



Energy Committee Agenda
March 12, 2020

Welcome and Introductions

Brad Belden, President, Belden Brick
Committee Chair

State Public Policy Report

Ryan Augsburger, OMA Staff

- State Government Overview
- FERC MOPR / House Bill 6
- Senate Testimony
- Other Legislation

Member Presentation:
Energy Management in a Turbulent Environment

Tim Ling, Corporate Environmental Director,
Plaskolite, LLC

Energy Engineering Report

John Seryak, PE, RunnerStone, LLC
OMA Energy Engineer

- Post-HB 6 efficiency programs
- Virtual PPAs and renewable programs
- FERC MOPR case and PJM reaction

Counsel's Report

- House Bill 6 Implementation
- PUCO Case Highlights
- Decoupling
- Ohio Power Siting Board
- Electric Vehicle Charging

Kim Bojko, Carpenter Lipps & Leland
OMA Energy Counsel

Natural Gas Market Trends

Richard Ricks, NiSource, Columbia Gas of Ohio

Electricity Market Trends

Greg Bechert, Scioto Energy

Lunch

Our Meeting Sponsors:



2020 Energy Committee Calendar
Meetings begin at 10 a.m.

Thursday, May 21
Thursday, September 10
Wednesday, December 2

To: OMA Energy Committee
From: Ryan Augsburger
Re: Energy Public Policy Report
Date: March 12, 2020

Overview

2019 was dominated by the controversial House Bill 6, far-reaching electricity regulation. The bill gained legislative approval in mid-summer, then survived an ineffective referendum effort. In the final days of 2019, the federal government issued a ruling, standing HB 6 on its head.

Other market distortion bills are pending in the legislature and energy policy will continue to be a top issue area for the entire 2019-2020 legislative session.

House Bill 6 Becomes Law

Recall HB 6 which was rocketed through the General Assembly last year, provided subsidies for the owners of uneconomic power plants, namely the two nuclear power plants. The bill also notably provided a subsidy to the power plants owned by the Ohio Valley Electrical Corporation (OVEC). The bill also largely orders a stop to Ohio's utility-administered energy efficiency programs and renewable energy standards.

The bill in its final form will distort electricity markets denying customers of the long-term benefits of competition. New costs, some known and some unknown, will hit customers of all sizes. The legislative skirmish lasted just over three months.

It is believed that proponents spent more money to support HB 6 than any other piece of legislation in modern history. Many OMA members actively engaged to advocate against the bill and the OMA voice was among the most impactful during the legislative debate. The OMA issued *key vote* alerts. Contact staff for extensive analysis.

HB 6 Implementation

The provisions of HB 6 became effective in late-October. The bill delegated immense new authority and price-setting to the PUCO and other state agencies. The OMA Energy Group has been participating in those proceedings to protect manufacturing interests.

FERC Decision Tips HB 6 on its Head

On December 19, the Federal Energy Regulatory Commission (FERC) issued an order to protect competitive wholesale electricity markets from subsidized power.

The order, which modifies and expands the Minimum Offer Price Rule (MOPR), was originally designed to prevent state subsidization of new natural gas generators. Under FERC's recent order, the expanded MOPR also applies to nuclear, coal, and renewable power plants that receive state subsidies. FERC did this to level the playing field.

The FERC order tips House Bill 6 on its head, according to our attached OMA analysis. OMA Energy Technical Consultant John Seryak of RunnerStone LLC warned of such market consequences last summer.

FES Bankruptcy

A settlement between FE, FES, and the stakeholders was finalized in late February. Energy Harbor now owns the nuclear power plants and other generating facilities formerly owned by FirstEnergy. In the wake of the FERC ruling, they must determine next steps.

In 2019, the power plant owners together with concerned local government leaders had used the plant closure announcements to lever political support for state and federal bailouts. The beneficiaries of any

possible bailout would seem to include speculative investors (hedge funds), former parent FE, and local governments hoping to prevent local job loss and tax revenue.

Post HB 6 Legislative Activity

In the months since HB 6 was completed both the Ohio House and Ohio Senate appear poised to do more. Unfortunately, customer protection does not seem to be in store. Instead we are monitoring new proposals that will protect utilities and erode Ohio's deregulation law.

House Bill 247

Months after lawmakers gave utilities and other interests the opportunity to force captive ratepayers to pay for new generation, HB 247 would go further in allowing distribution utilities to offer services beyond distribution. It seems unnecessary and anti-market. One utility is aggressively lobbying for this bill and has asked their large manufacturing customers to pen a letter of support. Don't be fooled. The OMA has been communicating extensively about this threat. The OMA opposes HB 247.

House Bill 246

Is a placeholder bill to modernize the laws governing the PUCO and OCC. There has been a lot of speculation on what the bill may contain. Too early to know for certain. No action since last report.

House Bill 104

Introduced by Representative Dick Stein (R-Norwalk), HB 104 is intended to spur research and development of molten salt nuclear reactors in Ohio via state tax dollars. The bill also advances Ohio as a hub for radioactive wastes. The OMA has written the primary sponsor to convey concerns. Many other Republican legislators have co-sponsored this unwise legislation.

House Joint Resolution 2

Representatives Don Manning of Youngstown and Jamie Callender of Lake County recently provided proponent testimony on HJR 2 to place on the ballot an amendment to the Ohio Constitution to ban foreign interests from owning critical energy infrastructure. The move dovetails with the pro-HB 6 China-bashing campaign. Some believe the resolution is political retribution to referendum proponents.

In today's global economy, a state provision against foreign ownership seems unwise. Precedents abound for other commercial activity. For example, foreign interests invest heavily in manufacturing businesses in Ohio. No action since last report. Seems to have cooled down.

Senate "Comprehensive" Energy Reform

In mid-October Senate Energy & Public Utilities Chairman Steve Wilson (R-Maineville) signaled the Senate would focus on grid reliability as a central component in the Senate's comprehensive energy reform package. This is a curious, albeit familiar refrain from a policymaker since the grid is more reliable than ever today. The OMA fielded testimony on Tuesday, March 2.

Trump Administration Favors Nuke and Coal Bailouts

For nearly two years, some nuclear and coal interests have had success in lobbying the federal government to order nuclear and coal (as specified) power plant bailouts on a national basis. The Trump Administration backed away from plans to require customers to subsidize unprofitable power plants under the guise of national security or resiliency. The government involvement bears continued scrutiny. DOE Secretary Perry stepped down at the end of the year, but his successor is expected to continue the stance perhaps more forcefully. Also of note Ohio-based coal company Murray Energy filed for bankruptcy protection in November.

PJM on Resiliency and Power Auctions Delayed

Throughout the recent legislative subsidy debates at the General Assembly, grid operator PJM Interconnect had been clear to dispel the myths of poor fuel diversity and electric supply shortages

affecting “reliability.” However, more recently, PJM issued a report justifying some possible basis for grid “resiliency.” The OMA has an analysis on current PJM activity but further proceedings at PJM will be needed for clarity. Remarkably, PJM has postponed indefinitely the planned energy auction to assess how the market can fairly operate in the face of widening market manipulation via state subsidies.

Utility Seeks to Shift Risk from Shareholders to Customers

The regulated monopoly electric distribution utility (EDU) AEP Ohio has a controversial application pending at the PUCO to allow the utility to develop in-state renewable energy generation. If the application is approved, customers will be required to pay an additional rider on their power bill to subsidize the renewable energy projects.

The case is not about renewable energy which is flourishing in Ohio as a result of increasingly favorable market attributes. To the contrary, the case is about whether a utility should be allowed to violate a prohibition of an EDU controlling generation rather than being the agnostic distributor for power. Ohio deregulated the generation of electricity decoupling it from distribution twenty years ago. As such, the proposal is anti-competitive.

There is nothing preventing AEP Ohio’s parent company (AEP) or an unregulated affiliate from developing the same renewable project while taking on ordinary business risk instead of offloading the company’s (shareholders’) risk to the captive customers. In fact, AEP recently announced they would invest over a billion dollars to develop renewable generation following rejection of similar proposals in other states. The OMA Energy Group has been a leading opponent of the proposal at the PUCO.

House Bill 6 now contains language to change the law to authorize this sort of activity. The costs to customers can be significant. This is yet another erosion to the marketplace. See HB 6 analyses.

Protecting Competitive Electric Markets

In 1999, with the passage of Senate Bill 3, Ohio began a transition to deregulated generation. That transition has delivered customer choice, cost-savings and innovation. One of the main tenets of deregulation was forcing then-integrated utility companies to sell or spin-off their generation. “Stranded costs” and other above-market surcharge constructs enabled the utilities to have their generation paid for by Ohioans for a second time. HB 6 represents yet another above-market payment to utilities and power plant owners by customers who realize no benefit.

The OMA has been a proponent of markets, supporting the original deregulation legislation and opposing utility profit subsidy schemes that distort the market and result in new above-market charges on manufacturers’ electric bills. Several noteworthy studies have demonstrated how the market delivers lower prices, choice and innovation without compromising reliability. NOPEC in August issued an updated study that pegs customer savings at \$24 billion over eight years. With the passage of HB 6, competitive markets are under attack in Ohio.

OVEC Bailout

Last session, the OMA opposed legislation to provide over one hundred million dollars per year to the owners of aging coal plants (one in Ohio and one in Indiana) operated by the Ohio Valley Electric Corporation (OVEC). The OMA had also opposed subsidies for OVEC in rate cases at the PUCO. In a decision by the Supreme Court in late 2018, the Court effectively allowed utilities to collect the rider to subsidize OVEC under terms of a specific Electric Security Plan (ESP). An OVEC bailout for the out years beyond the terms specified in the Court decision is now included in HB 6. OVEC faces an apparent dilemma from the FERC MOPR decision.

On-Site Generation Taxed in Ohio

The Ohio Department of Taxation is sending out tax bills to third parties operating on-site generation, be it wind, solar or onsite gas generation. The Department contends that a customer who generates power should pay generation tax the same as a utility. The Department’s basis for collecting the tax is tenuous. The OMA supports a legislative correction for all forms of onsite generation. No further action.

Energy Standards Legislation

After six years of back and forth policy battles, HB 6 dismantled the standards for efficiency and renewable energy. Siting requirements for large scale wind generation projects were not part of the debate. HB 6 will now give monopoly distribution utilities an unfair advantage in building new renewable energy at captive customers expense. Energy efficiency programs are being wound down in short order, so manufacturers who are using rebates will want to claim them soon.

Energy

OMA Defends Competitive Markets Before Senate Energy Panel March 6, 2020

This week, Brad Belden — president of The Belden Brick Company, Canton, and chair of the OMA Energy Committee — testified before the Ohio Senate Energy and Public Utilities Committee. In addition to making suggestions for an improved regulatory and policy environment, he told senators to stay the course on deregulation, cautioning against a state-administered capacity pricing mechanism for nuclear, coal, and solar generation (similar to the one that currently faces disqualification from the wholesale market).

Read Brad's testimony, as well as coverage by **Gongwer News Service** and **Hannah News Service**. 3/3/2020



What Would a Fracking Ban Mean for Ohio? March 6, 2020

A new study shows a ban on federal leasing and fracking would have dire consequences for businesses and families nationwide. Commissioned by API, the study finds such a ban, which some presidential candidates have proposed, would threaten as many as 7.5 million U.S. jobs in 2022 alone, lead to a cumulative GDP loss of \$7.1 trillion by 2030, and lower household incomes by \$5,400 annually. Among the **hardest hit states** would be Ohio, with an estimated 500,000 lost jobs. **Get more details**. 3/5/2020

Investigating Ohio's Nuclear Subsidy Saga March 6, 2020

The Energy News Network and the Ohio Center for Investigative Journalism have **published a story** that maps the "dark money" network that

supported House Bill 6, the nuclear bailout law. The disclosure filings show FirstEnergy's generation subsidiary paid nearly \$2 million to Generation Now, "one of the special interest groups that orchestrated ads, political donations and other efforts." But the story also notes that legal loopholes make it harder to find out the total spent and who else was behind the campaign. 3/6/2020

FirstEnergy Solutions is Now Energy Harbor March 6, 2020

The company formerly known as FirstEnergy Solutions (FES) **announced** late last week it has successfully exited Chapter 11 and adopted its new name: Energy Harbor. In 2018, FES entered bankruptcy and in 2019 convinced Ohio lawmakers to enact House Bill 6, which is set to provide an estimated \$150 million a year of ratepayer-funded subsidies to the company's two nuclear power plants. 3/2/2020

EIA: Wind Surpasses Hydroelectric as Electricity Producer February 28, 2020

In 2019, U.S. annual wind generation exceeded hydroelectric generation for the first time, according to a **report** this week from the U.S. Energy Information Administration. The agency notes that "wind capacity additions tend to come online during the fourth quarter of the year, most likely because of tax benefits." 2/26/2020

Energy Efficiency Rebate Applications Due by September 30 February 28, 2020

The Public Utilities Commission of Ohio is giving Ohio's investor-owned utilities until Sept. 30 to accept applications for energy-efficiency rebates. The utilities will then have until Dec. 31 to wind down their energy efficiency programs, as required by House Bill 6. The elimination of the efficiency programs was used as justification for HB 6's above-market charges, which are set to subsidize select coal, nuclear and solar power plants.

Manufacturers planning or implementing an energy efficiency project should file their rebate application as soon as possible — certainly no

later than Sept. 30. The PUCO order applies to Ohio's four investor-owned utilities: AEP Ohio, Duke, DP&L, and FirstEnergy.

The cost of the efficiency programs may persist into 2021 and be charged to customers via a rider. Manufacturers should consider opting out of this charge-with-no-benefit, as allowed by law. Contact OMA energy engineer **John Seryak** with questions or for assistance. 2/27/2020

February Natural Gas Price Hits Lowest Level in Nearly 20 Years February 21, 2020

As noted last week in the **OMA's Energy Guide**, natural gas prices are low — and they keep dropping. The U.S. Energy Information Administration **reports** that on Feb. 10, the near-month natural gas futures price closed at \$1.77 per MMBtu, the lowest February closing price (in real terms) for the near-month contract since at least 2001. 2/17/2020

FirstEnergy CEO Expresses Sour Grapes on Deregulation February 14, 2020

The CEO of FirstEnergy recently told financial analysts that he is ready to assist Ohio lawmakers in developing a new energy policy to subsidize nuclear power plants since the Federal Energy Regulatory Commission's (FERC) December 2019 order seems to prevent the subsidies provided by House Bill 6.

As **reported** by *Utility Dive*, FirstEnergy's Chuck Jones said state policymakers are generally unhappy with the results of utility deregulation, including PJM's market system. Yet numerous studies detail how deregulation has successfully driven down wholesale electric power prices in Ohio. What's really going on? To find out, join the **OMA Energy Committee meeting** on March 12.

If you haven't already done so, check out the **OMA analysis** of FERC's order on subsidized power and what it means for manufacturers. The order is intended to protect the marketplace via fair rules to foster competition. 2/13/2020

Crain's Spotlights OMA Study on FERC Order

February 14, 2020

In case you missed it, **Crain's Cleveland Business** last weekend published a **story** highlighting the OMA study of FERC's recent order. Crain's wrote: "Federal regulators have taken issue with Ohio's subsidies for the Davis-Besse and Perry Nuclear plants — and may shut the plants out of the power grid's capacity auctions."

Through its December order, FERC expanded its Minimum Offer Price Rule (MOPR), which was originally intended to prevent state subsidization of new natural gas generators. Under FERC's new order, the MOPR would apply to nuclear, coal and renewable power plants that receive state subsidies in order to maintain a competitive market. 2/10/2020

Be Wary of Power Generators Touting States' Rights February 14, 2020

In the weeks since FERC issued its December 2019 order related to unfair subsidies for some power generators, numerous organizations have shared their reactions and filed appeals.

Todd Snitchler, a former PUCO chair and the current president of the Electric Power Supply Association (EPSA), authored **this column**, predicting that subsidy supporters and their allies will employ spin and accuse the federal government of overreach — saying the FERC is denying states of their due discretion to determine their own fuel mix. The fact is, states willingly surrendered that element of a planned economy in favor of a competitive market. Snitchler wrote: "Since restructuring, states have relied on, and benefited from, regional power markets — utilizing excess supply in other areas when their own supply may be insufficient — to ensure reliability at the lowest possible cost. Now looking to double-dip into taxpayer pockets and the market, certain generators have tried to convince politicians to layer one-off policies onto a regional/wholesale framework." 2/13/2020

Friedeman Re-Appointed to PUCO February 7, 2020

Gov. Mike DeWine has re-appointed Lawrence Friedeman as commissioner on the Public Utilities Commission of Ohio (PUCO). Friedeman is the commission's sole Democrat.

His new term will run from April 11, 2020 through April 10, 2025.

The PUCO's five commissioners regulate utility services, including electric and natural gas companies. 2/6/2020

Renewables Expected to Surpass Coal, Nuclear in 2021 **February 7, 2020**

The U.S. Energy Information Administration **predicts** that the nation's electricity generation from renewable sources — such as wind, solar, and hydro — will surpass nuclear and coal generation next year. Nationwide, natural gas is expected to remain the leading source generation for the next quarter-century. 2/3/2020

What FERC's Order on State-Subsidized Power Means for Manufacturers **January 31, 2020**

More than a month after the Federal Energy Regulatory Commission (FERC) issued its landmark order to protect competitive wholesale electricity markets from subsidized power, stakeholders are gaining clarity into the outcome.

The order, which modifies and expands the Minimum Offer Price Rule (MOPR), was originally designed to prevent state subsidization of new natural gas generators. Under FERC's recent order, the expanded MOPR also applies to nuclear, coal, and renewable power plants that receive state subsidies. FERC did this to level the playing field.

The FERC order tips House Bill 6 on its head, according to **new OMA analysis**. In 2019, Ohio lawmakers rushed HB 6 through the legislative process, forcing Ohioans to subsidize two nuclear power plants, as well as select coal and renewable power facilities. OMA Energy Technical Consultant John Seryak of RunnerStone LLC **warned** of such market consequences last summer. Members are invited to **register** for the OMA Energy Committee's March 12 meeting for further analysis of this developing situation. 1/30/2020

OMA Looks at Ohio's Energy Opportunities (and Risks) **January 31, 2020**

In an **editorial** at Cleveland.com, OMA Vice President and Managing Director Ryan Augsburger spotlights the surge in Ohio's natural gas production and how it's benefiting manufacturers — especially as the fuel is increasingly used for electricity generation. But Augsburger says the Buckeye State's "electricity advantage is under siege as investor-owned utilities chip away at customer savings" — and as competitive gas-fired power generation projects are canceled due to the recent approval of House Bill 6, the nuclear bailout law. He reminds readers that the **OMA Energy Group** is working to "ensure access to the most economical sources of energy, while promoting efficiency that lowers costs for manufacturers and strengthens grid resiliency." 1/27/2020

EIA: Only 22% of World's Electricity Will be Coal-Fired by 2050 **January 31, 2020**

Renewable sources will produce nearly half of the world's electricity generation by 2050, **according** to the U.S. Energy Information Administration. Coal-fired generation is expected to fall to 22% of the globe's electricity mix over the next 30 years. As of 2018, roughly half of **Ohio's electricity generation** was coal-fired and just 3% was classified as renewable. 1/27/2020

Four Finalists Nominated for Open PUCO Seat **January 24, 2020**

The Public Utilities Commission of Ohio (PUCO) Nominating Council has submitted the names of **four finalists** to be considered by Gov. DeWine to fill a five-year PUCO term that begins April 11, 2020. Republican Gerardo Torres of Loveland was the top vote-getter. The governor has 30 days to make the appointment or request a new list. His pick is subject to Senate approval. The PUCO's five commissioners regulate utility services, including electric and natural gas companies. 1/23/2020

Will Nuke Plant Owners Ask for Even More Subsidies?

January 17, 2020

The future is uncertain for Ohio's two nuclear power plants — with or without the ratepayer-funded subsidies provided by House Bill 6. That's the takeaway from comments this week by PJM Interconnection's independent monitor, Joseph Bowring, president of Monitoring Analytics.

Hannah News Service **reports** that Bowring told the Ohio Consumers' Counsel Governing Board that Ohio's nuclear plants "could hemorrhage 10% to 20% of their revenue" due to a **December action** by the Federal Energy Regulatory Commission (FERC). Bowring defended FERC's decision to protect the competitive market. In its ruling, the commission singled out Ohio as a leading proponent of energy subsidies.

