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# UPDATE ON THE PUCO and RECENT DEVELOPMENTS IN OHIO'S ENERGY SECTOR

15 DECEMBER 2008

ACCRA, GHANA



# SENATE BILL 221



# S.B. 221 Policy Principles...

- Ensure availability of adequate, reliable, safe, efficient, nondiscriminatory and reasonably priced retail electric service
- Ensure diversity of electricity supplies and suppliers
- Encourage innovation and market access for cost-effective supply- and demand-side retail electric service
- Ensure transmission and distribution available for deliverability



# 221 Policy Principles...

- Recognize continuing emergence of competitive electricity market through development and implementation of flexible regulatory treatment
- Provide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates



# The Law

- Provides all utilities to file
  - electric security plan (ESP), and
  - market-based offer
  - lower-cost option wins
- PUCO required to
  - hold hearings for both options
  - ensure consumers benefit from the changes to the current law



# ORC 4928.142

## Market Rate Offer

- Maintain essential electric service
- Firm supply of electric generation service
- Competitive bidding process
- Least-cost bid winner(s)
- All costs for standard service offer, including the cost of energy and capacity and all other products and service shall be timely recovered



# Summary

- Focuses On Two Main Subject Areas:
  - ELECTRICITY PRICES
  - ELECTRICITY SOURCES



# Electricity Prices

- Preserves right of customer choice (S.B. 3/123<sup>rd</sup> G.A.)
- Revises and adds to the current objectives of state electric services policy enacted under S.B. 3
- Provides "self-generator" under Electric Restructuring Law need not own the generating facility; can host on its premises.
- Permits special contract law to be enforced for the purposes of the Electric Restructuring Law.
- Expressly authorizes under special contract law the filing of a financial device to recover costs incurred in conjunction with economic development and job retention, the bill's peak demand reduction and energy efficiency programs, advanced metering, and government mandates.



- Authorizes a mercantile customer or a group of those customers to establish a reasonable arrangement with a utility under special contract law.
- Provides that special contracts must be submitted to the PUCO by application for its approval.
- Preserves the requirement that each electric distribution utility have a standard service offer (SSO).
- Preserves current law's provision that each utility's SSO will be the default service for a customer, but changes the statutory nature and process for PUCO approval of an SSO.
- Expressly states that its SSO provisions do not preclude or prohibit an electric distribution utility providing competitive retail electric service to electric load centers within the certified territory of another such utility.



- Modifies the corporate separation law so that the law applies to an electric utility "except as otherwise provided in" the market rate offer (MRO) and electric security plan (ESP) provisions of the bill.
- Removes any limitation on divestiture by an electric utility that is not a distribution utility.
- Removes the current law's provision that a utility's authority to divest is subject to the provisions of public utility law relating to the transfer of transmission, distribution, or ancillary service provided by such generating asset.



- Authorizes the PUCO to grant rate phase-ins and states that the authority continuing law confers on the PUCO to supervise or regulate a competitive retail electric service does not limit that phase-in authority.
- Requires that an SSO be either an MRO or an ESP.
- Authorizes discovery requests of certain utility agreements during an MRO or ESP proceeding.



- Requires all utilities to file an SSO before *1/1/2009*.
- Requires the first SSO application of a utility to be an ESP, but allows a utility to simultaneously file an MRO.
- Provides SSO provisions that reflect differences among the electric distribution utilities.
- Authorizes "transitional" MROs that require utilities that own generating assets to "ramp up" to market and operate under a blended generation price during that period.
- Provides that an electric distribution utility that files an MRO cannot, and cannot be required to, file an ESP.
- Provides that the bids selected for an MRO be the least-cost bids and establishes several other criteria regarding the bid results that can preclude an MRO application from going forward.



- Authorizes the PUCO to adjust the blended price of a transitional MRO,
- States that public utility law (R.C. Title 49) does not apply to an ESP.
- Prescribes what an ESP application must contain and also enumerates certain things that, at the utility's discretion, the application can contain, but does not limit any discretionary items to those the bill enumerates.
- Requires an ESP to contain provisions related to the supply and pricing of electric generation service and, if the proposed ESP has a term longer than three years, requires that it must include provisions to permit the PUCO to test the ESP.



