House Select Committee on Energy Policy & Oversight
Opponent Testimony of Judith Lagano
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House Bill 798
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Chairman Hoops, Vice Chair Abrams, Ranking Member Leland and members of the House Select Committee on Energy Policy and Oversight, thank you for the opportunity to provide written opponent testimony on House Bill 798 (HB 798).

NRG is a leading integrated power company built on diverse generation assets and dynamic retail businesses. A Fortune 500 company, NRG brings the power of energy to consumers by producing, selling and delivering electricity and related products and services – including carbon free energy choices – to consumers in competitive markets across the U.S. and Canada. NRG has 23,000 MW of electric power generation including nuclear, coal, gas, oil and solar facilities. Our retail brands serve more than 3.7 million customers – residential, commercial and industrial - across nineteen states, including Ohio, plus the District of Columbia and two Canadian provinces. NRG's retail companies offer customers a range of products including demand response and energy efficiency, 100% renewable energy, energy plans bundled with energy efficiency technology, such as Nest thermostats, as well as loyalty reward programs to residential natural gas and electricity customers. This summer, we announced the acquisition of Direct Energy, a North American subsidiary of Centrica PLC for $3.625 billion in cash. When it closes, that transaction will build on NRG's status as a growing, customer-driven integrated energy provider, adding more than three million retail customers across all 50 states and Canada, including customers right here in Ohio.

Ohio has a long history of supporting open and competitive electricity markets, starting with the adoption in 1999 of energy competition (SB 3, 123rd G.A.). The Ohio General Assembly adopted a pro-market policy to, among other things, ensure diversity of electricity supplies and suppliers, by giving customers choices over the selection of those supplies and suppliers. The General Assembly also rightly saw the value of competition to encourage innovation and market access for cost-effective supply and demand retail electric service. The General Assembly aimed to ensure effective competition in the provision of retail electric service by avoiding anticompetitive subsidies. Last summer the General Assembly passed House Bill 6, based on misleading information, and began to unravel the course of Ohio's competitive energy advantages.

NRG opposes the passage of HB 798 in lieu of the repeal of HB 6 for the following reasons.

While HB 798 would delay the hand-out of subsidies to Energy Harbor's nuclear plants, they would still be provided. The fact remains that those subsidies were granted based on misleading information. FirstEnergy told legislators during the HB 6 debate that without a subsidy, its affiliate's nuclear generation would close because it was unprofitable. That affiliate, FirstEnergy Solutions, filed a Chapter 11 bankruptcy. At the end of that bankruptcy process, the new company, now known as Energy Harbor, has a stronger balance sheet, less debt, and is forecasting robust cash flow and profits. In fact, Energy Harbor has revealed that the company's profits and cash flow are strong *even without* the HB 6 subsidies as depicted in its May 10, 2020, 2020-2022 Financial Outlook. Even *without* the approximately $150 million in annual HB 6 nuclear subsidies, Energy Harbor would still be turning a substantial profit. Every dollar of the ~$150MM/year it collects from here on in simply fills Energy Harbor's coffers at the expense of Ohio's customers.

Additionally, Energy Harbor disclosed in May 2020 that it authorized an increase to its share buyback program from $500 million to $800 million dollars (a significant percentage of its overall equity valuation) referencing a market dislocation while clean air emissions credits have become a source of visible cash flow. The dots are all there for Ohio lawmakers to connect: Energy Harbor has parlayed FES's distress call into a subsidized cash flow generator using Ohio ratepayer's pocketbooks to enrich its executives and Wall Street.

NRG recognizes that nuclear energy can play a role in Ohio's energy future, but it must compete fairly. As a part owner of a nuclear facility in Texas, NRG's South Texas Project nuclear facility operates in a competitive wholesale electric market to provide carbon free, safe, reliable energy and is an important part of a fuel-diverse and competitive generation fleet serving the south Texas region. Passage of HB 798 would not restore the competitiveness of the wholesale market which has afforded Ohio with low electric generation rates and billions in new capital investment and new jobs. Its passage would simply defer the imposition and collection of subsidies to 1) insert some distance between the controversy that shrouds the passage of HB 6 and the sting of ratepayers having to pay for it, and 2) provide the PUCO ample time to find a means to justify the ends. The Perry and Davis-Besse nuclear plants should compete in the PJM wholesale electricity markets based on their true costs and have an opportunity to earn revenues based on free-market competition, without requiring Ohioans to foot the bill for Energy Harbor's alternative uses of capital such as share buybacks.

Ohio has made impressive strides reducing carbon emissions since it embraced free market competition in the electric sector. In fact, according to the US Energy Information Administration, carbon dioxide emissions in Ohio fell by 67 million metric tons between 2005 and 2016, the largest absolute reduction in the nation[1] Competition has helped drive efficiencies and corresponding reductions in air emissions. Preserving a competitive market in Ohio will secure even more emission reductions in the future.

NRG appreciates the opportunity to provide this testimony about this very important issue. We urge you not to pass HB 798 in lieu of the repeal of HB6.

[1] United States Energy Information Administration, Energy-Related Carbon Dioxide Emissions by State, 2005-2016, February 27, 2019.