

TESTIMONY OF THE NATURAL RESOURCES DEFENSE COUNCIL

Daniel J. Sawmiller, Ohio Energy Policy Director

on Substitute House Bill 6

**Before the House
Energy and Natural Resources Committee**



Columbus, Ohio

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Chairman Vitale, Vice-Chair Kick, Ranking member Denson and members of the Committee: thank you for inviting me to comment on Substitute House Bill 6.

My name is Dan Sawmiller and I am the Ohio energy policy director for the Natural Resources Defense Council (NRDC), a member-based non-profit environmental organization with more than 52,000 members and activists in Ohio. NRDC works in the U.S. and internationally to protect the air, water, and land that support human health and long-term economic growth. My job is to advocate for Ohio laws and policies that reduce emissions of greenhouse gases and other air pollutants while creating an equitable, sustainable, and prosperous clean energy economy.

The following testimony:

1. Outlines the best practices that NRDC uses to evaluate state legislation that subsidizes nuclear power plants, including Sub. HB 6;
2. Explains how HB 6 falls short of those best practices;
3. Discusses the state of renewable energy in the U.S. and in the state of Ohio, and Ohio's Alternative Energy Portfolio Standards enacted in 2008 (AEPS);
4. Details the importance of Ohio's energy efficiency programs and the Energy Efficiency Resource Standard;
5. Reviews Ohio's 1999 electricity generation deregulation efforts and explains how competitive energy markets in Ohio favor fossil fuel generation, to the detriment of both renewable energy and nuclear power; and
6. Outlines how Ohio could develop a market-based policy that limits emissions of carbon dioxide from the power sector, creating a more level playing field for renewables and nuclear, while generating revenue for the state.

1. NRDC'S POSITION ON NUCLEAR POWER AND NUCLEAR SUBSIDIES

Short-term, narrowly tailored financial support for existing nuclear facilities that demonstrate severe financial distress may make sense in some cases, provided it is tied to robust efforts to ensure an orderly transition that includes efforts to scale up energy efficiency and renewable energy.

NRDC's position on state subsidies for nuclear power is described in our issue brief, *Transitioning Away from Uneconomical Nuclear Power Plants*, a copy of which is attached to this testimony.¹

In short, we believe that state policymakers grappling with the future of nuclear power should have the goal of an orderly and deliberate transition away from nuclear to a safer, more economical low-carbon power sector that has significantly higher levels of both renewable energy and energy efficiency. Further, we believe that in managing this transition, policymakers should work both to ensure that electricity is affordable for consumers and to support the communities and workers whose livelihoods currently depend on nuclear plants by spurring new economic development in those communities. We believe policymakers should also support the communities and workers affected by the closure of coal-fired power plants.

In accordance with this position, NRDC's issue brief identifies several "best practices" that we look for in state proposals to compensate nuclear plants for the low-carbon power they generate. These practices include:

1. A requirement that plants show severe financial distress as a precondition to receive subsidies;
2. The narrow tailoring of support mechanisms (i.e., so that they account for current market conditions), accompanied by a finite time horizon to prevent the establishment of an entrenched subsidy;
3. A binding and declining cap on carbon emissions;
4. Policies to significantly scale up energy efficiency and renewable energy;
5. Conditioning support for uneconomical nuclear power plants on a commitment to better manage the toxic waste they house onsite; and
6. Mechanisms to aid the workers and communities that will be affected when a plant closes.

Our position is based mainly on three considerations.

First, it is critical that we – Ohio, the United States, and the rest of the world – reduce our greenhouse gas emissions dramatically to avoid the worst impacts of climate change. Based on

¹ The issue brief is also available at <https://www.nrdc.org/sites/default/files/transition-away-uneconomical-nuclear-plants-ib.pdf>.

the latest U.S. National Climate Assessment² and a recent report by the Intergovernmental Panel on Climate Change,³ to avoid the worst impacts of climate change we must limit warming to 1.5 degrees above pre-industrial levels. This requires us to achieve net-zero carbon emissions by 2050. We are not on track to do that. While emissions fell in the United States between 2013 and 2017, emissions actually rose in 2018 by 1.9 percent in the power sector and 3.4 percent on an economy-wide basis. This spike was caused by two primary things (1) extreme weather: a relatively cold winter in 2018 led to a spike in the use of oil and gas for heating in areas like New England and (2) economic growth: the U.S. economy grew at a strong pace and as a result, electricity demand from factories, mills, planes and trucks soared with natural gas generation meeting the increased demand which lead to an increase in carbon emissions.⁴

Second, although nuclear power has beneficial low-carbon attributes, it also has significant safety, global security, environmental, and economic risks. Until these risks are properly mitigated and the complete nuclear fuel cycle is sufficiently regulated, nuclear power should not be a leading strategy to diversify America's energy portfolio and reduce carbon pollution.

