



Ohio Environmental Council [Action Fund]

Ohio Senate Energy & Public Utilities Committee
Opponent Testimony
Substitute House Bill 6 (Callender, Wilkin)
June 19, 2019

Chairman Wilson, Vice Chair McColley, Ranking Member Williams, and members of the Energy and Natural Resources Committee; I am Trish Demeter, Chief of Staff for the Ohio Environmental Council Action Fund. Thank you for allowing me to submit testimony on Substitute House Bill 6.

Our organization, celebrating its 50th anniversary this year, works to secure healthy air, land and water for all who call Ohio home. The OEC Action Fund is opposed to Sub. HB 6 because, if enacted, it would increase Ohio's carbon emissions, put more Ohioans' health at risk, and threaten over 112,000 jobs of Ohioans working in the clean energy sector. Further, Sub. HB 6 compels the continuation of investments in two aging, and jointly-owned coal plants as well as establishes new customer-funded subsidies for two nuclear plants. On the whole, the bill tethers Ohio to technologies of the past and derails a decade of progress towards a cleaner and more innovative energy future.

Sub. HB 6 is an unworkable piece of legislation that would harm Ohio's environment, economy and working people in many ways:

- **Sub. HB 6 would increase - not decrease - Ohio's carbon emissions as well as other harmful air pollution, and as a result, put Ohioans' health at risk.** The bill proposes to do away with Ohio's renewable portfolio standard (RPS) and energy efficiency resource standard (EERS) which are reducing Ohio's annual carbon pollution by about 10 million annually through 2029¹. This is the equivalent to avoiding emissions from the annual electricity consumption of 1 million homes². These standards reduce other harmful air pollutants from coal-fired power plants, and if repealed, the legislation would forgo the projected health benefits which is prevention of over 44,000 asthma attacks, 2,400 asthma-related emergency room visits, 4,400 heart attacks and over 2,800 premature deaths attributable to coal-plant pollution (see attached graphic).
- **Sub. HB 6 will increase - not decrease - electric bills for Ohioans. The average Ohio family will pay an additional \$4.61 per month starting in 2021 if Sub. HB 6 becomes law, adding a \$234 million annual burden onto residential customers.** Despite elimination of the riders associated with the renewable and efficiency standard, Ohioans' bills will go up as a result of this legislation due to wiping out the bill savings Ohioans are receiving today due to investments in energy efficiency, and glaring loopholes drafted into the legislation that would allow utilities to continue to charge customers through these riders.

¹ See page 5 <https://www.nrdc.org/sites/default/files/ohio-clean-energy-standards-benefits-report.pdf> (2015)

² *Ibid*

- **Sub. HB 6 puts more Ohio jobs at risk than it is purported to save:** Over 112,000 Ohioans³ are employed in the clean energy sector. The 80,000 Ohioans employed in the energy efficiency sector stand to be impacted the most. While Sub. HB 6 may potentially provide security for the people working in Ohio's two nuclear plants, it stifles the fastest growing job sector in the country - clean energy.
- **Sub. HB 6 locks ratepayers into \$483.7 million of continued coal plant subsidies, and does not provide any kind of exit strategy from Ohio Valley Electric Corporation (OVEC) obligations beyond 2030.** Sub. HB 6 automatically extends PUCO-approved OVEC charges so that AEP Ohio, Duke Energy, and Dayton Power & Light can continue charging Ohio families up to \$2.50 per month for Kyger Creek in Cheshire, OH, and Clifty Creek in Madison, IN. Given what these charges are currently and historically, Sub. HB 6 would lock ratepayers into a total subsidy of approximately \$483.7 million over approximately 6 years.
- **Sub. HB 6 does not require proof of need for nuclear subsidies, or provide checks and balances on the receivers of the subsidies.** The legislation does not require any proof of need or audit that would occur prior to subsidy revenue flowing to the owners of Ohio's two nuclear plants. The bill does not provide guarantees that the plants would even stay open with the support of new subsidies. This is bad not only for consumers, but also for the workers supported by the two plants and the communities currently receiving tax revenue from Davis Besse and Perry. These lack of guarantees and adequate oversight of Ohioans hard-earned money means that the bill may not even deliver what it is promising: nuclear plants that continue to operate and provide carbon-free energy through 2026 at least.

