



# Ohio Environmental Council

## [Action Fund]

**Opponent Testimony - Substitute House Bill 114**  
**Senate Energy & Natural Resources Committee**  
**Trish Demeter, Vice President of Energy Policy**  
**June 20, 2018**

Chairman Balderson, Vice Chair Jordan, Ranking Member O'Brien, and members of the Senate Energy & Natural Resources Committee, I'm Trish Demeter, Vice President of Energy Policy for the Ohio Environmental Council Action Fund. Thank you for the opportunity to testify on Substitute House Bill 114.

While our position of opposed has not changed since the introduction of this bill, I commend this committee for greatly improving the legislation that passed the Ohio House of Representatives last year. For reasons I will discuss momentarily, the substitute version of the bill makes great strides to be more reasonable, common sense and balanced. However, we remain opposed to the legislation due to the fact that even with all the good changes, the legislation contains provisions that would net greater air emissions coming from the power sector and result in negative health impacts for Ohioans when we compare this bill overall to the status quo.

The substitute bill greatly improves the As-Passed-by-House version of the bill because it:

- Corrects the overly-burdensome wind turbine siting requirements enacted four years ago;
- Maintains a required, as opposed to a voluntary, Renewable Portfolio Standard (RPS) and Energy Efficiency Resource Standard (EERS);
- Establishes a delayed effective date and institutes some reporting requirements for business customers that would be eligible under the proposed expanded industrial opt-out;
- Removes expanded definitions on "energy efficiency measures" that weren't prudent allowances for utility compliance with the annual energy efficiency benchmark, and;
- Increases the sizing threshold for behind-the-meter wind projects that must undergo Ohio Power Siting Board review.

These changes collectively demonstrate a more reasonable approach to Ohio's energy policy, and are more closely aligned with where mainstream Ohio residents and businesses are, particularly on renewable energy. Consider:

- A recent report released by Synapse Energy Economics and The Great Lakes Energy Institute at Case Western Reserve University<sup>1</sup> found that 39 Fortune 500 companies that are also among Ohio's 100 largest employers or have their headquarters here have made specific clean energy commitments<sup>2</sup>;
- A poll of 600 likely Ohio voters that the Ohio Environmental Council conducted<sup>3</sup> last year found that more than 3 in 4 (78%) Ohio voters support requiring energy companies to increase their use of renewable energy sources, and 45% strongly support this policy;
- This same poll also found that 64% of voters strongly support protecting electricity customers' freedom to install solar panels or other smaller renewable systems at their homes and build other mechanisms to meet their own energy needs;
- In 2015, global capacity for renewable energy surpassed that of coal for the first time ever in human history<sup>4</sup>, and;
- Fellow Midwestern states such as Michigan and Illinois recently (in 2016) both increased and strengthened their clean energy standards. Michigan increased its RPS to 15% by 2021 precisely because they already met their 10% by 2015 target (by comparison, Ohio's RPS is 12.5% by 2027, and currently our electricity portfolio reflects that a mere 2.28% of Ohioans electricity comes from renewable energy).

These trends demonstrate not only that clean energy is here to stay, but that Ohio families and businesses want the policies that create the best environment for new, and bigger, investments in clean energy. Voters in Ohio not only want minimum standards for utilities but they also want policies that empower customers to partner directly with renewable energy companies to build their own clean energy projects. Those that aggressively oppose clean energy technologies or policies that enable and encourage such investment are out-of-touch with mainstream, majority opinions, or are incredibly entrenched in energy resources of the past that are doing little, if anything, to attract new jobs and investments in the state.

While Substitute House Bill 114 contains provisions that are aligned with these trends, there are several provisions that damage clean energy opportunity in Ohio, and undermine the positive changes made to the bill overall. Namely:

- Reductions in the cumulative targets for both RPS (from 12.5% down to 8.5%) and EERS (from 22.2% down to 17.2%);
- Expansion of the industrial opt-out which is the creation of special exemptions that allow only certain kinds of business customers to opt-out of utility-run energy efficiency programs, and;
- Allowing utilities to claim previously-achieved, or "banked" energy savings, in the calculation of their shared savings incentives.

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<sup>1</sup> [www.poweringohio.org](http://www.poweringohio.org) or [http://www.poweringohio.org/files/2018/05/Powering-Ohio\\_FINAL-WEB.pdf](http://www.poweringohio.org/files/2018/05/Powering-Ohio_FINAL-WEB.pdf)

<sup>2</sup> *Ibid.*, page 13.

<sup>3</sup> 600 interviews with oversample in Cincinnati and Toledo Media Markets conducted March 2-7, 2017 with overall margin of error of +4.27 percentage points.

