



House Energy and Natural Resources Committee
Substitute House Bill 6
May 8, 2019

Chairman Vitale and members of the House Energy and Natural Resources Committee, thank you for the opportunity to provide this written testimony pertaining to Substitute House Bill 6 (Sub. HB 6). The members of the Alliance for Energy Choice remain opposed to this new version of the legislation.

The Alliance for Energy Choice is an Ohio non-profit corporation that seeks to promote fairness and competition in electric utility service. The Alliance advocates for free-market solutions that will ensure an adequate and fairly priced supply of electric power to Ohio's residents, businesses, and industries. The Alliance also advocates for policies that do not favor one supplier or one form of energy over another.

As you know, this legislation creates the Ohio Clean Air Program (OCAP) to compensate generation facilities deemed to be "Clean Air Resources," which are defined as electric generating facilities that:

- emit zero carbon dioxide
- have a historical or future ability to significantly contribute to the air quality of the state
- are designed for, or capable of, operation at an aggregate capacity of more than 20 Megawatts (MWs) and are interconnected with the PJM Interconnection
- regardless of the location of the meter is either a major utility facility in this state, an economically significant wind farm in this state, or a small wind farm in this state

The bill also provides for possible compensation of "Reduced Emissions Resources," which are defined as electric generating facilities that:

- emit a reduced amount of carbon dioxide
- have a future ability to significantly contribute to the air quality of the state
- is a major utility facility in this state
- are integrated into the PJM Interconnection

Clean Air Resources will be granted a "Clean Air Credit" for every megawatt hour (MWh) of electricity produced on a monthly basis and each credit will be valued at a seemingly arbitrary \$9.00 for the first program year. That amount will be adjusted for inflation every program year thereafter. Both Clean Air Resources and Reduced Emissions Resources may be pledged a portion of future monies in the OCAP Fund by the Ohio Air Quality Development Authority (OAQDA) in order to facilitate air quality development related capital formation and investment by or in such facilities.

As written, the legislation still requires state-sanctioned subsidies for those electric generating facilities that emit zero carbon dioxide. According to the attached map that outlines the installed electric generating capacity of Ohio's major utility facilities as of January 2019, the state's zero carbon dioxide-emitting electric generation fuel sources (nuclear, biomass, hydro, and wind) total 3,068 megawatts.

By contrast, Ohio's carbon dioxide-emitting electric generation fuel sources (coal, gas, and waste gas/heat) currently have an installed capacity of 28,005 MWs. Thus, of the 31,073 MWs of total installed generating capacity currently operating in Ohio, Sub. HB 6 continues to mandate that 90% of it be permanently placed at a direct economic disadvantage to the other 10% based solely on an individual electric generating facility's fuel source and the associated emissions.

This is anti-competitive and unfair to the overwhelming majority of the wholesale and retail electricity market participants in the state. It will also have far-reaching detrimental impacts when it comes to unnecessary future electricity cost increases for Ohio's residential, commercial, and industrial consumers. Furthermore, the legislation assumes that existing coal-fired and natural gas-fired electric generating facilities are easily capable of further significant emissions reductions. In reality, the merchant coal facilities still operating today have achieved near peak emissions reductions, via the best currently available technology, in order to comply with past state and federal emissions regulations and the new merchant gas facilities are specifically designed for maximum emissions reductions. While new emissions reduction technologies continue to be invested in and developed, they are not yet commercially viable, which poses a problem for those coal and gas facilities that are expected to suddenly further reduce their current emissions levels in order to be considered a Reduced Emissions Resource under Sub. HB 6.

Continuing to muddy the waters for coal and natural gas electric generating facilities is the discretion granted to OAQDA to certify Clean Air Resources and Reduced Emissions Resources based on its sole interpretation of whether an individual facility of either type meets the respective definitions laid out in the bill. The vague authority given to OAQDA to determine which coal and/or gas facilities will potentially receive funds based on an individual facility's requested level of funding and possible future emissions reductions also remains troubling. Additionally, the unequal manner in which only Clean Air Resources are automatically recertified if they continue to meet the OAQDA's subjective interpretation of the definition whereas Reduced Emissions Resources are not only subject to the same definitional interpretation but could also be exposed to an uncharacterized set of accompanying conditions in order to achieve recertification is puzzling.