- Permits an ESP to include automatic cost recovery, a construction work in progress allowance/nonbypassable surcharge, a nonbypassable surcharge for a competitively bid generating facility, facility decommissioning, derating, and retirement, rate stabilization, automatic price adjustments, securitization, transmission and related services, distribution service, and economic development and energy efficiency.
- Prescribes as a standard for PUCO approval that the ESP pricing and all other terms and conditions, including any deferrals and any future recovery of deferrals, is favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO.





- Requires that, if an ESP provides a nonbypassable surcharge for CWIP or a competitively sourced generating facility, the PUCO must ensure that the benefits derived for any purpose for which the surcharge is established are reserved and made available to those that bear the surcharge.
- Allows an electric distribution utility to withdraw an ESP application, thereby terminating it, if the PUCO modifies and then approves the application.
- Requires the PUCO, if it modifies and approves or disapproves an ESP application, to issue an order continuing the provisions, terms, and conditions of the utility's most recent SSO, along with any expected increases or decreases in fuel costs, until a subsequent ESP or MRO is filed and authorized.
- Extends to a FERC-approved regional transmission organization that is responsible for maintaining reliability in all or part of Ohio the requirement to consent to service of process and designate an agent.



- Requires the PUCO to employ a Federal Energy Advocate to generally assist with transmission oversight,
- Prohibits an electric distribution utility charging a customer of a municipal utility in existence before 1/1/98 any surcharge, service termination charge, exit fee, or transition charge.
- Requires the PUCO, in carrying out the state electric services policy, to consider rules as they apply to the costs of electric distribution infrastructure, including, but not limited to, line extensions, for the purpose of development in Ohio.



- Requires the PUCO to adopt and enforce rules prescribing a uniform, statewide policy regarding electric transmission and distribution line extensions and requisite substations and related facilities that are requested by nonresidential customers of electric utilities.
- Lengthens from two years to up to three years the time period for an automatic governmental aggregation before a participant can op-out.
- Authorizes a state official or the legislative or other governing authority of a county, city, village, township, park district, or school district to enter into an energy price risk management contract.



# Electricity Sources

- Requires an electric distribution utility and an electric services company to provide from "alternative energy resources" a portion of their electricity supplies from alternative energy resources.
- Defines alternative energy resources as consisting of specified advanced energy resources and renewable energy resources with the placed-in-service date of January 1, 1998, and as consisting of existing or new mercantile customer-sited resources.

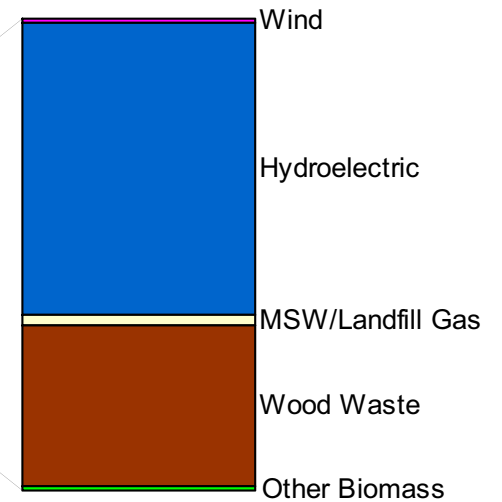
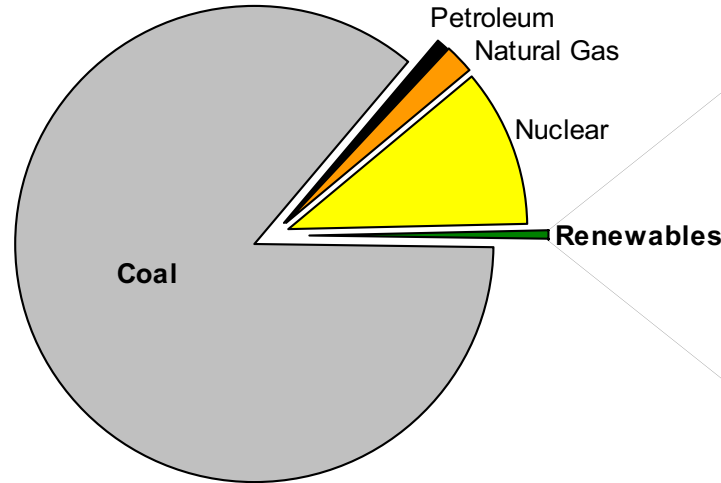