If Energy Harbor Corporation (formerly FirstEnergy Solutions) experiences such a loss in revenue due to FERC's action in response to HB 6, Bowring warned that the utility could return to the General Assembly asking for additional subsidies. OMA energy engineers **largely anticipated** the FERC ruling to protect wholesale electricity markets. As early as last June, OMA recognized that wholesale market rules could open the door to potential **excessive profits** for the nuclear power plant owners on the backs of Ohio customers. 1/15/2020

Another Rider to Hit Ohio's Power Bills

January 17, 2020

Six months after the passage of House Bill 6, the Public Utilities Commission of Ohio (PUCO) this week gave approval to FirstEnergy utilities to impose a **new decoupling rider** on customer bills. Under the mechanism, if annual revenue in a given calendar year is less (or greater) than 2018's baseline revenue, FirstEnergy utilities will charge (or credit) the difference to customers through the decoupling rider. Why was 2018 used as the baseline? Because 2018 was among the warmest summers in history. Therefore, 2018 produced some of the highest revenue for the three FirstEnergy utilities. The rider will guarantee FirstEnergy companies the same amount of revenue received in 2018.

The PUCO this week acted on several other issues that will affect manufacturers' power bills. Make sure you are participating in the **OMA Energy Group** for the most comprehensive updates on PUCO activity. 1/16/2020

EIA: Wholesale Electricity Prices Fell 15%-30% in 2019

January 17, 2020

Wholesale electricity prices at major U.S. hubs were generally lower in 2019 than in 2018, except in Texas. The U.S. Energy Information Administration **reports** that average prices were 15% to 30% lower at most hubs — including the PJM marketplace that serves Ohio. Much of the price decline was due to lower natural gas prices. 1/14/2020

Wind, Solar Will Account for Much of 2020's New Electricity Generation

January 17, 2020

According to the U.S. Energy Information Administration's **latest inventory** of electric generators nationwide, 42 gigawatts (GW) of new capacity additions are expected to start commercial operation in 2020. Solar and wind represent almost 32 GW (76%) of these additions. Scheduled capacity retirements (11 GW) for 2020 will primarily be driven by coal (51%). 1/15/2020

Federal Regulators Crack Down on Power Subsidies

January 10, 2020

Late last year, regulators at the Federal Energy Regulatory Commission (FERC) issued a long-anticipated ruling to prevent subsidized power generation from distorting the wholesale market for electricity. In the PJM marketplace that serves Ohio customers, the ruling means the owners of Ohio's two nuclear power plants will encounter difficulty in selling their electric capacity into the wholesale market.

See **FERC's press release** on the ruling, which will likely be challenged in court.

OMA energy experts are still reviewing the complex FERC action, but our initial read suggests the minimum offer price rule (MOPR) is a giant stick against state subsidies. The ruling appears to force generators to decide

whether to take a state subsidy or freely participate in the wholesale market.

Ironically, Ohio's recently enacted House Bill 6 — which requires businesses and residential customers to subsidize nuclear generation, as well as select coal and renewable generation assets — will now deprive the nukes, OVEC, and the solar projects from competitive revenue in the wholesale market. This will make the subsidized resources either unviable or will shift more costs to ratepayers — depending on how the federal rule plays out.

Regardless, it appears that major customer impacts are in store. Plan to join the **OMA Energy Committee meeting** on March 12, after the dust has settled, to learn what this means for your business. 1/9/2020

OMA Energy Counsel Appointed to PUCO Nominating Council January 10, 2020

The OMA's energy counsel, **Kim Bojko** of Carpenter Lipps & Leland LLP, was recently appointed to the Public Utilities Commission of Ohio (PUCO) Nominating Council. The PUCO's five commissioners regulate utility services, including electric and natural gas companies. Meanwhile, the PUCO is searching for a new commissioner to fill a five-year term that begins April 11. Gov. DeWine will soon select the new commissioner from a list of finalists offered by the nominating council. 1/6/2020

Study: Fracking Ban Would Cost Ohio 700,000 Jobs, \$245B Over Just Four Years January 3, 2020

A **new study** by the U.S. Chamber's Global Energy Institute shows **Ohio** would lose 700,000 jobs and \$245 billion in GDP over just four years if a ban on fracking were imposed in the U.S. The report is part of the Institute's "**Energy Accountability Series**." According to the study, if such a ban were imposed in 2021, the average Ohioan would see their cost of living inflated by more than \$5,600 by 2025, while Ohio's total household income would fall \$119 billion. State and local governments across Ohio would experience a loss of \$20.6 billion in tax revenue.

Nationwide, a fracking ban would eliminate 19 million jobs and reduce U.S. GDP by \$7.1

trillion. Natural gas prices would leap by 324%, causing household energy bills to more than quadruple. By 2025, petroleum products such as gasoline and diesel would cost roughly double what they are today. 1/2/2020

Lower Electricity Generation Costs for 2020? January 3, 2020

OMA Connections Partner Scioto Energy **reports** that Ohioans can expect lower costs for electricity generation in 2020, thanks to a 13% drop in the wholesale electricity market from this time last year. This is the result of continued strong natural gas production, as well as gas storage inventories returning to healthy levels.

While generation costs are going down, distribution and transmission costs are going up. Scioto Energy's experts say Ohio's controversial House Bill 6, which is now law, will bring new charges to your utility delivery invoice in order to provide generous subsidies to nuclear and coal plants. These charges, however, are not expected to hit Ohio consumers until 2021. 1/2/2020

EIA Estimates CO2 Emissions Fell 2.2% in 2019 January 3, 2020

The U.S. Energy Information Association **forecasts** a 2.2% decrease in CO2 emissions for 2019, once all the data is collected for the past 12 months. The decrease is due almost solely to fewer emissions from coal. This is especially noteworthy considering the U.S. continues to **set records** for energy use. 1/2/2020

Energy Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on March 3, 2020

- HB6** **CLEAN AIR PROGRAM** (CALLENDER J, WILKIN S) To create the Ohio Clean Air Program, to facilitate and encourage electricity production and use from clean air resources, and to proactively engage the buying power of consumers in this state for the purpose of improving air quality in this state.
Current Status: 7/23/2019 - **SIGNED BY GOVERNOR**; Eff. 10/22/19
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-6>
- HB20** **SOLAR PANEL LIMITATIONS** (BLESSING III L) To prohibit condominium, homeowners, and neighborhood associations from imposing unreasonable limitations on the installation of solar collector systems on the roof or exterior walls of improvements.
Current Status: 6/26/2019 - House State and Local Government, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-20>
- HB55** **OIL AND GAS WELL ROYALTY STATEMENTS** (CERA J) To require the owner of an oil or gas well to provide a royalty statement to the royalty interest holder when the owner makes payment to the holder.
Current Status: 2/26/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-55>
- HB94** **LAKE ERIE DRILLING** (SKINDELL M) To ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-94>
- HB95** **BRINE-CONVERSION OF WELLS** (SKINDELL M) To alter the Oil and Gas Law with respect to brine and the conversion of wells.
Current Status: 9/17/2019 - House Energy and Natural Resources, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-95>
- HB104** **NUCLEAR DEVELOPMENT** (STEIN D) To enact the Advanced Nuclear Technology Helping Energize Mankind (ANTHEM) Act by establishing the Ohio Nuclear Development Authority and the Ohio Nuclear Development Consortium and authorizing tax credits for investments therein.
Current Status: 2/19/2020 - **SUBSTITUTE BILL ACCEPTED**, House Energy and Natural Resources, (Fourth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-104>
- HB223** **WIND SETBACKS** (STRAHORN F, SKINDELL M) To alter the minimum setback requirement for wind farms of five or more megawatts.
Current Status: 5/8/2019 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-223>

HB245 **PROPERTY TAX EXEMPTION TIMELINES** (SMITH J) To remove the current deadlines by which an owner or lessee of a qualified energy project must apply for a property tax exemption.

Current Status: 5/21/2019 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-245>

HB246 **PUCO/OCC REFORM** (VITALE N) To reform and modernize the Public Utilities Commission and the Consumers' Counsel.

Current Status: 5/21/2019 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-246>

HB247 **RETAIL ELECTRIC SERVICE LAW** (STEIN D) Regarding the competitive retail electric service law.

Current Status: 10/23/2019 - House Public Utilities, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-247>

HB260 **CLEAN ENERGY JOBS** (DENSON S, WEINSTEIN C) To maintain operations of certified clean air resources, establish the Ohio generation and jobs incentive program and the energy performance and waste reduction program, and make changes regarding wind turbine siting.

Current Status: 5/28/2019 - Referred to Committee House Energy and Natural Resources

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-260>

HB401 **TOWNSHIP REFERENDUM - WIND FARMS** (REINEKE W) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.

Current Status: 12/3/2019 - House Energy and Natural Resources, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-401>

HB499 **MOTOR FUEL TESTING PROGRAM** (KELLY B, LANG G) To authorize a county to implement a motor fuel quality testing program.

Current Status: 2/19/2020 - Referred to Committee House Transportation and Public Safety

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-499>

HJR2 **CRITICAL INFRASTRUCTURE PROTECTION AMENDMENT** (MANNING D, CALLENDER J) Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to provide Ohio critical infrastructure protection.

Current Status: 10/30/2019 - House Energy and Natural Resources, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HJR-2>

SB86 **UTILITY SERVICE RESELLERS** (MAHARATH T) To regulate certain resellers of utility service.

Current Status: 12/10/2019 - Senate Energy and Public Utilities, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-86>

SB234 **WIND FARMS** (MCCOLLEY R) To require inclusion of safety specifications in wind farm certificate applications, to modify wind turbine setbacks, and to permit a township referendum vote on certain wind farm certificates.

Current Status: 2/11/2020 - Senate Energy and Public Utilities, (Third Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-234>

PolicyGoal:



Access to Reliable, Economical Energy Resources

Energy policy can enhance—or hinder—Ohio’s ability to attract business investment, stimulate economic growth and spur job creation, especially in manufacturing. State and federal energy policies must (a) ensure access to reliable, economical sources of energy, and (b) promote energy efficiency that lowers costs for manufacturers and strengthens grid resiliency.

The OMA’s energy policy advocacy efforts are guided by these principles:

- Energy markets free from market manipulation allow consumers to access the cost and innovation benefits of competition.
- Ohio’s traditional industrial capabilities enable global leadership in energy product innovation and manufacturing.
- Sustainable energy systems support the long-term viability of Ohio manufacturing.
- Effective government regulation recognizes technical and economic realities.

Shaping energy policy in Ohio that aligns with these principles will support manufacturing competitiveness, stimulate economic expansion and job creation, and foster environmental stewardship.

ENERGY POLICY PRIORITIES ARE:

Assure an open and fair electricity generation marketplace, in which competition enables consumer choice, which, in turn, drives innovation.

Reform Public Utilities Commission of Ohio (PUCO) rate-making processes by eliminating electric security plans (ESPs) to protect manufacturers from above-market generation charges.

Correct Ohio case law that denies electric customers refunds from electric utilities for charges that are later determined to be improper by the Supreme Court of Ohio.

Design an economically sound policy framework for discounted rates for energy-intensive manufacturers that makes Ohio competitive with other states.

Oppose legislation and regulation that force customers to subsidize uneconomical generation, including nuclear and certain coal power plants.

Support deployment of customer-sited generation technologies, such as cogeneration, energy efficiency and demand-side management, in order to achieve least-cost and sustainable energy resources.



NEWS RELEASE

December 19, 2019

News Media Contact

Mary O'Driscoll | 202-502-8680

Docket Nos. EL16-49-000, EL18-178-000

FERC Directs PJM to Expand Minimum Offer Price Rule

The Federal Energy Regulatory Commission (FERC) today acted to protect the competitive capacity market administered by PJM Interconnection, L.L.C. (PJM) by directing PJM to expand its current Minimum Offer Price Rule (MOPR) to address state-subsidized electric generation resources, with certain exemptions.

Today's action reaffirms and builds on FERC's June 29, 2018, order, which found that out-of-market payments provided, or required to be provided, by PJM states to support operation of certain generation resources threaten the competitiveness of PJM's capacity market. That order ruled PJM's open access transmission tariff is unjust and unreasonable because the MOPR failed to address the price-distorting impact of resources receiving out-of-market support.

"FERC is affirming our obligation to safeguard the competitiveness of the PJM capacity market," FERC Chairman Neil Chatterjee said. "I recognize, and wholeheartedly respect and support, states' exclusive authority to make choices about the types of generation they support and that get built to serve their communities. They still can do so under this order.

"But the Commission has a statutory obligation, and exclusive jurisdiction, to ensure the competitiveness of the markets we oversee," Chatterjee added. "An important aspect of competitive markets is that they provide a level playing field for all resources, and this order ensures just that within the PJM footprint."

PJM now has 90 days to comply with the order, and at that time is to provide the Commission with a new timeline for the next auction.

Today's PJM MOPR Order At A Glance

- FERC built on PJM's April 2018 MOPR-Ex proposal to address the impact of state subsidies on the wholesale capacity market.
- FERC directed PJM to expand its MOPR to apply to any new or existing resource that receives, or is entitled to receive, a state subsidy, unless an exemption applies.
- FERC outlined the following exemptions from the expanded MOPR:
 - Existing renewable resources that are participating in state renewable portfolio programs;
 - Existing demand response, energy efficiency, and storage resources;
 - Existing self-supply resources; and
 - Competitive resources that do not receive state subsidies.

(more)

- FERC provided additional guidance regarding exemptions:
 - A new or existing resource that does not otherwise qualify for an exemption may seek a unit-specific exemption.
 - The expanded MOPR only applies to state-subsidized resources. Resources with federal subsidies will not be subject to the MOPR.
- FERC defined subsidies as:
 - A direct or indirect payment, concession, rebate, subsidy, non-bypassable consumer charge, or other financial benefit that is (1) a result of any action, mandated process, or sponsored process of a state government, a political subdivision or agency of a state, or an electric cooperative formed pursuant to state law, and that (2) is derived from or connected to the procurement of (a) electricity or electric generation capacity sold at wholesale in interstate commerce, or (b) an attribute of the generation process for electricity or electric generation capacity sold at wholesale in interstate commerce, or (3) will support the construction, development, or operation of a new or existing capacity resource, or (4) could have the effect of allowing a resource to clear in any PJM capacity auction
- FERC adopted an expanded MOPR rather than PJM's Resource Carve-Out (RCO) and Extended RCO proposals. FERC determined that those proposals would unacceptably distort the markets, inhibiting incentives for competitive investment in the PJM market over the long term. PJM's longstanding Fixed Resource Requirement Alternative remains unchanged in the PJM tariff.
- FERC gave PJM 90 days to comply.
 - PJM is to provide new auction timelines on compliance.

R-20-10

(30)



FERC's December 2019 Order on State Subsidies

The Expanded Minimum Offer Price Rule and its Impact on Manufacturers, Markets, Ohio Energy Policy, and Electricity Generation Technology

January 30, 2020

The Federal Energy Regulatory Commission (FERC) issued an order on December 19, 2019 stating that

“... out-of-market payments provided, or required to be provided, by states to support the entry or continued operation of preferred generation resources threaten the competitiveness of the capacity market administered by PJM ...”.

FERC's order is a direct response to a trend of state subsidization of uneconomical power plants, including those benefitting from the recently passed Ohio House Bill 6 (HB6). The FERC order is a giant stick against state subsidies, and tips HB6 on its head: Rather than improve the economic position of select Ohio (and Indiana) power plants, the HB6 subsidies now jeopardizes these same power plants from competitively earned revenue in the wholesale electric capacity market. In fact, by charging Ohio's ratepayers hundreds of millions of dollars in annual subsidies for select power plants, about \$190 million in annual capacity revenue for these same generators is now at risk. Unfortunately, by favoring select power plants through subsidies, HB6 has created a financial liability for them.

To be clear, the select subsidized power plants can request, and may receive, a “Unit Specific Exemption” to earn capacity revenue. Or, these same power plants may request additional subsidies or financial support from the state.

The eventual effect of FERC's order on wholesale electricity prices is being debated, as is which type of generating technologies win or lose. But FERC's order is clear – if states like their subsidy plan, they can keep it – but the state and its ratepayers will bear the direct cost and consequences.

Impact to Manufacturers

A significant concern to Ohio manufacturers is how the FERC order, in conjunction with HB6, impacts electricity costs. The FERC order does not stop Ohio from subsidizing select power plants. And thus, HB6's above-market charges for select nuclear, coal, and renewable energy projects will persist on manufacturers' electric bills.

However, the FERC order does create major changes to how electricity markets work and estimating the financial impact will take careful study. At this date, there is no agreement on the financial impact. Some parties warn that the FERC order could create significant

additional electricity costs, while other parties suggest there may be no additional cost at all. Still others may argue that preservation of market forces is the ultimate cost protection, an assertion supported by market studies and academic literature. PJM and its Independent Market Monitor often conduct detailed simulations of the near-term effect of major policy changes and likely will do so for this FERC order.

Manufacturers should also be concerned about potential state responses to the FERC order, namely, a drive to create fixed resource requirement (FRR) entities. By creating an FRR, a state may attempt to create yet more out-of-market revenue streams for power plants. Not only would this increase charges even more on customers' electric bills, but it would further erode market protections.

While cost is a primary concern for all manufacturers, also of note in the FERC order is a problematic issue for manufacturers with regard to greenhouse gas (GHG) emissions reductions goals. The FERC order will apply to new renewable energy projects receiving state subsidies, including renewable energy credits (RECs) from a renewable portfolio standard (RPS). While the FERC order recognizes that renewable energy projects subscribed with corporate REC purchases should not be subject to the MOPR, it then states that "it is not possible" to distinguish a voluntary REC from a state-mandated REC. As such, without clarification, new corporately funded renewable energy projects could be deprived of capacity revenue unfairly.

Impact to Electricity Markets

The FERC order is intended to protect functioning, competitive electricity markets. In general, competitive markets are desirable because they have been shown to produce lower electricity prices for consumers than cost-of-service regulation. Markets also tend to produce better resource efficiency, and thus lower emissions from power plants. This is all to say that an order to protect markets has inherent features that protect consumers and manufacturers.

However, FERC's order is complex, and it is not fully known how it will impact electricity prices in the short and long term. The order modifies and expands a mechanism called the Minimum Offer Price Rule (MOPR).

The MOPR was originally designed to prevent state subsidization of new natural gas generators entering the market. In contrast, the expanded MOPR will apply to new and existing power plants of any technological types that "receive, or are entitled to receive, certain out-of-market payments, with certain exemptions." This means that nuclear, coal, and renewable power plants that receive state subsidies or other non-bypassable rider support will be required to offer into PJM's capacity auction at a set minimum price or apply for a Unit Specific Exemption. New power plants will have one set of resource-specific prices, called Net CONE (Cost of New Entry). Existing power plants will have another set of resource-specific prices, called Net ACR (Avoidable Cost Rate). The application of these minimum price thresholds is meant to prevent a power plant from using a state subsidy to outbid its unsubsidized competition by offering an artificially low bid into PJM's capacity auction.

Table 1 shows PJM’s proposed Net CONE and Net ACR values¹. Consider, in comparison, that PJM’s capacity auction clearing price over the past 15 years has been a minimum of \$16 to a maximum of \$174/MW-day, a median of \$110/MW-day. Thus, new and existing resources would need to have minimum offer prices of, at most, around \$110/MW-day to clear the capacity market at least half of the time. Given this low price, it is unlikely that new generating plants that receive or are entitled to receive state subsidies will be able to clear the PJM capacity auction on a regular basis, unless they apply for and receive a Unit Specific Exemption.

For existing resources, it is also unlikely that subsidized nuclear units will be able to clear the auction in most cases, and subsidized coal plants will likely only be able to clear the auction occasionally. New and existing demand response and energy-efficiency should be able to clear most auctions. As for renewable energy, new renewable energy would likely not be able to clear the auction, but existing renewable energy would.

Note that PJM is preparing updated Net CONE and Net ACR values which will be subject to FERC approval. These updated values will have meaningful bearing on how the FERC order plays out. Additionally, any resource may apply for a “Unit Specific Exemption,” in order to bid at a different price than Net CONE and Net ACR. Many resources that appear uneconomical based on Net CONE or Net ACR may in fact be economical based on their specific financial situation.

