# Senate Bill 320

## Reforming Ohio's Electric Portfolio Mandates

## Senate Energy and Natural Resources Committee

### Prepared Statement of Sam Randazzo
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### November 15, 2016

Mr. Chairman, members of the Senate Energy and Natural Resources Committee, I am Sam Randazzo and I am here today in my capacity as General Counsel for the Industrial Energy Users-Ohio ("IEU-Ohio"). The purpose of my testimony is to express general support for Senate Bill 320 ("SB 320") as it has been presented to the Committee today. My perspective on this topic is that of a person who has walked the Ohio energy beat for the better part of five decades and someone who was "in the room" when Ohio, regrettably, made arbitrary portfolio mandates and their hidden taxes part of Ohio law.

In 2008 and as a subordinate part of Amended Substitute Senate Bill 221 ("SB 221"), supply-side and demand-side mandates were made part of Ohio law. There was no analysis to consider their effect on reliability or the affordability of electricity. The mandates were sold based on future predictions of energy scarcity plus high and volatile prices. The considerable cost of the mandates was hidden in electric bills.

At customers' expense, Ohio's electricity portfolio mandates pick winners and losers based on expectations that existed in 2007 and 2008. And the expectations that existed in 2007 and early 2008, when Ohio adopted electricity supply-side and demand-side mandates, are very different than today's realities. They are also very different than reasonable expectations about the future.

For example, the 2008 vintage mandates assumed, among other things, that: (1) our domestic natural gas supply would soon be depleted, leaving us increasingly dependent on imported liquefied natural gas; (2) we would not realize the energy price and reliability benefits that are currently flowing from our abundant domestic shale resources; and (3) an overheated economy would continue rather than be stunningly "corrected" by the Great Recession. None – not one – of these assumptions would be regarded as credible if advanced today to support adoption of the 2008 mandates.

In the face of this undisputed truth, the General Assembly enacted Amended Substitute Senate Bill 310 ("SB 310") to call a two-year time-out in the escalation of the annual mandate compliance "benchmark." During this "time-out," the mandates were evaluated through a study committee process which produced a report and recommendations.

SB 310 also contained counting or compliance measurement provisions that mostly corrected problems created at the Public Utilities Commission of Ohio ("PUCO") during the implementation of SB 221.

And, SB 310 also gave the largest electric users the right to opt out of the cost and benefits of the energy efficiency and peak demand reduction mandates through a streamlined process.

The alternative to these reforms would have been for the General Assembly to ignore the facts and cause electric consumers to pay higher and higher electric bills for the benefit of stakeholders who profit from parasitic technologies which intermittently show up for work.

As the law currently stands, the escalation in the annual mandate compliance requirements is scheduled to resume in just 47 days (on January 1, 2017). And, this is why the **large and small industrial and commercial customers** that are members[1] of IEU-Ohio have, through IEU-Ohio, continued to meet with you and urge you to enact incremental reforms. And, based on our very quick review of the version of SB 320 that has been distributed today, we ask that you favorably consider SB 320 as soon as reasonably possible.

**Counting Reform – Energy Efficiency & Peak Demand Reduction Mandates**

This version of SB 320 continues progress made in SB 310 towards fully recognizing and counting actual energy efficiency and peak demand reduction gains for purposes of measuring compliance with the mandates. This occurs in a two-step process. The first step is taken in the definitions (R.C. 4928.01) at lines 599 through 615. The second step occurs in R.C. 4928.662 at lines 1538 through 1584. All of these incremental counting reforms have been discussed and considered during the many hearings held during the Senate Bill 58 ("SB 58"), SB 310 and the Energy Mandates Study Committee process.

**Expanding the Streamlined Opt-Out**

As discussed above, SB 310 gave Ohio's largest electricity users the right to get out of the way of Ohio's mandates. For most of the state, this right does not go into effect until January 1, 2017. During the SB 310 process, we pushed to extend the streamlined opt-out right to most of Ohio's businesses by making this right available to all "mercantile customers" (a defined term in R.C. 4928.01). This expansion was not included in SB 310 because some utilities asserted that a flash-cut expansion to include all mercantile customers would have, at that time, created administrative problems with regard to mandate compliance plans that were then in process. Since then we have continued to urge you to expand the streamlined opt-out to include all mercantile customers and the Energy Mandates Study Committee Report agreed that this change should be made effective January 1, 2019.

