and consumer requests for assistance in financial emergencies. If such a change in the law is to be considered by the legislature, it should be done in a stand-alone bill with a full public hearing process and not rushed in this limited post-election session.

Additionally, a group of weatherization providers is seeking an amendment to the Bill to limit the discretion of the Ohio Development Services Agency (ODSA) in spending federal funds for low-income energy assistance. Presently, ODSA may use its judgment for spending federal Home Energy Assistance Program (HEAP) funds. ODSA can devote all the funds to assisting low-income Ohioans with utility bill payments or it can provide up to 25% of the funds for low-income weatherization. The weatherization group's proposed change would require spending 25% of the federal funds on weatherization each year, no matter how cold the winters, how hot the summers or how high the electric bills of low-income Ohioans. This proposal to require using 25% of the funds for weatherization would reduce the bill payment assistance received by a great many more customers than would be reached by weatherization, because weatherization is much more costly per household than bill payment assistance. For consumer protection, this proposal should be rejected and the law should remain unchanged. ODSA should be allowed to continue making its judgment for assisting Ohioans in need. It should retain the discretion to consider the consumer-related factors it finds appropriate, which could include changes in energy costs and utility bills, poverty levels, and projected winter weather. If the General Assembly wants to take up this issue, it should be addressed in a bill with a full hearing process, not rushed in the post-election session.

That concludes my testimony. Thank you again for the opportunity to make recommendations on behalf of Ohio consumers.

DP&L pushes law that would let state raise rates

Thomas Gnau - Staff Writer
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Dayton Power and Light is lobbying state legislators to amend existing law that would allow the Public Utilities Commission of Ohio to raise electric rates if a utility's financial integrity is at stake.

If passed, the PUCO could raise or modify rates "if the (PUCO) finds that the utility's financial integrity is threatened and the modification is necessary to preserve the utility's financial integrity," according to a copy of the proposed amendment obtained by the Dayton Daily News.

Rep. Niraj Antani, R-Miami Twp. said Tuesday that DP&L representatives have approached legislators, asking them to consider the language.

DP&L would like to have this amendment added in the coming weeks of the Ohio General Assembly, which is a post-election "lame duck session," Antani said.

RELATED: Citing 'financial threats,' DP&L seeks new charges.

Antani said consumers do not want rates to go up, but at the same time, "We have to keep the lights on."

"Their financial integrity truly is at stake," Antani said of DP&L.

A DP&L spokeswoman confirmed that the company is pursuing such an amendment.

"It's just one of those tools that the PUCO has when they address ESP (electric security plan) cases," said DP&L spokeswoman Mary Ann Kabel. "As you know, the PUCO has a very, very rigorous process. It would have to pass the scrutiny of the PUCO, the (case) intervenors, the hearing process. There are a lot of checks and balances along the way."

Ryan Augsburger, vice president and managing director, public policy services, for the Ohio Manufacturers' Association, said such legislative language would "effectively (insure) utility companies from business risk with customer dollars."

"Ratepayers should not be the unwilling guarantor of a utility's every business decision," said Todd Snitchler, a former PUCO chairman and a principal for Vorys Advisors, a subsidiary of a Columbus law firm.

RELATED: Manufacturers group wary of DP&L charges.

In June, the Ohio Supreme Court reversed a PUCO decision that allowed DP&L to charge customers extra in its own "electric security plan."

"I think that the Supreme Court really overreached here," Antani said. "I think that PUCO should be able to set reasonable rates."

"Look, I don't want to see anybody's electric rates go up," he added. "That's not what I want. But that said, we have to be able to keep DP&L, their financial integrity, solid."

The Ohio Supreme Court's ruling saved local consumers $80 million they would have paid the utility this year, the Ohio Consumers' Counsel said in June.

In recent weeks, DP&L has applied to the PUCO for a new "distribution and modernization" rider — or additional charge — to customers' bills, citing "significant threats to its financial integrity."

A message seeking comment was left with the office of State Sen. Bill Seitz, R-Cincinnati, chairman of the Senate Public Utilities Committee.

Matt Schilling, a spokesman for PUCO, said PUCO is aware of DP&L's efforts, but the commission does not comment on pending legislation.

Some electric utilities are facing a challenging time. Natural gas has been less expensive than coal in recent years, making coal-fired power generation facilities more expensive to operate. Many coal plants are older, which can make them less efficient.

Wallace Tyner, professor of agricultural economics at Purdue University, said coal is also more expensive under the federal government's Clean Power Plan, which the Obama administration has proposed but has been held up in courts.

"That plan requires utilities to reduce substantially the use of coal," Tyner said. "You can't meet the emission requirements with coal."

Coal has recently gone down in cost compared to natural gas, Tyner said. But coal still has "huge environmental issues," Tyner said.

Building a new coal-powered plant today would be "problematic for a number of reasons," he said.

"Utilities are switching out," Tyner said. "Today, there are hardly any new coal plants coming on because the capital costs are so high."

DP&L co-owns with other utilities five plants that are coal-fired. About two-third of its power generation is coal-fired and a third is natural gas-generated, DP&L President and Chief Executive Tom Raga told the Dayton Daily News in February.

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