Table 1: PJM Proposed Minimum Prices

	New Resources - Net CONE (\$/MW-day)	Existing Resources - Net ACR (\$ /MW-day)
Nuclear - Single Unit	\$ 1,451	\$ 265
Nuclear - Double Unit	\$ 1,451	\$ 227
Coal	\$ 1,023	\$ 126
Combined Cycle - NG	\$ 438	\$ 1
Combustion Turbine - NG	\$ 355	\$ 31
Hydro	\$ 1,066	\$ -
Solar PV	\$ 387	\$ -
Onshore Wind	\$ 2,489	\$ -
Offshore Wind	\$ 4,327	\$ -
Demand (DR or EE)	\$29 - \$67	\$ -

The impact on electricity prices then depends on several things:

- How many MWs of power plants will be subject to the expanded MOPR, and effectively forced out of the capacity auction? The answer is not simple. Some power plants receiving or entitled to receive subsidies have already not cleared the auction. For example, Ohio’s nuclear power plants have not cleared the auction recently. Other power plants may choose to forgo their subsidy so they are

¹ PJM Communication, Table 2. <https://pjm.com/-/media/committees-groups/committees/mic/20190306/20190306-item-10-communication-regarding-mopr-related-requirements.ashx>

Net-ACR from: INITIAL SUBMISSION OF PJM INTERCONNECTION, L.L.C. Docket No. EL16-49-000, pages 118 & 120 of pdf. <https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15059002>

permitted to bid into the auction without the minimum offer price if the subsidy is lower in value than PJM's capacity payments. Or, perhaps some states will find their subsidization policies ineffective, and will eliminate them in the law so that their power plants may compete for capacity revenue. Finally, there exists a "Unit Specific Exemption" process with the MOPR. If a power plant can show that it does not need its subsidy to offer competitive capacity bids, then it may receive this exemption, and continue to receive capacity revenue. Ironically, if a power plant receives this exemption, it will be proof to state policymakers that the subsidy is not needed. For this reason, it should be considered requiring subsidized resources to apply for a Unit Specific Exemption.

- How many new power plants will enter the market due to the expanded MOPR?
Again, this is not simply answered, but it is probable that increased amounts of new natural gas fired power plants will enter the market. Some parties' fear of increasing capacity prices come largely from the observation that by excluding subsidized power plants from PJM's capacity auction, the supply of power plants will decrease, while demand for power remains relatively the same. However, PJM has seen large amounts of power plant retirements in the last 15 years, with little impact on capacity prices. This is because as uneconomic power plants close, other power plants that are economic open. It is reasonable to expect that over some period of time, new economic generation will fill the gap and keep prices in check.

All told then, the goal of the FERC order appears to be to reinstate a functioning electric market and the order is designed to seriously discourage state subsidies' manipulation of the electric market. Power plants receiving unit-specific exemptions will have shown that their subsidy is unnecessary, and that they can compete without state subsidy support. Power plants that are subject to MOPR and do not clear the auction will have shown that they are uncompetitive and may need to return to the state for additional subsidies or cease operating. The resulting supply and demand in the market then will more closely match that of a competitive market absent state subsidies. And thus, the resulting price of wholesale electricity should match that of a competitive market.

A caveat is that in the short-term, there may be a mass exit of power plants that are subject to MOPR because of state subsidies. If there is an atypical quantity of exiting power plants, combined with a shorted development timeframe for new entrants, there is the possibility for short-term capacity price increase. Again, Ohio's manufacturers should wait for independent modeling of this financial impact.

The cost of state subsidies will still be borne by the residents of the state, until a state repeals its subsidy policy. And, creation and proliferation of FRR entities is an emerging risk.

Impact to Ohio's State Policy and Regulation of Power Plants

FERC's order has significant impacts to the objectives of the recently passed HB6 in Ohio, and to other Ohio policies and regulations that create subsidies for select electrical power generators. Below we cover possible impacts to specific power plants and technologies in Ohio.

- Davis-Besse and Perry Nuclear Power Plants – The Davis-Besse and Perry nuclear power plants are entitled to receive a subsidy of \$9 per MWh generated from Ohio’s Nuclear Generation Fund, newly created by HB6. This will result in \$150 million of payments annually from Ohio ratepayers to these two nuclear power plants. However, the two nuclear power plants will be subject to the expanded MOPR. The combined capacity of the power plants is about 2,150 MW. At a typical PJM capacity auction price of around \$120 /MW-day, this equates to \$94 million of forgone annual capacity revenue for the two nuclear plants.

It is not clear whether Energy Harbor’s nuclear power plants could receive a Unit Specific Exemption. It is distinctly possible that these nuclear power plants are economical without the HB6 subsidy. If so, they *could* apply for a Unit Specific Exemption, and receive it. However, applying for a Unit Specific Exemption is a choice for Energy Harbor.

In any case, Ohio policymakers face difficult choices. At a minimum, requiring HB6 subsidized units to apply for a Unit Specific Exemption is logical. If subsidized units receive an exemption, then policymakers will need to reconsider whether to continue subsidies that a power plant doesn’t need. If a unit fails to receive an exemption, policymakers will need to reconsider whether to subsidize an uneconomical power plant.

- OVEC Coal Plants – The coal plants of the Ohio Valley Electric Corporation, which include the Kyger Creek plant in Ohio and the Clifty Creek plant in Indiana, will also be subject to the MOPR. There is a chance that they will not clear the PJM capacity auction. OVEC’s capacity is about 2,175 MW, and thus it will forego about \$95 million annually in capacity revenue. However, OVEC’s subsidy is not in the form of a fixed credit, but instead in a rider that passes a pro-rated percentage of its financial losses onto Ohio utilities. As a result, Ohio’s ratepayers will share in 38.68%² of this loss, or about \$36.7 million annually.

Because OVEC’s Ohio utility owners are insulated from any and all financial losses, it is probable this additional cost will simply be passed on to Ohio’s manufacturers and other ratepayers.

- HB6-Favored Solar Energy Plants – HB6 creates a Renewable Generation Fund which will pay \$9 per MWh for renewable energy credits (RECs) for select solar projects. These solar projects have not yet been built and will thus almost certainly be subject to the MOPR and are unlikely to clear the PJM capacity auction. Moreover, given the choice, solar photovoltaic (PV) projects may prefer to receive capacity revenue over the renewable energy credit revenue. For example, a 1 MW solar PV project in central Ohio would receive about \$12,500 in capacity revenue³. That same 1 MW of solar PV would receive \$11,150⁴ from the Renewable Generation Fund. As such, renewable projects of any scale may choose to receive

² OVEC Annual Report, cumulative percentage of Ohio investor-owned sponsoring companies: The Dayton Power and Light Company, Duke Energy Ohio, FirstEnergy Solutions, and Ohio Power Company.

³ 1 MW nameplate x 0.2856 central Ohio capacity factor x \$120 /MW-day, typical x 365 days/year)

⁴ 1 MW of ground-mounted fixed solar in central generates about 1,239 MWh/year, according to PV Watts. \$9 /MWh x 1,239 MWh/year = \$11,150 /year

PJM capacity revenue over HB6 subsidies.

Thus, HB6 could result in reduced revenue for these select solar projects, making them less competitive. The forgone capacity revenue from HB6's select solar projects would be about \$22 million per year.

- Sammis Coal Plant – The Sammis coal-fired power plant owned by the former FirstEnergy Solutions may also be subject to the FERC expanded MOPR because of HB6. At first, this may be surprising, as there is no direct mention or direct subsidy of the Sammis plant within HB6. However, the FERC order appears to catch within its scope sleight-of-hand with state subsidies. FERC states:

“... we consider a State Subsidy to be: a direct *or indirect* payment, concession, rebate, subsidy, non-bypassable consumer charge, or other financial benefit that is (1) a result of any action, mandated process, or sponsored process of a state government, a political subdivision or agency of a state ...”

Importantly, FirstEnergy Solutions had publicly credited the HB6 subsidies it is receiving for its nuclear plants for *indirectly* allowing it to subsidize the Sammis coal plant⁵. According to FES comments, the Sammis coal plant cleared 1,233 MW in the most recent PJM capacity action⁶. Thus, HB6 has indirectly put \$54 million in annual capacity revenue at risk for the Sammis coal plant.

- Existing Renewable Energy – Existing renewable energy projects will be exempt from the MOPR and will continue to be able to participate in PJM's capacity auction.
- New “Behind-the-Meter” Renewable Energy – New renewable energy projects that are customer-sited, behind-the-meter, will not be subject to the MOPR. This is because behind-the-meter generation would not bid into PJM's capacity auction anyways. Instead, behind-the-meter generation reduces a customer's capacity obligation. As such, behind-the-meter projects would be able to monetize both capacity value and voluntary or state-mandated renewable energy credits.
- New “Front-of-the-Meter” Renewable Energy – New, front-of-the-meter renewable energy will be subject to the MOPR. As shown in Table 1, solar PV has the second lowest Net CONE value of new resources, after natural gas combustion turbines. That said, it is unlikely that PJM's capacity market price will clear high enough that a solar PV or wind project could enter the capacity market at the Net CONE price. This gives renewable energy developers two options. First, they could choose to enter the market competitively, favoring capacity revenue over REC revenue and subsidies. Second, if new renewable energy plants do not require REC payments to be competitive, they may apply for a “Unit Specific Exemption” and bid into the capacity market at a lower price than Net CONE. This is distinctly possible, as renewable energy projects receive comparatively less of their revenue from capacity payments due to their intermittency and REC prices have dropped to just

⁵ “House Bill Six is really designed to support our nuclear plants, and all the money from that would go to those nuclear plants. But at the same time, it would make our company economically healthy enough that we would be able to look at other investments like investing in the Sammis Plant”, FES CEO John Judge, <https://wto9.com/news/local/sammis-plant-may-not-close>

⁶ <https://www.prnewswire.com/news-releases/firstenergy-solutions-comments-on-results-of-pjm-capacity-auction-300654549.html>

a few dollars per MWh. As renewable energy installation costs drop, their reliance on REC payments may be low enough that it does not affect the decision on whether to build the project or not, and thus competitive renewable energy projects may request and receive an exemption while preserving their REC payments.

- Energy Efficiency and Demand Response – Most new energy-efficiency and demand response capacity resources would have a Net CONE generally lower than a typical PJM capacity auction clearing price. That is to say, these new resources would have the MOPR applied to them but would still be able to clear the auction at their corresponding technology-specific Net CONE price. Moreover, existing efficiency and demand response resources would be able to continue to bid at any price. While there is some risk that new demand response and energy-efficiency resources may not clear the capacity auction in some years, this may be a manageable risk.

Impact to Technology Mix

Of interest is how FERC's order expanding MOPR will affect the generation technology mix in the PJM territory. While the expanded MOPR is complicated and has nuances, it appears to effectively disincentivize subsidization of older, uneconomical power plants. In recent years, these subsidies have been targeted at coal and nuclear power plants. Newer emerging technologies such as renewables and load management will not be entirely unaffected by the MOPR, but are positioned to be able to continue to grow for a number of reasons, be it behind-the-meter applications, the Unit Specific Exemption, or simply because they no longer require state subsidies. Thus, the expanded MOPR is likely to reinforce the recent trend in electric generation technology mix – considerably more natural gas fired generation with some meaningful expansion of renewable energy and customer-load management, and considerably less coal-fired generation with some reduction in nuclear power.

This analysis was prepared by John Seryak, PE, and Peter Worley of RunnerStone, LLC, Energy Technical Consultant to The Ohio Manufacturers' Association.





PJM Monitor: FERC Order Clouds Nuclear Plants' Future, With or Without HB6 Subsidies

PJM Interconnection's independent monitor told the Ohio Consumers' Counsel (OCC) Governing Board Tuesday that FirstEnergy Solutions' (FES) nuclear plants could hemorrhage 10–20 percent of their revenue under the Federal Energy Regulatory Commission's (FERC) December order expanding minimum capacity prices to subsidized generators, threatening Perry and Davis-Besse's future in the 13-state competitive market if they accept nuclear credits authorized by HB6 (Callender-Wilkin).

PJM Independent Market Monitor Joseph Bowring, president of Monitoring Analytics, reacted to FERC's Dec. 19 decision imposing PJM's minimum offer price rule (MOPR) on any generation plant that receives "or is entitled to receive" state subsidies, minus a few exceptions.

"The only two power plants in the PJM footprint that have economic problems are Perry and Davis-Besse," he told OCC's board. "Ohio has chosen to subsidize them. If they do not clear the capacity market" -- i.e., meet the MOPR -- "they would need to recover those dollars from the taxpayers of Ohio."

That assumes FES's 10–20 percent loss in capacity revenue would erode the benefits of HB6 nuclear credits. This in turn could send FirstEnergy Solutions back to the General Assembly for additional subsidies, Bowring said.

He said Perry and Davis-Besse's failure to meet the MOPR in PJM's last capacity auction is "not a fault of the market." Some Ohio legislators and energy stakeholders have argued that PJM undervalues nuclear energy's carbon reduction and fuel security, or "resiliency."

FERC's December ruling singles out Ohio as a leading proponent of energy subsidies.

"[A]n immediate threat to the competitiveness of the PJM capacity market is the decision by some states to employ out-of-market subsidies to prevent or delay the retirement of state-preferred resources that are unable to compete with more efficient generation. Moreover, certain states have chosen to enact additional programs even after the [earlier] June 2018 order issued," federal regulators said, citing the Ohio Clean Air Program of HB6.



"I am aware that the extension of the MOPR may prevent certain existing resources that states have recently chosen to subsidize from clearing PJM's capacity auctions; however, the decision by certain states to support less economic or uneconomic resources in this manner cannot be permitted to prevent the new entry or continued operation of more economic generating capacity in the federally-regulated multi-state wholesale capacity market. New state policies that support the continued operation of existing uneconomic resources in PJM are just as disruptive to competitive wholesale market outcomes as earlier attempts to support preferred new gas-fired resources, which the commission prevented by eliminating the state mandate exemption for new resources in 2011," said FERC.

Commission Chairman Neil Chatterjee followed with a statement highlighting the "price-distorting impact of resources receiving out-of-market support" while affirming states' exclusive authority to subsidize certain generation technologies as a matter of public policy.

"But the commission has a statutory obligation, and exclusive jurisdiction, to ensure the competitiveness of the markets we oversee. An important aspect of competitive markets is that they provide a level playing field for all resources, and this order ensures just that within the PJM footprint," Chatterjee said.

Bowring noted Tuesday that, unlike nuclear and coal generation, combined-cycle plants have flourished without government subsidies, and that Ohio's low natural gas prices are leading the world.

The market monitor said FES nuclear plants, projected to lose \$424.5 million between 2019–2021, can respond to FERC's order in one of three ways: (1) cease operations, (2) live or die with HB6 subsidies, or (3) convince PJM of something it could not or would not convince the General Assembly of -- that Perry and Davis-Besse will survive in a MOPR-dominated competitive market.

FERC has given PJM 90 days from its December order to impose minimum capacity pricing on subsidized generating plants. Parties in the case have until Tuesday, Jan. 21, however, to request a rehearing or clarification of its ruling, the latter which Bowring said PJM plans to submit.

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OPINION

When states pick expensive policies under the guise of 'states' rights,' consumers pay

By Todd A. Snitchler

Published Jan. 23, 2020

The following is a contributed article by Todd A. Snitchler, president and CEO of the Electric Power Supply Association (EPSA), and former chairman of the Public Utilities Commission of Ohio.

Faced with a new federal ruling designed to protect consumers by ensuring power generators have to compete to provide reliable electricity at the lowest cost, some politicians are raising the battle cry of "states' rights," claiming the states' ability to choose their power generation mix is under threat.

These officials, under pressure from politically powerful utilities with large lobbying budgets, want to have their cake and eat it too: use taxpayer money to fund power generation projects that either are now able to compete without subsidies or are no longer economic, while leaning on the very same capacity markets they criticize to continue to provide grid reliability.

Politicians say this argument is about the environment and handout-seeking companies say they need the money to bring you clean energy. But don't be fooled. Acronyms like ZECs and FRRs and threats of pulling out of competitive markets are really about

propping up struggling nuclear and coal plants and shielding utility profits from competition.

The reality is this: The market has driven coal plant closures, lowered emissions, ushered in new technology, and lowered costs — forcing competitive power generators to perform at the highest level or bear the cost of poor planning. If state policymakers really want to put customers first, they should preserve the market while evaluating and supporting workable changes to account for environmental externalities.

As America's competitive power suppliers, who are actively building the grid of the future without subsidies, we say, "Let's have that conversation."

State-wholesale market conflicts

The "states' rights" defense shouldn't be selectively applied. It's long been decided that when it comes to questions that cross state borders — such as our nation's vast, interconnected power grid — a federal decision-maker is the only entity able to make the call.

Since restructuring, states have relied on, and benefited from, regional power markets — utilizing excess supply in other areas when their own supply may be insufficient — to ensure reliability at the lowest possible cost. Now, looking to double dip in taxpayer pockets and the market, certain generators have tried to convince politicians to layer one-off policies onto a regional/wholesale framework.

This trend has created an unsustainable mess, which the Federal Energy Regulatory Commission (FERC) has the duty and authority to fix. FERC has the exclusive responsibility of ensuring wholesale power markets are just and reasonable and reconciling state policy

with a functioning regional market. And that's what the wrongfully-maligned Minimum Offer Price Rule (MOPR) decision is all about.

The inconsistency between state choices and wholesale power markets has reached a boiling point, and it's time someone closed the lid.

So far, Illinois, New Jersey, New York, Connecticut and Ohio have implemented a messy, expensive patchwork of legislation to provide subsidies for 50-year old nuclear and coal power plants — to the tune of billions of dollars — to artificially lower the price of those resources in the market. They claim support is needed because wholesale power markets do not compensate those resources for the environmental benefits they provide.

Oddly, the legislation only benefits certain nuclear power plants.

You'll recall politicians rushed to close New York's Indian Point facility, despite its many environmental benefits. Arguably, if carbon emissions are the concern, *all* nuclear facilities and *all* lower-emitting resources should be eligible for compensation for the environmental benefits they provide.

Regional market exit?

Faced with the reality of paying for their costly policy choices, some states are threatening to walk away from the regional markets. While this is hopefully just a threat, consumers cannot risk losing the benefits these markets provide in the name of profits for monopoly utilities — and states can hardly afford the costs they will incur.

Ranking last nationwide when it comes to the amount of money on hand for an economic downturn or emergency, Illinois' "Rainy Day" fund has just enough to cover 0.1 days of spending, while New Jersey's fund has been empty since 2009. Meanwhile, Connecticut faces annual billion-dollar deficits.

Regional markets weren't designed to account for environmental considerations, but there's no reason they can't be adjusted to do so. Until we figure out the next steps to accomplish that goal, customers cannot risk losing the existing benefits markets like PJM and ISO-NE provide — and states currently don't have a better option.

Pulling out of the market to avoid the cost accountability and transparency provided by the MOPR, as suggested by some states and utilities, won't ensure better outcomes. It *will* be complicated and costly.

Risking blackouts or dramatic price increases in today's economy is a non-starter, and the capacity market ensures reliability. Today, regional power markets have abundant power reserves. This safety net will not last if the states continue to introduce policies that are inconsistent with wholesale power markets.

Private investors must have confidence that the markets in which they invest will provide the *opportunity* to compete fairly and recover costs. Constant revisions to market rules and new state policies only increase uncertainty and, unfortunately, may drive out private capital willing to invest. This asks taxpayers to foot the bill and risks shortages that will impact consumers.

Combating climate change

EPSA supports efforts to combat climate change through transparent, open, and nondiscriminatory competitive markets, such as an economy-wide price on carbon, that allow all resources to compete to reduce carbon and other harmful emissions. Competitive markets that incorporate both environmental and reliability requirements will yield the lowest cost set of resources and technologies that jointly produce the greatest emission abatement while maintaining reliability.

A 20-year track record shows competitive wholesale markets and regional coordination provide the best path to sustainable environmental progress without harming reliability or dumping unfair costs on American families and businesses.

When states pursue expensive, inefficient, and ineffective energy and climate policies, who gets stuck with the bill?

It's not governors. It's not legislators or utility commissioners. It's certainly not utilities who make backroom deals to add charges for a costly power plant to your monthly bills.

The folks who *always* pay the price are taxpayers and customers who need reliable, affordable electricity to power their homes, run their small businesses, and access emergency services.

If states pull out of regional wholesale power markets, consumers are going to be the ones who bear the cost. There is a better way forward, but it requires real leadership and an honest assessment of the facts to create a durable regulatory framework for sustainable environmental progress.

EPSA stands prepared to lead on this issue and is looking for willing partners to shape tomorrow's energy market.

