



To: Chairman Steve Wilson,
Vice Chairman Rob McColley, Ranking Member Sandra Williams,
Members of the Senate Energy and Public Utilities Committee

From: Tyler M. Duvelius, Executive Director, Ohio Conservative Energy Forum

Date: December 9, 2020

Subject: House Bill 772, Written Testimony of Tyler M. Duvelius, Informal Proponent

Thank you for the opportunity to submit written testimony as an informal proponent of House Bill 772. My name is Tyler Duvelius, I serve as the Executive Director of the Ohio Conservative Energy Forum (OHCEF). OHCEF was founded in 2015 to provide a forum for conservatives to discuss a diverse, all-of-the above energy portfolio – one that includes not only existing sources of energy generation, such as coal and natural gas, but one that also seeks to expand the development of clean and renewable energy sources – like wind and solar energy. And yes, OHCEF also supports nuclear energy. OHCEF believes that clean energy, of all stripes, can strengthen both our economy and our national security while providing unmatched opportunities for innovation.

I appeared in front of this committee on November 10, 2020 to testify in support of Senate Bill 346. In responding to a member’s question about the recently heard sponsor testimony of House Bill 772, I mentioned that House Bill 772 represented an interesting starting point for a discussion on repeal and replace. Because House Bill 772 would fully repeal – not delay – all of the subsidies enacted in House Bill 6, I write you today as a proponent of House Bill 772.

While House Bill 772 stops short of a full repeal of House Bill 6, it does contain several good provisions – particularly on decoupling and ratepayer protection. Ohioans deserve an energy policy that is liberated from even a whiff of corruption. House Bill 772 offers a chance to free Ohio ratepayers from the grip of a bill that has such a close association to allegations of corruption and scandal. There must be consequences for corruption that equate to more than just a timeout. We cannot allow crime to pay in Ohio.

Though my organization is in support of House Bill 772, there are several improvements that we believe could be made to the bill. The unfortunate scandal surrounding House Bill 6 has exposed structural flaws in Ohio's utility regulatory system. Any legislative response should address the underlying utility culture that contributed to this scandal and provide the necessary oversight that is needed to both prevent and detect future issues before they escalate to the level of corruption that we have witnessed over the last several months.

The improvements that OHCEF would like to propose to this committee can be placed in four broad policy buckets: In-State Clean Energy Development, Energy Sector Governance, Utility Accountability & Transparency, and addressing Barriers and Solutions to Equitable Community Impact. Below, please find high-level policy recommendations. At your convenience, I would be more than happy to discuss any of these provisions in greater detail.

In-State Clean Energy Development

1. Redirect Renewable Portfolio Standards to Ohio: Refine the definition of "renewable energy" to exclude; all facilities beyond those adjacent to Ohio, out of state "Black Liquor" (a byproduct of the paper-making process), and out of state waste heat. This would improve market opportunities for in-state clean energy projects by limiting the amount of out-of-state renewable energy resources that qualify to meet Ohio's targets.
2. Create a Stable Investment Environment in Ohio: Extend the state's commitment to a diverse energy portfolio of energy resources gives Ohio's utilities the ability to invest in Ohio projects through long-term contracts, rather than through the purchase of out-of-state Renewable Energy Credits.
3. Prioritize Long Term Certainty for Local Communities: Ohio's "payment in lieu of taxes" or "PILOT" statute offers an alternative to the tangible personal property tax for clean energy projects. This structure provides local schools, townships, and county general revenue funds with the assurance of consistent annual tax payments over the life of a project. Previously renewed four times, the current

PILOT statute is scheduled to expire at the end of 2022, creating uncertainty that could reduce the economic potential the renewable energy is prepared to bring to Ohio. This permissive statute should be made permanent.

Energy Sector Governance

4. Public Utility Commission of Ohio (PUCO) Commissioner Reform: Further specify of the requirements to be a PUCO commissioner and require additional disclosure and reporting of lobbying and associated expenses. Additional reporting measures would apply to entities within the PUCO's jurisdiction.
5. Corporate Separation: Require, at a minimum, for the provision of the competitive retail electric service or a nonelectric product or service through a fully separated affiliate of the utility – including separate accounting requirements, offices, and services.

Accountability & Transparency

6. Audits and Investigations: Require the audit and investigation of any utility engaging in malfeasance. FirstEnergy must be audited immediately with the results provided to the General Assembly. Guidance should be provided for public PUCO hearings for utilities engaging in malfeasance - remedies should include penalties, customer refunds, review of franchise agreement, probation, and reduced return-on-equity. The regulator needs all these tools to hold monopolies accountable for illegal and unethical behavior.
7. Rate Reimbursement: Establish a mechanism for customer rate reimbursement in the event that a rate is collected that is later deemed unlawful by either the Ohio Supreme Court or another entity of jurisdiction.
8. Stipulations and Settlements: Most PUCO cases end in settlement but the settlement process for PUCO cases provides the utilities excessive leverage against consumers. The law must set requirements for how and when a settlement can take place and tighten the requirements for when it can be adopted.

Barriers and Solutions to Equitable Community Impact

9. Equitable Community Impact: Examine equitable community impact issues will ensure PUCO decisions are guided by and benefit all Ohioans. The law must define these barriers and solutions and establish how the PUCO and the Ohio Power Siting Board (OPSB) should incorporate these issues into their deliberations and decisions.

OHCEF remains committed to working with lawmakers in both chambers to ensure that Ohio's energy policy undergoes a transparent, deliberative process that prioritizes accountability and transparency measures along with new, clean energy generation as part of a diversified energy portfolio in order to create jobs, drive free market competition, and inspire Ohio-led innovation.

I appreciate your attention to my written testimony and urge your support of House Bill 772. I would be more than happy to discuss my testimony, or the policy suggestions listed within, in greater detail at any time. I can be reached via email at tyler@ohcef.org.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tyler M. Duvelius". The signature is fluid and cursive, with a large loop at the end.

Tyler M. Duvelius
Executive Director
Ohio Conservative Energy Forum