Third, the most economically and environmentally sustainable way for the United States to make dramatic cuts in greenhouse gas emissions is to considerably increase our use of energy efficiency and renewable energy while minimizing our use of both fossil fuels and nuclear power. NRDC's 2017 report, *America's Clean Energy Frontier: The Pathway to a Safer Climate Future*,⁵ sets forth a strategy for doing so that includes dramatic improvements in energy efficiency across all sectors, a 13-fold increase in wind and solar energy, and the electrification of our vehicles, industrial processes, homes, and offices. If the U.S. follows this path, which we can do economically and with existing technologies, we can achieve an 80 percent reduction in greenhouse gas emissions by 2050, with a decline of nuclear power from 20 percent of our generation mix today to less than 3 percent.

² U.S. Global Change Research Program, *Fourth National Climate Assessment*, available at <https://nca2018.globalchange.gov/chapter/front-matter-about/>.

³ Intergovernmental Panel on Climate Change, *Global Warming of 1.5 °C*, available at <https://www.ipcc.ch/sr15/>.

⁴ <https://www.vox.com/2019/1/8/18174082/us-carbon-emissions-2018>

⁵ See *America's Clean Energy Frontier: The Pathway to a Safer Climate Future*, available at <https://www.nrdc.org/sites/default/files/americas-clean-energy-frontier-report.pdf>.

2. NRDC'S OPPOSITION TO HOUSE BILL 6

NRDC opposes Substitute HB 6 because the bill has received no material changes since the as-introduced version and remains at odds with NRDC's best practices in almost every respect.

Sub. HB 6 would effectively repeal Ohio's current Alternative Energy Portfolio Standard (AEPS) which requires electric distribution utilities (EDUs) and certified retail electricity suppliers (CRES), to buy 12.5 percent of the electricity they provide from renewable energy resources.

Currently, the AEPS includes a 12.5% goal by 2027 to be achieved by qualifying renewable energy resources, along with biomass, landfill gas, coalbed methane, fuel cells, and biologically derived methane.⁶ Solar energy has a 0.5% carve-out from this resource mix. EDUs and CRES providers comply with the AEPS by purchasing renewable energy credits (RECs), with each credit representing one megawatt-hour (MWh) of electricity generated by a qualified source. Since 2008, EDUs have been required to incrementally increase their purchases of RECs in accordance with inclining statutory goals. In 2027, these goals will plateau at 12.5 percent under current law.

The price of RECs is determined by markets where credits and credit futures are traded, and the costs of credits purchased by EDUs and CRES providers are passed on to consumers as a cost of electricity generation. RECs represent a revenue stream for prospective renewable energy projects that can, depending on the price, help them attract debt and equity financing. The Public Utilities Commission of Ohio (PUCO) recently reported that for the 2nd quarter of this year (2019), **AEPS compliance has cost residential customers an average of \$0.52/month** across the state.⁷

⁶ Ohio's AEPS previously totaled 25% by 2025 and included both a renewable energy commitment of 12.5% and an alternative energy commitment of 12.5%. 50 percent of compliance was also previously required to come from resources located inside the state. The 12.5% alternative standard has been repealed along with the in-state requirement, the annual benchmarks were "frozen" for two years, and an effective moratorium on wind development passed in 2014. All of these ongoing attacks on clean energy in Ohio have severely limited Ohio's progress in attracting renewable energy development.

⁷Note, this captures average compliance costs for the Ohio EDUs only, not the CRES suppliers.
<https://www.puco.ohio.gov/industry-information/industry-topics/ohioe28099s-renewable-and-advanced-energy-portfolio-standard/renewable-portfolio-standard-rate-impacts-2nd-quarter-2019/>

In contrast, the so-called “Ohio Clean Air Program” (OCAP) envisioned by Sub. HB 6 would provide an additional payment \$9.00 for each MWh of electricity produced by carbon-free energy sources at a residential ratepayer impact of \$2.50/month provided they meet certain criteria outlined in the bill.⁸ In evaluating the average annual output of the state’s two nuclear facilities, approximately \$1.25 of this monthly residential charge would go directly to the nuclear facilities (approximately \$150M/year), presumably leaving approximately \$1.25/month to support other resources that reduce emissions. The bill is unclear as to which resources would ultimately qualify for these credits though it appears both coal and gas facilities - both which emit carbon and other harmful pollutants - would qualify, leaving little room for renewable energy producers, if any. As I noted previously, **the monthly price impact of the proposed OCAP at \$2.50/month is significantly more than the current AEPS compliance cost which averages \$0.52/month according to a recent analysis by the PUCO.**