What follows is a commentary on the two major components of Sub. HB 6, as we see them: Repeal of Ohio's EERS and RPS and; subsidies for coal and nuclear plants.

Repeal of Ohio's EERS and RPS

Sub. HB 6 would be the final blow to two state policies that have been delivering on exactly what they promised when they were enacted in 2008 - lower bills, a more diverse energy portfolio, cleaner air, Ohio jobs, and new economic opportunity. Unfortunately, since 2013, Ohio's RPS and EERS have been the target for anti-clean energy interests, and Sub. HB 6 represents the fifth bill proposing a rollback, freeze or repeal of these standards.

Efficiency is a resource that displaces the need to generate and deliver electricity, and keeps costs low for every kind of customer.

One key element to Ohio's efficiency standard that gets overlooked is that efficiency is a resource, and lowers utility system costs a number of ways. First, investing in efficiency displaces the need to generate electricity at a power plant, solar array or wind farm. Without utilities investing in energy efficiency, they will be compelled to purchase more electricity generation to meet the needs of customers, which is inherently more expensive. Energy efficiency meets demand for electricity at a low cost - approximately \$14 per megawatt hour - which is magnitudes lower than natural gas, coal, solar, nuclear, wind, or any other conventional or alternative generation technology which fall in the \$20 - \$30/MWh range. Overall, utility cost of service could increase if Sub. HB 6 becomes law.

³ <https://www.cleanjobsmidwest.com/state/ohio>

Second, by meeting demand through efficiency rather than having to build more power plants, wind farms or solar arrays, efficiency helps to avoid costly upgrades and maintenance of transmission and distribution wires, poles, substations, etc.

Third, efficiency lowers demand for electricity to be generated, and lower demand means a lower wholesale price for electricity. This is commonly referred to as the “wholesale price suppression” benefit which is the effect of a basic supply and demand mechanism. A [recent study](#)⁴ commissioned by our sister organization, the Ohio Environmental Council and a partner, the Environmental Law and Policy Center, examined the issue of wholesale price suppression. The study found that wholesale price suppression benefits in Ohio are estimated at \$2.00 per month per Ohio household. This not a pie-in-the-sky hope, but a benefit coming to all Ohioans that even the PUCO acknowledges. In their report to the Energy Mandates Study Committee in 2015, PUCO staff estimated this price suppression at 5.7%.

Repealing Ohio’s EERS is essentially choosing the higher cost approach to meeting demand for electricity, and a repeal amounts to actively choosing higher costs for Ohio’s electricity customers.

Ohio’s EERS is a smart investment that provides environmental and economic benefits.

Opponents of Ohio’s EERS claim that this policy is costly, and that costs to adhere to the annual benchmarks will skyrocket in the next few years. In reality, however, Ohio’s EERS is providing ample economic and environmental benefits, and yes, while there is a charge on Ohioans’s bills that funds the efficiency standard, this charge delivers much more in savings than it costs Ohioans. This is not just a hope that the PUCO’s oversight of efficiency spending is keen enough to catch improper use of customer funds; these programs are required to be cost-effective under Ohio law and rule⁵, ensuring the standard saves more money than it costs. The PUCO has substantial oversight over the monopoly utility overall, and particularly when it comes to the efficiency standard, the commission staff are involved at the outset of program design, during implementation of programs as well as reviewing reports every year submitted by utilities.

Ohio’s EERS has delivered over \$5.1 billion in energy savings to Ohioans’ since 2009 and is delivering \$2.65 in bill savings for every \$1 invested in efficiency rebate and incentive programs. The efficiency standard also plays a key role in reducing reliance on coal-fired power plants. The efficiency programs that have been in place since 2009 avoided over 1.1 million tons of carbon dioxide pollution in 2017 alone.⁶ Dismantling Ohio’s EERS means we put Ohioans’ jobs at risk, particularly the 80,000+ Ohioans employed in the energy efficiency sector. Many of these jobs are within companies that bid, and win, contracts with utilities to implement their energy efficiency projects (for example, HVAC, lighting, sheet metal and ductwork, insulation and motor upgrades, etc.).

Voluntary efficiency programs put consumers at risk, and leave a least-cost resource on the table

Sub. HB 6 allows for utilities to run voluntary efficiency programs, but it’s very unclear how efficiency programs would run under a voluntary approach, or if utilities would have any oversight if run voluntarily. A voluntary approach is risky for consumers and the environment and several scenarios are possible.

