



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

**Proponent Testimony on
House Bill 772
Chris Zeigler | API Ohio
December 9, 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 House Bill 772 (HB 772).

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 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,"¹ we now have the opportunity to submit proponent testimony in support of HB 772, that seeks to correct the anti-competitive generation market policies of HB 6, only because of the corrupt activities that have come to light after HB 6 was passed into law.

API Ohio opposed HB 6 from its introduction 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 investment in our state.^{2,3} What was certain about the policy of HB 6 is that it guaranteed profits for a

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

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

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

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. Sotkiewicz⁴, 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."*⁵

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 did not include a mechanism that would protect Ohio's ratepayers from being fleeced. The calls for an independent financial audit of Energy Harbor's accounts to determine and support the need for ratepayer subsidies were never addressed.

The concerns regarding the profitability of Ohio's nuclear resources were realized after the passage of HB 6 when Energy Harbor's board of directors "voted to increase authorization for its stock buyback program from \$500 million to \$800 million"⁶—clearly evidence of a lack of "need" for the billion-dollar Ohio ratepayer handout to subsidize Energy Harbor's nuclear power assets.

Although the concerns and references that have been shared in this testimony are not the only reasons why HB 6 was not good policy, we do believe that HB 772 will help to correct some of the many wrongs that were a result passing HB 6 into law.

⁴ 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

⁵ 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/drpaulsotkiewiczttestimony.pdf

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

To this end, API Ohio respectfully requests that the committee votes to favorably pass HB 772. We support a level playing field where any type of generation resource can compete for market-share. We also believe that a system that promotes the selection of “winners and losers” in the market disrupts effective entry and exit of economic resources resulting in an inefficient market where consumers end up paying more.

The increased use of natural gas in power generation has provided dramatic economic and environmental benefits to the families and businesses of Ohio. House Bill 6, as enacted, inhibits continued growth opportunities in our own state so that subsidies can be provided to more favored generation owners. House Bill 772 is the right step to forming an energy policy platform for the state with the intent of benefiting all Ohio energy consumers.

At the beginning of the 133rd 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 House Bill 772.