If Sub. HB 6 were enacted, it is likely that at least half of the ‘clean air credits’ would be earned by nuclear power, which would provide non-incremental benefits to the state. The next step would be for the Ohio Air Quality Development Authority (OAQDA) to somehow rank other eligible resources or allocate remaining funds based on how well the ‘clean air resource’ or ‘reduced emissions resource’ satisfies the criteria specified in Sub. HB 6. OAQDA would select sources to receive credits until the fund is depleted. There are no clear goals established for emissions reductions (carbon or otherwise) and the amount of credits received, if any, is not market-based, and are subject to significant change over time at the sole discretion of OAQDA. This lack of structure can be expected to make any potential credits unreliable and likely unfinanceable.

Under this design, Ohio’s two nuclear plants would almost certainly be picked first because they generate the greatest amounts of low-carbon electricity in the state and so avoid the greatest amount of emissions; though this number is low still, given the small amount of in-state renewable energy penetration to date.⁹ That said, even if a significant number of clean air credits ended up being available to renewables (though the bill is unclear on this), the OCAP would be unlikely to drive new renewable developments in the state as investors would heavily or completely discount these credits because of the speculative nature of the credits.

⁸ The charge in year one is \$0.50 and increases to \$2.50 for each year thereafter.

⁹ In 2018, Ohio’s nuclear facilities made up nearly 15% of total generation, while wind and solar made up less than 2%. This underscores the critical need to significantly scale renewable development across Ohio.

In addition to doing very little to incentivize renewables, Sub. HB 6 fails to accord with NRDC's other best practices. There are no provisions to address the needs of workers and communities when plants eventually close. Credit eligibility is not conditioned on the implementation of best practices concerning waste storage and decommissioning. While the bill seems to contemplate the benefits of reducing carbon pollution, Sub. HB 6 would not itself establish carbon limits. Nor would it increase energy efficiency goals, but instead would effectively repeal Ohio's overwhelmingly successful energy efficiency programs which, according to reports filed by Ohio's EDUs with the PUCO have saved customers more than \$5.1B to date. A package of financial support for the state's nuclear facilities that does not also provide a policy pathway for future emissions reductions and economic development through wind and solar projects and energy efficiency misses the mark.

Sub. HB 6 also does not require a showing of severe financial distress. Clean air credits could be claimed by nuclear plants irrespective of their profitability. Under the Federal Power Act, Ohio may not establish subsidies for nuclear plants (or for any other resource) that are priced to make up the difference between the amount of money that plants are earning on wholesale power markets and the amount of money they need to be profitable.¹⁰ Subsidies must be on account of environmental attributes and must be priced to value those attributes. However, states may establish threshold conditions for the receipt of subsidies, such as requiring companies to open their books to demonstrate financial need. States can also authorize regulators to adjust credit amounts downward to reflect market conditions, which of course can change. Indeed, Illinois and New Jersey did both when it enacted its "zero emissions credit" in 2018.¹¹

The absence of a means test in Sub. HB 6 is unacceptable, both as a matter of basic fairness and because many Ohioans currently struggle to pay their electricity bills in both urban and rural areas, making energy efficiency services critical for these families. This February, the Ohio Development Services Agency released its latest Ohio Poverty Report which shows that 1,583,000 people in Ohio were considered "poor" with 41 of Ohio's 88 counties above the national average. Nearly 25 percent of these families rely on some type of state assistance. 17.2 percent of the people in Appalachian Ohio were considered "poor" compared to the rest of the

¹⁰ See Miles Farmer, "Why the Supreme Court's Decision in Hughes is Good for Clean Energy," available at <https://www.nrdc.org/experts/miles-farmer/why-supreme-courts-decision-hughes-good-clean-energy>

¹¹ See New Jersey Board of Public Utilities, "Frequently Asked Questions about the Zero Emissions Certificate ("ZEC") Law," available at <https://www.state.nj.us/bpu/pdf/publicnotice/ZEC%20Application%20QA.pdf>

state averaging 14.4 percent over 5 years.¹² Indeed, parts of Ohio’s Appalachian Region stand to economically benefit most from large-scale solar developments and this exciting opportunity can coexist with other policy goals.

To protect Ohioans from the worst impacts of climate change, provide low-cost and pollution-free power, and ensure sustainable economic growth, Ohio needs to make significant investments in clean energy. But those investments must be equitable, and they must return long-term value. The proposed nuclear investments in Sub. HB 6 would do neither.

