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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

H.B. 798*
133rd General Assembly

Bill Analysis

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Version: As Reported by House Select Committee on Energy Policy and Oversight

Primary Sponsor: Rep. Hoops

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SUMMARY

Nuclear resource and renewable resource credit program

- Modifies H.B. 6 of the 133rd General Assembly as follows:
 - Delays, for one year, the seven-year period for the collection of charges from customers for the Nuclear Generation Fund and Renewable Generation Fund and the seven-year period for distribution of payments for nuclear resource and renewable energy credits.
 - Specifies that payments for nuclear resource credits and renewable resource credits be based on the credit price multiplied by the credits earned by the resource during the quarter that ended 24 months (instead of 12 months) prior to the last day of the previous quarter.
 - Requires the Ohio Air Quality Development Authority (Authority), in consultation with the Public Utilities Commission (PUCO), to deposit funds collected into the Nuclear Generation Fund and Renewable Generation Fund and direct their distribution by the Treasurer of State.
 - Requires an owner or operator of a nuclear resource to file an annual notice (by December 31 each year starting with 2021 and ending with 2027) with the Authority if it intends to participate in the nuclear resource credit payment program in the next calendar year.

* This analysis was prepared before the report of the House Select Committee on Energy Policy and Oversight appeared in the House Journal. Note that the legislative history may be incomplete.

- Specifies that if an owner or operator fails to file a notice, the owner or operator is ineligible to receive nuclear resource credits or payments for the calendar year following the notice deadline.
- Adds the condition that unless the Authority in consultation with PUCO finds otherwise, financial and proprietary information, including trade secrets, submitted to the Authority is confidential information and not a public record.
- Beginning July 1, 2021 through June 30, 2029, allows the Authority, subject to the Controlling Board's approval, to use up to \$300,000 per fiscal year from the Nuclear Generation Fund and Renewable Generation Fund (\$150,000 limit per fund) to pay for annual administrative costs for the credit programs, including for costs incurred in fiscal years 2020 and 2021.
- At any time in 2021, as determined by the Authority and PUCO, requires the refund to customers of the amounts in the funds from nuclear and renewable resource charges collected from electric customers during the period of January 1, 2021 and the bill's effective date, minus expenses for the annual management and financial audit and Authority administrative costs.
- Requires, during 2022 to 2028, the refunding of excess money from the Nuclear Generation Fund and Renewable Generation Fund to customers to occur annually after the annual audit is completed.
- Changes the annual retrospective management and financial review to an audit and requires the audit to be completed by the first of July each year (instead of conducted by the first of May, as required for the review).
- Requires the audit to include a financial need assessment and any recommendations.
- Extends the audits to 2028 (current law has the last review in 2027).
- Requires PUCO to retain knowledgeable and experienced independent consultants and auditors, complying with accepted accounting principles and appropriate accounting standards, to perform the annual audits and make audit reports.
- Requires owners or operators subject to annual audit to provide any information requested by PUCO or its consultants or auditors.
- Specifies that the audit information provided must be certified as accurate by the owner's or operator's chief financial officer and that failure to provide accurate information must result in suspension of further receipt of nuclear resource payments.
- Requires the report of audit findings and recommendations for each annual audit that PUCO submits to the Speaker of the House, Senate President, House and Senate Minority Leaders, and the Authority to include an itemization of expenses determined as not reasonable and prudent that includes the description and value of each expense and when it was incurred.

- Requires a representative of the consultants and auditors selected by PUCO to conduct the audit each year to (1) appear in person before the House and Senate committees with responsibility for utility legislation and (2) present, in consultation with the Authority and PUCO, the report and audit findings and recommendations.
- Requires the Authority to reduce or cease payments, based on the findings, recommendations, and audit, if certain criteria apply to a utility following the annual audit.
- Specifies that the Authority must determine if the following, as part of that certain criteria, apply to require cessation or reduction of credit payments:
 - ❖ That the federal government of PJM Interconnection, L.L.C. (PJM), or its successor, has established a monetary benefit or other financial support program to continue commercial operation;
 - ❖ That the owner applies, before May 1, 2028, to decommission the resource or takes any other action to cease commercial operation;
 - ❖ That to ensure that credit payments help to maintain a nuclear resource's economic viability at the lowest cost to consumers and is limited to a net of not more than zero, by considering all revenue and only reasonable and prudent expenses, whether directly incurred or charged from affiliates.
- Specifies that "reasonable and prudent expenses" must be in accordance with generally accepted accounting principles.
- Excludes from a reasonable and prudent expense: lobbying costs, political or charitable donations, share buybacks, management bonuses and incentive compensation, allocation of corporate overhead in excess of reasonable amounts, costs related to other facilities or businesses, and certain interest expenses or preferred dividends.
- Requires the Authority to accept, review, and approve an application from a qualifying renewable resource if the resource submitted an application for credits before March 1, 2020 and exempts that resource, if approved for credits, from the April 7, 2020 quarterly report deadline.

Legacy generation resource divestment

- Requires, beginning no later than 2022 and ending after 2030, an electric distribution utility (EDU) with an ownership interest in a legacy generation resource to make a good faith effort to divest from the resource.

Decoupling mechanism

- Terminates, 30 days after the bill's effective date, any decoupling mechanism approved by PUCO in accordance with law enacted by H.B. 6, except for final reconciliation purposes.

Power Siting Board report

- Requires the Power Siting Board (PSB) to submit a report to the General Assembly detailing whether certain investments in power transmission systems are cost effective and in the interest of consumers.
- Permits the report to include recommendations for changes regarding such items as, whether:
 - The certification process is sufficiently transparent;
 - The criteria for an accelerated certificate application should be modified;
 - PSB should require, or determine, certain factors for a transmission project certification application; and
 - A major utility facility should include an electric transmission line at or above 69 kilovolts and associated facilities, the costs of which are recovered as a transmission asset.
- Requires PSB to consult with JobsOhio in completing the report and to also hold at least one public meeting prior to completion.
- Permits PSB, regarding its report, to consult with or request the assistance of PJM, the independent market monitor for PJM and other interested stakeholders, such as transmission owners.

Electric distribution utility (EDU) excessive earnings test

- Repeals the requirement that PUCO consider total earned return on common equity for affiliated Ohio EDUs operating under a joint electric security plan (ESP) when determining whether an EDU had or is likely to have significantly excessive earnings.
- Repeals the provision that allows PUCO to consider the revenue, expenses, or earnings of any EDU affiliate that is an Ohio EDU in its significantly excessive earnings review of annual ESP adjustments.

Renewable energy resources and waste energy recovery systems

- Makes certain renewable energy resources (energy derived from by-products of the pulping or wood manufacturing process) and waste energy recovery systems that are not interconnected to the electrical grid under the control of PJM ineligible (1) to be used for complying with the renewable energy portfolio standards and (2) for renewable energy credits.
- Makes the energy credits that are derived from these resources and systems prior to the bill's effective date eligible for redemption for five years after their generation.

HISTORY

| Action | Date |
|--|----------|
| Introduced | 12-01-20 |
| Reported, H. Select Committee on Energy Policy and Oversight | --- |