⁴ <http://resourceinsight.com/wp-content/uploads/2019/06/Energy-Efficiency-Benefits-to-All-Customers.pdf>

⁵ [ORC 4928.66](#); [O.A.C. 4901:1-39-04\(B\)](#).

⁶ Data analysis performed by American Council for an Energy-Efficient Economy (ACEEE), April 2019.

First, some utilities could cancel most, if not all, of their energy-saving rebate and incentive programs, leaving a significant amount of cost-effective energy efficiency on the table. For example, if utilities are all playing by different rules, customers - particularly business customers - in their territories may not have the same access to rebates as their competitor three counties away. This gives some customers an upper hand, and others are disadvantaged. Another scenario would be that utilities gravitate toward efficiency programs that require little work on their part, but those programs don't always provide proven benefits to customers. If the PUCO is not involved or required to ensure cost-effectiveness, then customers could be marketed programs that don't really save them any money on their bills. Lastly, voluntary programs lessens the overall accountability of utility use of customer money and puts the state regulator weaker when it comes to ensuring prudent costs that the utility may pass along to consumers. Ohio's current EERS provides for the proper checks and balances and consumer protections.

Ohio's EERS could be strengthened and modified in the spirit of addressing concerns. As I mentioned previously, HB 6 is the fifth bill in the past six years that has proposed a rollback of Ohio's clean energy standards. Ohio's EERS has been watered down over time due to legislative changes in 2014 (SB 310) and commission decisions that have hobbled efficiency programs.

During the last General Assembly, House Bill 114 made it as far as a substitute bill being accepted in the Ohio Senate Energy and Natural Resources Committee. That substitute bill was the result of months of discussion about Ohio's RPS and EERS, and it is probably the closest that a true compromise was ever within reach. If this committee is endeavoring in a deliberate examination of the issues, I encourage you to return to that last substitute version of HB 114 and engage all the stakeholders once again. When the substitute bill was introduced, and despite the OEC Action Fund remaining opposed, we commended the committee for greatly improving the legislation, and for making great strides on the House-passed version. The substitute version corrected wind setbacks, maintained requirements under the RPS and EERS, strengthened the efficiency standard so that it delivered more savings to Ohioans, and supported smaller renewable projects through modifications to sizing limitations. The bill did not address a poison pill provision within HB 114 - the mercantile opt-out - but on the whole, it was much more reasonable, common sense and balanced in its approach.

Ohio's RPS encourages competition, is driving investment in Ohio communities

Investment in Ohio's renewable energy sector has delivered over \$1 billion of investment to date. Ohio also is home to the largest solar workforce in the Midwest, at over 7,000 workers; most of which is due to the presence of First Solar's only U.S. factory located in Northwest Ohio, which had been the largest in the United States. At present, First Solar is building a second factory in Ohio.

Opponents of Ohio's RPS claim that the policy is anti-competitive, and not market-based. In reality, Ohio's RPS is rooted in a market construct in which active competition creates an investment environment in which only the most cost-efficient renewable projects get built. If Sub HB 6 is enacted, Ohio would be the first state to repeal minimum standards set for suppliers of electricity.

Don't be fooled that Sub HB 6's "clean air program" is an adequate replacement of Ohio's current RPS. While the substitute bill allows utilities to do some renewable projects under certain circumstances and some projects to theoretically qualify for newly-created subsidies, the reality is that the Clean Air

Program is far inferior to Ohio's RPS in terms of actually incentivizing private investment in our state, and creating new jobs right here.

Other Midwest states have more ambitious clean energy standards and policies, and Ohio is getting left behind. Ohio's RPS is a modest 12.5% by 2027, but according to the National Council of State Legislatures, Ohio's closest neighbors have larger and more ambitious RPS goals: Michigan (15 percent by 2021 originally, and later increased to 35 percent by 2025); Illinois (25 percent by 2025 - 2026); Pennsylvania (18 percent 2020-2021). Recently, Illinois Governor J.B. Pritzker has pledged he will put the state on a path to 100% renewable energy, and there is currently a bill pending in the Illinois legislature to do just that.