3. RENEWABLE ENERGY IN OHIO AND THE AEPS

In recent years, renewable energy has grown rapidly in the United States due to falling costs, technological improvements, and targeted incentives like state Renewable Portfolio Standards. Although Ohio has seen growth in renewable energy, it lags behind leading U.S. states. Consequently, while Ohio has created an impressive number of jobs in renewable energy thanks largely to its rich manufacturing community, it has largely failed to take advantage of the economic development and job creation that renewables are bringing to Ohio’s neighboring states and other parts of the nation.

While a number of factors are driving renewables growth in the Midwest, policy action is one of the most critical. Consumer demand and other market forces have caused a precipitous drop in wind and solar costs in recent years. But renewable energy is picking up the most steam in states that are taking definitive policy action to ensure that wind and solar (and not natural gas-fired power) are available to fill the gap left behind from the waning era of coal-intensive power generation. Unfortunately, though, Ohio is not one of those states. The state has been fallow ground for renewable energy development in the last few years, lagging behind its neighbors.

Amidst lots of exciting progress in our region, Ohio’s numbers unfortunately paint a decidedly different picture—one of relative stagnation on wind and solar development. Ironically, Ohio has led the region in carbon emissions reductions from its power sector over the last decade, but is placing dead-last in the region for renewables in its overall generation profile (barely cracking 2 percent for wind generation). Ohio’s emissions reductions reflect the steep decline of coal-fired power in that state. Unfortunately, natural gas-fired power plants—not renewables—are rapidly filling the gap left behind by coal. While natural gas is less carbon-intensive than coal, if left

¹² <https://www.development.ohio.gov/files/research/p7005.pdf>

uncontrolled it is still a huge source of greenhouse gas emissions (from extraction, all the way through power production).

Ohio, its economy and its people, simply cannot afford to trade one all-in energy source (for the last century, coal) for another (natural gas).

We can produce clean renewable energy right here in Ohio.

It is clear that Ohioans are demanding more clean energy produced here at home. While the concerns around global warming are - by definition - “global”, the impacts on Ohio’s economy of the lack of renewable development are local. Further, the impacts of fossil fuel generation are felt locally, and moving our in-state electricity production toward clean, renewable sources is not only what Ohio’s electricity customers want and what is best for Ohio’s economy, but is imperative to reduce the health impacts caused by burning fossil fuels.

Over the last decade, prices for solar and onshore wind in the U.S. have fallen by 88 and 64 percent, respectively. In many parts of the U.S., solar and wind are already the cheapest type of new generation to build, and they are projected to become increasingly cheaper. And in some parts of the U.S., building a new wind or solar project is cheaper than running an existing coal plant. In fact, a recent analysis found that by 2025, building new renewables will be less expensive than running 86 percent of *existing* coal plants in the United States.¹³

These changing economics have translated into a massive increase in renewable generation. In 2008, less than 1.5 percent of the electricity generated in the United States came from wind and solar power. Since then, wind and solar generation have increased by 550 percent, to almost 9 percent. Overall, renewables (wind, solar, and hydropower) now account for around 16 percent of electricity generation in the U.S. In 2018, eighteen states generated 10 percent or more of their electricity from the sun and wind, and eleven states generated at least 20 percent.¹⁴

¹³ See https://energyinnovation.org/wp-content/uploads/2019/03/Coal-Cost-Crossover_Energy-Innovation_VCE_FINAL.pdf

¹⁴ Amanda Levin, “U.S. Power in 2018: The Good, the Bad, and the Gassy,” available at <https://www.nrdc.org/experts/amanda-levin/us-power-2018-good-better-and-gassy>

Top 10 Wind & Solar States in 2018 (as % of generation)					
Wind & Solar Total		Wind		Solar	
Kansas	36.5%	Kansas	36.4%	California	19.0%
Iowa	33.9%	Iowa	33.7%	Nevada	12.7%
Oklahoma	31.8%	Oklahoma	31.7%	Hawaii	11.2%
Vermont	26.8%	North Dakota	25.8%	Vermont	11.0%
North Dakota	25.8%	South Dakota	24.4%	Massachusetts	10.7%
California	25.5%	Maine	21.0%	Arizona	6.5%
South Dakota	24.4%	New Mexico	18.7%	Utah	6.4%
New Mexico	23.5%	Minnesota	17.9%	North Carolina	5.4%
Maine	21.6%	Colorado	17.3%	New Mexico	4.7%
Colorado	20.3%	Texas	15.9%	New Jersey	4.2%

In 2014, the PUCO studied Ohio's AEPS for its impact on carbon emissions and wholesale electricity prices.¹⁵ This report concludes that **“Ohioans are already benefitting from renewable resource additions through downward pressure on wholesale market prices and reduced emissions.”** As the PUCO notes, the reduction in wholesale market prices can be considered a partial offset to the costs incurred by utilities to comply with the alternative energy standards (currently averaging \$0.52/month). The modeling done in this report also showed that the AEPS is successfully reducing carbon dioxide emissions.

