



House Public Utilities Committee  
Written Opponent Testimony  
House Bill 178

Dick Munson, Environmental Defense Fund  
Director, Midwest Clean Energy  
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Chairman Seitz, Vice Chair Carfagna, Ranking Member Ashford, and members of the House Public Utilities Committee, my name is Dick Munson and I am with Environmental Defense Fund. Thank you for the opportunity to submit written testimony in opposition to House Bill 178.

Environmental Defense Fund (EDF) is a national organization, with approximately 50,000 members in Ohio, that links science, economics, law and private-sector partnerships to solve our most serious environmental challenges.

HB 178 raises a key question: Why should Ohio customers pay for FirstEnergy's mistakes? The utility giant made a string of bad business decisions and keeps asking customers to pay for them.

It all began when Ohio restructured its electricity market under S.B. 3. At that time, FirstEnergy was fully paid for all of the costs the utility's generating plants could not recover in the competitive market.

Despite being fully paid for these stranded costs, FirstEnergy introduced a plan in 2014 to bail out its merchant affiliate company's power plants that were struggling to compete in electricity markets. The merchant company made a bet against the falling price of natural gas and lost. Nevertheless, the utility asked the Public Utilities Commission of Ohio (PUCO) to authorize \$4 billion in customer-funded subsidies for the merchant affiliate's aging, inefficient (and dirty) generators. The saga has taken many turns since, but FirstEnergy hasn't taken its eyes off the prize: Forcing Ohioans to pay for its affiliate's mistakes.

#### **Evolution of a bailout**

- Although the PUCO approved the initial bailout, failing to protect customers or fair markets, the Federal Energy Regulatory Commission came to the rescue and blocked the subsidies, declaring they would illegally disrupt regional competitive markets.

- FirstEnergy then asked the PUCO to consider “modifications” to its subsidy plan – essentially the same bailout by a different name. In total, the utility tried to obtain \$12 billion in subsidies in order to cut debt and improve its credit rating.
- Ohio’s regulators handed over \$600 million to FirstEnergy, but EDF believes that decision is likely to be overturned by the Ohio Supreme Court.
- Now claiming to be concerned with carbon pollution, FirstEnergy has a new bailout plea that seeks \$4.8 billion for its affiliate’s two Ohio-based nuclear reactors.

### **The justification shuffle**

The utility giant regularly changes its arguments, but FirstEnergy never stops asking Ohioans to pay for its affiliate’s business mistakes. Its many “justifications” do not stand up:

- Trying to play the “reliability” card, FirstEnergy argues the nuclear reactors are needed or the lights will go out. Yet PJM Interconnection (the independent, regional grid operator for Ohio and a dozen other states) says there’s no reliability problem – actually, there’s plenty of power in the system even if FirstEnergy’s units close. That’s the key takeaway from a new reliability report by PJM. The study modeled four future portfolios, three of which account for moderate to high coal and nuclear retirements. And, according to *Greentech Media*, “PJM’s analysis shows little to no reliability risk.”
- Trying to play the “fuel-mix diversity” card, FirstEnergy argues the reactors are needed to ensure a mix of energy resources. PJM, however, says there’s plenty of nuclear power without FirstEnergy’s reactors.
- Trying to play the “cry wolf” card, FirstEnergy claims its reactors face financial disaster. Yet *SNL Energy* recently pointed out that the relevant 2016 average price of electricity meant FirstEnergy’s nuclear reactors received more revenue than their operating and maintenance expenses.
- Trying to play the “Ohio first” card, FirstEnergy says that Ohio cannot afford to import electricity and therefore must subsidize unprofitable in-state power plants. The utility somehow forgets electrons don’t abide by state boundaries, and ignores the fact that our nation’s economy is based on trade.
- The real “Ohio first” card is that FirstEnergy wants only Ohioans to pay \$4.8 billion. FirstEnergy’s two nuclear reactors are not needed to ensure reliable service, but if they were, the reactors would keep sending power to customers throughout PJM’s wide territory, which encompasses thirteen midwestern and mid-Atlantic states. Why would state legislators allow only Ohioans to

be burdened with that subsidy? If FirstEnergy really wants a bailout, shouldn't it ask all thirteen states (and the District of Columbia) to prop up its unprofitable reactors?

Don't be fooled. FirstEnergy's real justification is that it wants Ohio customers to pay so its own investors can make more money. FirstEnergy doesn't even want to own these reactors; it simply wants everyday people to subsidize the units so the utility can sell them to another company at a higher price – allowing its shareholders and managers to obtain bigger profits and grander bonuses.

### **Where are the conservative values?**

FirstEnergy wants Ohio legislators to impose a \$4.8-billion tax on Ohio customers. EDF often has labeled FirstEnergy's pleadings as "subsidies" or "bailouts," but perhaps an even more accurate term is a "tax on ratepayers."

FirstEnergy also wants Ohio legislators to ignore energy markets and support subsidies. For those "whose natural inclination is to recognize free markets," supporting H.B. 178 would be an abandonment of those principles. The Republican Party Platform clearly states: "We support the development of all forms of energy that are marketable in a free economy without subsidies."

FirstEnergy also wants Ohio legislators to pick technology winners, yet the Republican Platform declares: "Government should not play favorites among energy producers." H.B. 178 would erect a mandate mountain that gives preference to nuclear power. Whether you like reactors or not, shouldn't Ohio let the market decide which technology supplies our electricity?