Sub. S.B. 58 Proposes Significant Changes to Both Ohio's Renewable Portfolio Standards and Energy Efficiency Requirements

October 1, 2013

Until last week, Senate Bill 58 was little more than a placeholder bill. When initially introduced last spring by Sen. Bill Seitz (R-Cincinnati), the bill's stated purpose was to provide a vehicle "to review and possibly modify the energy efficiency, peak demand reduction, and alternative energy resource provisions established by Ohio law governing competitive retail electric service" — little else was included. Last week, however, a new version of S.B. 58 was introduced — and it includes significant modifications to Ohio's renewable energy and energy efficiency mandates.

Ohio's current energy efficiency and renewable portfolio standards were passed in S.B. 221 in 2008 and were most recently amended in S.B. 315 in 2012. Under these standards, at least 12.5 percent of the electricity sold by each utility or electric services company within Ohio must be generated from renewable energy resources, with at least 0.5 percent coming from solar. At least half the renewable energy used must be generated at facilities located in Ohio. Further, existing Ohio law also includes energy efficiency and peak demand standards that utilities must meet through energy efficiency programs. Specifically, Ohio law requires a cumulative efficiency-based energy reduction of 22 percent by 2025. Significant penalties can follow if utilities fail to meet the benchmarks.

As reintroduced, Sub. S.B. 58 proposes significant changes to both Ohio's renewable portfolio standards and energy efficiency requirements.

Key proposed changes to Ohio's current renewable energy provisions include:

- The elimination of the current requirement that half the renewable energy used must be generated at facilities located in Ohio;
- A change in the definition of "renewable energy resource," to include solar photovoltaic or solar thermal energy, regardless of whether electricity is produced;
- The inclusion of hydropower from the Canadian provinces of Ontario or Quebec; and
- A modification of the current cost cap of 3 percent based on the utility's cost of procuring or acquiring electricity, to a new cost cap that equals the product of 3 percent multiplied by the utility's sales supply amount.

Key proposed changes to Ohio's current energy efficiency provisions include:

I. Energy Efficiency and Peak Demand Requirements

II. Baseline and Benchmark Calculations and Adjustments

III. Compliance

IV. Cost Recovery

I. Energy Efficiency and Peak Demand Requirements

To reach the energy efficiency mandate, Ohio law contains annual benchmarks utilities must meet. Currently, utilities must achieve reductions of 1 percent from 2014 to 2018 and 2 percent each year after. Sub. S.B. 58 proposes to change the annual benchmarks, instead requiring annual reductions of 1.25 percent in 2019, 1.5 percent in 2020, 1.75 percent in 2021, 2 percent in 2022, 2.25 percent in 2023, 2.5 percent in 2024, and 2.75 percent in 2025.

Although Sub. S.B. 58 does not propose to modify the current peak demand reduction benchmarks, the bill does add a provision stating that "peak demand reduction shall be measured relative to the measure of peak demand that is used by the [PJM Interconnection] to establish a supplier's resource adequacy or capacity obligation."

II. Baseline and Benchmark Calculations and Adjustments

Under existing law, the baseline for energy savings is the average of the total kilowatt hours that utilities sold during the preceding three years, and the baseline for peak demand efficiency is the average peak demand on the utility in the preceding three years. Currently, the Public Utilities Commission of Ohio (PUCO) may reduce either baseline to adjust for new economic growth. Sub. S.B. 58 proposes that the baselines may also be adjusted to account for economic downturns in the utility's certified territory. The proposed bill also removes customers who have opted out of participation in energy efficiency and peak demand programs, along with customers in reasonable arrangements from the baseline calculations.

III. Compliance

Sub. S.B. 58 proposes a number of new provisions concerning compliance with the energy efficiency (EE) and peak demand standards. These include:

- A compliance plan by each utility to meet the efficiency and peak demand reduction requirements. The plan must contain recovery of program costs and a shared savings program that permits the utility to retain one-third of the after-tax benefits of certain efficiency and peak demand programs.
- The expansion of what can be counted toward the EE benchmarks to include utilities' enhancements to their own transmission and distribution networks, such as improvements that result in reduced power needs for water and sewage treatment systems, and the use of recycled glass.
- A cost cap wherein each utility must elect one of two proposed cost caps. If the cost cap is met, the utility is relieved from making further expenditures to meet the efficiency or peak demand reduction requirements for the remainder of the calendar year. Additionally, any excess compliance by a utility may be banked for future use.
- The ability for any utility retail customer to opt out from programs arising from the utility's compliance plan.
- Compliance measurement standards concerning what types of reductions the PUCO shall recognize and count, including instruction that the PUCO shall liberally construe these standards in favor of counting energy savings and peak demand reductions.

IV. Cost Recovery

Under current law, mercantile customers that commit their demand-response or other customer-sited capabilities to the utility's efficiency or peak demand programs are exempt from any mechanism designed to recover the cost of energy efficiency, including waste energy recovery, combined heat and power, and peak demand reduction programs. Sub. S.B. 58 proposes to limit the exemption to be proportionate to the annual compliance benchmark and the customer's energy usage for the applicable baseline period.

If you have questions regarding Sub. S.B. 58 or Ohio's renewable and energy efficiency laws, contact Dylan Borchers at 614.227.4914 or dborchers@bricker.com.

Authors