As noted above, the AEPS currently has only a 12.5 percent goal. Within this 12.5 percent, there is a “carve-out” of one-half of one percent (0.5 percent) for solar photovoltaic (PV) electricity. RECs purchased to satisfy this demand can come from any state contiguous to Ohio.

Ohio has the potential to cost-effectively generate much greater amounts of renewable energy than this. In reviewing the siting cases before the Ohio Power Siting Board, Ohio has more than ten large-scale solar projects either approved for siting or have an application pending. These projects represent more than \$3B in capital investments, thousands of jobs in areas of our state where new economic opportunities are needed most and millions of dollars each year in local economic benefits.

By scaling up renewable energy through a strengthened AEPS, Ohio could create thousands of new good-paying jobs. Since 2015, Environmental Entrepreneurs (E2) has released annual reports enumerating Ohio's jobs in energy efficiency, renewable energy, battery storage, and clean vehicles. The 2018 *Clean Jobs Ohio* report counted more than 14,000 renewable energy jobs.¹⁶ It is important to note when reviewing this jobs number that - **of the more than 1,400MW of pending large-scale solar projects announced in the state - zero are operational.** Eliminating the state's AEPS as Sub. HB 6 would do, would put each of them at risk along with the significant job growth and local economic benefit they represent.

The bad news.

This is the good news. The bad news is that we are not ramping up renewables fast enough to achieve the carbon reductions necessary to avoid the worst impacts of climate change. This is

¹⁵ http://www.ohiomfg.com/wp-content/uploads/2013-08-16_lb_energy_renewable_resource_and_wholesal_price_suppression.pdf

¹⁶ <https://www.cleanjobsohio.org/>

especially true in Ohio. Currently, renewables account for *less than three percent* of electricity generated in the state¹⁷ and most of the new generation being built is natural gas-fired power.

The explosion of gas-fired power is due in part to historically low (for now) natural gas prices, which investors see as an opportunity to push coal and nuclear power offline in Ohio's competitive power markets, then enjoy handsome returns on their investment as gas prices rise, placing Ohio's electricity consumers at risk. But this growth in gas generation is also a function of the fact that Ohio's AEPS is too low (and has been under constant attack) and the lack of long-term contracting opportunities for low cost, fixed-price renewable energy purchase agreements.¹⁸

A brief case study.

Currently pending a decision from the PUCO is a set of solar projects to be developed in Highland County. Totalling 400MWs, this would be the largest clean energy development in state history with the potential to create 4,000 construction job years and 150 new, sustainable manufacturing jobs in the solar supply chain. Seeing these projects move forward would save electricity customers more than \$218M and result in economic development (Ohio workers would grow by more than \$250M) that would ensure the region has access to competitively priced solar energy and remains at the forefront of America's energy industry.

These projects have been in consideration for development for years now. Thousands of supportive comments have been filed with the PUCO by Ohio's electricity customers, public hearings have been packed by hundreds of people with nearly 60 people testifying, all in support.

Still, the outcome of these projects remains uncertain. Removing the state's AEPS could certainly be a fatal blow for these projects, and others like them in Ohio.

¹⁷ <https://www.puco.ohio.gov/be-informed/consumer-topics/how-does-ohio-generate-electricity/>

¹⁸ Reply Brief of NRDC, OEC and Sierra Club in PUCO Case Number 18-501-EL-FOR.

<https://dis.puc.state.oh.us/TiffToPdf/A1001001A19C27B71031J04290.pdf>

Ohio's AEPS is needed now, more than ever.

Some believe that because of the declines in renewable energy costs noted above and the current renewable energy industry employment statistics, policies like the AEPS are no longer needed to drive growth in renewables. This is not true, at least in Ohio.