POLITICS

Dark money dominated Ohio's nuclear subsidy saga



Kathiann M. Kowalski | March 5, 2020



thebmag (<https://www.flickr.com/photos/thebmag/69844670/>) / Flickr / Creative Commons

FirstEnergy Solutions paid nearly \$2 million to at least one group, but most other data remains hidden.

After-the-fact filings show that FirstEnergy's generation subsidiary paid nearly \$2 million to Generation Now, one of the special interest groups that orchestrated ads, political donations and other efforts behind Ohio's nuclear and coal bailout.

But legal loopholes make it harder to find out the total spent and who else was behind xenophobic advertising, dueling voter petitions, alleged intimidation and other claims of foul play. And none of those actions fully disclosed who was behind them.

The scant public filings that are available show additional connections to FirstEnergy Solutions (now Energy Harbor), as well as the law firm of an outspoken legislator who has long fought the state's clean energy standard, and others with high-level political influence.

House Bill 6 gutted Ohio's renewable energy and energy efficiency standards while putting ratepayers on the hook for nearly \$1 billion in subsidies for nuclear power plants, plus an additional amount for aging coal plants. Multiple groups spent heavily to promote HB 6 and prevent a referendum on the law following its passage.

In some cases, nonprofit and for-profit organizations funded each other or shared the same spokesperson. Groups active in the HB 6 campaign also had links to some of the same lobbyists and consultants who acted for companies that stood to benefit from HB 6, or unions with workers at their plants. But only limited amounts of funding could be traced.

As FirstEnergy Solutions' bankruptcy case wrapped up in February and the company began doing business as Energy Harbor, a filing posted to the company's investor relations page shows (<https://eyeonohio.com/wp-content/uploads/2020/03/First-Energy-bankruptcy-2-Monthly-Operating-Reports-April-2018-through-January-2020.pdf#page=442>) a wire payment of \$1,859,457 from FirstEnergy Solutions to Generation Now, Inc. on July 5, 2019.

"FirstEnergy Solutions' funding of Generation Now proves that House Bill 6 was always primarily a bailout for the bankrupt utility and its wealthy investors," said Dave Anderson, policy and communications manager for the Energy and Policy Institute, who first spotted the Energy Harbor filing.

"Powerful corporations, and utilities in particular, often fund groups to do their dirty work in an attempt to avoid accountability," Anderson said. "In the case of Generation Now, that dirty work included millions of dollars in misleading ads and hiring petition blockers to prevent Ohioans from having an opportunity to overturn House Bill 6 when they vote in November."

The nearly \$2 million in documented spending by FirstEnergy Solutions is just part of the total spent from 2018 through now. That figure could be as high as \$15 million, according to Gene Pierce, who acted as spokesperson for the group leading the referendum effort, Ohioans Against Corporate Bailouts.

The rise of so-called "dark money" groups, which don't have to disclose their donors, follows a 2010 Supreme Court case, *Citizens United* (<https://www.oyez.org/cases/2008/08-205>), that held corporations have a constitutional right to unlimited spending (<https://www.opensecrets.org/news/reports/a-decade-under-citizens-united>) for political matters, provided they aren't directly coordinated with candidates.

"We're having a much more difficult time" tracking political spending after *Citizens United*, said Catherine Turcer, executive director at Common Cause Ohio. "We know there's all these political dollars swirling around about HB 6. And yet we can only get a picture of the contributions that are tied directly to the public officials" who voted for it.

So-called independent expenditures often escape reporting requirements (<https://www.opensecrets.org/darkmoney/dark-money-basics.php>), even when attack ads against a candidate's opponent clearly aim to influence the outcome of a campaign. Likewise, issue-focused ads also escape reporting requirements unless they relate to a specific ballot proposal, as opposed to general warnings against plant closures, foreign influence or certain types of energy.

In the case of HB 6, the players include Generation Now, Ohioans for Energy Security, the Ohio Clean Energy Jobs Alliance, the Coalition for Growth & Opportunity, the Growth & Opportunity PAC, Protect Ohio Clean Energy Jobs and others.

"When these groups operate without disclosing who is pulling the strings behind the scenes, it's hard to hold the puppet master accountable," Anderson said.

Even when nonprofit groups do report some spending and certain grants to other organizations, there are built-in delays. For example, tax-exempt groups that must file long-form annual reports with the Internal Revenue Service don't have to do so until the following year. So, some spending disclosures might date back to more than a year and a half earlier.

And, if it weren't for FirstEnergy Solutions' bankruptcy case, the payment to Generation Now likely wouldn't have been disclosed, because that organization falls within a category of tax-exempt groups that don't need to disclose who their funders are, under a 1958 Supreme Court case (<https://www.oyez.org/cases/1957/91>).

"Until we know as a public who is backing which issues, without a delay ... it's hard to really understand what's behind different messages," said Ned Hill, an economist and energy policy expert at Ohio State University. "This is true whether it's coming from corporate interests on the right ... or Gucci Marxists on the left."

Who benefits from HB 6?

HB 6 gives FirstEnergy and FirstEnergy Solutions much of what they have sought in Ohio energy policy for the last six years (<https://energynews.us/2018/04/23/midwest/timeline-firstenergy-bet-on-coal-nuclear-and-bailouts/>). Despite a 1999 law calling for competition in Ohio's retail electricity market, FirstEnergy has maneuvered in regulatory cases and legislative arenas to compel its utility customers to guarantee electricity sales from some of its coal and nuclear plants since 2014. The company had also supported rollbacks to Ohio's energy efficiency standard since at least 2013.

FirstEnergy's leadership continued to seek subsidies (<https://eyeonohio.com/why-did-utility-bills-go-up-as-electricity-prices-went-down/>) from lawmakers and regulators in the lead-up to the 2018 bankruptcy filing (<https://energynews.us/2018/04/23/midwest/firstenergy-solutions-bankruptcy-could-shed-light-on-affiliate-dealings/>) by FirstEnergy Solutions. However, FirstEnergy couldn't use the case to fully shed all environmental responsibilities for cleanup costs (<https://energynews.us/2019/04/11/midwest/coal-nuclear-cleanup-costs-central-to-firstenergys-rejected-bankruptcy-plan/>), a 2019 ruling said. With the bankruptcy case wrapped up, FirstEnergy is supposed to cease having a controlling interest in that company. FirstEnergy Solutions will now do business as Energy Harbor.

HB 6 took effect after opponents failed to get approximately 266,000 signatures in order to put a referendum on it on the ballot this November to block it. Starting in January, rates for Ohio electric customers will provide roughly \$900 million in subsidies for two of FirstEnergy Solutions' nuclear power plants. Rates will also include subsidies for two 1950s-era coal plants in Ohio and Indiana. Those provisions benefit the parent corporations of all of Ohio's major utilities. In 2011, those companies agreed to keep those two plants open through 2040, despite the growth of fracking and competition from natural gas.

In addition, HB 6 guts the state's renewable energy and energy efficiency standards. That will help FirstEnergy Solutions (now Energy Harbor) and other companies with fossil fuel plants. It will also help companies that supply fuel to fossil fuel plants.

Ohio Rep. Bill Seitz, R-Cincinnati, voted for Ohio's clean energy standards when they were adopted in 2008. Yet he and others tried to gut them since at least 2013 (<https://energynews.us/2013/10/01/midwest/critics-ohio-energy-bill-boon-for-utilities-bad-for-consumers/>), even when supporting nuclear and coal subsidies, which other conservatives had criticized (<https://energynews.us/2019/05/06/midwest/conservatives-criticize-firstenergy-nuclear-bailout-bill-as-corporate-welfare/>). And clean energy advocates say the sector provides crucial opportunities for economic growth. When the General Assembly mustered enough votes to gut the standards in 2016, Gov. John Kasich vetoed (<https://energynews.us/2017/01/03/midwest/ohio-energy-standards-resume-but-still-weakened-by-2014-laws/>) that bill.

Dark money helped shift leadership in the General Assembly.

Dark money groups such as Generation Now and the Growth & Opportunity PAC spent roughly \$1 million (https://www.cleveland.com/open/2018/07/dark_money_groups_spend_millio.html) in the 2018 election cycle. That election replaced Kasich with Mike DeWine as governor.

Other groups were also active, sometimes popping up (<https://conservativeleadership.us/press-release/>) for just a few months. At least one group (https://eyeonohio.com/dark_money/) launched a \$100,000 negative ad campaign against an Ohio representative running in a congressional primary after she opposed subsidies for FirstEnergy.

The 2018 election also led to a leadership shift in the Ohio House of Representatives. Larry Householder, R-Glenford, the new speaker, proved to be a major force shepherding HB 6 through the General Assembly, even to the point of holding up a budget agreement last summer until the subsidy bill passed.

Dark money efforts while the bill was pending included advertising, coordination of bill testimony, and blocking a referendum effort that would have let voters reject HB 6 this November. Groups' actions sparked critics to complain about misleading ads (<https://energynews.us/2019/09/23/midwest/whos-behind-the-chinese-conspiracy-ads-against-ohios-nuclear->

referendum/), alleged harassment (<https://www.cleveland.com/open/2019/09/ohio-ag-to-investigate-reports-of-aggressive-activity-by-opponents-of-house-bill-6-referendum.html>) of signature collectors, buyouts (<https://www.daytondailynews.com/news/local/with-millions-stake-fight-over-ohio-energy-bill-takes-ugly-turn/pybZYrQ9XW2uY6bgOMpgII/>) of petition workers, and even alleged assault (<https://radio.wosu.org/post/nuclear-bailout-referendum-worker-accuses-opposition-assault#stream/0>).

"At the end of the day, someone paid big money" for all those efforts, Hill said. "They didn't do that [as] an un-self-interested contribution to a public policy debate."

Groups' efforts overlapped and linked with each other from before 2017 through the present.

Public reports reflect partial funding and cross-transfers among organizations whose backers remain secret.

Generation Now formed in 2017 as a tax-exempt organization under Section 501(c)(4) of the Internal Revenue Code. That code section covers a broad range of civic and "social welfare" organizations. An IRS filing identified its president/secretary as JPL & Associates, rather than a specific individual.

Generation Now gave \$1,050,000 to the Growth & Opportunity PAC in 2018, which in turn ran ads and took other steps to support candidates who would favor Householder's selection as House speaker, preparing the way for the subsidy bill. In 2019, Generation Now continued to spend money for pro-HB 6 ads and to discourage voters (<https://www.stateneews.org/post/nuclear-bailout-group-paying-people-follow-referendum-petitioners>) from signing referendum petitions. The total amount of its spending is not yet known.

Neither Generation Now spokesperson Curt Steiner nor Jeff Longstreth, a principal at JPL & Associates, responded to questions about the organization's funding and its activities.

Unions reported giving \$840,000 (<https://www.documentcloud.org/documents/6793335-GenerationNowUnionDonations030320.html>) to Generation Now in 2018 and 2019. Generation Now also got money from other 501(c)(4) organizations, according to IRS filings. A group called Empowering Ohio's Economy gave \$100,000 to Generation Now in 2017 and another \$50,000 for advocacy in 2018. That group also gave \$200,000 for public advocacy to the Coalition for Growth & Opportunity in 2017, which in turn gave \$59,000 to Generation Now over the course of 2017 to 2018.

The Coalition for Growth & Opportunity has also donated money to the Growth & Opportunity PAC. And it paid roughly \$103,000 in 2018 for services from Communications Counsel, Inc., a public relations firm that has represented many Republicans in Ohio politics. Mark Weaver ([https://ballotpedia.org/Mark_Weaver_\(Ohio\)](https://ballotpedia.org/Mark_Weaver_(Ohio))), a principal in the firm, is also an attorney with the Isaac Wiles law firm in Columbus. Other lawyers there filed incorporation papers and serve as registered agents for Ohioans for Energy Security. That group was formed on July 30, a week after Gov. DeWine signed HB 6.

When asked about that organization, Weaver said (<https://energynews.us/2019/09/23/midwest/whos-behind-the-chinese-conspiracy-ads-against-ohios-nuclear-referendum/>) the law firm "represent[s] a wide range of political action committees and non-profit organizations" that have free speech rights and that its lawyers "follow the law and ethical rules in every respect." He did not answer questions about the group's funding.

As a for-profit entity, Ohioans for Energy Security doesn't have to report its funding sources or spending. The group's print and video ads featured a debunked

(<https://www.cincinnati.com/story/news/politics/2019/08/28/ohio-nuclear-plant-bailout-china-bankrolling-effort-repeal-subsidies/2130190001/>) Chinese conspiracy (https://www.washingtonpost.com/business/energy/ohios-great-chinese-power-conspiracy-theory/2019/09/03/840cc822-ce57-11e9-a620-0a91656d7db6_story.html) claim.

The group also took part in some blocking activities related to the referendum, such as working to hire or otherwise "buy out" workers who had been hired to collect signatures from voters.

An affidavit (<https://www.documentcloud.org/documents/6776315-HB6DeclarationDouglasGray.html>) filed in federal court in October provides a copy of a form contract for one of those proposed buyouts. The contracting party is shown as Ohioans for Energy Security. However, it said, any notices for Ohioans for Energy Security should go to Generation Now, care of Jeff Longstreth in Columbus.

Additional blocking efforts included the circulation of rival petitions

(<https://www.cleveland.com/open/2019/09/pro-nuclear-bailout-group-is-now-circulating-its-own-unofficial-petitions.html>), arranged by Ohioans for Energy Security. Those petitions had no binding value. Yet they looked enough like the real thing to cause some confusion, said critics, such as Hill (<https://www.dispatch.com/opinion/20191017/column-sign-correct-petition-if-you-oppose-utilities-bailout>).

"Under the shroud of disclosure loopholes, corporations can outright lie to voters without any accountability," said Jen Miller, executive director of the League of Women Voters of Ohio. "This is particularly concerning about complex issues like Ohio's energy policy, which ultimately will affect Ohioans economically and environmentally for years to come."

Yet another group, Protect Ohio Clean Energy Jobs, bought Facebook ads urging people to remove their names from referendum petitions. Its treasurer

(<https://www.documentcloud.org/documents/6446429-Protect-Ohio-Clean-Energy-Jobs-BI1829.html>), Alex Thomas, also played a coordinating role for the Ohio Clean Energy Jobs Alliance. The alliance's website says it's a "coalition of Ohio community leaders and organizations" and is "powered by FirstEnergy Solutions." The spokesperson, Carlo LoParo, also acted as spokesperson and president (<https://www.opensecrets.org/ad-data/document?id=2149978731>) for Ohioans for Energy Security.

LoParo did not answer questions about funding for either Ohioans for Energy Security or the Ohio Clean Energy Jobs Alliance.

FirstEnergy Solutions is connected to dark money groups through its spending and through several consultants and lobbyists.

Even before the July 2019 wire payment from FirstEnergy Solutions to Generation Now, its lobbyists (https://web.archive.org/web/20191001005406/https://www2.jlec-olig.state.oh.us/OLAC/Reports/AERView_Legislative.aspx?id=846080), Matt Borges (<https://www.documentcloud.org/documents/6162517-Matt-Borges-FirstEnergy-Solutions-Lobbyist.html>) and Alex Thomas (<https://web.archive.org/web/20191001005205/https://www.ralaw.com/people/alex-thomas>), then with Roetzel Consulting Services (https://web.archive.org/web/20191001005026/https://www.ralaw.com/services/roetzel_consulting_solutions), worked behind the scenes for passage of HB 6. During that time, Thomas helped (<https://www.energyandpolicy.org/house-bill-6-petition/>) get organizations to sign on to a June 12 letter (<https://www.documentcloud.org/documents/6776398-HB6OhioCleanEnergyJobsAllianceLetterfortheRecord.html>) to the Ohio Senate Energy and Public Utilities Committee in support of HB 6. Committee records show that letter as coming from the Ohio Clean Energy Jobs Alliance.

Other FirstEnergy Solutions lobbyists and consultants coordinated efforts on HB 6. Among other things, materials in the FirstEnergy Solutions bankruptcy case reflected payments to help get the Ohio Clean Energy Jobs Alliance underway. A former FirstEnergy external affairs director, Murphy Montler, who is now deceased, was a consultant

(<https://www.feretrees.com/news/former-firstenergy-external-affairs-director/>) for FirstEnergy Solutions. He provided local public officials linked to the alliance with drafts of their testimony (<https://www.energyandpolicy.org/firstenergy-drafted-testimony/>) on HB 6.

Labor unions that provided funds to Generation Now also appear to have members who work at the Davis-Besse and Perry nuclear power plants. The political education arm of International Union of Operating Engineers, Local 18 gave (https://www.fec.gov/data/disbursements/?data_type=processed&recipient_name=generation+now) \$250,000 in 2018 and another \$105,000 through November 2019. The AFL-CIO also ran anti-referendum ads (<https://www.cleveland.com/news/2019/10/ohio-afl-cio-enters-fight-against-house-bill-6-referendum.html>) in 2019. And an AFL-CIO affiliate gave \$250,000 to Generation Now in 2018.

Meanwhile, employee "contests" at the Davis-Besse and Perry nuclear plants recruited workers as part of the Ohio Clean Energy Jobs Alliance's "employee ambassador" program. FirstEnergy Solutions employees appeared in a pro-HB 6 ad (<https://www.youtube.com/watch?v=IXb0fJyU-lk&feature=youtu.be>) presented by the Ohio Clean Energy Jobs Alliance.

At least two employees at FirstEnergy Solutions' nuclear plants are also in a video ad (<https://www.youtube.com/watch?v=P19SmcK98Y8&feature=youtu.be>) from Ohioans for Energy Security. "Don't sign the petition to allow China to control Ohio's power," the ad's voiceover announcer said.

FirstEnergy Solutions' spokesperson declined to answer questions about the company's relationship with the nonprofits.

Law firm links also factor prominently in activities linked to HB 6.

Ohio Rep. Bill Seitz spoke out passionately for passage of HB 6. He's also a lawyer at the Cincinnati office of Dinsmore & Shohl. And he's on the board of ALEC, the American Legislative Exchange Council. The Charles Koch Foundation, the Charles Koch Institute and other fossil fuel interests have been funders of that organization, according to data (<https://publicaccountability.org/dataset-search/#q=american%20legislative%20exchange%20council&dataset=77&data=0&page=1>) from the Investigative Reporting Workshop's Accountability Project.

Matthew Davis of the Dinsmore firm's lobbying affiliate, DSD Advisors, was a registered lobbyist (https://www2.jlec-olig.state.oh.us/olac/Reports/AERView_Legislative.aspx?id=858966) for FirstEnergy Solutions on HB 6. Lawyers with the Dinsmore firm are also acting as local counsel in the Murray Energy bankruptcy case (<https://cases.primedclerk.com/MurrayEnergy/>). Murray Energy supplies coal for coal-fired power plants.

Documents from the Ohio Secretary of State's office and the Internal Revenue Service also link attorney Eric D. Lycan of Lexington, Kentucky, to Generation Now, the Coalition for Growth & Opportunity, Inc., and the Growth & Opportunity PAC. Lycan declined to answer questions about funding sources for those organizations, but did provide copies of certain public filings for the organizations.

Lycan (<https://www.emswlaw.com/attorney-eric-lycan>) has been of counsel with the firm of Embry, Merritt, Shaffar, Womack, PLLC, since April 2019. For four years before that, however, Lycan was a partner with the Dinsmore firm's Lexington office. That time period included times when money flowed through some of the organizations to others.

"I am pleased that several of my colleagues at Dinsmore supported HB 6 as I did," said Seitz, who joined the firm in August 2014. However, he said it would be "ridiculous" to insinuate that there was anything improper about his vocal support for the bill because of his association with the firm.

"My support for the elements of HB 6 (end the mandates, support OVEC, support nuclear) predates HB 6 through legislation I co-sponsored in the last general assembly," he said via email. Seitz also noted that he holds a salaried "of counsel" position and receives "no financial benefit whatsoever from the work our firm or its lobbying affiliate does."

Executive Director Tony Bledsoe at Ohio's Office of the Legislative Inspector General confirmed that there likely wouldn't be an ethics violation for a hypothetical situation similar to the Dinsmore firm's. The exceptions would be if a lawmaker personally did the lobbying work or had more than a 5% interest in a firm's profits. Similarly, Bledsoe added, owning stock in the energy company that benefited from the bill wouldn't be an ethics violation unless someone held more than a 5% ownership interest.

It's less clear to what extent companies or organizations may choose lawyers or lobbyists based on a firm's political connections and perceived influence, or whether firms attract or recruit people who are sympathetic to particular political perspectives.