Ohio has the technical and economic potential to go big on renewables. Growing Ohio's wind deployment to 3,000 megawatts by 2026 could bring up to \$4.2 billion in capital investment in Ohio, and sustain 1,000 jobs directly. Utility scale solar could grow to 1,200 megawatts from the 67 megawatts we have installed today, and small distributed solar could grow from 104 megawatts to 950 megawatts, resulting in a sustained 800 direct jobs, 1,700 indirect and induced jobs each year as well as a \$1 billion boost in annual state gross domestic product (GDP).⁷

According to the U.S. Labor Department, solar installers are projected to be the fastest growing job over the next decade, and wind energy maintenance technicians are expected to see the second fastest growth through 2026, with median annual pay of \$54,000 in 2017.⁸

Big businesses are on board with the renewables in a big way. Globally, at least 173 major corporations have committed to sourcing 100% renewable energy for their global operations.⁹ As of 2018, thirty-nine companies in Ohio have 100% renewable energy commitments and almost half of the 50 largest Ohio employers have set renewable energy procurement goals.

The local referendum provision on wind farm siting singles out one kind of energy facility. HB 6 allows local townships to submit a referendum petition to approve or reject a certificate for a wind farm issued by the Ohio Power Siting Board. The vote would occur after the developer has spent millions to develop the project, amass the land, and obtain a certificate. This provision singles out wind energy and if enacted, would be the only local referendum provision allowed for any kind of energy facility. If Ohio strives for consistency in energy policy in order to provide business certainty and to truly defer to local control, then the Ohio Environmental Council Action Fund recommends an amendment that would allow for local referendum for all energy facilities including oil and gas wells, pipelines, compressor stations, brine waste injection wells, transmission lines, and any kind of power plant subject to the Ohio Power Siting Board. In all seriousness, power siting decisions are best left to state level regulators who can draw on the expertise and ensure a rigorous review process that examines everything from noise, to wildlife impacts, to soil and water studies.

In sum, Ohio's EERS and RPS are already delivering tremendous benefits to Ohioans, and should be strengthened, not dismantled if we desire to continue cutting carbon emissions from the power sector.

⁷ http://www.poweringohio.org/files/2018/05/Powering-Ohio_FINAL-WEB.pdf See pages 21 - 22.

⁸

<https://www.energycentral.com/news/wind-turbine-techs-and-solar-installers-among-nations-fastest-growing-jobs-0>

⁹ <http://there100.org/companies>

Subsidies for coal and nuclear plants

Ohio's electric sector is not immune to the regional and national trends towards cleaner, more efficient generation and away from older coal, nuclear, oil and natural gas peaking plants. Sub. HB 6 includes in it substantial subsidies for technologies of the past, and a great cost to Ohio families and businesses.

Sub HB 6 is not the first attempt seeking, and receiving, customer-funded subsidies.

FirstEnergy Corporation is one of the largest investor-owned utilities in the country, with subsidiaries and affiliates involved in all aspects of generating electricity, transmitting and distributing it to end-users, as well as other utility-related services. FirstEnergy Solutions, a subsidiary of FirstEnergy Corporation and owner of Ohio's two nuclear plants, has filed for bankruptcy, citing market conditions such as cheap natural gas and renewable energy, environmental obligations at its nuclear and coal plants, and flat electricity demand¹⁰. The business of generating electricity has been transitioning for years, and as other forms of generation have become cheaper, including natural gas and renewables, most generation companies started to diversify their generation portfolios to ensure rate stability. FES, on the other hand, made several business decisions to double down on coal and nuclear, investing millions in aging, expensive plants that were being beat out by cheaper forms of generation.

Since 2012, FES' parent company, FirstEnergy Corp. and its Ohio electric distribution companies (Cleveland Electric Illuminating, Ohio Edison, and Toledo Edison) have sought customer-funded subsidies and bailouts in various ways and venues in an effort to shore up the operation and maintenance of FES's uneconomic coal and nuclear plants.

FirstEnergy customers are currently on the hook for \$612 million to FirstEnergy Corp. (over three years, 2017-2019¹¹) because the PUCO approved the company's proposed "distribution modernization rider" that will go to benefit the company's credit rating. In early 2019, FirstEnergy filed for a two-year extension of these, which is still pending at the PUCO.

Sub. HB 6 continues investments in coal plants at a great cost and no assurances of an end-date. Ohio ratepayers are subsidizing two coal plants owned by the Ohio Valley Electric Corporation - Kyger Creek in Cheshire, OH, and Clifty Creek in Madison, IN. through PUCO-approved charges on monthly bills, which are currently set to expire in 2024/2025.

