



**House Bill 6  
Opponent Testimony**

**Before the Energy and Natural Resources Subcommittee on Energy Generation  
Representatives Dick Stein and Michael O'Brien, Co-Chairs**

**Presented by**

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Chairman Stein and Chairman O'Brien, and members of the Energy and Natural Resources Subcommittee on Energy Generation, thank you for the opportunity to present opponent testimony today on House Bill 6.

My name is Luke Harms. I am Senior Manager of Government Relations at Whirlpool Corporation. Whirlpool is the number-one appliance manufacturer in the world, with approximately 92,000 employees and 65 manufacturing and technology centers. Here in Ohio, Whirlpool has five manufacturing facilities and approximately 10,000 employees.

I am testifying today on behalf of my company but also on behalf of The Ohio Manufacturers' Association (OMA). I currently serve as Vice Chairman of the OMA Government Affairs Committee. The OMA was created in 1910 to advocate for Ohio manufacturers; today it has approximately 1,400 members – large, small and in-between. Its mission is to protect and grow Ohio manufacturing.

Access to reliable, affordable energy is critical to all manufacturers. For that reason, companies like Whirlpool are always seeking cost-effective energy solutions. We are constantly looking for ways to reduce our electricity costs because money we save by reducing our energy spend is money we can reinvest in our business, in our employees, in our facilities and in product innovations—as well as in the communities in which we live and maintain facilities.

Also critical to manufacturers are energy policies that support energy markets, free from market manipulation, that allow consumers to access the cost and innovation benefits of competition.

We have reviewed House Bill 6 and find the bill creates multiple new costs, and new forms of costs, for manufacturers. The bill, as written, will cost manufacturers more money in the form of new riders than we are paying today. The OMA is skeptical of the bill's intended environmental justification and we believe the bill will foster worse, not better, emissions reductions for Ohio. Worst of all, the bill distorts the function of the marketplace which is delivering cost savings and energy innovation to Ohio energy consumers.

The OMA finds this bill, as written, to be a mandated, customer-financed bailout of uneconomical power plants in the form of 'Clean Air Credits.' We note there is nothing in the bill to prevent the newly created Ohio Clean Air Program from awarding Ohioans' money to an out-of-state nuclear generation unit.

These non-bypassable charges on customers are unwarranted. While manufacturers support nuclear power as part of an 'all-of-the-above' energy portfolio, we are strongly opposed to subsidizing certain generation plants and saddling Ohio consumers with hundreds of millions of dollars of unjustified charges annually for an unspecified period into the future.

We are keenly interested in public policies that will drive lowest-cost energy resources and solutions – rather than policies that will impose hundreds of millions of dollars of unwarranted, anti-competitive, above-market charges on our businesses. If enacted as introduced, House Bill 6 would cost manufacturers and other customers throughout the state an estimated \$300 million a year, forever. It's impossible from the current bill language to know exactly which generation sources will qualify to receive the subsidies, but based on the proponents' testimony, we suspect most will go to subsidize two Ohio nuclear power plants owned and operated by FirstEnergy Solutions and FirstEnergy's subsidiary, FENOC. And potentially to subsidize a nuclear generation unit out of state.

The cost of the new Ohio Clean Air Program alone adds up to \$3 billion in new customer charges in the first ten years. This is a new above-market charge that all customers of Ohio's distribution utilities would be required to pay with limited exceptions. The sponsors of the bill communicated their intent that a company like mine, that produces low-carbon generation, may also qualify for some of the new subsidies AND that we would be exempted from the new fee; however, it is unclear from the current language how exactly a company like mine would qualify for a subsidy or an exemption.

For example, our projects are behind the meter, not connected to PJM, and less than the 5-MW minimum, so it is unclear how Whirlpool would qualify for Clean Air Credits. It is also unclear how my company could be guaranteed to receive an exemption from paying the new Clean Air Fee.

That lack of transparency, coupled with the cost-driving provisions of the bill, leads me to fear that my company will experience increased, not reduced, costs. The bill proponents testified that by eliminating the renewable and energy efficiency standards, HB 6 will result in lower utility bills

for consumers. However, many large customers have already opted out of the efficiency rider, so eliminating the rider in this bill is not a benefit at all.

