



**Ohio Senate Energy and Public Utilities Committee  
The Honorable Steve Wilson, Chairman**

**Proponent Testimony on  
Senate Bill 346  
Chris Zeigler | API Ohio  
November 10, 2020**

Chairman Wilson, Vice Chair McColley, Ranking Member Williams and members of the Senate Energy & Public Utilities Committee - thank you for the opportunity for API Ohio to provide written proponent testimony in support of Senate Bill 346 (SB 346).

The American Petroleum Institute-Ohio (API Ohio) is a division of the American Petroleum Institute (API), which represents all segments of America's natural gas and oil industry. The API's more than 600 members produce, process, and distribute most of the nation's energy. The industry supports millions of U.S. jobs and is backed by a growing grassroots movement of millions of Americans. The API was formed in 1919 as a standards-setting organization. In its first 100 years, the API has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

Notwithstanding our concerns with the alleged corruption behind the development of the policy and the support needed to enact House Bill 6 (HB 6), API Ohio does not believe that the bill was "good policy." Although we were unaware of the extent of the interests behind "the largest bribery, money laundering scheme ever perpetrated against the people of the state of Ohio,"<sup>1</sup> we now have the opportunity to submit proponent testimony in support of SB 346, which seeks to repeal the policies within HB 6, only because of the alleged corrupt activities that have come to light after HB 6 was passed into law.

To be clear, API Ohio opposed HB 6 from its introduction in the House because we believed that it would discourage innovation in new technologies and the associated risks of investing billions of private capital dollars in constructing new natural gas-fired electric power plants--taking advantage of the state's abundant supply of natural gas. Ultimately, however, we believed that the bill would effectively destroy the market dynamics that have provided positive outcomes for Ohio's ratepayers and our economy over the last several years.

API Ohio's concerns were justified when two natural gas-fired power plants publicly announced last year that they would be mothballed due to passage of HB 6, reportedly a loss of \$1.6 billion of private

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<sup>1</sup> <https://www.usatoday.com/story/news/politics/2020/07/21/ohio-house-speaker-larry-householder-arrested-bribery-case-source/5478219002/>

investment in our state.<sup>2,3</sup> What was certain about the policy of HB 6 is that it guaranteed profits for a select list of recipients on the backs of Ohio ratepayers and at the expense of free market investment opportunities.

API Ohio also questioned the lack of publicly available analysis or data that may have been used to determine if, in verifiable fact, Ohio nuclear resources were in jeopardy of closing without being provided a ratepayer subsidy of over a billion dollars. To this end, we commissioned a study by Dr. Paul M. Sotkiewicz<sup>4</sup>, to determine if Ohio's nuclear resources had historically been operating profitably and could be expected to operate profitably into the near future, without the billion dollar ratepayer subsidy handed to them under HB 6.

Dr. Sotkiewicz's analysis determined that:

*"1) Historically, Ohio nuclear resources have been able to cover their going forward costs and have significant operating margins that contribute toward the recovery of sunk costs plus a return on investment;*

*2) Over the next ten years, Ohio nuclear resources are projected to remain profitable on an operating basis, covering going forward costs and earning margins that contribute toward returns.*

*The bottom line is that Ohio nuclear resources are in no danger of retiring anytime soon and to do so would not only be economically irrational but would financially harm the equity shareholders of these nuclear assets."<sup>5</sup>*

Although this study and other data were provided to support a lack of need for the \$1.1 billion ratepayer subsidy for Ohio's two nuclear power plants, the policy of HB 6 never included a mechanism that would protect Ohio's ratepayers from being fleeced. The calls for an external financial audit conducted by an independent public accounting firm, using generally accepted auditing standards (GASS), and having no financial connection to FirstEnergy or its subsidiaries in order to determine and validate the need for ratepayer subsidies, were never addressed.

Again, the concerns of API Ohio, and other organizations and individuals opposed to HB 6, were borne out after the passage of HB 6 when Energy Harbor's board of directors "voted to increase authorization for

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<sup>2</sup> <https://www.prnewswire.com/news-releases/ls-power-announces-ohio-nuclear-subsidy-legislation-will-force-cancellation-of-its-troy-generating-facility-expansion-300884803.html>

<sup>3</sup> <https://ohioipp.org/wp-content/uploads/2019/09/2019.08.21-OIPP-Press-Release-CEF-Lordstown-3-Cancellation.pdf>

<sup>4</sup> [http://search-prod.lis.state.oh.us/cm\\_pub\\_api/api/unwrap/chamber/133rd\\_ga/ready\\_for\\_publication/committee\\_docs/cmte\\_s\\_energy\\_pu\\_1/submissions/cmte\\_s\\_energy\\_pu\\_1\\_2019-06-04-0930\\_683/oh-nuclear-analysis\\_5\\_28\\_19.pdf](http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/133rd_ga/ready_for_publication/committee_docs/cmte_s_energy_pu_1/submissions/cmte_s_energy_pu_1_2019-06-04-0930_683/oh-nuclear-analysis_5_28_19.pdf)

<sup>5</sup> [http://search-prod.lis.state.oh.us/cm\\_pub\\_api/api/unwrap/chamber/133rd\\_ga/ready\\_for\\_publication/committee\\_docs/cmte\\_s\\_energy\\_pu\\_1/submissions/cmte\\_s\\_energy\\_pu\\_1\\_2019-06-04-0930\\_683/drpaulsotkiewicz testimony.pdf](http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/133rd_ga/ready_for_publication/committee_docs/cmte_s_energy_pu_1/submissions/cmte_s_energy_pu_1_2019-06-04-0930_683/drpaulsotkiewicz testimony.pdf)

its stock buyback program from \$500 million to \$800 million”<sup>6</sup>—clearly evidence of a lack of “need” for the \$1.1 billion Ohio ratepayer subsidy for Energy Harbor’s nuclear power assets.

The concerns and references that we have shared in this testimony is not an exhaustive list of reasons we believe that HB 6 was not “good policy.” However, we do believe the evidence shared in our proponent testimony in support of SB 346 is reason enough why the provisions of HB 6 should be repealed, and the opportunity of unquestionable good policy can be developed.

To this end, API Ohio respectfully requests that the committee votes to favorably pass SB 346 or comparable legislation that is designed to provide the state with a truly free market, all-of-the-above energy policy that doesn’t pick winners and losers. At the beginning of the 133<sup>rd</sup> General Assembly, API Ohio was asked to provide input to help form an energy policy platform for the state. At the time, we applauded the Senate’s leadership in starting this important conversation and we look forward to the opportunity to again engage in such an important process that seeks to promote fairness across the energy value chain, by fairly supporting a level playing field among Ohio’s competing energy sources to the benefit of all Ohio energy consumers.

API Ohio stands ready to work with the Ohio Senate in that endeavor.

Thank you again Chairman Wilson, Vice Chair McColley, Ranking Member Williams and members of the Senate Energy & Public Utilities Committee for the opportunity to provide written proponent testimony in support of Senate Bill 346.

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<sup>6</sup> <https://www.cleveland.com/open/2020/05/with-ohio-bailout-law-secured-firstenergy-solutions-successor-moves-to-increase-share-buybacks-by-300-million.html>