Support for HB 6 comes from beyond the state and reaches into some top levels of national politics.

Lycan has also long been active in Republican party circles. Besides his current law firm position, he is general counsel for the Kentucky House Republican leadership. Previously he served as counsel for McConnell for Senate and chair of Lawyers for Team Mitch.

Generation Now's IRS filing for 2017 (<https://www.documentcloud.org/documents/6775840-GenerationNowForm990for2017.html>) names the president/secretary as JPL & Associates, a for-profit business, which has the same address and whose registered agent is Jeff Longstreth (<https://www.documentcloud.org/documents/6775834-JPLandAssocArticles200304501388.html>). He's known as a Householder advisor and longstanding operative in Ohio Republican politics.

Empowering Ohio's Economy, a Generation Now funder, lists its principal officer as Jo Ann Davidson in its 2018 filing with the IRS. She is also shown as the group's secretary-treasurer/director on the filing. Davidson was speaker of the Ohio House of Representatives from 1995 to 2000. She spent four years as co-chair of the Republican National Committee.

The website for the American Crossroads super PAC shows Davidson as a member of its leadership team. Davidson also heads up JAD & Associates, a political consulting firm in Columbus. And the address shown for Empowering Ohio's Economy is the same as that for the Jo Ann Davidson Ohio Leadership Institute. The organization provides training for women to run for public office or otherwise hold leadership positions in the Republican party. Questions to Davidson's administrative aide there, Linda Dotson, have not been answered. J.B. Hadden, listed as president/director of Empowering Ohio's Economy, likewise did not respond to questions for this article.

Borges, who acted as a lobbyist for FirstEnergy Solutions, also has strong political connections. He was chair of the Ohio Republican Party from 2013 through 2017, "guiding the most successful four year run the Party has ever had," according to the website biography (<https://17consulting.com/who-we-are/matt-borges>) posted by his current firm, 17 Consulting. His name was even suggested (<https://thehill.com/blogs/ballot-box/other-races/274804-backstage-maneuvering-begins-in-wide-open-gop-chairmans-race>) as a possibility for national party chair in 2016, although the tension between Gov. Kasich and candidate Donald Trump likely (https://www.cleveland.com/open/2016/05/the_next_republican_national_c.html) made that a longshot. Borges' colleague Thomas, also now at 17 Consulting, was a personal aide to Kasich during his campaign and continued to work in his administration afterward.

The forces that passed Ohio's subsidy law are poised for further action to shore up utilities and protect fossil fuel interests.

Lawmakers who passed HB 6 continue to consider other pro-utility or pro-fossil-fuel bills. Those include a bill that could further increase utilities' ability (<https://energynews.us/2020/02/03/midwest/firstenergy-foray-into-energy-brokering-raises-issues-of-fair-competition/>) to use ratepayer funds to subsidize affiliates' businesses, a plan to allow local referendums on wind farms (<https://energynews.us/2019/11/22/midwest/ohio-bill-would-let-townships-block-wind-projects-after-they-are-approved/>) after they've gotten all regulatory approvals, and a proposed constitutional amendment banning foreign ownership of "critical infrastructure." (<https://energynews.us/2020/03/02/midwest/critics-say-ohio-proposal-to-bar-foreign-ownership-will-deter-renewable-projects/>)

It's also unclear whether Ohio lawmakers might try to retrench from the competitive regional capacity market and give further preferences to coal or nuclear generation. Under a federal regulatory ruling in December, the plants subsidized under HB 6 likely won't qualify (<https://energynews.us/2020/01/22/midwest/fercs-minimum-offer-rule-adds-to-the-already-high-price-tag-for-ohio-hb-6/>) for capacity payments in the PJM market. Those payments by the regional grid operator compensate energy resources for promising to be available on demand for a set period, typically three years in the future.

Meanwhile, the maneuverings on HB 6 shed light on the bigger picture of dark money in state and federal politics.

“The two largest threats to American democracy are hyper-partisan gerrymandering and the Citizens United decision,” Hill said, “because the public does not know what economic interests are promoting different lines of argument.”

“Unfortunately, we cannot be fully sure how much money is being spent to lobby the legislature or during the electoral process, because Ohio has too many dark money loopholes,” said Miller at the League of Women Voters of Ohio. “Ohioans need to be able to follow the money so that they can better assess policy decisions made by their elected officials, as well as make more informed decisions at the ballot box.”

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OHIO

How a longtime critic of clean energy became Ohio's top utility regulator



John Funk | 11 hours ago



PUCO

Samuel Randazzo, chair of the Public Utilities Commission of Ohio.

Less than a year into his position as head of the Public Utilities Commission of Ohio, Samuel Randazzo has already made his mark.

One year into his first term, Ohio's top utility regulator, Samuel Randazzo, has signaled that winning approval to build and operate wind and solar projects in the state could be even more difficult in the future.

At the Public Utilities Commission of Ohio and the Ohio Power Siting Board, which Randazzo also chairs, recent decisions have blocked a new solar development and imposed new restrictions on wind energy — moves consistent with Randazzo's longtime criticism of renewables as a registered lobbyist and lawyer representing heavy industry before the utilities commission.

Also, the commission is now defending Ohio's decision to subsidize coal and nuclear power plants in a filing (<http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=e5bd5624-dfa7-4c2e-a9a3-72f2d3112323>) before the Federal Energy Regulatory Commission — an about-face from its stance in 2017 opposing (<http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=5fdb629-dffd-46d0-b0bb-60aa3eb2544c>) a federal bailout of old coal and nuclear plants.

Gov. Mike DeWine's 2019 appointment of Randazzo, a veteran energy lawyer and lobbyist, followed a rapid and opaque approval process that overlooked two of Randazzo's ongoing small consulting companies, both of which have done business with FirstEnergy subsidiary FirstEnergy Solutions, (now Energy Harbor), federal bankruptcy records show.

Randazzo declined an interview request to comment on the companies or to elucidate what he sees as the PUCO's mission.

Ohio Consumers' Counsel Bruce Weston, the state's voice for residential utility consumers, has been pushing to reform the nomination process for the PUCO, noting that the majority of commission members are either former employees of power companies or have represented them.

And while Randazzo has not always been at odds with consumer advocates, his long opposition to renewable energy is making its mark in Ohio regulatory decisions.

A long hostility to clean energy

Randazzo told state lawmakers during his 2019 confirmation hearing that as a commissioner he would have no view for or against any particular technology — despite a pattern of publicly criticizing renewable energy.

As chair of the Public Utilities Commission, he testified (<https://www.puco.ohio.gov/be-informed/consumer-topics/legislative-testimony/>) before lawmakers last year on Ohio House Bill 6, which authorized subsidies for nuclear and coal generation but basically gutted the state's renewable energy and energy efficiency standards. His comments (<https://www.puco.ohio.gov/index.cfm?LinkServID=8D751BCE-5056-8052-51B79134C397FDD4>) stressed the cost of the standards but not their benefits (<https://energynews.us/2019/06/24/midwest/report-efficiencys-market-impacts-save-ohio-consumers-an-extra-2-per-month/>).

In his introduction to the February 2018 report (<https://eyeonohio.com/wp-content/uploads/2020/02/2018-MEC-FINAL-REPORT.pdf>) on Ohio utility rate plans prepared for the Industrial Energy Users-Ohio, Randazzo characterized renewable energy as unreliable and government mandates as a waste of money.

"Despite the obvious reliability-related problems created by deploying intermittent (don't show up for work) and non-dispatchable (can't be made to show up for work) generating technologies, government ... continues to spend taxpayers' and customers' money to fund subsidies for this purpose," he wrote.

In a 2012 speech at an annual energy conference in Akron, sponsored in part by FirstEnergy, Randazzo joked that state rules requiring utilities to sell or generate a percentage of power from renewable or advanced technologies were equivalent to requiring airlines to use hot air balloons for a percentage of their flights.

But in front of lawmakers preparing to confirm his appointment to the utilities commission in April of last year, Randazzo explained that he had represented his clients' interests and that as chair of the commission he would have only one client: Ohio.

He also mentioned that he anticipated becoming a resource to lawmakers, who are intent on rewriting Ohio's utility and energy laws.

Emails (<https://www.energyandpolicy.org/ohio-clean-energy-standards-freeze-polluter-emails/>) obtained in an open records request by the Energy and Policy Institute, a watchdog group supporting renewable energy, revealed that Randazzo has worked closely (<https://energynews.us/2017/03/07/midwest/advocates-say-industrial-lobbyists-play-outsized-role-in-blocking-ohio-clean-energy/>) with William Seitz, a Cincinnati Republican lawmaker who has tried for years to abolish or limit Ohio's renewable energy and efficiency standards, at times helping Seitz (<https://energynews.us/2019/06/28/midwest/ohio-wind-setback-lawsuit-spurred-bill-to-block-similar-legal-challenges/>) and others behind the scenes to craft legislation.

Randazzo has stated his involvement in the development of legislation is a positive attribute. In the resume accompanying his application for a seat on the utilities commission, he wrote, "Before entering and while in private practice, I have been significantly involved in most major energy or communications legislation that has been considered or enacted by the Ohio General Assembly."

On the regulatory front, Randazzo has represented groups seeking to block (<https://energynews.us/2015/04/27/midwest/ohio-wind-farm-site-in-seitzs-sights-committees-sights/>) wind farm development.

Long known for his efforts to negotiate exclusive deals for heavy industry in utility rate cases, Randazzo's career as a lobbyist is not as well known. His years of lobbying the legislature and governor for clients reveal a seasoned professional familiar with policy making and lawmaking from the inside.

And it is that experience that most worries environmentalists and renewable energy advocates (<https://energynews.us/2019/02/13/midwest/ohio-clean-energy-groups-will-look-recusals-from-puco-nominee/>).

Records maintained by the Ohio Office of the Legislative Inspector General show (<https://www2.jlec-olig.state.oh.us/olac/Reports/FormsFiled.aspx?id=700&type=a>) that over the last 10 years Randazzo has registered as a lobbyist not only for the Industrial Energy Users of Ohio but also for Greenwich Neighbors United, a group opposing (https://www2.jlec-olig.state.oh.us/olac/Reports/AER_Agent_Legislative.aspx?id=707836) wind farms; for the Ohio Gas Co., a gas utility in northwest Ohio serving 48,000 customers; and for Vectren Corp. and one of its predecessors, Indiana Energy. Vectren is a gas and electric utility based in Evansville, Indiana that delivers gas to Ohio customers.

An analysis (<https://www.followthemoney.org/entity-details?eid=2622491>) of Randazzo's campaign contributions by the National Institute on Money in Politics shows that he contributed more than \$282,000 from 1997 through 2018. Those funds went to more than 150 candidates and four campaign organizations — more money contributed to political campaigns than any other current member of the utilities commission.

Although Randazzo described himself as an independent in his commission application, the lion's share of his contributions — \$192,181 — went to Republican candidates or organizations. Of that amount, nearly \$39,000 went to GOP campaign organizations. Less than \$36,000 of his giving during the 21-year period went to Democratic candidates or organizations.

Franklin County Board of Elections records show Randazzo as neither a Democrat nor a Republican but as unaffiliated.

A fast approval

Following DeWine's election in November 2018, Randazzo's ascendance to chair of the Public Utilities Commission was a quick process.

Randazzo retired from his law firm on Dec. 31, 2018. He filed his application for the PUCO 17 days later and was appointed chair on Feb. 4, the same day his predecessor, Asim Haque, announced he was resigning from the commission.

During his confirmation hearing (<https://www.ohiosenate.gov/committees/energy-and-public-utilities/document-archive>) on April 2, 2019, before the Senate Energy and Public Utilities Committee, Randazzo told lawmakers that the DeWine administration had asked him to consider applying and that he had been planning to retire.

Appointments to the PUCO are vetted with a system created nearly 40 years ago with the intention of making the process less political and more open.

Applicants are first screened by a 12-member nominating council, which privately interviews those it decides are the most qualified and then publicly votes on each of them. The names of the four candidates receiving the most votes are sent to the governor, who has a month to make the appointment or ask for a second set of four names.

Lawmakers created the nominating council as a reform

(<https://www.nytimes.com/1984/04/08/weekinreview/an-ohio-commission-puts-the-heat-on-state-s-utilities.html>) in

1982 to defeat a petition drive

([https://ballotpedia.org/Ohio_Election_of_Members_of_the_Public_Uilities_Commission,_Amendment_3_\(1982\)](https://ballotpedia.org/Ohio_Election_of_Members_of_the_Public_Uilities_Commission,_Amendment_3_(1982)))

that would have required commissioners to run for election. The council was supposed to decrease the hidden influence of utilities and political parties in the appointment process and assure that commissioners were qualified. Traditionally, the governor had chosen PUCO members without an external review.

Today, the nominating council includes (<https://eyeonohio.com/wp-content/uploads/2020/02/2020-PUCO-Nominating-Council-Roster.pdf>) utility lobbyists; members of the governor's cabinet; and representatives of the legislature, labor, business, the elderly, the Ohio Bar, the Ohio Municipal League, and the state boards for accountancy and for engineering. There is one consumer advocate, as required by statute (<http://codes.ohio.gov/orc/4901.021v1>).

The current nominating council chair, Michael Koren of Columbus-based MJK Consulting, is a longtime lobbyist (<https://www2.jlec-olig.state.oh.us/olac/Reports/FormsFiled.aspx?fid=1292&type=a>) who has given nearly \$127,000 to political campaigns (<https://www.followthemoney.org/entity-details?eid=3650277>), mostly Republican, in the last 19 years. Koren has lobbied for FirstEnergy, Columbia Gas of Ohio, and Boich Companies, a company with coal mining interests whose owners make significant contributions (<https://www.followthemoney.org/entity-details?eid=6900342>) to conservative interests.

One other member of the nominating council with a record of significant contributions to political campaigns is Virginia Ragan, an heiress to Ohio-based industrial packaging manufacturer Greif, Inc. Often referred to as Ohio's top Republican contributor, Ragan has given more than \$2.9 million (<https://www.followthemoney.org/entity-details?eid=3114426>) to state, federal and local political campaigns over the last 22 years. Most of it, nearly \$2.8 million, went to GOP campaigns and candidates. Ragan has represented the Ohio Department of Aging on the nominating council since 2013.

Randazzo sat on the nominating council for 10 years, representing the speaker of the House of Representatives. He stepped down in order to apply for his PUCO seat just before the final application deadline on Jan. 17, 2019.

Following closed-door interviews, nominating council members voted unanimously for Randazzo on Jan. 31, making him the top candidate of the four sent to DeWine.

While the governor had a month to make the appointment, he chose Randazzo four days after receiving the names, despite frantic lobbying efforts in opposition. Haque, who was chair of the PUCO at the time, had announced his resignation (<https://www.cleveland.com/business/2019/02/puco-chairman-asim-haque-to-step-down-will-take-a-position-with-grid-manager-pjm.html>) six hours earlier.

DeWine would later overlook the second-highest vote recipient, Gene Krebs, a former state Rep. and former chair of the Ohio Consumers' Counsel governing board. When a second vacancy opened on the PUCO, the governor opted instead for former state appellate judge Dennis Deters, who was third on the nominating council's list.

DeWine also skipped over finalist Bryce McKenney, an attorney at the consumers' counsel at the time. Both Krebs and McKenney are Republicans.

By law, the five-member commission can have no more than three members of the same political party. Currently, the commission includes two Republicans and two independents. Lawrence Friedeman, (<https://eyeonohio.com/wp-content/uploads/2020/03/Friedeman-Lawrence.pdf>) the lone Democrat, is an attorney with 20 years' experience representing competitive gas and electric suppliers. He was reappointed by DeWine on Feb. 6 to a five-year term.

Even before the nominating council met to choose Randazzo, the consumers' counsel announced it would seek legislative reform of the nominating council process in order to reduce utility influence.

"In 1982 a new law was advertised as a reform of the process for appointing PUCO commissioners," said Consumers' Counsel Bruce Weston. "Today, nearly 40 years later, it is the alleged reform law that needs to be reformed."

"The appointment process has resulted in a PUCO where three of the five current commissioners — a majority — have previously represented utilities. Former utility representatives should not be the state regulators of utilities for the Ohio public."

Weston said he would urge lawmakers to give his office the role of nominating candidates with a consumer background for one of the five seats on the PUCO — just as his office already nominates candidates for the Ohio Power Siting Board.

While the identities of the members of the nominating council are a matter of public record, a list of their names (<https://www.puco.ohio.gov/index.cfm?LinkServID=E2E3D77A-5056-8052-51AE62FED503C756>) has not been posted on the PUCO website until recently. Minutes (<https://eyeonohio.com/wp-content/uploads/2020/02/nomination-council-meeting-minutes-2019-01-31.pdf>) of the nominating council meetings and vote tallies are also public but only available by request.

Unanswered questions

As a member of the nominating council, Randazzo has been required to file annual financial disclosure statements with the Ohio Ethics Commission, listing sources of income, properties owned and creditors, in order to reveal possible conflicts of interest.

Randazzo continued to own a company he incorporated (<https://eyeonohio.com/wp-content/uploads/2020/02/Sustainability-Funding-4PROFIT-.pdf>) in 2010 called the Sustainability Funding Alliance of Ohio, Inc. Randazzo first disclosed that the company was a source of income in his 2011 financial disclosure statement.

The Sustainability Funding Alliance also turned up in a bankruptcy court filing (<https://eyeonohio.com/wp-content/uploads/2020/03/Sustainability-Fundin-Alliance-LISTED-by-FES.pdf>) in December 2018 as one of hundreds of companies used by FirstEnergy's generation subsidiary, FirstEnergy Solutions, for professional services.

Language in the for-profit company's 2010 incorporation papers states its purpose is "to receive and administer funds for cooperative purposes, to reduce the energy intensity of Ohio's economy, and for such other purposes as may be permitted by law."

An archived version (<https://web.archive.org/web/20180814134129/http%3A%2F%2Fwww.sustain-ohio.com%2F>) of the company's website states its mission this way: "We leverage the power of financial and physical markets to help Ohio businesses reduce their energy intensity, capture value from PJM's capacity and energy markets, and satisfy their reliability and price objectives — all things that government mandates and regulators cannot and will not do."

In other words, the company's stated mission was to help business customers achieve energy efficiency and to navigate deregulated markets to get the best deals on energy.

Randazzo's most recent financial disclosure statement (<https://eyeonohio.com/wp-content/uploads/2020/03/Randazzo-Samuel-2019.pdf>) for 2019 lists the company as an investment but not as a source of consulting income.

Whether Randazzo or his consulting company have continued to advise business customers on energy matters could not be determined. Secretary of State records continue to list the company as active.

Franklin County property records show the company purchased properties in downtown Columbus in 2013 and 2014. The tax bills for these properties, which are paid on time, are sent to Randazzo's downtown Columbus home.

In addition to the Sustainability Funding Alliance of Ohio, Randazzo's financial disclosure statements filed since 2008 also show him as the owner of another company — the IEU-Ohio Administration Co. — and that company as a source of consulting income through 2018 as well.

Though this company's name is similar to the trade group Industrial Energy Users-Ohio, or IEU-Ohio.org, for which Randazzo served as general counsel and registered lobbyist, the two organizations are distinctly separate.

Secretary of State records (<https://eyeonohio.com/wp-content/uploads/2020/02/IEU-Ohio-Administration-Co.-pdf>) show that the IEU-Ohio Administration Co. was incorporated in 2003 and remains active. Its incorporation papers do not include a purpose.

A document filed in May 2018 by FirstEnergy Solutions in federal bankruptcy court listed IEU-Ohio Administration Co. as an unsecured creditor owed more than \$43,000.

(<https://eyeonohio.com/wp-content/uploads/2020/03/IEU.pdf>)

Randazzo's resume (<https://eyeonohio.com/wp-content/uploads/2020/02/Randazzo-RESUME.pdf>) filed with the Public Utilities Commission does not mention the Industrial Energy Users-Ohio Administration Company, LLC, nor the Sustainability Funding Alliance of Ohio, Inc.

In his financial disclosure statements for 2007 and 2008, Randazzo listed income from the Industrial Energy Users-Ohio Administration Co. at \$750,000 and \$1.1 million respectively. Subsequent annual disclosure statements do not include specific earnings.

Randazzo has declined an interview request to discuss his ownership of these companies as revealed in his current financial disclosure statement (<https://eyeonohio.com/wp-content/uploads/2020/02/Randazzo-Samuel-2019-disclosure-statement.pdf>), whether the companies are still active as state records show they are, or his mission as chair of the utilities commission.