Furthermore, there are multiple, additional concerns that manufacturers have beyond the Clean Air Fee assessment, which include the following:

1. Customers will continue to pay for contracts and approved programs associated with energy efficiency costs, but there will be no energy efficiency programs from which customers will benefit.
2. All customers will continue to pay for costs associated with the utilities' renewable portfolio mandates currently under contract.
3. Shopping customers will continue to pay the full costs associated with the competitive retail electric suppliers' renewable portfolio mandates as they exist today.
4. Customers will be required to pay for costs associated with winding down or discontinuing the energy efficiency programs. This is a new, unknown cost and could include contract termination payments and employee severance pay.
5. Customers will continue to pay shared savings (i.e., profit) and lost-distribution revenue to the utilities for an undefined period without any energy efficiency programs in place to benefit customers.
6. It is unclear whether the large customers that opted out of paying the energy efficiency charges will also pay for existing contracts, approved programs, and wind down costs associated with energy efficiency. It is also unclear whether those opted-out customers will now have to pay shared savings and lost-distribution revenue associated with the energy efficiency programs from which they opted out..
7. Customers will be required to pay for unknown Power Purchase Agreement Program costs for customer-sited projects and utilities' projects.

One way we are investing in our company's success at Whirlpool is through on-site wind energy. We recently completed construction of three turbines at our Greenville KitchenAid manufacturing facility, building upon similar investments at our Findlay, Marion and Ottawa operations. Among Fortune 500 companies, Whirlpool is one of the largest producers of on-site wind energy, which will contribute to our goal of more than 30% in greenhouse gas emissions reductions compared to 2005 levels. These investments not only support our sustainability goals, but have been made in response to market forces and are driving greater competitiveness for our business.

Market forces are also at work in power generation. It would be our suggestion that this committee invite comment from Ohio EPA to learn more about the trends in Ohio's airshed. Ohio EPA recently highlighted in its comments to U.S. EPA that Ohio's carbon emissions have dropped by 38% since 2005 due to market forces. While there are no carbon emissions limitations in effect in the U.S. today, data show that market pressures, from investors and customers, are encouraging cleaner forms of energy for power generation. This would dispute much of the proponents' justification for the bill.

A final provision I want to address is the bill's creation of a Power Purchase Agreement (PPA) Program. This program would create additional costs for customers that will also distort the market, potentially driving wholesale and retail costs higher in future years. While sponsors have called this a customer benefit to spur customer-sited projects, we find this provision provides no new benefits for customers, who already have ready access to three-year PPAs in the competitive market and who can already request a reasonable arrangement.

I should note that the bill does not apply to customer-sited projects where there is no PPA or the PPA is less than three years in duration. Further, the PPA Program would create a whole new set of riders and potential costs for utility-owned or operated renewable energy. Importantly, this language fundamentally creates a mechanism for distribution utilities to re-enter the generation market.

In sum, this bill does not protect customers, but rather it protects select generators and utilities.

For years, the OMA has worked to mitigate the impact of unwarranted above-market charges that put upward pressure on energy costs. According to the Office of the Consumers' Counsel, Ohio utilities have collected more than *\$14 billion* in PUCO-approved, above-market charges from utility customers since 2000. This bill would guarantee more unjustified consumer-financed subsidies, create upward pressure on energy costs, and set Ohio back on its heels as a place for energy innovation and capital-attraction.

In closing, The Ohio Manufacturers' Association strongly believes in fair, market-driven competition. The subsidized charges imposed on consumers and manufacturers from HB 6 are simply not consistent with competitive markets and are not good for Ohio – in either the short term or the long term. For these reasons, the OMA firmly opposes HB 6. It is anticompetitive and anti-consumer, and not good for our state.

Before I conclude and take any questions you may have, I want to introduce two people who are here to help me respond to your questions. Anthony Smith is Global Energy Coordinator at Cooper Tire and Rubber in Findlay. I am pleased also to be joined by Kimberly Bojko of the Carpenter Lipps & Leland law firm. Kim serves as the OMA's chief energy attorney, representing industry positions before the state and federal regulatory commissions.

Chairmen, members of the committee, this concludes my prepared remarks.