

**TESTIMONY OF ROBERT KELTER  
ENVIRONMENTAL LAW AND POLICY CENTER  
OHIO SENATE HOUSE PUBLIC UTILITIES COMMITTEE  
OPPOSITION TO HB 128  
TUESDAY, FEBRUARY 23, 2021**

Good afternoon Chairman Hoops, Vice Chair Ray, Ranking Member Smith and members of the committee. Thank you for the opportunity to testify before you today. Given that the Committee has some new members, I want to start today by telling you briefly about the Environmental Law and Policy Center (ELPC) and my personal background. ELPC is a regional environmental organization that operates around the Midwest, including Ohio. As an environmental organization we have a strong belief in consumer protection, and we support balanced energy policies that benefit both consumers and the environment. I have been at ELPC for more than a decade and have litigated numerous cases at the Ohio Public Utilities Commission, as well as the state commissions in Illinois, Michigan, Wisconsin and Indiana. Before coming to ELPC, I spent twelve years at the Citizens Utility Board in Illinois where I focused on electric rate cases and consumer fraud issues.

Environmental Law and Policy Center does not support HB 128 in its current form and testifies today to explain our position and suggest ways to improve the bill. ELPC supports eliminating the nuclear subsidies, but that is only half of what HB 6 did. It also eliminated the state's energy efficiency and renewable energy standards, and today I want to talk about that half of the legislation.

In order to evaluate HB 128, it's important to understand what HB 6 did and didn't do. Then we can discuss the best course of action to move forward. The sponsors last week testified that they supported HB 6, "because we felt this was a way to save the nuclear plants and save over 4000 jobs in the state of Ohio and make sure that we continue to have clean power and a diversified energy portfolio."

I want to break down this statement. HB 6 bailed out existing nuclear plants and coal plants and eliminated energy efficiency and renewable energy standards. There are two main propositions here: 1) save the nuclear plants and jobs; and 2) clean power and a diversified portfolio. HB 6 did save the jobs at the nuclear plants in a sense, but if the nuclear plants shut down today those jobs would transfer to decommissioning jobs and continue for many years. However, by eliminating the energy efficiency and renewable energy standards, the legislature eliminated jobs in those industries. Others have testified about the extent of the energy efficiency/energy waste reduction jobs, but those jobs are equally important to the Ohio economy and the families who rely on those jobs for their income.

Equally as important as jobs, HB 6 did not ensure a diversified portfolio; just the opposite. Energy efficiency and renewable energy play critical roles in a diversified and balanced portfolio and HB 6 essentially robbed Peter to pay Paul. Now you're taking the

money back from Paul, but not giving it to Peter and clichés aside I want to explain why this is bad policy for Ohioans.

In terms of the energy efficiency standards that HB 6 eliminated, those programs helped customers use less energy and save money. There are a couple of things that are important to understand regarding energy efficiency/energy waste reduction. First, the law required that the Public Utilities Commission had to approve any energy efficiency programs and guarantee they were cost-effective. As the law defines it, cost-effective means the Efficiency Plans cost less than the generation they replace. Essentially, utilities can meet customer demand by either purchasing electricity on the wholesale market, or helping customers reduce their usage so that utilities need to supply less. Even with the flaws that legislators have pointed out with the efficiency programs, they still produced savings for customers.

Energy waste reduction programs offer customers discounts and rebates that encourage them to purchase lighting and invest in weatherization that reduce their bills. Using a smart thermostat as an example, a smart thermostat costs between \$150 and \$250, while a manual or programmable thermostat may only cost \$25-\$50. The payback period on a smart thermostat is generally 12-18 months. Should customers make that purchase without a utility sponsored discount? Yes, they should. But most customers, especially so many Ohioans who struggle to meet their monthly expenses, won't make the investment absent the utility discount. That discount shortens the payback period and provides a nudge to take advantage of savings.

The programs work, even if they aren't perfect. Most importantly, they save money for not only the participants but also the customers who don't take advantage of the programs. In 2015 legislators who opposed the energy efficiency and renewable energy programs asked the PUCO Staff to analyze them and the Commission said the following:

Market price suppression is an added benefit of energy efficiency projects. Price suppression occurs when the demand for electricity is reduced. As less generation is needed to meet demand, market prices for electricity decrease. Through a series of forecasts, the potential effect of price suppression from energy efficiency on the wholesale market may be examined.

