OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

Fiscal Note & Local Impact Statement

Bill: H.B. 554 of the 131st G.A.

Date: December 6, 2016

Status: As Passed by the House

Sponsor: Rep. Amstutz

Local Impact Statement Procedure Required: No

Contents: To revise the requirements for renewable energy, energy efficiency savings, and peak demand reduction and to revise provisions governing which customers can opt out of related programs

State Fiscal Highlights

- Potential forfeitures collected by the Development Services Agency's Advanced Energy Fund (Fund 5M50) will likely be reduced in future years because the bill eliminates the compliance penalties associated with benchmarks for 2017, 2018, and 2019.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

H.B. 554 removes the compliance provisions regarding the renewable energy resource requirement, energy efficiency savings, and peak demand reduction for three years (2017, 2018, and 2019). The Public Utilities Commission of Ohio's (PUCO) enforcement resumes in 2021 to review compliance with 2020 benchmarks in continuing law.

H.B. 554 makes other changes concerning payments assessed on Ohio's electric distribution utilities (EDUs) and electric services companies (ESCs) for under-compliance or noncompliance with the requirements referred to above. Under continuing law, any forfeitures are deposited into the Development Services Agency's Advanced Energy Fund (Fund 5M50).

Also, the bill adds mercantile customers to those customers that may opt out of, and later opt back into, an EDU's portfolio plan. The mercantile-customer opt out provision is effective January 1, 2019. Under continuing law, mercantile customers include a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than 700,000 kilowatt hours per year or is part of a national account involving multiple facilities in one or more states.

State agencies and local governments are consumers of electricity. The bill does not have a direct effect on these governmental expenditures. The potential aversion of increases in the applicable riders for 2017, 2018, and 2019 that fund these energy programs would save customers money, but the savings may be indirectly offset by higher wholesale electricity prices. LSC does not have a reliable source by which it can measure the indirect costs incurred by this bill.

Renewable portfolio standard

The bill eliminates PUCO's duties regarding its compliance review of the renewable energy benchmarks for three years (2017, 2018, and 2019). The benchmarks refer to the supply of renewable energy resources obtained by EDUs and ESCs that must be provided to retail electricity customers. H.B. 554 specifies that requirements resume in 2020 and annually escalate according to the schedule in continuing law. The bill retains the provision that both the renewable energy benchmark and the solar energy carve-out continue indefinitely after reaching their culminating point in 2026.

H.B. 554 permits EDUs and ESCs to continue levying an alternative energy rider during the three-year period when renewable energy benchmarks are not subject to compliance review. According to the Energy Mandate Study Committee Co-Chairs' Report,[1] PUCO "determined the average monthly charge for the renewables mandate as $0.001142 per kilowatt hour, which averaged out to the following monthly costs for each customer class" as seen in Table 1.

Table 1. Typical Monthly Bill Cost for Alternative Energy Rider for Electric Distribution Utility Service Areas (as of December 4, 2014)

Customer Class (typical usage)	Columbus Southern Power	Ohio Power	Dayton Power and Light	Duke Energy Ohio	Cleveland Electric Illuminating	Ohio Edison	Toledo Edison
Residential (750 kWh)	$1.31	$0.77	$0.62	$0.27	$1.30	$1.01	$0.77
Commercial (300,000 kWh)	$506.52	$298.65	$248.04	$109.20	$501.60	$388.20	$297.30
Industrial (6,000,000 kWh)	$9,928.80	$5,854.20	$4,960.80	$2,184.00	$9,738.00	$7,536.00	$5,778.00

Energy efficiency and peak demand reduction

H.B. 554 changes the existing law regarding energy efficiency and peak demand reduction savings achieved by customers. In doing so, the bill reduces the cumulative energy efficiency savings that must be required in 2027 from 22% to 17% of the 2009 baseline measurement. The bill eliminated PUCO's compliance review for three years (2017, 2018, and 2019). Energy efficiency and peak demand reduction benchmarks will

[1] http://emsc.legislature.ohio.gov/.

be reviewed by PUCO for years 2016 and 2020 through 2027, as applicable,[2] rather than every year through 2027 as required under current law.