<sup>4</sup> <https://www.iea.org/newsroom/news/2016/october/iea-raises-its-five-year-renewable-growth-forecast-as-2015-marks-record-year.html>

A critique of Ohio's RPS and EERS for several years now has been that the RPS and EERS annual benchmarks and cumulative targets were arbitrarily set. Other than addressing the concern over the 1% to 2% jump in the annual EERS benchmark in the substitute bill by capping the benchmark at 1.5% annually through 2026, I question if the reductions in the RPS and EERS are not equally arbitrary? In terms of basic compliance with these targets, Ohio's distribution utilities are having no trouble meeting or exceeding the annual benchmarks for both the RPS and EERS. Knowing that other states similar to Ohio in population, energy markets, consumer trends, manufacturing strength are trending towards at least maintaining or even increasing their targets, what is the justification for Ohio going the other way?

The OEC Action Fund recommends that HB 114 could be improved even further by restoring the final year of the standard (2027) and establishing at least an 18.7% minimum cumulative target for Ohio's EERS. This change would go a long way in retaining the integrity of Ohio's EERS, particularly in light of the other proposed efficiency provisions that erode away EE opportunity. Additionally, we recommend the removal of the language in Lines 833-835 which stipulates *After 2026, no electric distribution utility shall be required to implement energy efficiency programs that achieve energy savings.*<sup>5</sup> While this language is potentially intended to clarify what happens after the EERS "ends" in 2026, as proposed, it is premature and unnecessary.

Regarding the proposed expansion of the industrial opt-out, it's important to keep in mind that Ohio's energy efficiency standard delivers the most benefits when all types of customers - from families, to retailers, to manufacturers - are investing in the utility rebate and incentive programs. Creating special exemptions for only certain kinds of customers is inherently unfair because no matter where the eligibility threshold is established, there will always be a universe of ineligible customers below that eligibility threshold that will bear the cost of the EERS rider. In essence, very small businesses, homeowners and renters will be footing the bill for big corporate accounts and manufacturers.

The OEC Action Fund recommends that HB 114 could be improved even further by establishing more constraints on the proposed expanded opt-out such as a penalty in the form of retroactive EERS rider recovery if the opted-out customer does not adhere to their energy savings plan, as well as a much smaller pool of customer that would be eligible under an expanded opt-out. If one justification for the expanded opt-out is that the newly eligible customers are "sophisticated," then the eligibility and reporting requirements should reflect that, and as such, there should be better accountability and more careful consideration of the fact that the "mercantile" customer designation is incredibly broad.

Lastly, regarding the new provision in Substitute House Bill 114 that permits utilities to claim banked savings in their shared savings calculations: This change would turn an incentive payment mechanism designed to encourage utilities to go above and beyond minimum benchmark into a

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<sup>5</sup> Sub. HB 114, L\_132\_2123-5, Page 29, Lines 833-835

profit guarantee of approximately \$500 million, regardless of whether the utilities are running good efficiency programs or not.

This amendment runs directly counter to the precedent set by the Public Utilities Commission of Ohio (PUCO) which has been to not allow a utility to earn shared savings incentive payments in a given year if it is relying on banked savings. They have done this in order to preserve shared savings as a true incentive to run high-quality energy efficiency programs every year. And while electric distribution utilities have tried to claim banked savings in their incentive payment calculations, the PUCO has ruled against these proposals.

Utility banked savings are rather substantial, and some of the banked savings can be attributed to illegitimate “energy efficiency” measures which were enabled by Ohio Senate Bill 310 in 2014. This bill expanded what utilities could claim as energy efficiency to include energy savings that they have no hand in generating such as advances in federal lighting standards or actions taken by customers on their own. Allowing such a change would open a huge bank of savings that utilities could dip into and earn higher profits on actions that had nothing to do with their investments in energy efficiency. Here is a snapshot of where these banks stand as of the end of 2017:

<b>Utility</b>	<b>Banked Savings as of 2017 (MWh)</b>	<b>Annual 1% Benchmark as of 2017 (MWh)</b>	<b>Estimate of Amount of Banked Savings Attributed to SB 310 Counting Provisions (MWh)</b>
FirstEnergy	2,405,184	472,303	624,664*
AEP Ohio	1,365,800	385,300	Unknown
Duke	1,959,357	198,537	934,519**
DP&L	894,591	126,587	Unknown

*\*Sum of annual savings for Customer Action Program in 2015-2017*

*\*\*Retroactive savings counting under SB 310 from 2016 Portfolio Status Report*

In conclusion, there are several provisions to praise in this new substitute bill, but there is still much work to be done on the energy efficiency provisions before this bill represents a fully balanced compromise on the long-standing discussion about Ohio’s clean energy standards, and our investment environment for large-scale wind development. We look forward to continuing to work with this committee to hopefully improve the bill even further. Thank you again for the opportunity to testify, and I’d be happy to answer any questions at this time.