



To: Chairman Bob Peterson
Vice Chairman Kirk Schuring, Ranking Member Sandra Williams
Members of the Senate Energy and Public Utilities Committee

From: Tyler M. Duvelius, Executive Director, Ohio Conservative Energy Forum

Date: Tuesday, March 23, 2021

Subject: Written-Only Interested Party Testimony of House Bill 128

Thank you for the opportunity to submit written testimony as an interested party to House Bill 128. My name is Tyler Duvelius, I serve as the Executive Director of the Ohio Conservative Energy Forum (OHCEF). OHCEF was founded in 2015 to provide a forum for conservatives to discuss a diverse, all-of-the above energy portfolio – one that includes not only existing sources of energy generation, such as coal and natural gas, but one that also seeks to expand the development of clean and renewable energy sources – like wind and solar energy. And yes, OHCEF also supports nuclear energy. OHCEF believes that clean energy, of all stripes, can strengthen both our economy and our national security while providing unmatched opportunities for innovation.

Since news first broke of the scandal surrounding the passage of House Bill 6 by the 133rd General Assembly, OHCEF has been in favor of a full and complete repeal of House Bill 6. Ohioans deserve an energy policy that is liberated from even a whiff of corruption. There must be consequences for corruption that equate to more than just a timeout. We cannot allow crime to pay in Ohio.

While House Bill 128 stops short of a full repeal of House Bill 6, it contains several good provisions – particularly on decoupling, SEET, ratepayer protection.

The unfortunate scandal surrounding House Bill 6 exposed structural flaws in the utility regulatory system. Should House Bill 128 become enacted law, the General Assembly's work to ensure that the scandal of House Bill 6 does not repeat itself cannot end. A comprehensive legislative response is needed to fully address the underlying utility culture that contributed to this scandal and provide the oversight needed to prevent and detect future issues before they escalate to the level of corruption that we have witnessed over the last several months.

There are several provisions that my organization believes could help restore energy utility integrity in Ohio. The provisions can be placed in four broad policy buckets: In-State Clean Energy Development, Energy Sector Governance, Utility Accountability & Transparency, and addressing Barriers and Solutions to Equitable Community Impact. Below, please find our high-level policy recommendations.

In-State Clean Energy Development

1. Re-Direct Renewable Portfolio Standards to Ohio: Improve market opportunities for in-state renewable energy projects by limiting the amount of out-of-state non-renewable energy resources that qualify to meet Ohio's targets. This can be done by refining the definition of "renewable energy" to exclude; all facilities beyond those adjacent to Ohio, out of state "Black Liquor", which is a byproduct of the paper-making process, and out of state waste heat.
2. Create a Stable Investment Environment in Ohio: Building renewable energy in Ohio requires buyers who can sign long-term commitments to purchase the power. Extending the state's commitment to a diverse energy portfolio of energy resources gives Ohio's utilities the ability to invest in in-state projects through long-term contract, rather than through the purchase of out-of-state Renewable Energy Credits.

Energy Sector Governance

3. PUCO Commissioner Reform: Further specifying requirements to be a PUCO commissioner while requiring additional disclosure and reporting of lobbying and associated expenses. Additional reporting measures apply to entities within the PUCO's jurisdiction.
4. Corporate Separation: Requires, at minimum, for the provision of the competitive retail electric service or a nonelectric product or service through a fully separated affiliate of the utility – including separate accounting requirements, offices, and services.

Accountability & Transparency

5. Audits and Investigations: Require the audit and investigation of any utility engaging in malfeasance. FirstEnergy must be audited immediately with the results provided to the General Assembly. Provide for public PUCO hearings for utilities engaging in malfeasance. Remedies should include penalties, customer refunds, review of franchise agreement, probation, and reduced return-on-equity. The regulator needs all these tools to hold monopolies accountable for illegal and unethical behavior.
6. Rate Reimbursement: Establishing a mechanism for customer rate reimbursement should a rate be collected that is later deemed unlawful by the Ohio Supreme Court or other entity of jurisdiction.
7. Stipulations and Settlements: Most PUCO cases end in settlement. But the settlement process for PUCO cases provides the utilities excessive leverage against consumers. The law must set requirements for how and when a settlement can take place and tighten the requirements for when the PUCO may adopt a settlement.

Barriers and Solutions to Equitable Community Impact

8. Equitable Community Impact: Examining equitable community impact issues will ensure PUCO decisions are guided by and benefit all Ohioans. The law must define these barriers and solutions and establish how the PUCO and OPSB should incorporate these issues into deliberations and decisions.

I appreciate your attention to my written testimony on House Bill 128. At your convenience, I would be more than happy to discuss my testimony, or the policy suggestions listed within, in greater detail. I can be reached via email anytime at tyler@ohcef.org.

Respectfully submitted,



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