According to the Energy Mandate Study Committee Co-Chairs' Report:[3]

> "Unlike the renewables mandate, Ohio's energy efficiency and peak demand reduction mandates apply only to EDUs. The costs associated with complying with the energy efficiency and peak demand reduction mandates are recovered by an EDU through a non-bypassable rider. That rider is recovered from all customers of an EDU regardless of whether they shop for electric generation with the exception of those mercantile customers that obtained a rider exemption from the PUCO pursuant to SB221."

As of December 2014, PUCO determined the average monthly charge for the energy efficiency and peak demand reduction mandates as $0.007225 per kilowatt hour. PUCO only provided the range of the costs of the energy efficiency and peak demand reduction mandates for residential customers, which ranged from $0.00189 to $0.004566 per kilowatt hour. PUCO determined the average monthly costs of the energy efficiency and peak demand reduction mandates for the following customer classes to be:

Table 2. Typical Monthly Bill Cost for Energy Efficiency and Peak Demand Rider for Electric Distribution Utility Service Areas (as of December 4, 2014)

Customer Class (typical usage)	Columbus Southern Power	Ohio Power	Dayton Power and Light	Duke Energy Ohio	Cleveland Electric Illuminating	Ohio Edison	Toledo Edison
Residential (750 kWh)	$3.42	$3.42	$3.43	$2.58	$3.31	$2.37	$1.42
Commercial (300,000 kWh)	$1,001.70	$1,001.70	$762.27	$501.00	$512.40	$582.30	$948.90
Industrial (6,000,000 kWh)	$5,719.80	$5,719.80	$13,050.60	$10,020.00	$5,076.00	$14,496.00	$15,606.00

Despite the costs to ratepayers associated with these riders, economic theory would predict cost savings from energy efficiency and peak demand reduction that could partially (or even potentially fully) offset those costs. The Energy Mandate Study Committee did not receive any definitive data from PUCO on the projected future costs of the energy efficiency and peak demand reduction mandates. In a letter from PUCO to the Study Committee dated September 14, 2015, PUCO stated that they do not currently have the capability to independently forecast the costs of implementing the energy efficiency mandates in future years with a high level of significance.

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[2] Although the energy efficiency savings benchmarks last through the end of 2027 under continuing law, the peak demand reduction programs remain through 2020, unchanged by the bill. Therefore, when PUCO's review resumes in 2021, it will enforce the final year of peak demand reduction benchmarks as well as all remaining years of the energy efficiency savings requirements.

[3] *Ibid.*

Energy Efficiency and Peak Demand Reduction Cost Recovery Rider

H.B. 554 adds a provision to existing law governing how PUCO must calculate the energy efficiency and peak demand reduction cost recovery rider levied by EDUs. The bill delineates circumstances in which certain "shared savings" may be recovered by EDUs from ratepayers via this rider. Shared savings is a term that is not defined in statute, but it is referenced elsewhere in the Revised Code and administrative law. Under the shared savings principle, EDUs may receive a percentage of the net benefits from their over-compliance with energy efficiency or peak demand reduction benchmarks in any given year. The absence of prescriptive methodology in law gives PUCO discretion in determining the magnitude of costs that can be recovered by EDUs via shared savings.

Continuing law allows EDUs to "bank" any amount achieved in excess of the energy efficiency and peak demand reduction requirements, and EDUs may apply the banked savings toward achieving the energy efficiency or peak demand reduction requirements in future years.[4] H.B. 554 permits utilities to receive shared savings on those banked energy efficiency savings or banked peak demand reductions. However, the bill includes two stipulations: (1) the EDU cannot have previously received shared savings on these banked amounts, and (2) the EDU is permitted to use no more in banked amounts than is necessary to meet the benchmark.

LSC cannot reliably estimate the frequency with which this provision will be used by EDUs nor can LSC estimate the magnitude of increases in the rider paid by ratepayers if this provision is utilized. Therefore, while electricity expenditures incurred by local governments and state agencies are likely to increase, the magnitude of the increase is indeterminate.

Development Services Agency

Continuing law states that compliance payments assessed against EDUs and ESCs must be remitted to PUCO for deposit into Fund 5M50. The Revised Code prohibits EDUs or ESCs from passing through the payment incurred by under-compliance or noncompliance with the renewable resource benchmarks to consumers. The potential reductions in future compliance payments incurred due to the bill's elimination of compliance requirements in 2017, 2018, and 2019 will be borne by Fund 5M50.

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[4] R.C. 4928.662.