



House Public Utilities Committee
House Bill 351
September 29, 2021

Chairman Hoops and members of the House Public Utilities Committee, thank you for the opportunity to provide written proponent testimony on House Bill 351 (HB 351).

The Alliance for Energy Choice is an Ohio non-profit corporation that seeks to promote fairness and competition in electric utility service. The Alliance advocates for free-market solutions that will ensure an adequate and fairly priced supply of electric power to Ohio's residents, businesses, and industries. The Alliance also advocates for policies that do not favor one supplier or one form of energy over another.

Our membership believes repeal of the "Legacy Generation Resource" provisions currently in Ohio law as a result of HB 6 is another vital step necessary for the Legislature to take as it continues to repair the state's energy policy. Additionally, the Alliance supports the provisions of HB 351 that prohibit future cost recovery for Legacy Generation Resources and that require full refunds to customers of all charges associated with Legacy Generation Resources collected under the HB 6 law.

The current requirement guaranteeing cost recovery for the outdated Ohio Valley Electric Corporation (OVEC) coal plants in Ohio and Indiana through 2030 is anti-competitive and unfair to Ohio's consumers and other competitive market participants. Requiring cost recovery for another decade for these two aged, inefficient coal plants rewards poor operations and performance and punishes those operators and facilities that have maximized their efficiencies and competitiveness.

Why should Ohioans pay to subsidize a plant located in Indiana?

The Ohio EDUs with ownership interest in the plants willingly and proactively entered into the existing Inter-Company Power Agreement (ICPA) with the various other OVEC owners and agreed to operate the plants in the open market once their federal government contract expired in 2003. The federal government provided the joint owners with three years forward notice of their intent to cancel the contract and provided them with a substantial \$97.5 million contract termination payment. Thus, Ohioans should not be saddled with these unnecessary costs and competitors should not be directly disadvantaged in order to cover the losses resultant from bad business decisions other companies made in the past.

Why are we continuing to prop up these rapidly aging plants while far newer coal-fired plants in Ohio are closing because they are not competitive?

At one time these plants were critical to national security. We have also been routinely told the ICPA is an ironclad, unbreachable document. They are no longer critical, and the "ironclad agreement" has already been breached.

PJM has stated publicly multiple times in the past that these almost 70-year-old plants are not positively impactful to grid reliability, nor wholesale and retail market prices. Furthermore, a recent Ohio

bankruptcy court ruling fully absolved the former FirstEnergy Solutions of all of its OVEC related ownership obligations as the company transitioned into the new entity Energy Harbor.

Making this long overdue fix will help to further restore a level playing field to the competitive energy market in the state by enhancing fairness and transparency for all. As such, the Alliance urges the Ohio House to act on behalf of Ohio's citizens and businesses to pass this bill so that yet another recently enacted, damaging policy wrought by HB 6 is overturned.

We appreciate this opportunity to submit written proponent testimony on HB 351. As always, please do not hesitate to contact us if you have any questions or would like further information regarding this document or the Alliance for Energy Choice.



The Alliance for Energy Choice membership currently includes Calpine, Eastern Generation, The Energy Professionals of Ohio, LS Power, NRG, and Vistra Energy.