

Mark Romanchuk

Ohio Senate
22nd Senate District



Hearcel F. Craig

Assistant Minority Whip
15th Senate District

**Senate Energy and Public Utilities Committee
Senate Bill 117 Sponsor Testimony
Repeal Legacy Generation Resource Provision of House Bill 6
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Chairman Peterson, Vice Chair Schuring, Ranking Member Williams and members of the committee, thank you for giving us the opportunity to testify on Senate Bill 117. Senate Bill 117 repeals the subsidy for two coal-fired plants owned by the Ohio Valley Electric Corporation (OVEC).

The Ohio Valley Electric Corporation is an entity comprised of several Ohio utilities that entered into an agreement to serve a Department of Energy uranium enrichment plant. OVEC owns two coal plants – one in Indiana and one in Ohio – that date back to the 1950s. While the Department of Energy plant is no longer operating, the OVEC coal plants still are. These plants are aging and are not competitive in the wholesale market. H.B. 6 of the 133rd General Assembly contained a provision to subsidize these plants for their losses. In 2019 alone, the OVEC losses amounted to roughly \$70 million.

This bipartisan legislation will stop the subsidies of OVEC and will refund the charges ratepayers have been paying since H.B. 6's OVEC provisions went into effect. Current estimates from the Ohio Manufacturers Association put these charges at \$700 million for the life of the current H.B. 6 law, depending on the ultimate losses of OVEC's plants.

Our legislation would also prevent the revival of any OVEC charges that existed prior to H.B. 6 that were authorized under the PUCO ratemaking process. The PUCO had approved "riders," or customer charges for OVEC before H.B. 6, but they were set to end in the coming years. In order to continue those charges, the OVEC utilities would need further PUCO approval. Under our legislation, those OVEC charges could not be reinstated, saving Ohio customers even more.

Simply put, customers are currently being charged to cover the losses of uneconomic and environmentally-expensive coal plants. Ohio ratepayers should not be bailing out the poor business decisions of investor-owned utilities, particularly for generation resources that does not even reside in Ohio.

Our bill, Senate Bill 117, would refund customers for H.B. 6 OVEC charges and stop all future charges for OVEC – saving Ohio customers tens of millions of dollars each year.

Deregulation Background

Let me start with some history. In 1999, the general assembly passed SB 3 (123rd General Assembly), which was historic legislation to deregulate the generation portion of our electric service and use competitive “markets” for the purpose of lowering utility bills and improving services. Unfortunately, the legislature hasn’t followed the path to achieve full deregulation and competitive markets; an OVEC subsidy is an example of that. All generating plants which - 22 years after deregulation - should be competing without ratepayer subsidies in the wholesale electricity market operated by PJM Interconnection, LLC (PJM). When Ohio deregulated and joined PJM, a 13 state (plus DC) regional grid operator, Ohio essentially abdicated the responsibility of “electric generation” to PJM. Therefore, it is irresponsible and unnecessary for this body or the PUCO to be engaged in any policy that affects the competitive generation market.

Deregulation and SB 3 are bearing fruit. Billions of dollars are being saved annually on the “generation” portion of the customer bill. Old, inefficient generating plants are exiting the market and being replaced with newer technology that is cleaner, more reliable, and cheaper to operate. Markets are functioning. Instead of staying the course of SB 3, a subsidy disrupts the principles of markets by unfairly and needlessly subsidizing certain generation plants at the expense of other generation resources and Ohio ratepayers.

Why have we lost our way to achieving the goals of SB 3 and full deregulation? It’s because of poor business decisions by legacy generation plant owners and effective lobbying to bail them out. Interest groups often turn to the legislature and ask for handouts to prop up failing businesses, such as old, inefficient, and costly generators. The legislature is a “political” body and should only be involved with new, transformative energy policy. The legislature should not be choosing winners and losers within a policy already created. But that is exactly what the OVEC subsidy does. It chooses two old, inefficient coal generating plants as winners by subsidizing them. It also created a rider that *increased* Ohioan’s electric bills. Why would any legislator want to vote for that?

The question you have before you can be boiled down to two questions: 1) should Ohio policy be interfering with a deregulated competitive generation market, and 2) should Ohioans be forced to bail out corporations when they make bad business decisions?