Historically, the federal government and state governments have intervened liberally in energy markets “to develop public goods, such as national security and defense, to promote positive externalities, such as economic development within the United States and an expansion of power abroad, and to overcome market barriers, such as the high cost and financial risks of transporting remote natural resources to markets.”¹⁹ Although the oil and gas, coal, and nuclear industries would like us to believe that they have simply pulled themselves up by their bootstraps in free markets, they have benefited enormously from government assistance – far, far more than renewables have – and they continue to do so today.²⁰

Given the urgent need to reduce greenhouse gas emissions, it is critical that states support energy resources that both create jobs and economic development *and* reduce these emissions – especially when wholesale energy markets inhibit those resources, as the markets run by the PJM Interconnection do. (These markets are described in the following section). While there is an argument for providing narrowly tailored, time-limited support to struggling nuclear plants in Ohio so they can be replaced by renewable energy, efficiency, or other low-carbon resources instead of gas-fired power plants, **Ohio must make stronger support for renewables the foundation of Sub. HB 6.**

¹⁹ Tracey M. Roberts, “Picking Winners and Losers: A Structural Examination of Tax Subsidies to the Energy Industry,” *Columbia Journal of Environmental Law*, Vol. 41:1 (2016), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2657336

²⁰ See, e.g., Gilbert E. Metcalf, “Ending Fossil Fuel Subsidies: Removing Tax Preferences for Domestic Oil and Gas Production,” Kleinman Center for Energy Policy (April 27, 2017), available at <https://kleinmanenergy.upenn.edu/policy-digests/ending-fossil-fuel-tax-subsidies>. See also David Roberts, “Friendly policies keep US oil and coal afloat far more than we thought,” found at <https://www.vox.com/energy-and-environment/2017/10/6/16428458/us-energy-coal-oil-subsidies>, and Doug Koplow, *Nuclear Power: Still Not Viable Without Subsidies*, Union of Concerned Scientists (2011), available at https://www.ucsusa.org/sites/default/files/legacy/assets/documents/nuclear_power/nuclear_subsidies_report.pdf

4. ENERGY EFFICIENCY AND THE ENERGY EFFICIENCY RESOURCE STANDARD (EERS)

Energy efficiency is one of the most powerful weapons for combatting global climate change, boosting the economy, and ensuring that the air is safe to breath. Energy efficiency is America's largest energy resource, contributing more to the nation's energy needs over the last 40 years than oil, coal, natural gas, or nuclear power. It accounts for more than 2.2 million U.S. jobs – more than 81,000 of which are in Ohio – at least 10 times more than oil and gas drilling or coal mining.

But what is energy efficiency?

It is the art of getting the same or better performance using less energy – all while cutting utility bills for residential, business and industrial customers.

In 2017, every dollar spent on energy efficiency programs created \$2.65 in benefits for Ohio's homes and businesses.²¹ Total bill savings to date top \$5.1B. Furthermore, Ohio's efficiency programs reduced more than 1.1 million tons of carbon pollution in 2017 alone. Ohioans benefit from cleaner air resulting from efficiency programs as well; preventing more than 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.²²

An often-used phrase when discussing energy efficiency is that “the low-hanging fruit is gone.” This argument, which has been echoed for decades, is demonstrably false and equally dangerous. In 2017, Ohio ranked at number 16 in terms of the level of savings generated from energy efficiency investments. It trailed other Midwest states, including Illinois, Minnesota and Michigan.²³ Not only have Ohio's utilities' own potential studies identified a clear pathway to meet the current state goals, recent analysis by the American Council for an Energy Efficient Economy (ACEEE) shows additional savings opportunities, including emerging technologies and strategies to encourage additional customer participation.²⁴ Providing assurance of this is the

²¹ MEEA, [Energy Efficiency: A Good Investment for Ohio](#)

²² NRDC, [Cleaner Air and Better Health - Benefits of Ohio's Renewable and Efficiency Standards](#) (2015).

²³ ACEEE, The 2018 State Energy Efficiency Scorecard, <https://aceee.org/sites/default/files/publications/researchreports/u1808.pdf>

²⁴ <https://aceee.org/blog/2019/04/aceee-debunks-myths-behind-ohio-bill>

fact that in order to implement energy efficiency programs in Ohio, they must first prove to save more money than they cost.

In addition to the energy, capacity and transmission and distribution savings that energy efficiency delivers, it is also the cheapest new resource (table below). This means that if Ohio were to fill the MWhs gap created by the repeal of the EERS, all available options for new resources would be more expensive.

Levelized Cost of Electricity (LCOE) for A New Plant of a Fuel Type²⁵

	LCOE (\$/MWh) ²⁶
Nuclear	\$150
Coal	\$102
Gas	\$58
Wind	\$42 ²⁷
Solar	\$31
Energy Efficiency	\$15

Eliminating the state’s efficiency programs as Sub. HB 6 proposes would certainly increase the electric bills of all Ohioans. Maintaining Ohio’s efficiency standard is critical to ensure reasonable electricity bills, reducing emissions and creating jobs in the state.