To be clear, no member of the Alliance for Energy Choice is currently receiving nor advocating for any future ratepayer-funded financial assistance for its electric generating facilities or retail operations in Ohio. The creation of the OCAP Fund will collect in excess of \$300 million annually from your constituents and the Clean Air Credit is inexplicably valued at \$9.00 per MWh. Those facts are deeply concerning as the fund and the credits will both serve to monetarily reward inefficient, uncompetitive facilities and financially punish those facilities that have invested billions of dollars of private capital to maximize their efficiencies and competitiveness in the marketplace. A marketplace in which investment decisions were based on existing rules and regulations that were put in place to ensure a level playing field and equal treatment under the law for all market participants.

Providing subsidies to uncompetitive electric generating facilities distorts the market and increases the price of electricity. Subsidies will also create a perverse incentive for future anti-competitive behavior from those facilities receiving OCAP funds and Clean Air Credits.

PJM's F. Stuart Bresler was very clear in his April 9, 2019 testimony to this House Energy and Natural Resources Committee when he said, "...what is clear not only in this State but across the PJM footprint is that efforts to subsidize less competitive plants will result in higher power prices for Ohioans."¹

Encouraging growth through free-market principles and policies in the electric generation sector will help keep Ohio's electricity rates low and foster an environment ripe for economic development. Such an environment will also naturally attract further investment in Ohio's existing electric generating facilities as well as incentivize the construction of new facilities in the state; all of which have been and will continue to be funded through private capital investment with no risk whatsoever to Ohio's ratepayers.

However, Sub. HB 6 continues to propose making it a stated policy goal of OAQDA to maintain the operations of the Clean Air Resources that are expected to provide the greatest quantity of carbon-dioxide-free electricity generation in addition to encouraging further development and operation of other zero carbon generation sources. With this directive in law and over \$300 million worth of funding at its disposal, the OAQDA will have the unique and unprecedented ability to pick winners and losers in Ohio's electric generation sector.

As F. Stuart Bresler continued in his recent testimony to this committee, "*Such actions have the potential to roll back the progress and stability that the markets have facilitated. Such actions could prevent the building of more efficient and cost-effective plants... Such actions, according to the independent market monitor who oversees PJM's market operations, could result in an increase in costs upwards of \$3.8 billion across the PJM footprint.*"²

Over the years, our members and our competitors have invested billions of dollars of private capital into Ohio's electric generation sector and retail electricity market because of the state's historically robust economy, open access to consumers, and fair regulatory environment.

We urge the Ohio Legislature to continue to support market forces, free from meddling and interference, as doing so has created ideal conditions to attract private investment and allow businesses and consumers to thrive. Enactment of Sub. HB 6 as currently constituted will fundamentally alter and irreparably harm the pro-market, pro-competition environment in which we originally invested and continue to invest.

As prudent investors, our members constantly assess which states, electric generation sectors, and retail electricity markets are most conducive to our future investment and often make funding decisions based on potential major policy shifts as our capital seeks the path of least resistance and minimal risk.

Our member companies employ hundreds of Ohio residents and those employees continue to struggle to understand why their jobs are seemingly less important in the eyes of Ohio legislators than those of the employees at the state's two nuclear generation facilities. Ohio has recently experienced the closure of other electric generation facilities and major manufacturing operations, yet no legislative assistance was offered to any of the thousands of employees who lost their jobs as a result. Ironically, Sub. HB 6

¹ Statement of F. Stuart Bresler, III on Behalf of PJM Interconnection. Pg. 10. Ohio House Energy and Natural Resources Committee: April 9, 2019.

² Statement of F. Stuart Bresler, III on Behalf of PJM Interconnection. Pg. 10. Ohio House Energy and Natural Resources Committee: April 9, 2019

