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**Committees**

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and Veterans Affairs

**Laura Lanese**

State Representative

23<sup>rd</sup> Ohio House District

**House Public Utilities Committee: HB 351**

Chairman Hoops, Vice Chair Ray, Ranking Member Smith, and Members of the House Public Utilities Committee, thank you for allowing me and Representative Stoltzfus to provide testimony on House Bill 351, which will repeal the OVEC portion of HB6.

As you likely will recall we have already repealed the nuclear bailout portion of HB 6 with the passage of HB 128, which was introduced at the beginning of this General Assembly. Now it is time to repeal the other bailout portion of the bill HB 6, the OVEC coal plant bailout.

OVEC is a company jointly owned by several parent or sponsoring electric utility companies. In Ohio, the major companies are AEP, Duke, and AES (formerly DP & L). OVEC was formed to provide power to the United States Atomic Commission, (now the Department of Energy) for use at the uranium enrichment plant near Portsmouth, Ohio during the Truman administration. For nearly half a century the two OVEC coal plants, the one in Ohio and the other in Indiana, provided power to the enrichment plant. However more than two decades ago, the DoE gave notice to OVEC that it would no longer need the energy generated from its coal plants because it would be shuttering the uranium enrichment plant. The two coal plants at this time were close to 50 years old. After a lifetime of a mutually beneficial partnership, the federal government provided nearly \$100 million in taxpayer funds for a termination agreement to cover closure costs.

The two coal plants however did not close. The OVEC companies voluntarily decided to extend the Inter-Company Power Agreement after the federal contract was cancelled and agreed to continue operations to provide coal-powered energy to the PJM. In 2006 they decided to extend the OVEC agreement until 2030. In 2011, they again decided to extend the agreement until 2040 despite having nearly 20 years left on the original agreement. I haven't seen any reasons why these two extension decisions were made, especially the latter one because it was already clear the plants were already losing money.

Another questionable decision occurred in 2011 when OVEC made a very risky and poorly timed decision to invest nearly a billion dollars for scrubbers at the plants. As previously mentioned, the plants were already operating at a loss when this devastatingly expensive investment was made. Generation from the two plants had been in a steady decline since around 2008. The result was that the OVEC owners were not only been getting lower revenues from the megawatts they sell, but they were and still are selling fewer of those megawatts to PJM because other energy generation resources have become cheaper thanks to deregulation, the natural gas boom, as well as from other technological innovations from new energy generation resources. The losses from revenue and production have inspired the owners of OVEC to look for other ways to cover the costs of their mistakes. And the easiest way to cover the costs from those mistakes was to have our constituents, the ratepayers, write the checks for them.

Rate recovery started at the PUCO via their legacy generation riders to ensure recovery through the years 2021-2026. However, when HB 6 started gaining momentum, these utilities looked for a more permanent way to ensure coverage of their losses and successfully included a codified and extended version of these

riders in HB6. Recent financial analysis indicates that approximately \$700,000 was paid by one sponsoring company through a middleman company to Generation Now for lobbying efforts to ensure the passage of HB6. Generation Now is, of course, the organization charged in the criminal complaint at the center of the of the largest bribery scandal in the history of the state. So rather than having these expensive riders sunset beginning in 2021 and ending in 2026. HB 6 not only codified the riders, but also extended them to 2030, and possibly beyond to the end of the compact, which is in 2040 and nearly a century after the original agreement. The costs of this extension are staggering because the coal plants have been operating at a loss for many years and will most likely continue operating at a loss for the next two decades. The projected costs to our ratepayers for this extension is between \$700 million and \$1.5 billion depending on the date of the termination of the agreement. This obviously is a lot of money to be bailing out two coal plants, one of which isn't even located in Ohio.

In addition to the unnecessary, yet astronomical direct costs of operating the two plants, are the indirect costs of market distortion, imprudent management, and health care costs. Whenever the government subsidizes an industry, it creates market inefficiencies and chases away investment from non-subsidized companies. This result was clearly seen with the passage of HB 6 when two natural gas plants decided against expansion and development in Ohio. In Luckey, Ohio, LS Power halted their \$500 million expansion because of the HB 6 subsidies. Likewise, in Lordstown, Ohio, Clean Energy Future canceled their 1.5 billion dollar investment in Ohio because of the HB 6 subsidies. The staggering total of the two billion dollars in lost economic development in Ohio has become just a footnote in the many troubling costs from the market-distorting effects of HB 6 subsidies.

Another hidden, but very real costs happens when companies in a risk averse environment know their costs will be covered and they lose the market incentives to operate efficiently. This is what happened with OVEC. In audits conducted by the PUCO, actions to reduce costs have been ignored by OVEC because they know they have automatic cost recovery through ratepayers. In just one example, the PUCO noted that "OVEC should carefully consider when and whether the must-run offer strategy is optimal, as it appears that in some months, it may result in negative energy earnings for the plants." This advice from the PUCO was ignored and operations continued to run during these earnings losing months. This is just one example of how imprudent operations continue when market forces are removed from the equation.

Finally, we can't ignore the health care costs of the two polluting coal plants and the harm done to residents in Ohio and Indiana. These two coal plants are especially old and inefficient. The Kyger Creek plant in Ohio is one of the top-polluting plants in the country. Residents who live near coal plants have higher medical bills from asthma, bronchitis, emphysema and other ailments, as well as a reduction in quality of life. The Kyger Creek plant is just down the river from Gavin Power Plant, which saw the evacuation of an entire city in 2002 due to health-related lawsuits and cost AEP nearly \$20 million to address the pollution problem. No doubt future remediation costs from the coal ash ponds, the mercury dispersion, and other environmental hazards will be borne by the Ohio taxpayer. The sooner we can address these costs the cheaper they will be. It would be a far better investment of the projected \$700 million in operating losses to cover these costs and help restore the community to its pre-coal plant days.

So the obvious question is if these two coal plants are costing Ohioans a great deal in direct bailout costs, investment opportunities, inefficiencies and health care costs why do we continue to bail them out?

One argument is that it is important to save the jobs in Ohio and Indiana that would be lost if the plants were to close. However, even if it were worth \$700 million to save 500 or so Ohio jobs it does not automatically follow that the loss of subsidies will result in the immediate elimination of these jobs. Given the legal structure of the ICPA it is unlikely that the plants will completely close. In fact, Fitch, one of the major business credit rating companies, just this year noted that it "does not expect a direct impact to OVEC if Ohio House Bill 6 (H.B. 6) is repealed. H.B. 6 codified the recovery by the Ohio-regulated utilities of their OVEC costs but does not alter the utilities' obligation to pay OVEC as per the terms of the

legally enforceable ICPA.” Thus, even if we halt the ratepayer bailout, the plants would likely continue to operate for the foreseeable future-just at company, not ratepayer, expense.

The coal plant subsidies from HB 6 must be repealed if we are to return to the free market principles of SB 3. By doing so, we will restore much needed funds to our ratepayers, but we will also encourage further economic development when the market distortions are removed. This will not only decrease future costs but will enhance our energy production and further enhance the reliability of our electricity grid with the bonus of cleaner air. Therefore, I respectfully ask for your yes vote on HB 351.

Thank you.