5. THE PROBLEM WITH PJM’S COMPETITIVE POWER MARKETS

Ohio’s Electric Restructuring Act of 1999 (SB 3) is one of Ohio’s most important energy laws, and understanding it is critical to understanding why nuclear power is increasingly struggling in the state. The Act also helps explain why so many new natural gas power plants are being built in Ohio at a time when we should be decarbonizing our power sector.

²⁵ LCOEs for supply-side resources are based on Lazard 2018. The LCOE for energy efficiency is calculated using Ohio utilities’ reported spending on efficiency programs in 2017 as well as their projected savings.

²⁶ LCOEs reflect the all-in costs of building and operating a new plant, including fuel and operation and maintenance costs, as well as capital costs and financing. LCOEs provide a common footing enabling the cost comparison of multiple technologies.

²⁷ Does not include the federal Production Tax Credit for wind

Senate Bill 3 “restructured” Ohio’s electric power industry by separating the generation and distribution of electricity into separate businesses. It was part of a wave of regulatory reform that sought to introduce competition in various utility functions, following what was seen as the successful economic deregulation of many other industries, from airlines to telecommunications.²⁸

Before the passage of SB 3, Ohio’s electric utilities were “vertically integrated,” meaning that they both (1) built and operated power plants and (2) distributed electricity to homes, businesses, and factories. Utilities had a monopoly on both functions (subject to oversight by the state Public Utility Commission), and when a utility wanted to build a power plant, it had to get approval from the PUCO. The point of PUCO review was to ensure that construction of the plant was “prudent,” since the cost of building the plant would be reflected in the price of the utility’s electricity, and customers had no choice but to buy that electricity.

The idea of generation competition was based on the premise that while electricity *distribution*—essentially, building and operating poles, wires, and substations—is a “natural monopoly” that can be performed most efficiently by one company under PUCO supervision, a competitive market could be established for electricity *generation*, and that this would lead to increased efficiency (i.e., lower prices for consumers). Accordingly, Ohio made three major changes to its electricity system.

First, utilities were forced out of the generation business, requiring them to spin off their power plants and become “electricity distribution utilities,” or EDUs. Today, the job of Ohio’s EDUs is to maintain distribution infrastructure, design rates, manage bills, and run assistance programs for Ohio’s many payment-troubled customers, as well as programs to help customers use energy more efficiently. These functions are supervised by the PUCO.

Second, the law created a “retail” electricity market where customers can choose to buy electricity generation from any qualified “certified retail electricity supplier” (CRES), which are allowed to market different generation “products” to customers. When customers don’t shop, “default suppliers” (the Ohio EDUs) buy electricity for them under rules established in Ohio law.

²⁸ Borenstein and Bushnell, “The U.S. Electricity Industry After 20 Years of Restructuring,” National Bureau of Economic Research (April, 2015), available at <https://www.nber.org/papers/w21113.pdf>

Third, SB 3 effectively outsourced planning for Ohio’s electricity generation sector to the markets designed and run by PJM Interconnection, LLC. PJM is authorized under The Federal Power Act to act as a “regional transmission organization” for the Mid-Atlantic United States, which essentially means that it manages the electricity system and ensures the system’s reliability. PJM does this in part by creating and designing “wholesale” electricity markets where electricity is sold as a commodity. These markets determine what power plants are generating electricity at any given time, as well as the price of that electricity.

The restructuring of Ohio’s power sector is sometimes described as “deregulation,” but that is a misnomer. Before this law was enacted, Ohio’s power sector was regulated by the PUCO under laws passed by the General Assembly. Now the power sector depends primarily on revenues obtained in PJM’s electricity markets, which operates under rules approved by the Federal Energy Regulatory Commission (FERC). PJM, a limited liability company, designs the rules for its markets based on input from its members, most of which are companies that participate in the markets. (The members of an LLC are roughly equivalent to shareholders of a corporation). The State of Ohio is not a member of PJM, and the General Assembly has no voice in the design of PJM’s markets. Ohio’s only formal engagement at PJM is through the Organization of PJM States (OPSI), which itself is not a member of PJM, only a “stakeholder”, more pointedly OPSI is a “non-voting stakeholder” and has no more voting rights than NRDC.

The struggles of nuclear power to remain economical in Ohio are largely due to a profound design flaw in PJM’s markets: they do not account for the climate impacts of carbon pollution from power plants that burn coal and gas. (While coal produces more carbon pollution than gas, gas-fired power plants also emit significant amounts of carbon pollution). If the markets did price carbon pollution—something that PJM has begun to explore but has never acted on—companies emitting it by burning coal and gas would have to pay for it. That would make non-emitting power sources, including both renewables and nuclear, more competitive.

