OHIO LEGISLATIVE SERVICE COMMISSION

Russ Keller

Fiscal Note & Local Impact Statement

Bill: H.B. 239 of the 132nd G.A. (L_132_1270-10)

Status: In House Public Utilities

Sponsor: Reps. R. Smith and Carfagna

Local Impact Statement Procedure Required: Yes

Subject: Authorizes electric distribution utilities to recover the net fiscal impact related to a national security generation resource

State & Local Fiscal Highlights

	FY 2018	FY 2019	FUTURE YEARS
State and local governments' electricity costs			
Expenditures	Potential increase up to $200,370	Potential increase up to $200,370	Potential increase up to approximately 0.63% of costs for contractual commitments

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Authorizing Ohio utilities to recover prudently incurred costs related to certain electricity generation plants will increase electricity costs for governmental customers in the Dayton Power and Light Company and Duke Energy Ohio service territories by up to $200,370 per year in FY 2018-FY 2019. As of this writing, ratepayers in the AEP Ohio service territory already pay the net impacts of the national security generation resource described in the bill.
- The bill enables three utilities to recover a net impact up to $483,034 or more in future years until December 31, 2030, unless such mechanism is extended by the General Assembly. Beginning in 2031, no new charges could be billed to customers, but previously incurred charges (or credits) could continue if they were deferred by PUCO as a regulatory asset (or liability).
- PUCO will not incur additional expenditures for the newly assigned duties created by the bill.

Detailed Fiscal Analysis

The bill authorizes an electric distribution utility (EDU) to recover all national security generation resource net impacts, pursuant to the terms specified under the bill. H.B. 239 defines a "national security generation resource" as "all generating facilities owned directly or indirectly by a corporation that was formed prior to 1960 by investor-owned utilities for the original purpose of providing capacity and electricity to the federal government for use in the nation's defense or in furtherance of national interests, including the Ohio valley electric corporation." The "net impact" means prudently incurred costs "less any revenues realized from offering the contractual commitment related to a national security generation resource into the wholesale markets, provided, where the net revenues exceed net costs, such excess revenues shall be credited to customers." The bill explicitly prohibits utilities from recovering "any added return on investment in common equity and, in the event of a premature retirement of a national security generation resource," any recovery of remaining debt.

Under continuing law in R.C. 4928.141, an EDU must provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143. The bill amends all three of these pertinent sections to require the Public Utilities Commission of Ohio's (PUCO) approval for automatic recovery, subject to audit and reconciliation, of all national security generation resource net impacts. Within 120 days of the bill's effective date, an EDU may initiate the process for amending their SSO. H.B. 239 grants the recovery through a nonbypassable rate mechanism, regardless of whether the EDU utilizes a market rate offer or ESP.

Ohio Valley Electric Corporation (OVEC) and its wholly owned subsidiary, Indiana-Kentucky Electric Corporation (IKEC), were organized on October 1, 1952. According to OVEC's 2015 annual report, the "two companies were formed by investor-owned utilities furnishing electric service in the Ohio River Valley area and their parent holding companies for the purpose of providing the large electric power requirements projected for the uranium enrichment facilities then under construction by the Atomic Energy Commission near Portsmouth, Ohio."[1]

LSC interprets the bill language to assume two facilities will qualify: OVEC's Kyger Creek Plant in Cheshire, Ohio, and IKEC's Clifty Creek Plant in Madison, Indiana. These two generating stations both began operation in 1955. The two facilities report their power sales on a consolidated basis. Power is sold pursuant to an Inter-Company Power Agreement (ICPA) among OVEC and sponsoring companies ("Sponsors").[2] In general, the ICPA requires Sponsors to pay their share of all of OVEC's costs resulting from the ownership, operation, financing, and maintenance of its generation and transmission facilities.[3] The proportional share of OVEC ownership is summarized in Table 1.

---

[1] https://www.ovec.com/index.php#.

[2] The agreement provides, among other things, that any power generated by OVEC or its subsidiary company, IKEC, must be made available to Sponsors. The Sponsors or their parent corporations are shareholders of OVEC. The Sponsors and OVEC entered into an Amended and Restated ICPA, effective as of August 11, 2011, which extends its term to June 30, 2040.

[3] Quoting the amended ICPA filed (April 27, 2011) under FERC docket ER11-3441.

Table 1. Ohio EDUs' Share of OVEC Costs	
OVEC Sponsoring Company	**Percentage**
AEP Ohio	19.93%
Duke Energy Ohio	9.00%
Dayton Power and Light	4.90%
All other in-state and out-of-state sponsoring companies	66.17%
TOTAL	**100.00%**
Note: FirstEnergy Generation Corp. is a sponsoring company of OVEC, but it is not an Ohio EDU. FirstEnergy Generation Corp. is affiliated with Cleveland Electric Illuminating Company, Ohio Edison Company, and the Toledo Edison Company.	

Costs to ratepayers

Governmental customers outside of the three FirstEnergy service territories would likely incur higher electricity charges if the bill is enacted. The bill authorizes the rider until at least December 31, 2030, after which no new charges could be billed to customers, but previously incurred charges (or credits) could continue if they were deferred by PUCO as a regulatory asset (or liability).