OVEC Cost Recovery

Ohio Valley Electric Corporation (OVEC) consists of two, 1950’s coal power plants with one operating in Ohio and the second in Madison, Indiana. The plants were originally built for the purpose of providing electricity to a uranium enrichment plant owned and operated by the federal government. After the enrichment plant closed and OVEC’s contract ended with the U.S. Department of Energy (and later the U.S. Enrichment Corporation) in the early 2000’s, the owners of the plants made a business decision to enter into another contract (without the federal

government), continue operation of the plants and sell their power into PJM’s wholesale electric market. The owners again (without the federal government) renewed that contract in 2011. The OVEC companies freely entered into these contracts – they were not ordered to do so by the federal government, FERC, PUCO or any other governmental entity.

Unfortunately for the owners, the plants haven’t been economically competitive since 2012. Ohioans should not be responsible for bad business decisions made by the plant owners which are, in this case, three of our utilities. Prior to HB 6 which was the start of the codified recovery for OVEC, ratepayers had paid \$159 million in subsidies to the OVEC plants through 2019 (this was PUCO approved recovery). It’s estimated that the OVEC plants will remain uncompetitive. HB 6 language will still continue to subsidize these plants with \$703 million additional ratepayer dollars (according to LSC), transfer the business risk to Ohioans, and do nothing to make the plants competitive.

PUCO audits have uncovered that the OVEC plants continue to sell electricity for less than it costs to make. A recent audit of the AEP Ohio PPA Rider (OVEC subsidy) uncovered questionable business decisions and operating practices. Unfortunately, the audit did not lead to changes that would lower costs to consumers. Also, even though the subsidy ends in 2030, charges to customers will likely continue because of the deferred cost recovery allowed under HB 6. Again, under deregulation, electricity generators are not entitled to subsidies from Ohio ratepayers.

If OVEC is Repealed, Will the Three Ohio Utilities Survive Financially?

Utilities are important to Ohio’s economy and our way of life, and every Ohioan wants financially sound utility companies. OVEC is owned by several entities, including three Ohio utilities: AEP, Duke, and Dayton Power and Light. As you can see by the table below, the three Ohio utilities will not be substantially harmed if the OVEC recovery is repealed.

Ohio Utility	2019 Earnings (in \$ million)	Shares of OVEC Cost	Lost Recovery if OVEC is Repealed (in \$ million)
AEP (Ohio)	297.1	19.9%	44
Duke (Ohio)	238.4	9.0%	19.9
DP&L	125	4.9%	10.8

Source for earnings: FERC Form 1 and SEC Form 10-K
 Source for shares of OVEC: 2019 OVEC Annual Report
 Source for calculations of lost recovery: LSC fiscal analysis R-133-4965-1 (based on 2019 recovery of \$74.8 million)

Does the market believe OVEC will be harmed by the repeal of this subsidy? According to FitchRatings commentary dated February 26, 2021, “Fitch does not expect a direct impact to OVEC if Ohio House Bill 6 is repealed.” In summary, this signals that the plants will continue operations and the jobs associated with the Ohio plant will survive.

Does OVEC have the opportunity to make up for the lost subsidy? The simple answer is yes. They can do what all other businesses must do when operations are not profitable; get more competitive in the marketplace and, in the case of the two plants, seek means of generating electricity more efficiently.

What Will the Opposition Say?

The opposition may claim financial harm but as demonstrated above, it is minimal and only if you assume that the plants do not try to become more competitive and efficient. They will also likely say they need the subsidy for job creation or economic development. This is ludicrous on its face. Utilities are not in the business of creating jobs or economic development for our state. Their job is to provide reliable electricity at a reasonable rate with satisfactory customer service.

They may also claim the subsidy is a “hedge”. Unfortunately, the so-called hedge has only worked in the favor of the utility, not the ratepayer. According to LSC’s HB 772 fiscal note, “Although the electric tariff applicable to OVEC allows for a credit or charge on ratepayers’ utility bills, the mechanism has only yielded charges since its inception.” In other words, the hedge is working but only in favor of the utility. Sadly, ratepayer *charges* are forecasted to continue through 2030 at the expense of our constituents and the economy.

Conclusion

Mr. Chairman, we have demonstrated that the utilities don’t need the subsidy to continue providing reliable electricity to Ohioans. The utilities will continue about their business and, we suspect, will make better business decisions in the future knowing the state of Ohio will not bail them out. We all want financially strong, innovative electric power plants. Market forces will deliver that. It’s time for our policy to return to competitive markets and make the consumer our focus.

Mr. Chairman, thank you for the opportunity to testify, and we would be happy to answer any questions.