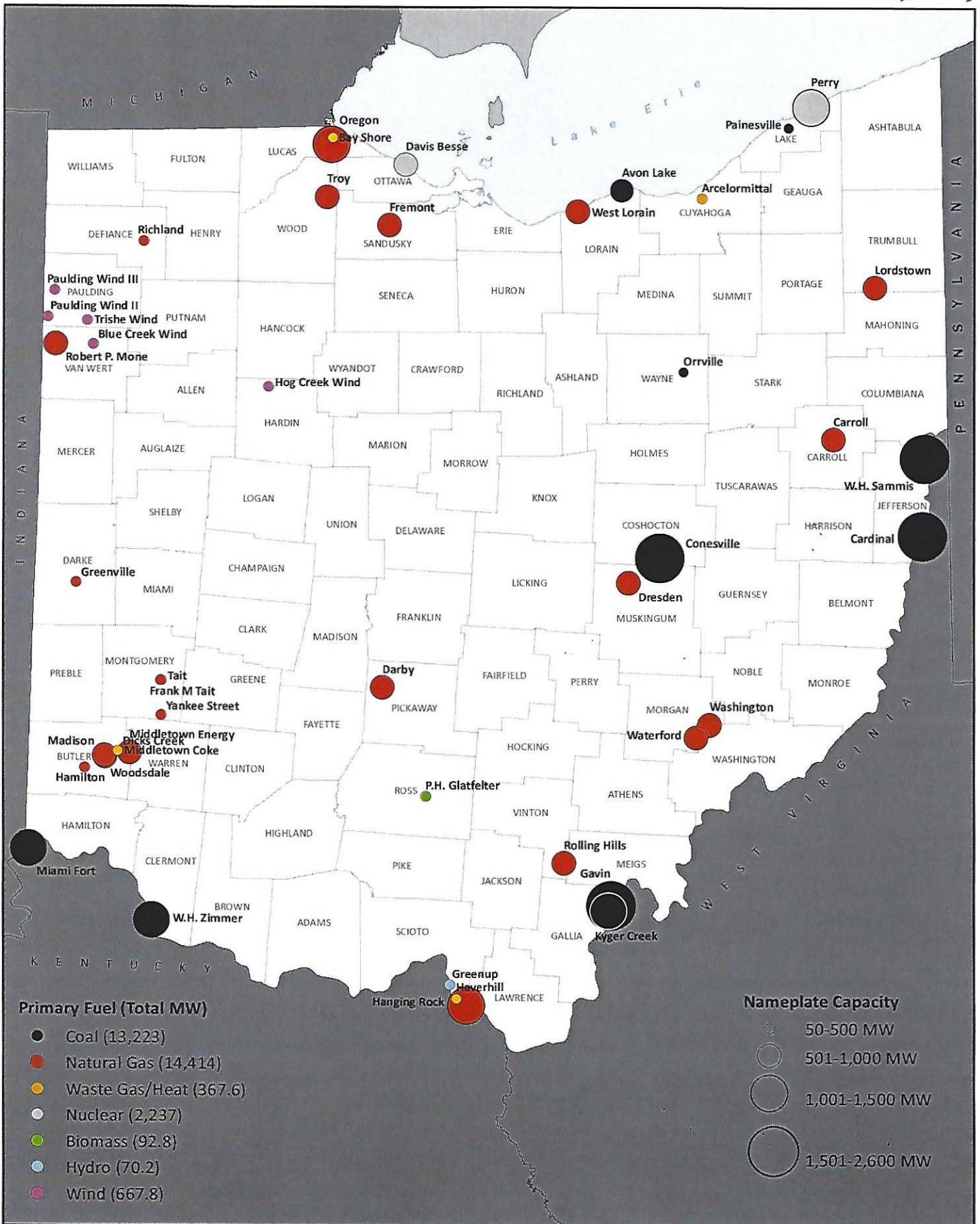
continues to require those same people to use a portion of their savings or unemployment benefits to keep others employed.

Our analysis of the new substitute bill still leaves us questioning the direction of Ohio's energy policy and how, if at all, our companies and their respective investment dollars can continue to fit into the state's energy future in a mutually beneficial manner. The creation of adverse market conditions in Ohio would cause our capital to flow to neighboring states in PJM or to other markets across the country rather than continue to be invested in this state.

We appreciate this opportunity to submit written testimony on Sub. HB 6. As always, we welcome the opportunity to be a resource to the Ohio House of Representatives as it strives to create the best possible energy policies for the State of Ohio. Please do not hesitate to contact us if you have any questions or would like further information regarding this document or the Alliance for Energy Choice.

The logo for the Alliance for Energy Choice features the text "Alliance for Energy Choice" in a green, serif font. A yellow brushstroke underline is positioned beneath the text.

The Alliance for Energy Choice membership currently includes Calpine, Eastern Generation, The Energy Professionals of Ohio, LS Power, and Vistra Energy.



Notes: Includes all facilities with a nameplate capacity greater than 50 MW. Operational facility data source is the Energy Information Administration, Form EIA-860, January 2019. Map produced on April 3, 2019.