A hard line attitude

As chair of the utilities commission, Randazzo also leads the Ohio Power Siting Board, an agency that must approve any wind farm above 5 megawatts and any other new generation above 49 megawatts as well as in-state transmission lines and gas pipelines.

In recent months Randazzo has made rulings or led decisions at both agencies that have affirmed the fears of renewable energy developers.

At the Ohio Power Siting Board, Randazzo has made it clear that developers of wind and solar projects can expect close scrutiny and changes in operating rules.

In October, Randazzo unexpectedly held up two solar projects that had been scheduled for an approval vote that day, saying the board's staff had failed to address numerous questions in each case.

"I am going to deviate from the normal process here a little bit," Randazzo said before the board took up the first project, an 80-megawatt Nestlewood solar array planned east of Cincinnati.

Dallas-based solar developer Lendlease Energy Development, LLC, had begun its application a year earlier. The siting board had held two public hearings and had taken written testimony both from the public and experts.

The siting board's staff had negotiated an agreement with objectors and the company, laying out the conditions it would have to meet for a certificate to build.

Noting that approval of a certificate would authorize the company not only to build the array but to also operate and maintain it, Randazzo detailed the what he saw as shortcomings of the board staff's recommendation for approval.

"The final design of the project is unknown," Randazzo read from his written remarks. "Non-participating property is very close to the project area. Yet there is no final landscape and lighting plan or indication of how the impact on the view shed of non-participating property owners will be protected.

"The final plan to manage glare is unknown. The impact on cultural resources is unknown. The complaint resolution process is unknown. The potential impact on farm field tile is unknown," he continued.

Randazzo also raised concerns about how the project would affect the Kirtland's snake, which the Ohio Department of Natural Resources lists as threatened. A biologist hired by the company did not locate the snake in the area of the development, according to a filing in the case docket. Randazzo said he had never heard of the snake but that the case file lacked the "details requiring the needed further coordination" with the ODNR.

In a second case before the siting board in October, Randazzo sharply criticized the agency's readiness to allow a developer to amend two previously approved solar projects in northwest Ohio's Hardin County because soil testing now revealed expensive geotechnical problems with one of them.

Separate subsidiaries of Chicago-based Invenergy had won approval of the two Hardin County projects in May 2019. Later, they won approval to merge the two projects but were now asking to separate them again while transferring some land from one to the other as construction began.

Randazzo again enumerated his objections in great detail, something previous board chairs have seldom done.

"The results of geotechnical drilling are not before us," Randazzo said, "and even if they were before us, there is no indication of any independent review and evaluation by the Ohio Power Siting Board process, which includes involvement of other agencies having expertise in areas, including subsurface soil conditions.

"And even if we did have that information, we don't know to what extent the testing results suggest that we may need to explore further to ensure that we remain true to the statutory requirements as well as the certificate conditions that continue to control.

"This is, I think, a larger question about the Ohio Power Siting Board process and how things are sequenced within that process."

A spokesperson for the companies involved, attorney Andrew Bowers of Columbus, said the industry expects to resolve the issues Randazzo raised.

"While the 'no decision' at the siting board came as a surprise ... we're working in good faith to address the questions raised by the chairman and expect resolution in the weeks ahead," Bowers said.

A hearing on the Nestlewood solar project was held on Feb. 26 in which the company attempted to address Randazzo's questions. The siting board has yet to rule on the project. Invenergy is also continuing to file compliance testimony (<http://dis.puc.state.oh.us/CaseRecord.aspx?Caseno=18-1360&link=DIVA>), though it appears to have dropped its request to legally separate (<http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=9c6a8ebd-bff3-4781-92d0-2c8b598e491c>) its two solar projects.

Wind developers will also face tougher, by-the-book regulatory practices under Randazzo's leadership.

In November, the siting board approved new regulations (<http://dis.puc.state.oh.us/TiffToPDF/A1001001A19K21B40900H03364.pdf>) requiring wind farms to promptly report to local emergency services and to the siting board significant incidents such as thrown blade parts or ice. The board began considering those rules two weeks after Randazzo's appointment in March 2019.

The new rules would also prohibit the restarting of damaged turbines and other equipment without approval of the siting board's executive director. The industry, fearful that the state would quash wind development by adding tougher regulations, questioned (<https://energynews.us/2019/08/07/midwest/wind-industry-says-ohios-proposed-turbine-incident-reporting-rules-are-too-vague/>) the legality of imposing new rules on existing wind farm operations. The siting board rejected (<http://dis.puc.state.oh.us/TiffToPDF/A1001001A20B20B43047G01891.pdf>) those appeals on Feb. 20.

At the conclusion of the February meeting, Randazzo announced (<https://www.opsb.ohio.gov/media-room/media-releases/opsb-seeks-input-from-stakeholders-and-public-on-administrative-rules/>) the siting board would begin a comprehensive review of the siting board rules that utilities and developers seeking approval of new projects must follow as well rules enabling landowners and local government to comment. The review, which could give property owners not represented by lawyers a larger say, is required every five years, Randazzo said.

At the Public Utilities Commission, Randazzo oversaw a November ruling (<https://eyeonohio.com/wp-content/uploads/2020/03/PUCO-Nov-21-2019.pdf>) to block AEP Ohio from raising customer rates to help finance two large solar farms in southwest Ohio (<https://energynews.us/2020/01/09/midwest/appalachian-ohio-solar-projects-are-moving-forward-but-jobs-impact-unclear/>). Though the projects would be privately built, AEP would buy the power on behalf of its customers — and pass on the costs to customers.

In a previous regulatory case (<https://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=f33539bd-7bd0-42f9-94d4-ae9a361f2c4e>), the utility had agreed to build or support renewable energy in a deal it had negotiated with environmental groups opposing the company's rate increase. The PUCO had then approved that agreement as part of the case and included language allowing AEP to add a "renewable energy rider" to its rates for use in the future if it could prove it needed renewable energy.

Under Randazzo's leadership, the PUCO concluded (<https://eyeonohio.com/wp-content/uploads/2020/03/PUCO-Nov-21-2019.pdf>) that the utility had not proven — as it had to do under the law — that the state actually needed the renewable power. The commission rejected AEP's request to have customers pay for the energy from the solar farms (and later from a new wind farm).

Randazzo stressed that the vote to reject the plan was not about the technology but about the commission's responsibility to look after customer rates.

The Ohio Consumers' Counsel as well as organizations representing commercial and industrial customers opposed AEP's renewable subsidy plan while major environmental groups argued in favor of the ruling. The consumers' counsel, in a written statement, called the decision "a rare major victory against the powerful monopoly AEP" and agreed with the ruling that electric customers already had clean energy options because of deregulation.

AEP sought reconsideration of the decision and asked under what terms it might be allowed to finance renewable energy. The commission rejected AEP's request without comment in January.

‘Entrenched in the status quo’

Just days before DeWine announced (<https://www.cleveland.com/business/2019/02/governor-dewine-appoints-utility-lawyer-sam-randazzo-to-chair-puco.html>) the appointment, five major environmental groups wrote to the governor, expressing concerns about Randazzo's efforts to dismantle the state's efficiency and renewable energy standards.

"There is no question that Mr. Randazzo does not subscribe to the 'all of the above' energy strategy the DeWine Administration has promoted," the letter (https://theoec.org/wp-content/uploads/2019/02/Environmental-Advocates-Letter-Opposing-Sam-Randazzo_2018.02.01.pdf) reads, before asking for a candidate who "is not entrenched in the status quo of energy generation, or heavily biased against clean energy stakeholders."

Following his appointment, the central Ohio chapter of the Sierra Club noted in its spring newsletter (<https://www.sierraclub.org/sites/www.sierraclub.org/files/sce-authors/u14432/COG%20newsletter%20Final%20Spring%202019.pdf>) that Randazzo "has a history of being unfriendly to renewables." The environmental group urged members "to keep the pressure on the PUCO to make the right decision."

John Finnigan, senior regulatory attorney in Ohio for the Environmental Defense Fund — one of the groups in favor of the AEP arrangement with solar and wind developers — said the AEP decision as well as other decisions at the PUCO indicate Randazzo is not in favor of clean

energy.

“It appears that he is tilting toward the end where decisions that come out of commission under his tenure as chair have not been favorable for environmental advocates or for residential customers who can benefit from those kinds of programs,” he said.

This article is part of a joint investigative project by Eye on Ohio and the Energy News Network.

Before
The Joint Committee on Agency Rule Review
In Opposition to The Ohio Air Quality Development Authority's
Proposed Rules OAC 3706-4-01, 3706-4-02, 3706-4-03, 3706-4-04, 3706-4-05
Joint Testimony by:
Ryan Augsburger, Ohio Manufacturers' Association
Jeff Jacobson, Office of the Ohio Consumers' Counsel
December 9, 2019

Hello Chair Callender and members of the Committee. Thank you for this opportunity to testify.

I am Ryan Augsburger, Vice President & Managing Director of Public Policy Services for the Ohio Manufacturers' Association (OMA). The OMA is Ohio's largest statewide business association comprised solely of manufacturers advocating to protect and grow manufacturing. And I am Jeff Jacobson of Strategic Insight Group, testifying on behalf of the Office of the Ohio Consumers' Counsel (OCC). OCC is the state's representative for millions of residential utility customers. Respectfully, this testimony is in opposition to proposed rules by the Ohio Air Quality Development Authority (OAQDA). The proposed rules are for implementing the nuclear and renewable power plant subsidies created by Am. Sub. House Bill 6 of the 133rd General Assembly (HB 6 Rules).

As stated in its Procedure Manual, the Joint Committee on Agency Rule Review (JCARR) reviews proposed new, amended and rescinded rules of state agencies to ensure they do not exceed their rule-making authority. JCARR can make a recommendation to invalidate rules if it finds a violation of one or more of the six items listed on its website.¹ The consumer concern presented in this testimony is that the OAQDA violated one of the six prongs in the submission of its proposed HB 6 Rules, being that there is a conflict with the legislative intent.

As background, HB 6 creates a subsidy for nuclear power plants and certain renewable power plants, at the expense of Ohio consumers. A qualifying power plant would receive a credit for each megawatt of electricity it produces.

In this regard, R.C. 3706.63 specifically states: "Not later than January 1, 2020, the Ohio air quality development authority shall adopt rules under Chapter 119. of the Revised Code that are necessary to implement sections 3706.40 to 3706.65 of the Revised Code." R.C. 3706.61(A) presents an opportunity for consumer protection, by requiring the Public Utilities Commission of Ohio (PUCO) to conduct a "retrospective management and financial review of the owner or operator..." of a qualifying nuclear power plant that receives the subsidies. R.C. 3706.61(D) states that OAQDA "shall consider the findings of the review and may cease or reduce payments

¹ <http://www.jcarr.state.oh.us/about>

for nuclear resource credits...” under certain circumstances. Unfortunately for consumers, OAQDA’s proposed HB 6 Rules do not address this statutory intent for how it will incorporate the PUCO’s review (audit report) into its processes.

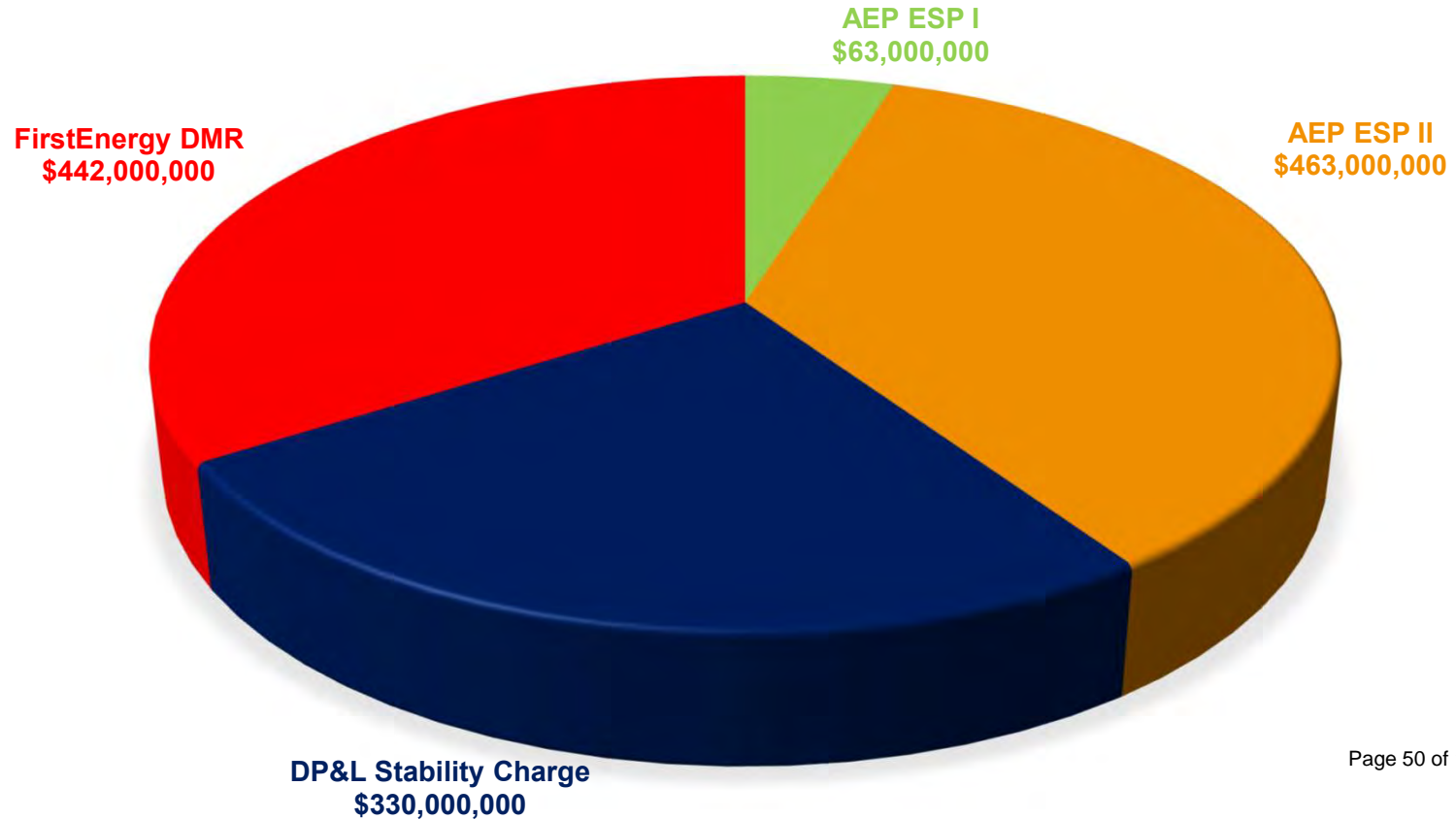
Therefore, the proposed HB 6 Rules should address how the OAQDA will incorporate the PUCO’s audit report into its processes. The OAQDA’s rules should include transparency and due process for public input on the use of the PUCO’s audit report.

If the PUCO’s audit report is left unaddressed by OAQDA’s rules, then consumers could be denied the protection of the audit in OAQDA’s processes. OAQDA should propose a rule allowing for refunds to consumers if they paid subsidy charges that are later identified in the audit report as improper. Just since 2009, Ohio electric consumers have been denied more than \$1 billion as a result of the PUCO failing to make utility charges -- that the Ohio Supreme Court later ruled to be unlawful -- subject to refund. (See attachment) In the absence of rules, the General Assembly’s statutory requirement for the PUCO to send an audit report to OAQDA could be relegated to meaninglessness for Ohio consumers. Simply put, the OAQDA’s rules do not provide for it to do anything at all with the audit report it receives from the PUCO, which is contrary to the statutory purpose of including the requirement.

In conclusion, please give consumers the protection of the PUCO audit report that is to be sent to OAQDA. The HB 6 Rules should be invalidated, toward achieving future rules that fulfill the legislative intent of HB 6 for the consumer protection of a PUCO audit that OAQDA reviews, considers and acts upon.

Thank you for your time and consideration.

NON-REFUNDABLE CHARGES TO OHIOANS





BRIEF

FirstEnergy CEO says he's ready to help Ohio lawmakers deal with FERC's PJM MOPR ruling

By John Funk

Published Feb. 11, 2020

Dive Brief:

- Ohio-based FirstEnergy Corp.'s chief executive officer says his company is ready to assist state lawmakers develop a new energy policy to deal, in part, with the impact of the December Federal Energy Regulatory Commission order directing PJM Interconnection to offset state subsidies given to owners of certain generating resources, including renewables and nuclear plants.
- CEO Charles Jones told financial analysts during the company's fourth quarter and 2019 earnings call Friday that Ohio's government is generally unhappy with the results of electric utility deregulation, including PJM's market system. The PJM auction system is designed to give customers the lowest priced electricity at any given time.
- Insisting that he has no official position, given that the company's power plant subsidiary FirstEnergy Solutions (FES) will soon emerge from bankruptcy as an independent and unregulated company, Jones repeated an argument that the market system which has emerged since Ohio began moving

toward deregulation 20 years ago "does not provide the best long-term outcome for my customers."

Dive Insight:

The unhappiness of state lawmakers that Jones alluded to had already erupted on Jan. 28 when the Ohio Senate's Energy and Public Utilities Committee invited the Ohio Consumers' Counsel (OCC) and a pro-coal group, America's Power, to submit testimony to help the committee start developing "a comprehensive energy policy."

The OCC's testimony focused on excessive charges that Ohio's delivery utilities have added to rates since lawmakers last tweaked deregulation rules in 2008. America's Power recapped the arguments of coal interests and owners of coal-fired power plants, that gas turbine plants and wind and solar farms make the grid less secure.

While the state's traditional utilities long resisted deregulation with the argument that it would not encourage the development of new power plants, Ohio's lawmakers have more recently been reacting to the December FERC order requiring PJM to offset state subsidies to certain power plants, including subsidized wind and solar farms, competing in PJM-run markets. If implemented, the order could cost Ohio electric customers more than \$1 billion a year in new fees — on top of new state-ordered fees, according to one study.

The FERC order came on the heels of Ohio House Bill 6, passed last year, providing \$150 million a year from 2021 through 2027 in new customer-paid subsidies for two nuclear plants owned by FES and \$60 million a year from 2020 through 2030 for two old coal-

fired plants owned by the Ohio Valley Electric Corp., created by a consortium of utilities in the 1950s.

Jones said state lawmakers had "already kind of talked about their disappointment with the PJM market and their intention to use the next year or so to look at energy policy for the state."

"I think there are a lot of things they are going to look at, but beyond that, you know what our intention is. We'll be at the table helping where they want help, providing our guidance where they want guidance, and expressing our views where we feel strongly about certain things should go a certain way," he told analysts.

With the exception of its West Virginia operations, FirstEnergy is now a delivery-only company and the candid acknowledgment from Jones that the company stands ready to dive into state energy policy came during a discussion of how the company is now focused on steady growth through safe investments in its local distribution and long-distance transmission systems.

The company reported full-year 2019 net earnings of \$908 million, or \$1.68 per share on total revenue of \$11 billion. That compared to 2018 earnings of \$981 million, or \$1.99 per share, on \$11.3 billion in revenue. The company is forecasting 2020 earnings of \$900 million to \$1.41 billion.

<https://www.fool.com/earnings/call-transcripts/2020/02/07/firstenergy-corp-fe-q4-2019-earnings-call-transcri.aspx>

FirstEnergy Corp (FE) Q4 2019 Earnings Call Transcript

FE earnings call for the period ending December 31, 2019.

Greg Gordon -- *Evercore ISI -- Analyst*

All right. That's a fair not[Phonetic] answer. And my final question is, I know this has no direct economic impact on your -- definitely it has an impact on your customers. What do you think the Ohio government's response is going to be FERC decision on the MOPR rules with regard to the capacity market? Is it possible that the state of Ohio will consider leaving PJM through FRR?

Charles E. Jones -- *President, Chief Executive Officer and Member of Board of Directors*

I would say that the state of Ohio has already kind of talked about their disappointment with the PJM market and their intention to use the next year or so to look at energy policy for the state. The last time they looked at energy policy of the state was 20 years ago, 1999, when Senate Bill 3 deregulated the state. I think there is a lot of disappointment that some of the goals they thought would be achieved through that never materialized. I think there were some unintended consequences that happened that they didn't expect to happen.

