



Senate Public Utilities Committee  
Written Opponent Testimony  
Senate Bill 128

Dick Munson, Environmental Defense Fund  
Director, Midwest Clean Energy  
June 1, 2017

Chairman Beagle, Vice Chair LaRose, Ranking Member Williams, and members of the Senate Public Utilities Committee, my name is Dick Munson and I am with the Environmental Defense Fund. Thank you for the opportunity to submit written testimony in opposition to Senate Bill 128.

The Environmental Defense Fund (EDF) is a national organization, with approximately 60,000 members in Ohio, that links science, economics, law and private-sector partnerships to solve our most serious environmental challenges.

SB 128 raises a key question – Why should Ohio customers pay for FirstEnergy’s mistakes? The utility giant made a string of bad business decisions and keeps asking customers to pay for them.

It all began in 2014 when FirstEnergy introduced a plan to bail out its subsidiary power plants that were struggling to compete in electricity markets. Having bet against the falling price of natural gas, the utility asked the Public Utilities Commission of Ohio (PUCO) to authorize \$4 billion in customer-funded subsidies for its aging, inefficient (and dirty) generators. The saga has taken many turns since, but FirstEnergy hasn’t taken its eyes off the prize: Forcing Ohioans to pay for its mistakes.

#### **Evolution of a bailout**

- Although the PUCO approved the initial bailout, failing to protect customers or fair markets, the Federal Energy Regulatory Commission came to the rescue and blocked the subsidies, declaring they would illegally disrupt regional competitive markets.
- FirstEnergy then asked the PUCO to consider “modifications” to its subsidy plan – essentially the same bailout by a different name. In total, the utility tried to obtain \$12 billion in subsidies in order to cut debt and improve its credit rating.

- Ohio’s regulators handed over \$600 million to FirstEnergy, but that decision is likely to be overturned by the Ohio Supreme Court.
- Now claiming to be concerned with carbon pollution, FirstEnergy has a new bailout plea that seeks \$4.8 billion for its two Ohio-based nuclear reactors.

### The Justification Shuffle

The utility giant regularly changes its arguments, but FirstEnergy never stops asking Ohioans to pay for its own business mistakes. Let’s debunk FirstEnergy’s latest “justifications.”

- Trying to play the “reliability” card, FirstEnergy argues its nuclear reactors are needed or the lights will go out. Yet the independent manager of the electric grid (PJM) says there’s no reliability problem – actually, there’s plenty of power in the system even if FirstEnergy’s units close. That’s the key takeaway from a new reliability report by PJM Interconnection (the regional grid operator for Ohio and a dozen other states). The study modeled four future portfolios, three of which account for moderate to high coal and nuclear retirements. And, according to *Greentech Media*, “PJM’s analysis shows little to no reliability risk.”
- Trying to play the “fuel-mix diversity” card, FirstEnergy argues the reactors are needed to ensure a mix of energy resources. PJM, however, says there’s plenty of nuclear power without FirstEnergy’s reactors.
- Trying to play the “cry wolf” card, FirstEnergy claims its reactors face financial disaster. Yet *SNL Energy* recently pointed out that the relevant 2016 average price of electricity meant FirstEnergy’s nuclear reactors received more revenue than their operating and maintenance expenses. Business classes usually teach that having more income than costs leads to profits, which should make FirstEnergy happy. Really makes you wonder about that whole “not being able to compete in the market” argument.
- Trying to play the “Ohio First” card, FirstEnergy says the states that Ohio cannot afford to import electricity and therefore must subsidize unprofitable in-state power plants. The utility somehow forgets electrons don’t really care about state boundaries, and ignores the fact that our nation’s economy is based on trade. Ohio, for example, imports more lemons than it grows. Using FirstEnergy’s logic (and forgetting about little factors like the climate), the Buckeye State should subsidize lemon growers. Actually, when you think about it, that is FirstEnergy’s proposal – bail out its nuclear lemons.
- The real “Ohio First” card is that FirstEnergy wants to stick it to Ohioans only. Just for the sake of argument, let’s imagine PJM (the grid operator) changed its mind and said FirstEnergy’s two nuclear reactors were needed to ensure reliable service. The reactors then would keep sending power to customers throughout PJM’s wide territory, which encompasses thirteen midwestern

and mid-Atlantic states. Yet FirstEnergy's proposal would have only Ohio customers be stuck with the \$4.8-billion tax. The obvious question is – why would state legislators allow only Ohioans to be burdened with that subsidy? If FirstEnergy really wants a bailout, shouldn't it ask all thirteen states (and the District of Columbia) to prop up its unprofitable reactors?

Don't be fooled. FirstEnergy's real justification is that it wants Ohio customers to pay so its own investors can make more money. That greed becomes even more apparent when you realize FirstEnergy doesn't even want to own these reactors; it simply wants everyday people to subsidize the units so FirstEnergy can sell them to another company at a higher price – allowing its shareholders and managers to obtain bigger profits and grander bonuses.

### **Where are Conservative Values?**

There are many monikers for FirstEnergy's pleadings. We often have labeled them "subsidies" or "bailouts." Perhaps an even more accurate term is a "tax on ratepayers," since FirstEnergy simply wants to impose a \$4.8-billion tax on Ohio customers.

FirstEnergy also wants Ohio legislators to ignore energy markets and support subsidies. For those "whose natural inclination is to recognize free markets," supporting SB 128 would be an abandonment of those principles.

FirstEnergy also wants Ohio legislators to pick technology winners. SB 128 would erect a mandate mountain that would give preference to nuclear power. Whether you like reactors or not, shouldn't Ohio let the market decide?