



**Ohio Senate Committee on Energy and Public Utilities
The Honorable Bob Peterson, Chairman**

**Interested Party Testimony on
Senate Bill 44
Chris Zeigler | API Ohio
February 23, 2021**

Chairman Peterson, Vice Chair Schuring, Ranking Member Williams and members of the Senate Energy & Public Utilities Committee - thank you for the opportunity for API Ohio to provide interested party testimony on Senate Bill 44 (S.B. 44).

The American Petroleum Institute-Ohio (API Ohio) is a division of the American Petroleum Institute (API). The API represents all segments of America's natural gas and oil industry, which supports more than ten million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our 600 members produce, process, and distribute the majority of the nation's energy, and participate in *API Energy Excellence*,¹ which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. API was formed in 1919 as a standards-setting organization and has developed more than 700 standards to enhance operational and environmental safety, efficiency, and sustainability.

API supports a market-based approach as it relates to energy policy. We have opposed subsidies for nuclear power generation for the last several General Assemblies, due to the impacts this would have on natural gas development in Ohio and the region, as well as the impacts on our members, some of which are large industrial energy users. We would advocate that a market-based approach should also be applied to solar power generation, thereby eliminating the energy credit program enacted under H.B. 6.

Therefore, API Ohio's interested party position on S.B. 44 is derived from our support of the portion of the bill that repeals all provisions regarding the nuclear resources credit program of H.B. 6 from the 133rd General Assembly. However, API Ohio is opposed to the provisions in the bill that retain subsidies for solar power generation by changing the term "renewable" to "solar" and keeping intact the related energy credit program enacted under H.B. 6." As an association, we have opposed subsidies for specific energy resources; we favor a level-playing field for all forms of energy.

As presented in testimony, several times during the debate on H.B. 6, API Ohio opposed the bill from its introduction because we believed that it would discourage innovation in new technologies and the associated risks of investing billions of private capital dollars in constructing new natural gas-fired electric power plants--taking advantage of the state's abundant supply of natural gas. Ultimately, however, we

¹ <https://www.api.org/oil-and-natural-gas/api-energy-excellence>

believed that the bill would effectively destroy the market dynamics that have provided positive outcomes for Ohio's ratepayers and our economy over the last several years.

API Ohio's concerns were justified when two natural gas-fired power plants publicly announced in 2019 that they would be mothballed due to passage of H.B. 6, reportedly a loss of \$1.6 billion of private investment in our state.^{2,3} What was certain about the policy of H.B. 6 is that it guaranteed profits for a select list of recipients on the backs of Ohio ratepayers and at the expense of free market investment opportunities.

API Ohio also questioned the lack of publicly available analysis or data that may have been used to determine if, in verifiable fact, Ohio nuclear resources were in jeopardy of closing without being provided a ratepayer subsidy of over a billion dollars. To this end, we commissioned a study by Dr. Paul M. Sotkiewicz⁴, to determine if Ohio's nuclear resources had historically been operating profitably and could be expected to operate profitably into the future, without the billion-dollar ratepayer subsidy handed to them under H.B. 6.

Dr. Sotkiewicz's analysis determined that:

"1) Historically, Ohio nuclear resources have been able to cover their going forward costs and have significant operating margins that contribute toward the recovery of sunk costs plus a return on investment;

2) Over the next ten years, Ohio nuclear resources are projected to remain profitable on an operating basis, covering going forward costs and earning margins that contribute toward returns.

*The bottom line is that Ohio nuclear resources are in no danger of retiring anytime soon and to do so would not only be economically irrational but would financially harm the equity shareholders of these nuclear assets."*⁵

Although this study and other data were provided to support a lack of need for the \$1.1 billion ratepayer subsidy for Ohio's two nuclear power plants, the policy of H.B. 6 did not include a mechanism that would protect Ohio's ratepayers from being fleeced. The calls for an independent financial audit of Energy Harbor's accounts to determine and support the need for ratepayer subsidies were never addressed.

The concerns regarding the profitability of Ohio's nuclear resources were realized after the passage of H.B. 6 when Energy Harbor's board of directors "voted to increase authorization for its stock buyback

² <https://www.prnewswire.com/news-releases/ls-power-announces-ohio-nuclear-subsidy-legislation-will-force-cancellation-of-its-troy-generating-facility-expansion-300884803.html>

³ <https://ohioipp.org/wp-content/uploads/2019/09/2019.08.21-OIPP-Press-Release-CEF-Lordstown-3-Cancellation.pdf>

⁴ http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/133rd_ga/ready_for_publication/committee_docs/cmte_s_energy_pu_1/submissions/cmte_s_energy_pu_1_2019-06-04-0930_683/oh-nuclear-analysis_5_28_19.pdf

⁵ http://search-prod.lis.state.oh.us/cm_pub_api/api/unwrap/chamber/133rd_ga/ready_for_publication/committee_docs/cmte_s_energy_pu_1/submissions/cmte_s_energy_pu_1_2019-06-04-0930_683/drpaulsotkiewicztestimony.pdf

program from \$500 million to \$800 million”⁶—clearly evidence of a lack of “need” for the billion-dollar Ohio ratepayer handout to subsidize Energy Harbor’s nuclear power assets.

Now, with the introduction of S.B. 44 and testimony submitted in support of the bill, we understand that the continued operation of Ohio’s nuclear power plants is in jeopardy without the removal of the subsidies provided by the nuclear resource credit program in H.B. 6. Regardless of the reasons behind it, API Ohio supports the removal of the nuclear resources credit program under S.B. 44.

Again, API Ohio supports a level-playing field where any type of generation resource can compete for market-share. We also believe that a system that promotes the selection of “winners and losers” in the market disrupts effective entry and exit of economic resources resulting in an inefficient market where consumers end up paying more. Therefore, API Ohio remains opposed to the subsidies retained for solar power generation under S.B. 44.

At the beginning of the 133rd General Assembly, API Ohio was asked to provide input to help form an energy policy platform for the state. At the time, we applauded the Senate’s leadership in starting this important conversation and we look forward to the opportunity to again engage in such an important process that seeks to promote fairness across the energy value chain, by fairly supporting a level-playing field among Ohio’s competing energy sources to the benefit of all Ohio energy consumers.

API Ohio stands ready to work with the Ohio Senate in that endeavor.

Thank you again Chairman Peterson, Vice Chair Schuring, Ranking Member Williams and members of the Senate Energy & Public Utilities Committee for the opportunity to provide interested party testimony on Senate Bill 44.

⁶ <https://www.cleveland.com/open/2020/05/with-ohio-bailout-law-secured-firstenergy-solutions-successor-moves-to-increase-share-buybacks-by-300-million.html>