6. CARBON LIMITS AND PRICING: A MARKET-BASED APPROACH TO HELP FIX OHIO’S POWER SECTOR

In our estimation, Sub. HB 6 suggests that is time for a conversation in Ohio about carbon pollution. In fact, though, a conversation on carbon pollution has been happening for years – and it has increasingly pointed in the direction of using market mechanisms to cap and price carbon emissions from the power sector and create a more level playing field between generation sources that emit carbon pollution and those that do not. In part, the current struggles of the

state's nuclear plants can be attributed to Ohio's not having adopted such a mechanism to date. We respectfully suggest that the General Assembly consider immediate action to do so now.

When a strong and clear signal is provided to a sector that it should move in a particular direction, the market will respond through innovation to get there. Do nothing, and the unsustainable status quo will persist.

Applying carbon limits and pricing mechanisms to Ohio's power sector can both help the economics of the state's nuclear plants and create a revenue stream that the General Assembly can use to help Ohioans.

One approach that provides a framework for Ohio to consider is the Regional Greenhouse Gas Initiative, or RGGI (pronounced "Reggie"), a market-based, cap-and-invest program to cut carbon pollution from power plants that launched in 2009. RGGI's members currently include Delaware, Maryland, New York, and the six New England states. New Jersey is in the process of joining RGGI, and Virginia is preparing to link to RGGI's trading markets (both states are far along in their regulatory processes, and will be part of RGGI by next year, January 1, 2020).

The "cap" part of RGGI is a regional limit on carbon emissions from the power plants of participating states. The cap is determined by negotiation among the RGGI states, then lowered by 3 percent annually. The "invest" part starts with the fact that power plants under RGGI must purchase one "allowance" for every ton of carbon that they emit. RGGI creates allowances in a number equal to the number of tons in the regional cap, then auctions the allowances to power plants (and other parties who wish to buy them). The auction proceeds are then returned to states to be invested in various beneficial purposes, including energy efficiency, renewable energy projects, and bill rebates for consumers.

RGGI gives the power sector flexibility to achieve the required emissions reductions efficiently. After allowances have been auctioned, they can be traded among power plants and third parties on secondary markets. This maximizes the economic efficiency of RGGI by incentivizing emission reductions where they are most cost-effective. The result? Delivering pollution reductions at a lower cost to consumers while jumpstarting investment in the transition to a clean energy economy.

RGGI also makes generating resources that do not emit carbon pollution – including both nuclear power and renewables like wind and solar – more competitive in power markets by increasing

the price of resources that do emit carbon more expensive. And it raises revenue for states. Since 2009, RGGI states have received more than \$3 billion from the auction of allowances. They have invested these monies in their local economies in the form of (among other things) energy efficiency programs and measures, renewable energy projects, bill assistance for consumers, and education and job training programs.²⁹ According to the most recent evaluation of RGGI's economic impacts, from 2015 to 2017 the RGGI program led to \$1.4 billion (in net present value) of net positive economic activity in the nine-state region.³⁰ And that is on top of nearly \$3 billion in net economic benefits from RGGI's first six years.³¹ This bears emphasis: these states have slashed power plant pollution *while growing their economies, maintaining a reliable electric sector, and capturing an increasing market share of the burgeoning clean energy economy.*

Chairman Vitale, Vice-Chairman Kick, Ranking Member Denson and committee members, thank you again for the opportunity to testify on Substitute HB 6 and the important energy policy issues facing Ohio today. I would be happy to answer any questions you may have.

²⁹ Analysis Group, *The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States: Review of the Use of RGGI Auction Proceeds from the Third Three-Year Compliance Period (2015-2017)*, (April 17, 2018), available at https://www.analysisgroup.com/globalassets/uploadedfiles/content/insights/publishing/analysis_group_rggi_report_april_2018.pdf

³⁰ *Id.*

³¹ Analysis Group (2015), *The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States: Review of the Use of RGGI Auction Proceeds from the Second Three-Year Compliance Period (2012-2014)*, https://www.analysisgroup.com/globalassets/uploadedfiles/content/insights/publishing/analysis_group_rggi_report_july_2015.pdf; Analysis Group (2011), *The Economic Impacts of the Regional Greenhouse Gas Initiative on Ten Northeast and Mid-Atlantic States: Review of the Use of RGGI Auction Proceeds from the First Three-Year Compliance Period*, https://www.analysisgroup.com/globalassets/uploadedfiles/content/insights/publishing/economic_impact_rggi_report.pdf