And so I think they're going to fully look at everything from how the utilities interact with the Public Utilities Commission, to how we ensure a long-term secure supply of generation for Ohio customers, to how we get back to us -- the Ohio being a state that has an energy surplus as opposed to a shortfall. I think there is a lot of things they're going to look at. But beyond that, what our intention is, we'll be at the table helping where they want help, providing our guidance where they want guidance, and expressing our views where we feel strongly about certain things should go a certain way.



Comprehensive Energy Policy Testimony

**Before the Energy and Public Utilities Committee
Senator Steve Wilson, Chair**

Presented by

**Brad Belden
President, The Belden Brick Company**

February 29, 2020

Chairman Wilson, Vice Chair McColley, Ranking Member Williams and members of the Energy and Public Utilities Committee, thank you for the opportunity to provide comment as you consider elements of a comprehensive energy policy.

My name is Brad Belden. I am the President of the Belden Brick Company headquartered in Canton with production facilities in the village of Sugarcreek. Our company is an industry-leader in architectural brick and ceramic building materials.

I am testifying today on behalf of The Ohio Manufacturers' Association (OMA). Our company is an active member of the OMA and I serve as chair of the OMA's Energy Committee as well as a member of the OMA board of directors. The OMA was created in 1910 to advocate for Ohio manufacturers; today it has approximately 1,300 members – large, small and in-between. Our mission is to protect and grow Ohio manufacturing.

Access to reliable, affordable energy is critical to all manufacturers, and especially energy-intensive manufacturers. For that reason, companies like Belden Brick are always seeking cost-effective energy solutions. We are constantly looking for ways to reduce our electricity costs because money we save by reducing our energy spend is money we can reinvest in our business, in our employees, in our facilities and in product innovations—as well as in the communities in which we live.

There are multiple factors to consider when evaluating the state's energy policy. Certainly, reliability and affordability are two top considerations for today's manufacturers. Both of those measures have markedly improved in Ohio over the past decade. What caused those reliability and affordability gains? The answer is simple: Competition.

Policies that support competitive energy markets, free from market manipulation, will allow consumers to continue to access the cost and innovation benefits of competition.

Ohio's transition to a competitive market for electric generation has produced many well-documented successes. For example:

- Between 2011 and 2019, business and residential customers in Ohio have saved approximately \$24 billion, with an expected additional \$3 billion per year in savings going forward.
- Four new gas-fired power plants are operational, another six new gas-fired power plants have been approved for construction or are under construction in Ohio, while another two power plants are either awaiting approval by the Ohio Power Siting Board or are in predevelopment. Altogether that represents more than 11,000 MW of new generating capacity. It also brings with it \$11 billion in investment in Ohio and 14,000 construction and other jobs. (NOTE: Not depicted on this map, over \$2 billion of previously planned generation was abandoned due to HB 6, and that's just the projects that we *know of*).
- And, reserve margins—currently around 20 percent and expected to reach 23 percent in the 2020 / 2021 year and remain high at 21.5 percent in the 2021 / 2022 year – are more than sufficient to meet Ohio's current and near-term reliability needs.

In other words, competitive energy markets are working as intended. Increased choices and the resulting savings have served customers well.

However, generation is just one of three components that drive total customer electric costs. The electric *distribution* component has been growing while the generation component has been shrinking.

Distribution charges are layered on top of generation charges. Distribution charges are not determined by the market. In contrast, distribution charges are paid by customers to regulated monopoly electric utilities. Proceedings at the Public Utilities Commission of Ohio (PUCO), as well as in this body, determine distribution charges. I wish I could say that we were getting something for these increased charges, but that is not the case. Utilities have been applying these revenues to their profits and/or gold plating their systems to further increase their profits.

Please don't misunderstand me. We are not anti-utility. Manufacturers depend on efficient and effective distribution and transmission utility services to ensure system reliability. We are willing to pay for that quality system. The problem is that the process today for weighing the *wants* of utilities against the *needs* of customers is out of balance. Much of the imbalance is the result of legislation that created the "electric security plan" or ESPs over a decade ago.

ESPs were intended to be a temporary safety net while the competitive market matured. They became law through Senate Bill 221, passed in 2008, and today represent a serious threat to the benefits of competition we currently enjoy. Unfortunately, anti-competitive provisions of SB 221 are producing unfair and costly outcomes.

The ESPs permitted under SB 221 have continued to make it possible for utilities to secure PUCO approval to charge customers above-market prices through unwarranted non-bypassable riders. (I should explain that non-bypassable means even a sophisticated industrial customer that is buying its power from a competitive supplier cannot avoid the layering of these charges by the wires company).

How much money are we talking about? The Office of the Ohio Consumers' Counsel has documented more than \$14.7 billion in PUCO-approved, above-market electric utility charges from 2000 through 2019. Another \$1.7 billion in new charges will hit customers between 2020 and 2030. Much of those future charges are the result of House Bill 6. All of these charges are paid by customers of AEP-Ohio, Dayton Power & Light, Duke Energy Ohio, and FirstEnergy.

This begs the question: Why should manufacturers like The Belden Brick Company—or any business for that matter—be forced to pay what amounts to unjustifiable energy “taxes” at a time when competitive electric markets should be producing lower electric bills?

The answer is, “They shouldn’t.”

The fix? Eliminate the statutes that authorize ESPs.

Additionally, it would be good and fair policy if customers would receive refunds for all charges later determined to be improper by the Supreme Court of Ohio. Under current law, customers are denied such refunds.

These suggestions were knitted together into legislation in the prior General Assembly and enjoyed broad support of Ohio residential and business customer groups. I've attached to my testimony a document titled *Electricity Ratemaking Reforms to Protect Consumers* that documented these sensible customer protections.

Allow me to offer up just one suggestion *to avoid* in the name of affordability: I urge the Senate to ensure the state does not create a state-administered capacity pricing mechanism for the nuclear, coal, and solar generation that now faces disqualification from the wholesale market.

In December 2019, the federal government acted to protect wholesale generation markets. In so doing, uneconomic power plants that received subsidies as a result of state policies were effectively excluded from selling their electrons in the capacity market and dragging down the auction clearing price. The FERC attempted to prevent unfair bidding that would undercut the businesses playing to fairly compete.

This means the two nuclear power plants in Ohio, the coal power plants owned by OVEC including one in Indiana, and select solar projects that Ohio's ratepayers are ordered to subsidize under HB 6 will not be able to sell uneconomic capacity because their bid-price will be made artificially low by the subsidy. We believe the Sammis power plant in Jefferson County also falls into this category. Note that these power plants may apply for what is called a Unit Specific Exemption. If these generating assets receive this exemption, it will show that the power plants do not need the subsidies that HB 6 provides them.

There are appeals of that FERC decision ongoing and it's a complicated structure run by PJM and regulated by the FERC, but that is all part of the federally regulated market process. In the meantime, the capacity auction has been delayed as these questions get resolved, resulting in greater cost uncertainty for customers. Please don't let the state take away even more of Ohioans money until that dust has cleared.

If you would like to know more about the FERC decision and its impact on Ohio, I have attached our analysis to my testimony.

Mr. Chairman, as I conclude, let me summarize.

Businesses across all segments look at what a kilowatt of electricity will cost them. Ohio is positioned well to be able to provide reliable power at extremely competitive rates if we continue down the path of implementing fully competitive markets.

Local energy sources have lowered the cost of generation and spurred investment in our state by new generators. Traditional utilities though have been increasing the total cost of power by adding riders on distribution bills.

Ohio will find it harder to retain and attract businesses with a higher total cost of electricity. We urge the committee to embrace the documented benefits of the competitive market and to restore much-needed balance and fairness to Ohio's rate-making process.

I am joined by Kim Bojko of the Carpenter Lipps & Leland law firm. Kim serves as the OMA's chief energy attorney, representing industry positions before the state and federal regulatory commissions. I am also joined by John Seryak of RunnerStone, LLC. John is the OMA's technical consultant for energy policy. With the Chairman's indulgence, John and Kim can help me respond to your questions.

Mr. Chairman, members of the committee, this concludes my prepared remarks. Thank you.

New Power Plant Investments in Ohio



► Total Economic Impact of New Generation



Investment: ~ \$11 billion



MW capacity: 11,137



Construction and other jobs: > 14,000

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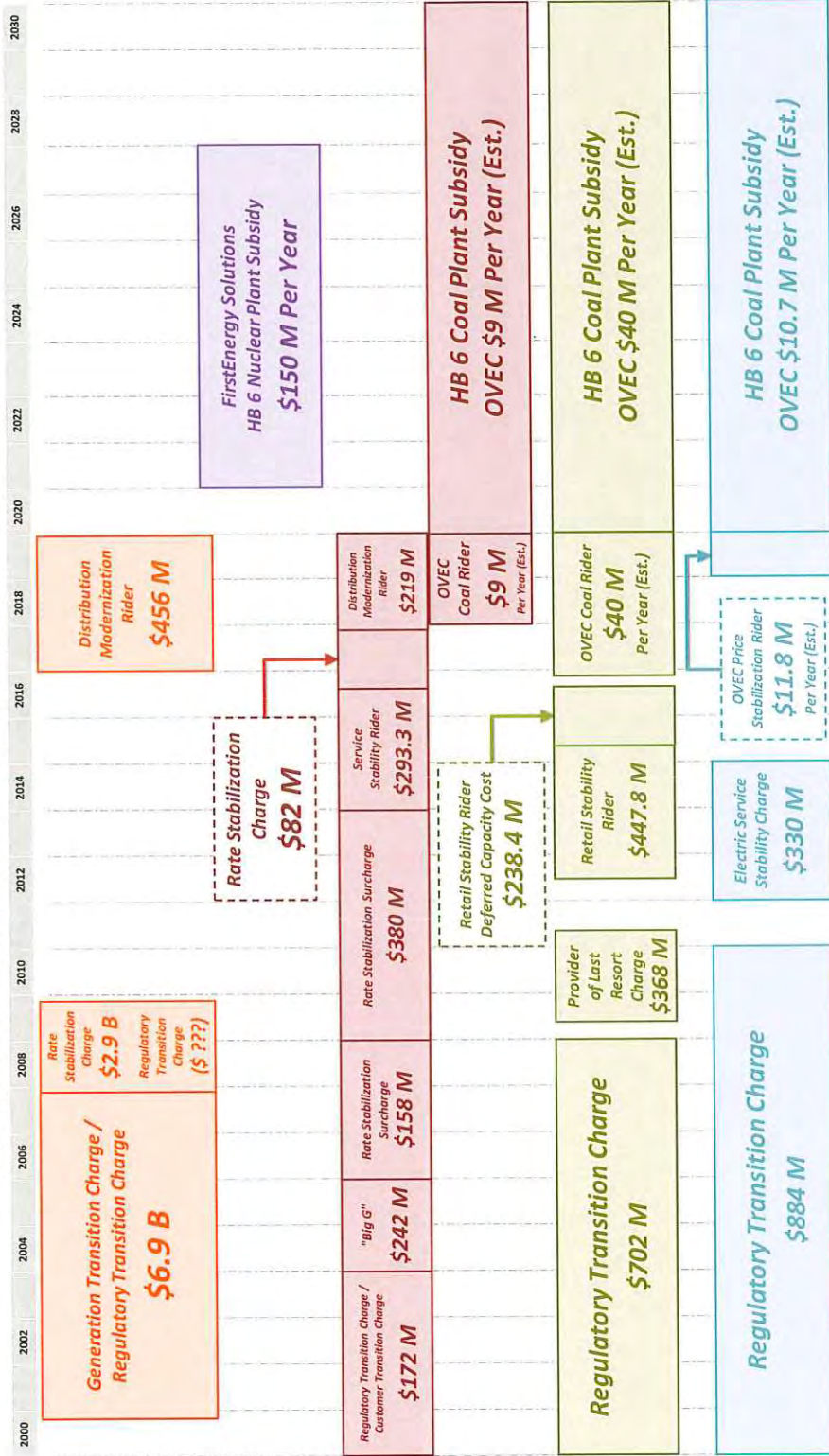
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**\$14.7 Billion
Charged to Customers
(2000 - 2019)**

SUBSIDY SCORECARD

**\$1.7 Billion Projected
Charges to Customers
(2020 - 2030)**

-- ELECTRICITY CHARGES TO OHIOANS --



Rev. 01/16/2020

B=Billions; M=Millions

Electricity Ratemaking Reforms To Protect Consumers

The successes of Ohio's transition to a competitive market for electricity generation are now documented. They include billions of dollars in savings for standard-offer consumers, governmental aggregation and other shopping consumers, numerous robust new natural gas-fired generation plants planned and coming online, and more than adequate reserve margins for reliability as determined by the Regional Transmission Organization, PJM Interconnection.

Nonetheless, there are some ratemaking provisions in current law that are anti-competitive or unfair—and bad for consumers and Ohio's economy. A broad-based coalition of electricity consumers is working with legislators to resolve the concerns outlined in this document and thereby improve outcomes for consumers and for Ohio. The legislative solution we seek is enactment of House Bill 247 (Romanchuk, R-Ontario), which was introduced in the Ohio General Assembly on May 24, 2017.

PROBLEM #1: Customers Are Denied Refunds for Charges That Are Later Determined to Be Improper.

Current law allows a utility to keep what it has collected from customers, even if the Supreme Court of Ohio determines the charges were improper.

SOLUTION: House Bill 247 would allow refunds to customers for all charges that are later found to be improper by the Supreme Court of Ohio or other authority.

PROBLEM #2: Utility Charges to Customers Under Electric Security Plans (ESPs)

The ESPs, allowed in the 2008 energy law (SB 221), are enabling utilities to request of the Public Utilities Commission of Ohio (PUCO) customer charges that exceed market prices. The result: Ohioans may not benefit from the lower electric bills that should flow from the lower prices in competitive electricity markets. In Ohio's competitive electricity market, ESPs—essentially, rate plans for the supply and demand of electric generation—are unnecessary and should be eliminated. Instead, a market-based option should be used to price service to customers.

Eliminating ESPs will fix a number of provisions that are unfair and costly to Ohioans under current law, including the following:

- **Utilities Are Not Required to Refund Customers All of the Utilities' Excessive Profits.** Even if the PUCO determines that a monopoly electric utility has "excessive" profits, the utility is not required to return the excess profits to customers. Only if the utility's earnings are deemed "significantly excessive" is the utility required to refund the significantly excessive portion of profits to its customers.
- **Customers Are Charged for Non-Generation Charges in an ESP.** Utilities use ESPs to set the price of the standard service offer to customers. However, the law also permits a utility to propose additional distribution-related charges in an ESP. Utilities have used the law to collect a number of so-called distribution charges from customers through non-bypassable riders. (That is, customers cannot "shop around" charges that are non-bypassable.) But some of these riders have nothing to do with distribution service. For example, FirstEnergy

AARP

Ohio Farm Bureau

The National Federation of Independent Business/Ohio

Northeast Ohio Public Energy Council (NOPEC)

Office of the Ohio Consumers' Counsel

Ohio AgriBusiness Association

The Ohio Cast Metals Association

Ohio Chemistry Technology Council

Ohio Hotel & Lodging Association

The Ohio Manufacturers' Association

Ohio State Grange

was granted a “distribution modernization rider” to provide credit support to the corporation without a requirement to spend the consumers’ payments on distribution modernization. That is not the way a competitive, free-market system should work.

- **Customers Are Not Protected from Paying Too Much for Service Under an ESP.**

One consumer protection in the 2008 law provided that ESPs could not be approved unless the result is “more favorable in the aggregate” to customers when compared to the expected results from the market-rate option. But the PUCO has been considering both quantitative and qualitative factors to determine if the ESP is more favorable in the aggregate than a market rate—and the Supreme Court of Ohio has declined to prohibit the PUCO’s approach. The consideration of qualitative factors can allow above-market charges, and that has undermined the consumer protection that prices in ESPs should compare favorably to market prices.

- **Utilities Can Veto Any PUCO-Ordered Modification to Their ESPs.** If a utility doesn’t like a PUCO ruling that modifies its proposed ESP, the utility can withdraw its application. In effect, the 2008 law gave the utilities—but no other stakeholder—veto power in ESP cases. This is a decidedly anti-customer policy.

SOLUTION: House Bill 247 would eliminate language in Ohio law that permits utilities to file ESPs, which would eliminate above-market charges to customers now allowed in ESPs. Utilities then would provide customers the standard service offer through a competitive bidding process. Utilities’ distribution rates would continue to be set through distribution rate cases by the PUCO. This approach would allow the PUCO to review all expenses and revenues when a utility seeks a distribution rate increase, instead of the current approach that allows utilities to add charges to customers’ electric bills using single-issue riders.

PROBLEM #3: Customers Are Not Protected from Subsidizing the Operations of a Utility’s Corporate Affiliate.

Prior to the 1999 deregulation law (Amended Substitute Senate Bill 3, enacted with strong bipartisan support), utilities owned and operated generation plants. SB 3 changed that, prohibiting utilities from owning generation. Rather than complete divestment of the generating plants, however, several of the utilities spun off the assets to a corporate affiliate. In recent years, the utilities have used the poor financial performance of their unregulated generation affiliates to seek above-market charges from captive customers.

SOLUTION: House Bill 247 would protect Ohio customers from new and expanded above-market charges by clarifying that Ohio’s 1999 deregulation law means utilities and their affiliates cannot own generation.

The forgoing proposals will protect consumers by restoring balance in the ratemaking process through repeal of unfair provisions in the 2008 law and making other changes. The proposals will prevent anti-competitive results from the law. And, limiting above-market charges will free up money for business expansion and job creation, spurring Ohio’s economy.



FERC's December 2019 Order on State Subsidies

The Expanded Minimum Offer Price Rule and its Impact on Manufacturers, Markets, Ohio Energy Policy, and Electricity Generation Technology

January 30, 2020

The Federal Energy Regulatory Commission (FERC) issued an order on December 19, 2019 stating that

“... out-of-market payments provided, or required to be provided, by states to support the entry or continued operation of preferred generation resources threaten the competitiveness of the capacity market administered by PJM ...”.

FERC's order is a direct response to a trend of state subsidization of uneconomical power plants, including those benefitting from the recently passed Ohio House Bill 6 (HB6). The FERC order is a giant stick against state subsidies, and tips HB6 on its head: Rather than improve the economic position of select Ohio (and Indiana) power plants, the HB6 subsidies now jeopardizes these same power plants from competitively earned revenue in the wholesale electric capacity market. In fact, by charging Ohio's ratepayers hundreds of millions of dollars in annual subsidies for select power plants, about \$190 million in annual capacity revenue for these same generators is now at risk. Unfortunately, by favoring select power plants through subsidies, HB6 has created a financial liability for them.

To be clear, the select subsidized power plants can request, and may receive, a “Unit Specific Exemption” to earn capacity revenue. Or, these same power plants may request additional subsidies or financial support from the state.

The eventual effect of FERC's order on wholesale electricity prices is being debated, as is which type of generating technologies win or lose. But FERC's order is clear – if states like their subsidy plan, they can keep it – but the state and its ratepayers will bear the direct cost and consequences.

Impact to Manufacturers

A significant concern to Ohio manufacturers is how the FERC order, in conjunction with HB6, impacts electricity costs. The FERC order does not stop Ohio from subsidizing select power plants. And thus, HB6's above-market charges for select nuclear, coal, and renewable energy projects will persist on manufacturers' electric bills.

However, the FERC order does create major changes to how electricity markets work and estimating the financial impact will take careful study. At this date, there is no agreement on the financial impact. Some parties warn that the FERC order could create significant

additional electricity costs, while other parties suggest there may be no additional cost at all. Still others may argue that preservation of market forces is the ultimate cost protection, an assertion supported by market studies and academic literature. PJM and its Independent Market Monitor often conduct detailed simulations of the near-term effect of major policy changes and likely will do so for this FERC order.

Manufacturers should also be concerned about potential state responses to the FERC order, namely, a drive to create fixed resource requirement (FRR) entities. By creating an FRR, a state may attempt to create yet more out-of-market revenue streams for power plants. Not only would this increase charges even more on customers' electric bills, but it would further erode market protections.

While cost is a primary concern for all manufacturers, also of note in the FERC order is a problematic issue for manufacturers with regard to greenhouse gas (GHG) emissions reductions goals. The FERC order will apply to new renewable energy projects receiving state subsidies, including renewable energy credits (RECs) from a renewable portfolio standard (RPS). While the FERC order recognizes that renewable energy projects subscribed with corporate REC purchases should not be subject to the MOPR, it then states that "it is not possible" to distinguish a voluntary REC from a state-mandated REC. As such, without clarification, new corporately funded renewable energy projects could be deprived of capacity revenue unfairly.