Sub. HB 6 automatically extends these charges so that AEP Ohio, Duke Energy, and Dayton Power & Light can continue charging Ohio families up to \$2.50 per month. Sub. HB 6 would allow utilities to avoid any potential rejection of these fees in future PUCO rate cases. By keeping these two plants propped up in the market with guaranteed revenue coming out of Ohioans' pockets, these plants will continue to pose an environmental and public health threat.

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<https://www.ohio.com/akron/business/firstenergy-solutions-bankruptcy-could-take-years-consumer-impact-review-begins>

¹¹ <https://www.rtoinsider.com/ohio-puco-firstenergy-47841/>

The total cost of a 6 year extension is nearly \$483.7 million for AEP, Duke & DP&L customers. That estimate is based upon charges and projections from PUCO case filings. However, there could be years beyond this 6 year extension in which customers continue to pay due to the bill allowing “deferred costs” to be collected into the future. Deferred costs could include environmental clean up obligations, pensions, post-retirement healthcare obligations, and deferred maintenance costs. Sub. HB 6 does not appear to place restrictions or guidelines for the extent that these kinds of costs can be recovered from Ohio customers.

Despite claims otherwise, Sub. HB 6 absolutely would subsidize a coal plant in Indiana.

The Ohio Valley Electric Corporation’s (OVEC) Inter-Company Power Agreement (ICPA) *does not discern between* the Ohio plant and the Indiana plant. This is because OVEC’s Inter-Company Power Agreement (ICPA) stipulates that the shareholders and sponsoring companies are obligated to pay a “Total Monthly Charge¹³” to OVEC for the energy and capacity supplied by the “Project Generating Stations” defined as the “Ohio Station” and the “Indiana Station.”¹⁴

Regardless of any enactment of Sub. HB 6, this ICPA will be in force until December 31, 2040, and the Ohio utilities will be contractually obligated to cover their share of the costs associated with all eleven units that comprise both the Indiana Station (Clifty Creek) and Ohio Station (Kyger Creek).

While it is correct that Ohio utilities' collective share of the two power stations' output is approximately 38%, the latest substitute bills for Sub. HB 6 do not prohibit Ohio distribution utilities' recovery of costs associated with the Indiana station. Nor do the current versions of the bills provide instruction to the Public Utility Commission of Ohio (PUCO) to exclude any costs related to the Indiana Station.

By keeping these two plants propped up in the market with guaranteed revenue coming out of Ohioans' pockets, these plants will continue to pose an environmental and public health threat.

Conclusion

In conclusion, Sub. HB 6 poses many costs and risks to Ohio families and businesses. If enacted, it would: harm our health and the health of future generations; increase our monthly bills and wipe out opportunities to save money each month; hobble economic development and job creation opportunities in every corner of the state, and; entrench Ohio in energy systems of yesterday instead of embracing innovation and the technologies of today and tomorrow. Thank you again for the opportunity to testify, and I'd be happy to answer any questions at this time.

¹³ In *Amended and Restated Inter-Company Power Agreement Dated as of September 10, 2010*, the “Total Monthly Charge” consists of “...the sum of an energy charge, a demand charge, and a transmission charge...”(at pages 7-8). Components of these charges are defined in *Article 5* of the ICPA

¹⁴ *Ibid*, defines the Ohio and Indiana Stations as “one station (herein called Ohio Station) consisting of five turbo-generators and all other necessary equipment, at a location on the Ohio River near Cheshire, Ohio, and the other station (herein called Indiana Station) consisting of six turbogenerators [sic] and all other necessary equipment, at a location on the Ohio River near Madison, Indiana,” at pages 1-2.

Ohio's Energy Efficiency and Renewable Energy Standards Save Lives
BY 2029, OUR STANDARDS WILL HELP AVOID:

335,375
LOST WORK
DAYS

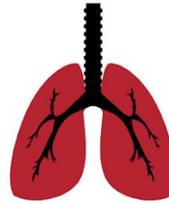
2,820
PREMATURE
DEATHS

2,420
ASTHMA VISITS TO THE ER

44,390
ASTHMA
ATTACKS



4,470
HEART ATTACKS



2,060
HOSPITAL VISITS



www.theoecactionfund.org

Source: <https://www.nrdc.org/sites/default/files/ohio-clean-energy-standards-benefits-report.pdf>