The PUCO forecasted<sup>1</sup> how an overall 1 percent reduction in demand affects wholesales pricing. The forecast began with an average wholesale market cost of \$52.71 per MWh, and then held all variables constant but reduced the load or demand for energy by 1 percent. The resulting change was an annualized cost forecasted at \$49.87 per MWh, **a reduction of 5.7 percent.** The forecast is a high level

---

<sup>1</sup> Raw data sourced through Ventyx

evaluation into the wholesale market with a multitude of variables and assumptions made to evaluate the potential market price suppression.  
*PUCO Letter to Energy Mandate Study Committee, Feb. 26, 2015.*

The one percent annual reduction target meant that utilities needed to purchase one percent less generation than they would have needed to purchase for that year. This includes needing to purchase less power at peak times when wholesale prices rise, which is why the Staff estimated a savings of 5.7%.

It is important to note that the utilities submit a plan to the Commission for review and approval every three or four years. That plan involves detailed explanations of the programs that make up the plan. It is subject to discovery by all the parties in the case, then cross-examination of the utility witnesses at a hearing, briefs, and an order approving or modifying the plans from the five commissioners. Then after the programs go into effect, the utilities submit the results from the plan to the Commission for review to make sure the plans actually produced savings.

Even with all of this review the plans are not perfect. There is in fact some waste in them. ELPC agrees with a lot of the criticism legislators have raised. Not only should the utilities not be sending out kits to customers who don't ask for them, but ELPC and other environmental groups opposed that program from the start. But, even with the flaws, every utility program achieved the one percent savings target every year the programs existed. The utilities hire auditors to review the programs and the auditors' responsibility includes conducting site surveys and phone surveys to determine if the customers actually installed products to ensure they produced savings. If kits sit in closets, then the utilities don't get credit for the savings.

As I said however, the programs are not perfect and we can do more to protect customers. Hence, ELPC supports tightening up several aspects of the programs, including the following:

- Prohibit utilities from sending out kits or any other measures that customers don't request;
- Limit the plans to measures that reduce energy usage to lighting and cooling/heating, which eliminates discounts on appliances and pool pumps.
- Require the Commission to hire the auditors that measure program savings;

ELPC also recommends that as part of this process the committee bring in the utilities themselves to answer questions, and PJM to discuss the regional transmission operator's position on energy efficiency. ELPC believes that these parties will add to this discussion. But recognizing the months of debate over the summer and fall, and the concerns raised by legislators ELPC proposes the following amendment to HB 128:

The legislature encourages utilities to file voluntary Energy Waste Reduction Plans (EWRP) to replace the Energy Efficiency plans that ended at the end of 2020. The Commission shall approve any voluntary plan that meets the utility consumer test for cost effectiveness, as well as just and reasonable standards. The Commission may modify any voluntary plans to ensure the program provides maximum benefits to customers. Utilities shall amortize the costs of the EWRP over a period of 5-7 years approved by the Commission. Utilities may earn a return on equity for spending on their EWRP starting when they reach .75 annual savings and the Commission may increase the return on equity by a reasonable amount for savings achieved above .75 annual savings. Savings must be generated by programs in the EWRP and cannot include any capital investment already earning a return on equity. Reviews of the programs must be by independent firms hired by the Commission and paid for out of EWRP funds. Voluntary plans shall not include savings from measures not requested by customers, nor savings from measures that have a savings life less than ten years.

We need to encourage Ohio utilities to continue to run programs that reduce waste and help make sure the utilities can meet demand at peak times. These programs help the utilities meet demand and help customers save on their bills. Moreover, by amortizing the costs over 5-7 years the utilities can help customers lower their monthly payments for the programs well below the 2020 level.<sup>2</sup> For example, for AEP the monthly charge is \$1.95 per month and for the same spending as 2020 amortizing it over 5 years would drop the charge to \$.55 per month the first year.

As I said, the energy waste reduction and peak demand provide significant value to the grid. When utilities can use smart thermostats to help customers voluntarily reduce usage on the hottest days of summer and coldest days of winter, those very small incremental changes can provide great value in terms of reliability.

Finally, I want to talk about the issue of a diversified portfolio. A diversified portfolio includes baseload power, peak power, and energy waste reduction/demand response. A diversified portfolio includes coal, nuclear and natural gas and it will for many more years, but it also includes renewable energy and energy waste reduction.

I realize I have not covered every aspect of every issue today, but the bottom line is that the best thing the legislature can do is repeal HB 6 in its entirety, or repeal it with some provisions to address energy waste reduction and renewable energy policies. We can save the clean energy jobs and keep Ohio moving forward. Thank you for your attention today and I am happy to answer your questions.

---

<sup>2</sup> Utilities amortize their investment in the grid this way. The energy efficiency investments benefit customers for many years just as the wires last many years. Hence, this is a logical way to pay for energy waste reduction.