



**BEFORE THE SENATE ENERGY & PUBLIC UTILITIES COMMITTEE
SENATOR ROB MCCOLLEY, CHAIRMAN**

**TESTIMONY
OF
KIM BOJKO
PARTNER, CARPENTER LIPPS & LELAND
OMA ENERGY COUNSEL**

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Mr. Chairman and members of the Senate Energy and Public Utilities Committee, my name is Kim Bojko. I am a partner with the law firm Carpenter, Lipps, and Leland, where I specialize in energy and public utility law. I also serve as energy counsel to both The Ohio Manufacturers' Association (OMA) and the OMA Energy Group. I appreciate the opportunity to present proponent testimony on Senate Bill 118 (SB 118).

The OMA represents the manufacturing sector of Ohio. We boast approximately 1,300 members – of all sizes. It is impossible to competitively operate a modern manufacturing facility without affordable and reliable power. Our membership includes many of the largest, most sophisticated energy users in the state. Some of our members consume the same amount of electricity as a medium-sized city. In short, energy is very important to Ohio's manufacturing competitiveness.

The OMA was an opponent of House Bill 6 (HB 6). OMA and its members testified numerous times in opposition to the anti-consumer and anti-competitive provisions of the bill now tied to the pending bribery investigation by the Southern District of Ohio's U.S. Prosecutor's Office.

One of the major provisions of HB 6 was the creation of the Clean Air Fund. Most notably this fund created a \$150 million-a-year subsidy for the owner of Ohio's two nuclear power plants. Less discussed but also problematic was the additional \$20 million subsidy for select solar plants that brought the total yearly subsidy to \$170 million annually.

Earlier this year the General Assembly repealed the nuclear portions of HB 6. The OMA was supportive and appreciated the action taken by the legislature to repeal the nuclear subsidy and some of the other problematic provisions included in HB 6, such as "decoupling."

At that time, we encouraged the General Assembly to go farther and repeal the entirety of the expensive and unneeded Clean Air Fund and the OVEC rider that continues to subsidize the costs associated with operating two old coal plants, including one in Indiana, at twice the market value, and prevent the PUCO from enacting a new OVEC rider without explicit approval from the General Assembly.

SB 118 is the next step in repealing the remaining problematic subsidies in HB 6. A quick review of the amount of solar generation proposed and pending in Ohio should be enough to convince policymakers that such a subsidy is not needed. Ohio currently has 41 pending or approved solar projects at the Ohio Power Siting Board. Of the 41 projects, 38 are far enough along in project development that they satisfy Senate Bill 52's grandfather requirements. These requirements state the project must have received a completed PJM site impact study and paid the fee for a facilities study.

These 38 projects represent nearly 7,000 MW of nameplate solar generation capacity. Once built, these projects are expected to produce more electricity annually than the Davis-Besse Nuclear Power Station and will be able to meet approximately 30% of Ohio's electric demand at certain times of their peak hourly production. While new innovation may warrant certain subsidies, Ohio's solar appears to have matured past that point. Moreover, the HB 6 solar subsidy is only available to a handful of large solar facilities, creating an uneven playing field for this emerging industry.

The OMA is also concerned with how the PUCO has interpreted and implemented the program that this General Assembly created. The PUCO ignored the plain language of the statute, as well as statutory history, and assessed manufacturers a charge on a per meter as opposed to per customer basis. Additionally, the PUCO established a revenue requirement that exceeds the amount required and necessary for disbursements to the qualifying solar facilities, increased the amount collected from customers to pay the Commercial Activity Tax (CAT), and improperly implemented the cost cap provision. The PUCO is not following the law and is collecting from customers more than an amount sufficient to fund the solar subsidies prescribed in the law.

The PUCO has exceeded its statutory authority and implemented the Clean Air Fund in an unlawful and unreasonable manner, which will increase costs to manufacturers. The OMA continues to fight for a fair interpretation of these increased costs to manufacturers. But repealing the provision is the fastest and fairest way to ensure no new or increased costs are put on consumers.

The General Assembly has already taken the first steps in erasing HB 6's ill-conceived subsidies by passing House Bill 128. SB 118 helps further the good work already done by the legislature.

Thank you. I would be happy to answer any questions.