Ohio needs more energy. Lawmakers have ideas on how to tackle demand without raising bills

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As demand for energy surges because of data centers and artificial intelligence, Ohio lawmakers have some ideas on how to avoid energy shortages without raising Ohioans' utility bills.

Two proposed laws, House Bill 15 and Senate Bill 2, contain numerous changes that free-market capitalists and consumer advocates alike support.

However, several of Ohio's top utilities, which have a powerful voice in energy policy, oppose ideas in the bills. And school districts are worried about what tax breaks could mean for their budgets.

Ohio generates about 25,000 megawatts with the largest chunk, about 60%, coming from natural gas, according to the Public Utilities Commission of Ohio. Data centers alone consume about 600 megawatts of electricity, and that could surge to 5,000 megawatts by 2030.

How do lawmakers want to tackle that problem?

Eliminating fees on Ohioans' bills for coal plants

Both bills would, over time, eliminate fees on Ohioans' bills for two coal plants, one of which is in Indiana. The charges for the Ohio Valley Electric Corp. stem from House Bill 6, the law at the center of a pay-to-play scandal at the Ohio Statehouse. That law also included a $1 billion bailout for two nuclear plants in northern Ohio, but those charges never hit Ohioans' bills.

Ohio Consumers’ Counsel Maureen Willis said Ohio lawmakers should remove those fees as soon as possible – not waiting until the agreements with OVEC owners American Electric Power's Ohio Power, AES Ohio and Duke Energy end in the next several years. Since 2020, OVEC fees have cost customers $433 million and could cost another $240 million if they are not ended immediately, she estimated.

Both bills would immediately repeal another remnant of House Bill 6: subsidies for utility-scale solar, which have collected $60 million while only doling out $10 million to five projects.

The concept of removing these fees is simple: "It is not the role of the state to favor one form of generation over another," said Rep. Roy Klopfenstein, R-Haviland.

Still, utilities defended the OVEC fees. Marc Reitter, president and chief operating officer for AEP Ohio, said OVEC plants have been needed as natural gas rates rise. Duke Energy Ohio CEO Amy Spiller described the plants as an insurance policy against high prices. AES Ohio's Sharon Schroder said the utilities has tried and failed to divest itself from OVEC.

Changing how Ohio utilities charge customers

Ohio lawmakers also want to scrap the current way that Ohio's utilities seek approval to charge customers called electric security plans.

Utilities can use electric security plans to tack on fees, called riders, with less scrutiny from regulators at the Public Utilities Commission of Ohio. The Ohio Consumers Counsel estimated utilities currently have between 14 riders (Dayton's AES Ohio) and 46 riders (Akron-based FirstEnergy) on customers' bills.

These fees add up. A survey of Ohio's small business owners found 75% had seen their utility costs increase by at least 10% in recent years and 39% said those costs had increased by more than 20%, according to the National Federation of Independent Business in Ohio.

Instead of an electric security plan, utilities would have to propose a market-rate offer and undergo a more detailed PUCO review every five years before billing customers. "It's time to put a stop to this pro-utility, anti-consumer rate-making," Willis told lawmakers.

But utilities defended these riders. "Contrary to the criticisms of some stakeholders, riders are an essential tool for modern ratemaking that are available in almost every state regulatory regime for the electric industry," Reitter said.

And they proposed an alternative: a multi-year ratemaking mechanism that has faced some criticism in other states. On Wednesday, Ohio senators questioned why the idea was being floated all of a sudden.

The Senate bill would require the PUCO to approve or deny utilities' plans on what to charge customers within 275 days. It would also allow utilities to seek a "mini rate case" in between those more comprehensive views to charge customers for money spent to acquire or upgrade property.

Duke's Spiller said any change should avoid slowing down an already slow process.

"Ohio currently ranks dead last among the 50 states for regulatory lag – even worse than California and New York," Spiller told lawmakers. "Simply eliminating ESPs without implementing a new way forward would intensify an already investment-stifling situation."

A tax break for energy generators

Ohio lawmakers want to encourage new energy companies to come to Ohio. To do that, the House bill would eliminate a tax on electric generation property and move it to companies that transmit and distribute that energy.

The goal, Klopfenstein told lawmakers, is to attract more energy generation to the state while not charging customers more money. Statewide, these changes would offset and be revenue-neutral, but local school districts, especially those with nuclear plants or other generators in their backyard, could be hit hard, according to a review of the bill's financial impact.

A consultant with Perry Local Schools, where a nuclear plant is located, said eliminating that tax money "would be devastating" for the community. The bill could be revised in response to that criticism.

The Senate proposal instead eliminates the tax on new – not existing – electric generation property and reduces taxes on new transmission and distribution infrastructure.

"These incentives will bring new generation to Ohio to help us meet our ever-growing demand needs and allow us to be competitive with other states," said Sen. Bill Reineke, R-Tiffin, who sponsored Senate Bill 2. The bill also includes an incentive to revitalize brownfield or former coal mine sites by exempting new energy companies from certain taxes for five years.

Duke's Spiller said Ohio should offer a tax break for existing generators and reconsider taxes on transmission and distribution infrastructure as well. The state "currently taxes transmission and distribution infrastructure at economically uncompetitive rates compared to surrounding and key benchmark states," she said.

Even with all these changes, Democrats worry all energy generators won't benefit equally because a 2021 law allows local elected officials to veto solar and wind projects.

A refund for unreasonable or unlawful fees

A change included in the Senate bill would require utilities to refund customers if the Ohio Supreme Court finds their charges were "unreasonable, unlawful, imprudent or otherwise improper."

For example, Akron-based FirstEnergy collected $456 million from customers for a fee on customers' electric bills that the Ohio Supreme Court struck down. But the company kept that money because of a 70-year-old court ruling that allows utilities to deny refunds.

Reitter defended the status quo, saying: "This rule is essential to avoid chaos and confusion from uncertain rates, and it benefits both customers and utilities equally."

What about energy efficiency?

Neither proposal has a plan to encourage energy-efficient appliances or practices that reduce the amount of electricity used. A bipartisan plan to incentivize this behavior failed to pass last year.

Several Republicans said large companies already have the tools to become energy efficient and individual Ohioans don't benefit as much as the programs could cost.

Klopfenstein told lawmakers that Ohio must focus on creating more energy, not being more efficient with the energy already created.

"Energy efficiency will not get us out of this predicament," he said.