Beginning with the first billing cycle of January 2017, all customers in the AEP Ohio service territory began paying a rider for the net impact of the company's contractual entitlement associated with OVEC. Without the bill, the rider will remain as a charge incurred by (or a credit paid to) customers through May 31, 2024. Other EDUs have similar cases under consideration before PUCO, but they are not yet recovering costs from ratepayers. H.B. 239 supersedes all other cost recovery mechanisms relating to a national security generation resource.

The costs charged to governmental customers depend on the rate structure designed by PUCO. For the purposes of this analysis, LSC assumes that governmental costs will equal 0.63% of the total net impact paid by all customers.[4]

In 2016, OVEC's average power cost to the sponsoring companies was $59.10 per megawatt hour (MWh). Using public information about the PJM wholesale market, the sponsoring companies' likely revenue for this power in 2016 is estimated to have been $36.33[5] per MWh. Under these market conditions, ratepayers would make up the

[4] Source: PUCO Case No. 16-0743-EL-POR. Appendix C-4 within FirstEnergy's Energy Efficiency and Peak Demand Reduction Plans for 2017-2019 shows 2015 sales to governmental customers were 334,692 MWh, which is 0.63% of the total sales, 53,248,148 MWh, in the three FirstEnergy territories within Ohio. Though the 0.63% figure presumably includes federal government facilities, most of the sales would be to state and local government facilities. Sales in FirstEnergy's territories represent about 41% of total MWh sales across all four EDU service territories, so applying their characteristic statewide is not too problematic, though it does make the statewide estimate rather rough.

[5] The weighted average of 2016 sales at PJM Western Hub, which is a pricing point used for transactions on the PJM spot markets and in bilateral transactions, https://www.eia.gov/electricity/wholesale/#history.

difference, which is $22.77 per MWh.[6] Potentially, $76.8 million in net impacts (refer to Table 2) could be recovered annually from ratepayers for the 14-year period, 2017 to 2030. The government's share of these costs would be $483,034. Government customers within the AEP Ohio territory already pay for the net impact of OVEC, so only $200,370 of the $483,034 cost represents new charges over the near term.

The net impact to ratepayers displayed in Table 2 relies upon trend data in net generation at the OVEC plants. Future output could vary significantly from the suggested amounts. For example, OVEC plants generated roughly one-third less power in recent years than predicted by its Sponsors in a 2011 Federal Energy Regulatory Commission (FERC) filing.

Actual recovery related to the national security generation resource net impact depends on the operating expenses, fixed costs, and borrowing costs of the two OVEC plants. The amounts charged to ratepayers in future years would depend on the difference between OVEC's average power cost and wholesale market prices. In theory, the costs incurred by ratepayers could be replaced with a credit on their electricity bills if the revenues from wholesale market sales exceeded OVEC's costs.

Table 2. Estimated Net Impact for Ohio's EDUs over the first 12 Months

Electric Distribution Utility	2017 MWh	2017 Expenses	2017 Revenues	2017 Net Impact, All Customers	Government Share of 2017 Net Impact
AEP Ohio	1,975,000	$116,722,500	$71,751,750	$44,970,750	$282,664
Duke Energy Ohio	850,000	$50,235,000	$30,880,500	$19,354,500	$121,653
Dayton Power and Light	550,000	$32,505,000	$19,981,500	$12,523,500	$78,717
TOTAL	**3,375,000**	**$199,462,500**	**$122,613,750**	**$76,848,750**	**$483,034**

Source: MWh and expense estimates based upon Ohio Valley Electric Corporation, FERC Form No. 1, 2014-2016, Sales for Resale (Account 447); revenue estimates based on U.S. Energy Information Administration data for PJM wholesale market

LSC cannot estimate the impact of the rider over its entire term because there is a lack of consensus surrounding energy markets beyond the next few years. This uncertainty is evidenced by comments from the PUCO Chairman, Asim Haque, which were filed in a concurring opinion issued March 31, 2016 for the state regulatory case (PUCO Case No. 14-1693-EL-RDR) authorizing the relevant AEP Ohio rider. The PUCO Chairman remarked that "based upon the projections and the evidence in the record, there is general consensus that the [power purchase agreement] riders[7] will result in a

---

[6] Under this ratemaking design, the net cost (or credit) to ratepayers would be dependent on future operating costs incurred by OVEC as well as the price of electricity in the PJM market, of which neither is forecasted by LSC.

[7] The PUCO opinion was written at a time when multiple AEP-owned plants were approved for power purchase agreement (PPA) riders. These plants included OVEC as well as four power plants owned by AEP Ohio's market-regulated power sales affiliate, AEP Generation Resources. Federal regulators subsequently blocked PPA riders to the four non-OVEC plants in an order issued April 27, 2016 (FERC docket EL16-33-000).

charge to consumers for at least the first 2-3 years of the riders. . . . Beyond those first few years, it is unclear whether the PPA riders will result in more charges to ratepayers, or if the riders will result in credits being applied to the bills of ratepayers. . . . After a period of charges, I expect to see credits from the PPA riders. I'm not going to give definitive timelines, but that is my expectation. . . . Because predictions of market prices beyond a few years are speculative, we must monitor the riders to ensure that ratepayers are purchasing the hedge that has been marketed to them."

Public Utilities Commission of Ohio

PUCO will incur additional administrative and evaluation duties under the bill, but PUCO told LSC it will not impact agency expenditures.

HB0239H2.docx/lb