

**Interested Party Testimony of Kevin Murray  
Executive Director Industrial Energy Users-Ohio**

**Energy and Natural Resources Committee  
Sub-committee on Energy Generation Subcommittee  
Ohio House of Representatives**

**April 23, 2019**

Co-chairs Stein and O'Brien and members of the subcommittee. Thank you for the opportunity to provide testimony today.

My name is Kevin Murray and I serve as the Executive Director of the Industrial Energy Users-Ohio. The Industrial Energy Users-Ohio is a trade association that works on behalf of its members on matters that affect the price, availability and reliability of energy. We are active in matters before the Public Utilities Commission of Ohio, in legislative activity in the General Assembly, and before federal agencies such as the Federal Energy Regulatory Commission. We have been involved in every major piece of energy legislation that has been considered by the General Assembly in the last 25 years. I have included additional information on the Industrial Energy Users-Ohio in an appendix to my written testimony.

Let me first say a big thank you to the drafters and sponsors of HB 6 for eliminating the energy efficiency and renewable energy mandates. These mandates did not make sense back in 2008 (and our organization was one of the few that opposed them) and they make even less sense now.

I am testifying today as an interested party. While the as-introduced legislation has several positive attributes, we do have some concerns with other aspects of the legislation, which I would characterize as provisions outside of the primary purposes of

the legislation to encourage the development and retention of zero emission resources and reduced emission resources and eliminate mandates.

As an organization, we have supported competitive markets for energy (electricity generation and natural gas commodity) as a superior alternative to economic regulation. Competitive markets do a better job of delivering electricity and natural gas to customers at reasonable and lower prices. However, we recognize that from time to time and due to various policy considerations, the hand of government will place its thumb on the scale of energy markets to tip the outcomes to favor particular competitors or technologies. For example, the federal government currently provides a production tax credit to wind generation resources and an investment tax credit to solar resources. In a perfectly competitive market, these types of government interventions would not occur. Unfortunately, in reality, they happen all the time.

Members of the General Assembly are understandably concerned about the fate of the two nuclear units located in Northern Ohio (Davis Besse and Perry). As others have testified before the subcommittee, these facilities are a significant source of local taxes and jobs that help the economy. They are also a significant source of zero carbon emission electricity. If the units close, they will never be restarted.

Recent low natural gas prices have reduced wholesale electricity prices in recent years. While this has been a benefit to customers, it has contributed in part to the financial woes facing the two nuclear facilities. But, continued low natural gas prices are not guaranteed. There are numerous LNG export projects under development in the United States. Once these projects come online they will boost natural gas demand, potentially increase natural gas prices and in turn wholesale electricity prices. The fact

that wholesale market prices may increase makes it appropriate to consider what assistance to the nuclear plants to stave off their near-term closure makes sense. More about those observations later in my testimony.

Let me offer a few positive observations about the as-introduced legislation. The approach the bill sponsors have taken is to cap funding support for the nuclear plants through a capped and relative modest monthly customer charge. Eliminating the renewable and energy efficiency mandates and a portion or all of their associated cost with the intent of producing an overall decrease in customer bills is laudable.

The Industrial Energy Users-Ohio also questions the wisdom of extending the \$9.25 per MWH support payment to other clean energy resources and reduced energy resources. Directionally, this would appear to contribute to the conditions that are creating financial challenges to the two nuclear units. However, we recognize that if the only effect of the legislation relative to zero emission resources was a repeal of the renewable mandates, it would provide ammunition to opponents of the legislation to argue that Ohio does not support renewable energy resources. We know that is clearly not true and in the interest of passing comprehensive legislation that eliminates the mandates the Industrial Energy Users-Ohio does not plan to object to this aspect of the legislation.

Let me identify some concerns Industrial Energy Users-Ohio has with the as-introduced version of HB 6, in no particular order.

First, the \$9.25 per MWH supports payment to clean energy resources and reduced emission resources exists in perpetuity. We do not view this as appropriate. As noted earlier in my testimony wholesale market prices for electricity can and do change.

