Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Am. Sub. S.B. 248 of the 129th G.A.

Date: December 14, 2011

Status: As Passed by the Senate

Sponsor: Sen. Balderson

Local Impact Statement Procedure Required: No

Contents: To establish standards for securitization of costs for electric distribution utilities

State Fiscal Highlights

- Provisions in the bill may act to decrease electricity prices paid by state government agencies (and other consumers).

Local Fiscal Highlights

- Provisions in the bill may act to decrease electricity prices paid by local governments (and other consumers).

Detailed Fiscal Analysis

S.B. 248 establishes standards for securitization of costs for electric distribution utilities. The bill permits a utility company to apply to the Public Utilities Commission of Ohio (PUCO) for a financing order authorizing the issuance of bonds to recover uncollected "phase-in costs" (and carrying charges) that have been approved by PUCO. The bill defines phase-in costs as costs, including carrying charges that have been authorized by PUCO to be securitized or deferred as regulatory assets before, on, or after the effective date of the bill.

The financing order must result in, consistent with market conditions, both measurably enhancing cost savings to customers and mitigating rate impacts to customers as compared with traditional financing or traditional cost-recovery methods. Upon approval of the financing order, the utility has authorization to impose and collect phase-in recovery charges on customers and certain persons and entities in the utility's service area. A utility may authorize the Ohio Air Quality Development Authority (OAQDA) to issue phase-in recovery bonds on its behalf. Under existing law, OAQDA bonds are eligible for state and local tax-exempt status.

The phase-in recovery charges on customers are nonbypassable as long as bonds are outstanding and phase-in costs and financing costs have not been recovered in full. For regulation and rate-making purposes, the charges are not to be considered revenue of the utility, the bonds are not to be considered debt of the utility, and the phase-in costs or financing costs are not to be considered costs of the utility.

S.B. 248 states that the imposition, charging, collection, and receipt of phase-in recovery revenues are not subject to any taxes or similar charges imposed by the state or any county, municipal corporation, school district, local authority, or other subdivision. The transfer and ownership of phase-in recovery property is also exempt from the imposition of such taxes and charges.

Fiscal effect

The bill provides that the costs that a utility may securitize are costs that have been authorized by PUCO to be securitized or deferred as regulatory assets before, on, or after the effective date of the bill. The bill does not authorize new charges, so its provisions may act to decrease electricity prices paid by state and local governments (and other consumers).

LSC contacted PUCO in order to obtain a comprehensive list of costs previously authorized by PUCO, and a PUCO official responded that it is extremely difficult to quantify the number and nature of these authorized costs. Additionally, the official expressed concerns that if it compiled such a list, it may preclude or disqualify a potential future deferred asset from securitization. LSC does not have an estimate of how many future costs will be authorized by PUCO for securitization. Accordingly, LSC cannot project how many electric distribution utilities would securitize their eligible costs if the bill were to become law, but regulatory filings show that American Electric Power (AEP) does have some costs eligible to be securitized, and its customers could potentially realize some amount of cost savings.

Regulatory filings concerning AEP show that the company proposed deferring a portion of the annual incremental Fuel Adjustment Clause (FAC) costs during the electric security plan (ESP) in effect through December 31, 2011. In accordance with the Revised Code, PUCO approved the recovery of any deferred FAC expense balance remaining at the end of 2011 via an unavoidable surcharge. PUCO ruled that the collection of any deferrals, with carrying costs, created by the phase-in that are remaining at the end of the ESP term shall occur from 2012 to 2018 as necessary to recover the actual fuel expenses incurred plus carrying costs.

At the time the PUCO order was issued (March 18, 2009), AEP projected the deferrals under the proposed ESP to be $146 million by December 31, 2011 for Columbus Southern Power (CSP) and $554 million by December 31, 2011 for Ohio Power Company (OP).

According to a PUCO document, securitization saves the ratepayer financing costs by replacing the utility's cost of capital with lower cost financing of the highly rated securitized bonds. The savings are reflected in the net present value (NPV) of costs that utilities recover from their customers; instead of recovering larger sums over shorter terms, smaller sums are recovered over a longer duration that corresponds with the life of the bond.

Finally, the provision that states phase-in recovery revenues are not subject to state or local taxation does not have a fiscal impact. Although utilities could commence with securitization arrangements once S.B. 221 of the 127th General Assembly was effective, no such activities occurred. Therefore, state and local taxing authorities likely would not incur revenue losses because the securitization(s) would not occur in the future without the enactment of the bill. Moreover, bonds, including those for electric utility securitization, issued through OAQDA are eligible for state and local tax-exempt status because OAQDA is a state agency; the tax exempt status of OAQDA bonds is unaffected by S.B. 248.

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