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[1] IEU-Ohio's members are listed on **Appendix A**.

The current version of SB 320 expands the streamlined opt-out to make it available to all mercantile customers. This is accomplished through relatively modest changes to R.C. 4928.6610 at lines 1587 through 1605.

**Two Requests**

- While the current version of SB 320 expands the streamlined opt-out to all mercantile customers, Section 3 of the bill (starting at line 1991) states that the expansion will not become effective until January 1, 2020. We ask that Section 3 of the bill be deleted (thereby making the expansion of the streamlined opt-out effective with the effective date of the legislation). In no event should the expansion of the streamlined opt-out be delayed beyond January 1, 2019.

- In R.C. 4928.64(B)(1) (starting at line 972) dealing with the duration of the renewable mandate and R.C. 4928.66 (starting at line 1302 with regard to the energy efficiency mandate and line 1344 with regard to the peak reduction mandate), there is “each-year-thereafter” language in current law and the proposed changes to current law. I fear that language will be used at the PUCO, perhaps well after my time in the saddle, to support claims that the mandates run in perpetuity. I direct your attention to this language in the hope that you will substitute language that makes it clear that the life of all of the mandates end no later than December 31, 2027.

Thank you for your service and your attention. If you have any questions, I will do my best to provide answers.

Appendix A

# IEU-OHIO'S MEMBER COMPANIES

Abbott Nutrition
Air Liquide Industrial U.S. LP
Airgas Inc.
AMAC Enterprises, Inc.
American Greetings Corporation
American Manufacturing Inc.
Anheuser-Busch Companies, Inc.
Appvion, Inc.
Area Aggregates, LLC
ASHTA Chemicals Inc.
Ashtabula Rubber Co.
Aurora Plastics, Inc.
Automation Plastics Corporation
Avon Lake Regional Water
Barberton Steel
Bescast, Inc.
Burton Rubber Processing
BWX Technologies
ClarkDietrich
Cleveland Cavaliers
Cleveland Indians
Cleveland Museum of Natural History
Cobra Plastics, Inc.
Component Repair Technologies, Inc.
Cristal USA Inc.
DRS Industries Inc.
Duramax Marine, LLC
Energizer Manufacturing, Inc.
Eramet Marietta Inc.
Falcon Foundry Company
Federal Metal Company, The
Ferriot, Inc.
Flambeau, Inc.
Glen-Gery Corporation
Globe Metallurgical, Inc.
GoldKey Processing, Inc.
Higbee Mothership LLC
Independent Franchises DBA McDonald's
Iten Industries
J.H. Routh Packing Company
Jack Thistledown Racino
Jacobson Manufacturing LLC
Jet Rubber Company
John Carroll University
Kent Elastomer Products, Inc.
Kent State University
Kraton Polymers U.S. LLC
Landmark Plastic Corporation
Lincoln Electric Company
Marathon Petroleum Company
McGean-Rohco, Inc.
Mercury Plastics, Inc.
MetalTek International
MICA
Milliron Iron & Metal, Inc.
Mondeléz International
Neff-Perkins Company
Norman Noble, Inc.
Ohio Star Forge Co.
P.H. Glatfelter Co.
Paulo Products Company
Plastipak Packaging Inc.
Pressure Technology, Inc.
Quaker City Castings
Rothenbuhler Cheesemakers, Inc.
RTS Companies, Inc.
Saint Gobain Companies
SAJAR Plastics, LLC
Salem-Republic Rubber Company
Sauder Woodworking
Tarkett USA
Tate & Lyle Americas, Inc.
TimkenSteel Corporation
Toledo Refining Company, LLC
Tri-Cast Ltd.
Trilogy Plastics
U. S. Steel Seamless Tubular Operations, LLC
U.S. Casting Company, Inc.
University of Akron
USG Corporation
Vallourec Star
Viking Forge Corporation
Welded Tubes, Inc.