

Submitted via Email

**Senate Energy and Public Utilities Committee  
Chairman Steve Wilson  
Opponent Testimony on Substitute House Bill 6  
Testimony of Timothy L. Judson  
Executive Director, Nuclear Information and Resource Service**

**June 17, 2019**

Chair Wilson, Vice Chair McColley, Ranking Member Williams, and Members of the Senate Energy and Public Utilities Committee, my name is Timothy Judson, Executive Director, Nuclear Information and Resource Service, thank you for the opportunity to speak to you today as an opponent to Substitute House Bill 6. I hereby offer the testimony of Nuclear Information & Resource Service (NIRS), a national, nonprofit environmental organization, with over 650 members in Ohio. We are headquartered in Takoma Park, Maryland, and the organization was founded in 1978 to provide independent, non-partisan, scientifically and technically accurate information on nuclear power, radioactive waste, and sustainable energy.

As NIRS's Executive Director and the preparer of these comments, I have over twenty years' experience monitoring the energy and utility sectors, with a particular focus on the U.S. nuclear industry, merchant nuclear power generation, and utility restructuring. Most recently, over the last five years, I have monitored a variety of state-level and national proposals to provide subsidies to merchant nuclear power generators. In that time, I have authored three reports on the subject, co-authored two white papers on alternatives to subsidizing uneconomical nuclear facilities, and provided testimony to the New York, Connecticut, and Maryland legislatures. I also prepared analysis for and comments to the U.S. Environmental Protection Agency on the role of nuclear power in the EPA's Clean Power Plan regulations.

NIRS encourages the committee to vote "No" on H.B. 6. This bill would be a major step backward for Ohio, guaranteeing that the Buckeye State will only fall further and further behind other states, while burdening consumers with wasteful and counterproductive surcharges. The primary purpose of H.B. 6 would be to create a long-term bailout for the Davis-Besse and Perry nuclear power plants, while defunding the state's renewable energy and energy efficiency programs. I provided testimony to the House Energy Generation Subcommittee on the proposed legislation in April, detailing these concerns.

Today, my testimony will focus on the question of timing: how quickly must the Senate decide on this legislation if the closures of Davis-Besse and Perry are to be averted. The legislature is being called on to truncate its review of one of the most consequential pieces of energy legislation in Ohio's history, to provide Davis-Besse's owner nearly a year to plan a refueling outage. FirstEnergy and other supporters of HB6 have demanded swift action by the Senate, arguing that legislation must be enacted soon in order for Davis-Besse to be refueled by May 31, 2020, instead of retired.

This is merely a pressure tactic to force the legislature into a rash decision. While planning a refueling outage for a nuclear reactor does take time, there is no need for the Senate to act so quickly. Reactors in the same situation as Davis-Besse and Perry have been able to retract a retirement notice, refuel on schedule, and resume operation, with far less notice than FirstEnergy is demanding of the Senate now.

Nuclear power companies have pressured policymakers in other states for new subsidies or bailouts in recent years. In each case, they have argued that decisions must be made quickly, or else there would be no way to prevent one or more reactors from closing. In three states, in particular, nuclear generators have used the need for sufficient time to plan for a refueling outage to demand policymakers decide by a certain date: New York, Illinois, and Pennsylvania.

Refueling a reactor is a complex matter that requires advance planning, and the duration of outages affects the owner's bottom line. In order to maximize electricity generation, nuclear generation companies have adopted scheduling and contractor management systems to reduce the duration of refueling outages over the last 20 years. Whereas refueling outages used to take up to two months or more, 3-5 weeks is now quite typical, particularly for reactors like Davis-Besse and Perry that operate in competitive markets. Nevertheless, FirstEnergy's inference that the legislature must enact a bailout nearly a year before the scheduled retirement of Davis-Besse has no fundamental basis. In other states, reactor operators have required significantly less time.

Nuclear power companies often use the peculiar or esoteric aspects of their business to obfuscate policy matters. In fact, while refueling outages require advance notice to order fuel and schedule contractors, it is entirely unclear how much or how little time is necessary. Bailouts have been approved in as little as four months before a planned retirement date, and in one case, the conditions were not met for a bailout to move forward in as little as two months.

For instance, in New York, Exelon pressured the Public Service Commission to decide on the nuclear subsidy policy within six months, by arguing that it needed certainty by June 2016, about nine months before it would need to refuel its Ginna and Nine Mile Point unit 1 reactors in April 2017. In fact, the proposal required substantial review and that schedule could not be met. The PSC did not approve the Clean Energy Standard—which includes a 12-year, \$7.6 billion nuclear subsidy, as well as a 50% renewable energy standard—until September 2016, only four months before the scheduled January 2017 retirement of the FitzPatrick reactor, which was then owned by Entergy.

Even then, there were a number of contingencies that had to be completed over the course of fall 2016, before the subsidies were final. Because Entergy was uninterested in continuing to operate FitzPatrick, bailout or not, the entire nuclear subsidy program was contingent on Exelon completing a purchase of FitzPatrick from Entergy. The purchase, license transfer, and transfer of decommissioning funds were not completed until November 2016. In addition, the PSC did not issue a decision on petitions for rehearing of the Clean Energy Standard until December 2016. Despite all of these uncertainties, which were not resolved until less than two

months before FitzPatrick's retirement date—and less than four months from the scheduled retirement date of Ginna and the refueling date of Nine Mile Point unit 1—Exelon still managed to take over operations of FitzPatrick and refuel the reactor.

In Illinois, after the legislature failed to enact nuclear subsidy legislation by June 2016, Exelon announced retirement dates for the Quad Cities 1 and 2 and Clinton reactors. Quad Cities 1 would close in May 2017, and the other two reactors in 2018. Legislators ordered Exelon and other parties to negotiate the terms of a compromise bill, addressing nuclear subsidies, renewable energy policies, and other measures. The legislation was not enacted until December 2016, less than six months before Quad Cities unit 1 was scheduled to retire.

In Pennsylvania's 2019 legislative session, Exelon argued for a June 2019 enactment of the subsidy bill in order to be able to reverse the scheduled closure of Three Mile Island unit 1 in September 2019, just three months later.

In reality, it appears that there is no absolute amount of time necessary to plan a refueling outage that exceeds the value of a long-term subsidy that provides hundreds of millions of dollars per year. Reactor owners can make adjustments to ensure they do not forego such a lucrative opportunity. If a bailout decision were not rendered in sufficient time for Davis-Besse to order fuel and schedule all necessary contractors to complete a refueling in June 2020, FirstEnergy Solutions could simply plan for a longer outage.

There is no need for the Senate to rush a decision on HB6, and there is no reason to believe that FirstEnergy Solutions will close Davis-Besse unless the Senate does so. It would be an unwise business decision for FirstEnergy Solutions to forego \$190 million per year in subsidies just to prevent, in the worst case scenario, an additional month or two of outage time for Davis-Besse's next refueling. The implications of this legislation, and its impacts on Ohio's economy and energy industries, are far too important for the Senate to truncate its review.

Thank you for accepting our testimony.

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