The support payments that may be viewed as necessary today may not be necessary at some point in the future. We recommend the legislation be modified to add a sunset date to the support payments or some other mechanism to revisit their continued necessity. A prior version of legislation with a similar purpose (HB 381, 132 GA) provided for a sunset date of December 31, 2030. A date sooner than that may be appropriate.

If the \$9.25 per MWH support payment to clean energy resources remains in the legislation, we recommend that its availability be extended to behind the meter generation facilities that meet any other criteria specified by the General Assembly to qualify. Behind the meter clean energy generation is every bit as clean (and technically even cleaner due to transmission and distribution losses) than in front of the meter clean energy generation.

An additional concern we have with the legislation is section 3706.47(D). This section of the legislation deals with what I would call legacy renewable energy and energy efficiency costs. As proposed, this section of the legislation would allow an electric distribution utility that has costs associated with contracts continue as a result of the existing mandates to recover these costs associated with those contracts. While that is reasonable, the cost allocation reflected in this section of the legislation is not. As I read this section of the legislation, the electric distribution utilities would recover these costs by spreading them over 100% of their customers. This cost allocation is contrary to the utility ratemaking concept of cost causation in which costs are allocated to the customers that caused them. Currently, shopping customers pay for renewables from their competitive retail electric supplier. Electric distribution utilities cover the renewable

mandates for non-shopping customers under the standard service offer. Similarly, customers that have opted out of the energy efficiency mandates under existing law options are not cost-causers for legacy energy efficiency costs. Therefore, they did not cause the costs associated with ongoing legacy contracts. We encourage you to consider alternative language that treats electric distribution utilities fairly on this issue but does not shift costs among customers.

We also have concerns with section 4928.471 which allows electric distribution utilities to propose a decoupling mechanism for base distribution rates. We are not opposed to a decoupling mechanism per se, but the language as introduced would allow all electric distribution utilities to reset base distribution rates to 2018 levels. This would appear to circumvent a 2018 decision by the Public Utilities Commission of Ohio reducing base distribution rates for one Ohio electric distribution utility in 2019 in part due to lower federal corporate income taxes. I have been assured that is not the intent but alternative language needs to be adopted to make this 100% clear.

Currently, under existing law customers served at above primary voltage may elect to opt out of the current energy efficiency mandates. If they so elect, they are required to file status reports every two years at the Public Utilities Commission of Ohio (Section 4928.6616). If enacted, HB 6 would opt out all customers from the existing energy efficiency mandates and we do not believe this reporting requirement is necessary or effective. Therefore, we recommend that current Section 4928.6616 be repealed.

Finally, the customer classifications contained in Section 3706.47 of the as-introduced legislation (residential, commercial and industrial) are not specifically defined

and presumably would be at the discretion of the electric distribution utility. We recommend that the definition of these customer classes be consistent with customer class definitions reflected the monthly reporting instructions for the Energy Information Agency's Form EIA-861M Reporting Instructions.

Thank you once again for the opportunity to offer testimony. I would be happy to answer any questions.

## **About Industrial Energy Users-Ohio**

The Industrial Energy Users-Ohio is a group of energy-intensive manufacturing and business customers that have experienced changing, volatile energy markets across the country. As contributors to Ohio's economy, IEU-Ohio wants to use that expertise to assist other business customers to understand and benefit from opportunities in emerging energy markets.

As an organization, IEU-Ohio works proactively to address potential issues and decisions before they become problems. We are active in legislative, regulatory and technical venues so that rules and regulations established in competitive markets provide opportunities for all consumers. A primary goal is to help shape Ohio energy policy and enable effective competitive retail energy markets that can then assist Ohio's businesses in becoming strong global competitors.

IEU-Ohio's members work together to address matters that affect the availability of utility services and the cost of such services. IEU-Ohio seeks to promote rational and consistent policies that will assure an adequate, reliable and efficient supply of energy for all consumers at competitive prices.