- Specifies that the requisite portion of the electric supply derived from alternative energy must equal 25% of the total number of kilowatt hours of electricity sold by the utility or company to any and all retail electric consumers whose electric load centers are served by the utility and are located within the utility's certified territory or, in the case of an electric services company, are served by the company and are located within Ohio.



# Ohio Generating Resource Mix

- ❖ Coal – 88%
- ❖ Nuclear – 9%
- ❖ Natural Gas – 2%
- ❖ Oil – 1%



**Note: Hydroelectric (0.3%) and other renewables (0.3%) combined equal 0.6% of resource mix**

**Source: DOE EIA Data**





- Provides that half of the alternative energy can be generated from advanced energy resources, but at least half must be generated from renewable energy resources, including 0.05% from solar energy resources, with yearly benchmarks increasing in percentage of electric supply through 2024.
- Establishes a cost cap relative to a utility's or company's obligation to comply with a renewable energy resource benchmark.
- Authorizes the PUCO to make a force majeure determination regarding all or part of a utility's or company's compliance with a minimum, renewable energy resource benchmark.



- Authorizes the PUCO to enforce the renewable energy and solar energy resource benchmarks through the assessment of compliance payments.
- Requires the Governor, in consultation with the PUCO chairperson, to appoint an Alternative Energy Advisory Committee to semiannually review the bill's alternative energy requirements.
- Requires the PUCO to submit an annual report to the General Assembly describing alternative energy benchmark compliance and the use of alternative energy resources.
- Prescribes energy savings and peak demand reduction requirements for electric distribution utilities through 2025, sets yearly benchmarks, and authorizes PUCO enforcement of compliance through the assessment of forfeitures.



- Authorizes the PUCO to approve a revenue decoupling mechanism for an electric distribution utility if it reasonably aligns the interests of the utility and of its customers in favor of energy efficiency or energy conservation programs.
- Requires the Governor's Energy Advisor to periodically report to the General Assembly and as requested by House and Senate standing committees responsible for energy efficiency and conservation issues regarding energy efficiency and conservation initiatives undertaken by the Advisor and state government.
- Authorizes a natural gas utility to apply for Public Utilities Commission (PUCO) approval of an alternative rate plan that includes a revenue decoupling mechanism.
- Defines "revenue decoupling mechanism" as a rate design or other cost recovery mechanism that provides recovery of the fixed costs of service and a fair and reasonable rate of return, irrespective of system throughput or volumetric sales.



- By declaring that such a plan is an application "not for an increase in rates," removes certain requirements for a hearing on any alternative rate plan that includes a revenue decoupling mechanism, proposes rates and charges based upon the billing determinants and revenue requirements authorized by the PUCO in the utility's most recent rate case, and establishes, continues, or expands an energy efficiency or energy conservation program.
- Prohibits the bill being construed as supporting a claim or finding that an application for such a conservation-related plan filed before the bill's effective date *is* an application to increase rates (and therefore generally subject to hearing).
- Adds the following, twelfth objective to the statutory natural gas policy: to promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.



- Changes the requirement that the PUCO follow the state policy when carrying out its duties under the alternative regulation law, to require that both the PUCO and Ohio Consumers' Counsel (OCC) follow the policy in exercising their respective authorities under that law.
- Requires the PUCO, to the extent permitted by federal law, to adopt rules establishing greenhouse gas emissions reporting and carbon dioxide control planning requirements for each electric generating facility located in Ohio that is owned or operated by a public utility that is subject to PUCO jurisdiction and that emits greenhouse gases, including facilities in operation on the bill's effective date.