Impact to Electricity Markets

The FERC order is intended to protect functioning, competitive electricity markets. In general, competitive markets are desirable because they have been shown to produce lower electricity prices for consumers than cost-of-service regulation. Markets also tend to produce better resource efficiency, and thus lower emissions from power plants. This is all to say that an order to protect markets has inherent features that protect consumers and manufacturers.

However, FERC's order is complex, and it is not fully known how it will impact electricity prices in the short and long term. The order modifies and expands a mechanism called the Minimum Offer Price Rule (MOPR).

The MOPR was originally designed to prevent state subsidization of new natural gas generators entering the market. In contrast, the expanded MOPR will apply to new and existing power plants of any technological types that "receive, or are entitled to receive, certain out-of-market payments, with certain exemptions." This means that nuclear, coal, and renewable power plants that receive state subsidies or other non-bypassable rider support will be required to offer into PJM's capacity auction at a set minimum price or apply for a Unit Specific Exemption. New power plants will have one set of resource-specific prices, called Net CONE (Cost of New Entry). Existing power plants will have another set of resource-specific prices, called Net ACR (Avoidable Cost Rate). The application of these minimum price thresholds is meant to prevent a power plant from using a state subsidy to outbid its unsubsidized competition by offering an artificially low bid into PJM's capacity auction.

Table 1 shows PJM's proposed Net CONE and Net ACR values¹. Consider, in comparison, that PJM's capacity auction clearing price over the past 15 years has been a minimum of \$16 to a maximum of \$174/MW-day, a median of \$110/MW-day. Thus, new and existing resources would need to have minimum offer prices of, at most, around \$110/MW-day to clear the capacity market at least half of the time. Given this low price, it is unlikely that new generating plants that receive or are entitled to receive state subsidies will be able to clear the PJM capacity auction on a regular basis, unless they apply for and receive a Unit Specific Exemption.

For existing resources, it is also unlikely that subsidized nuclear units will be able to clear the auction in most cases, and subsidized coal plants will likely only be able to clear the auction occasionally. New and existing demand response and energy-efficiency should be able to clear most auctions. As for renewable energy, new renewable energy would likely not be able to clear the auction, but existing renewable energy would.

Note that PJM is preparing updated Net CONE and Net ACR values which will be subject to FERC approval. These updated values will have meaningful bearing on how the FERC order plays out. Additionally, any resource may apply for a "Unit Specific Exemption," in order to bid at a different price than Net CONE and Net ACR. Many resources that appear uneconomical based on Net CONE or Net ACR may in fact be economical based on their specific financial situation.

Table 1: PJM Proposed Minimum Prices

	New Resources - Net CONE (\$/MW-day)	Existing Resources - Net ACR (\$/MW-day)
Nuclear - Single Unit	\$ 1,451	\$ 265
Nuclear - Double Unit	\$ 1,451	\$ 227
Coal	\$ 1,023	\$ 126
Combined Cycle - NG	\$ 438	\$ 1
Combustion Turbine - NG	\$ 355	\$ 31
Hydro	\$ 1,066	-
Solar PV	\$ 387	-
Onshore Wind	\$ 2,489	-
Offshore Wind	\$ 4,327	-
Demand (DR or EE)	\$29 - \$67	-

The impact on electricity prices then depends on several things:

- How many MWs of power plants will be subject to the expanded MOPR, and effectively forced out of the capacity auction? The answer is not simple. Some power plants receiving or entitled to receive subsidies have already not cleared the auction. For example, Ohio's nuclear power plants have not cleared the auction recently. Other power plants may choose to forgo their subsidy so they are

¹ PJM Communication, Table 2. <https://pjm.com/-/media/committees-groups/committees/mic/20190306/20190306-item-10-communication-regarding-mopr-related-requirements.ashx>

Net-ACR from: INITIAL SUBMISSION OF PJM INTERCONNECTION, L.L.C. Docket No. EL16-49-000, pages 118 & 120 of pdf.
<https://elibrary.ferc.gov/idmws/common/opennat.asp?fileID=15059002>

permitted to bid into the auction without the minimum offer price if the subsidy is lower in value than PJM's capacity payments. Or, perhaps some states will find their subsidization policies ineffective, and will eliminate them in the law so that their power plants may compete for capacity revenue. Finally, there exists a "Unit Specific Exemption" process with the MOPR. If a power plant can show that it does not need its subsidy to offer competitive capacity bids, then it may receive this exemption, and continue to receive capacity revenue. Ironically, if a power plant receives this exemption, it will be proof to state policymakers that the subsidy is not needed. For this reason, it should be considered requiring subsidized resources to apply for a Unit Specific Exemption.

- How many new power plants will enter the market due to the expanded MOPR? Again, this is not simply answered, but it is probable that increased amounts of new natural gas fired power plants will enter the market. Some parties' fear of increasing capacity prices come largely from the observation that by excluding subsidized power plants from PJM's capacity auction, the supply of power plants will decrease, while demand for power remains relatively the same. However, PJM has seen large amounts of power plant retirements in the last 15 years, with little impact on capacity prices. This is because as uneconomic power plants close, other power plants that are economic open. It is reasonable to expect that over some period of time, new economic generation will fill the gap and keep prices in check.

All told then, the goal of the FERC order appears to be to reinstate a functioning electric market and the order is designed to seriously discourage state subsidies' manipulation of the electric market. Power plants receiving unit-specific exemptions will have shown that their subsidy is unnecessary, and that they can compete without state subsidy support. Power plants that are subject to MOPR and do not clear the auction will have shown that they are uncompetitive and may need to return to the state for additional subsidies or cease operating. The resulting supply and demand in the market then will more closely match that of a competitive market absent state subsidies. And thus, the resulting price of wholesale electricity should match that of a competitive market.

A caveat is that in the short-term, there may be a mass exit of power plants that are subject to MOPR because of state subsidies. If there is an atypical quantity of exiting power plants, combined with a shorted development timeframe for new entrants, there is the possibility for short-term capacity price increase. Again, Ohio's manufacturers should wait for independent modeling of this financial impact.

The cost of state subsidies will still be borne by the residents of the state, until a state repeals its subsidy policy. And, creation and proliferation of FRR entities is an emerging risk.

Impact to Ohio's State Policy and Regulation of Power Plants

FERC's order has significant impacts to the objectives of the recently passed HB6 in Ohio, and to other Ohio policies and regulations that create subsidies for select electrical power generators. Below we cover possible impacts to specific power plants and technologies in Ohio.

- Davis-Besse and Perry Nuclear Power Plants – The Davis-Besse and Perry nuclear power plants are entitled to receive a subsidy of \$9 per MWh generated from Ohio's Nuclear Generation Fund, newly created by HB6. This will result in \$150 million of payments annually from Ohio ratepayers to these two nuclear power plants. However, the two nuclear power plants will be subject to the expanded MOPR. The combined capacity of the power plants is about 2,150 MW. At a typical PJM capacity auction price of around \$120 /MW-day, this equates to \$94 million of forgone annual capacity revenue for the two nuclear plants.

It is not clear whether Energy Harbor's nuclear power plants could receive a Unit Specific Exemption. It is distinctly possible that these nuclear power plants are economical without the HB6 subsidy. If so, they *could* apply for a Unit Specific Exemption, and receive it. However, applying for a Unit Specific Exemption is a choice for Energy Harbor.

In any case, Ohio policymakers face difficult choices. At a minimum, requiring HB6 subsidized units to apply for a Unit Specific Exemption is logical. If subsidized units receive an exemption, then policymakers will need to reconsider whether to continue subsidies that a power plant doesn't need. If a unit fails to receive an exemption, policymakers will need to reconsider whether to subsidize an uneconomical power plant.

- OVEC Coal Plants – The coal plants of the Ohio Valley Electric Corporation, which include the Kyger Creek plant in Ohio and the Clifty Creek plant in Indiana, will also be subject to the MOPR. There is a chance that they will not clear the PJM capacity auction. OVEC's capacity is about 2,175 MW, and thus it will forego about \$95 million annually in capacity revenue. However, OVEC's subsidy is not in the form of a fixed credit, but instead in a rider that passes a pro-rated percentage of its financial losses onto Ohio utilities. As a result, Ohio's ratepayers will share in 38.68%² of this loss, or about \$36.7 million annually.

Because OVEC's Ohio utility owners are insulated from any and all financial losses, it is probable this additional cost will simply be passed on to Ohio's manufacturers and other ratepayers.

- HB6-Favored Solar Energy Plants – HB6 creates a Renewable Generation Fund which will pay \$9 per MWh for renewable energy credits (RECs) for select solar projects. These solar projects have not yet been built and will thus almost certainly be subject to the MOPR and are unlikely to clear the PJM capacity auction. Moreover, given the choice, solar photovoltaic (PV) projects may prefer to receive capacity revenue over the renewable energy credit revenue. For example, a 1 MW solar PV project in central Ohio would receive about \$12,500 in capacity revenue³. That same 1 MW of solar PV would receive \$11,150⁴ from the Renewable Generation Fund. As such, renewable projects of any scale may choose to receive

² OVEC Annual Report, cumulative percentage of Ohio investor-owned sponsoring companies: The Dayton Power and Light Company, Duke Energy Ohio, FirstEnergy Solutions, and Ohio Power Company.

³ 1 MW nameplate x 0.2856 central Ohio capacity factor x \$120 /MW-day, typical x 365 days/year)

⁴ 1 MW of ground-mounted fixed solar in central generates about 1,239 MWh/year, according to PV Watts. \$9 /MWh x 1,239 MWh/year = \$11,150 /year

PJM capacity revenue over HB6 subsidies.

Thus, HB6 could result in reduced revenue for these select solar projects, making them less competitive. The forgone capacity revenue from HB6's select solar projects would be about \$22 million per year.

- Sammis Coal Plant – The Sammis coal-fired power plant owned by the former FirstEnergy Solutions may also be subject to the FERC expanded MOPR because of HB6. At first, this may be surprising, as there is no direct mention or direct subsidy of the Sammis plant within HB6. However, the FERC order appears to catch within its scope sleight-of-hand with state subsidies. FERC states:

“... we consider a State Subsidy to be: a direct *or indirect* payment, concession, rebate, subsidy, non-bypassable consumer charge, or other financial benefit that is (1) a result of any action, mandated process, or sponsored process of a state government, a political subdivision or agency of a state ...”

Importantly, FirstEnergy Solutions had publicly credited the HB6 subsidies it is receiving for its nuclear plants for *indirectly* allowing it to subsidize the Sammis coal plant⁵. According to FES comments, the Sammis coal plant cleared 1,233 MW in the most recent PJM capacity action⁶. Thus, HB6 has indirectly put \$54 million in annual capacity revenue at risk for the Sammis coal plant.

- Existing Renewable Energy – Existing renewable energy projects will be exempt from the MOPR and will continue to be able to participate in PJM's capacity auction.
- New “Behind-the-Meter” Renewable Energy – New renewable energy projects that are customer-sited, behind-the-meter, will not be subject to the MOPR. This is because behind-the-meter generation would not bid into PJM's capacity auction anyways. Instead, behind-the-meter generation reduces a customer's capacity obligation. As such, behind-the-meter projects would be able to monetize both capacity value and voluntary or state-mandated renewable energy credits.
- New “Front-of-the-Meter” Renewable Energy – New, front-of-the-meter renewable energy will be subject to the MOPR. As shown in Table 1, solar PV has the second lowest Net CONE value of new resources, after natural gas combustion turbines. That said, it is unlikely that PJM's capacity market price will clear high enough that a solar PV or wind project could enter the capacity market at the Net CONE price. This gives renewable energy developers two options. First, they could choose to enter the market competitively, favoring capacity revenue over REC revenue and subsidies. Second, if new renewable energy plants do not require REC payments to be competitive, they may apply for a “Unit Specific Exemption” and bid into the capacity market at a lower price than Net CONE. This is distinctly possible, as renewable energy projects receive comparatively less of their revenue from capacity payments due to their intermittency and REC prices have dropped to just

⁵ “House Bill Six is really designed to support our nuclear plants, and all the money from that would go to those nuclear plants. But at the same time, it would make our company economically healthy enough that we would be able to look at other investments like investing in the Sammis Plant”, FES CEO John Judge, <https://wtov9.com/news/local/sammis-plant-may-not-close>

⁶ <https://www.pnnnews.com/news-releases/firstenergy-solutions-comments-on-results-of-pjm-capacity-auction-300654549.html>

a few dollars per MWh. As renewable energy installation costs drop, their reliance on REC payments may be low enough that it does not affect the decision on whether to build the project or not, and thus competitive renewable energy projects may request and receive an exemption while preserving their REC payments.

- Energy Efficiency and Demand Response – Most new energy-efficiency and demand response capacity resources would have a Net CONE generally lower than a typical PJM capacity auction clearing price. That is to say, these new resources would have the MOPR applied to them but would still be able to clear the auction at their corresponding technology-specific Net CONE price. Moreover, existing efficiency and demand response resources would be able to continue to bid at any price. While there is some risk that new demand response and energy-efficiency resources may not clear the capacity auction in some years, this may be a manageable risk.

Impact to Technology Mix

Of interest is how FERC's order expanding MOPR will affect the generation technology mix in the PJM territory. While the expanded MOPR is complicated and has nuances, it appears to effectively disincentivize subsidization of older, uneconomical power plants. In recent years, these subsidies have been targeted at coal and nuclear power plants. Newer emerging technologies such as renewables and load management will not be entirely unaffected by the MOPR, but are positioned to be able to continue to grow for a number of reasons, be it behind-the-meter applications, the Unit Specific Exemption, or simply because they no longer require state subsidies. Thus, the expanded MOPR is likely to reinforce the recent trend in electric generation technology mix – considerably more natural gas fired generation with some meaningful expansion of renewable energy and customer-load management, and considerably less coal-fired generation with some reduction in nuclear power.

This analysis was prepared by John Seryak, PE, and Peter Worley of RunnerStone, LLC, Energy Technical Consultant to The Ohio Manufacturers' Association.





ODNR Division of
OIL & GAS RESOURCES

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Division Updates

Ohio's Utica Shale Fourth Quarter Production Totals Released

2/28/2020 Oil & Gas in Shale

During the fourth quarter of 2019, Ohio's horizontal shale wells produced 6,803,057 barrels of oil and 684,771,042 Mcf (685 billion cubic feet) of natural gas, according to the figures released today by the Ohio Department of Natural Resources (ODNR)

Compared to a year ago, oil production increased by 17.08% and natural gas production showed a 3.20% increase over the fourth quarter of 2018.

	2018 Quarter 4 (Shale)	2019 Quarter 4 (Shale)	Percentage Change
Barrels of oil	5,810,484 bbl	6,803,057 bbl	17.08%
Mcf of natural gas	663,534,323 Mcf	684,771,042 Mcf	3.20%

The ODNR quarterly report lists 2,523 horizontal shale wells, 2,452 of which reported oil and natural gas production during the quarter. Of the wells reporting oil and natural gas results:

- The average amount of oil produced was 2,774 barrels.
- The average amount of natural gas produced was 279,270 Mcf.
- The average number of fourth quarter days in production was 90.

All horizontal production reports can be accessed at <http://oilandgas.ohiodnr.gov/production>.

Ohio law does not require the separate reporting of Natural Gas Liquids (NGLs) or condensate. Oil and gas reporting totals listed on the report include NGLs and condensate.

Tags: Shale

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U.S. Energy Information
Administration

Today in Energy

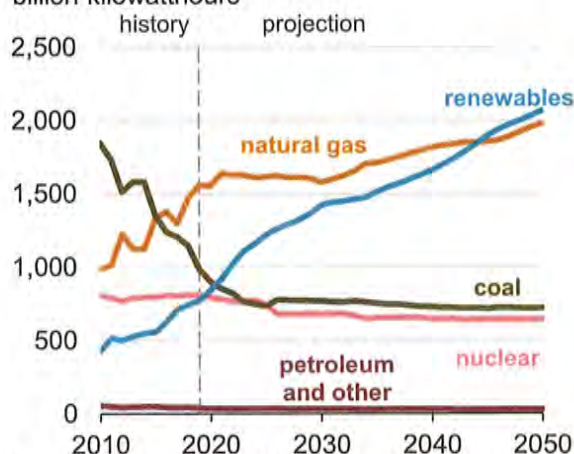
January 30, 2020

EIA expects U.S. electricity generation from renewables to soon surpass nuclear and coal

U.S. electricity generation, AEO2020 Reference case (2010-2050)

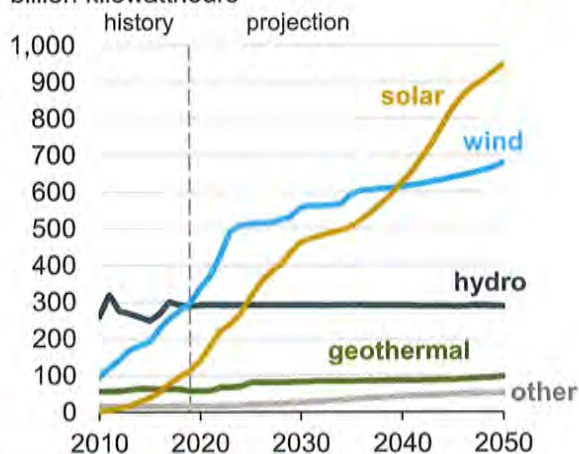
all fuels

billion kilowatthours



renewable fuels

billion kilowatthours



Source: U.S. Energy Information Administration, [Annual Energy Outlook 2020](#)

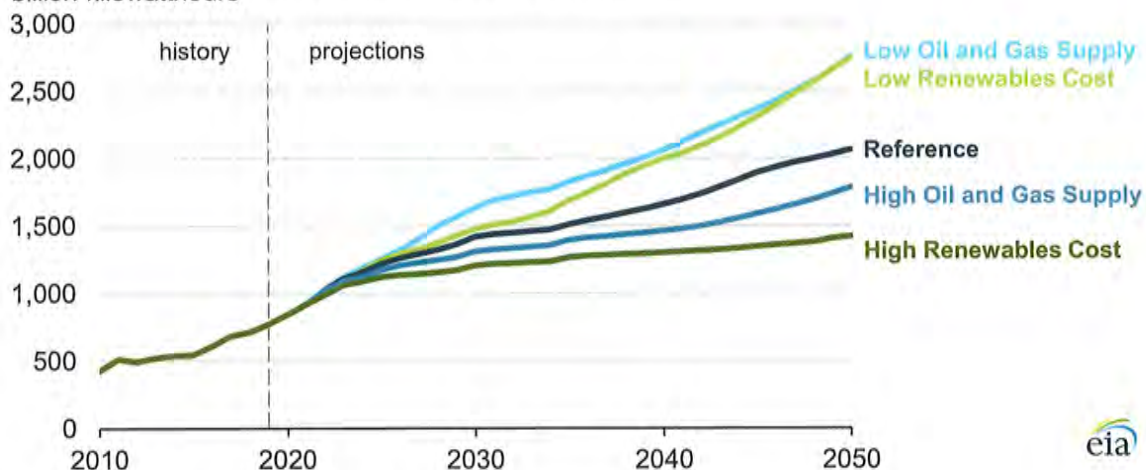
In the latest long-term projections, the U.S. Energy Information Administration (EIA) projects electricity generation from renewable sources such as wind and solar to surpass nuclear and coal by 2021 and to surpass natural gas in 2045. In the *Annual Energy Outlook 2020* (AEO2020) Reference case, the share of renewables in the U.S. electricity generation mix increases from 19% in 2019 to 38% in 2050.

Most of the growth in renewable electricity generation is attributed to wind and solar, which account for about half of renewable generation today. In EIA's AEO2020 Reference case, these technologies account for nearly 80% of the renewable total in 2050. New wind capacity additions continue at much lower levels after production tax credits expire in the early 2020s.

In AEO2020, growth in solar photovoltaic (PV) capacity continues through 2050 for both utility-scale and small-scale applications because of declining PV costs throughout the projection period. Conventional hydroelectric generation remains relatively unchanged in absolute terms and becomes a smaller portion of the generation mix as other sources of electricity generation increase.

U.S. renewable electricity generation (2010-2050)

billion kilowatthours



Source: U.S. Energy Information Administration, [Annual Energy Outlook 2020](#)

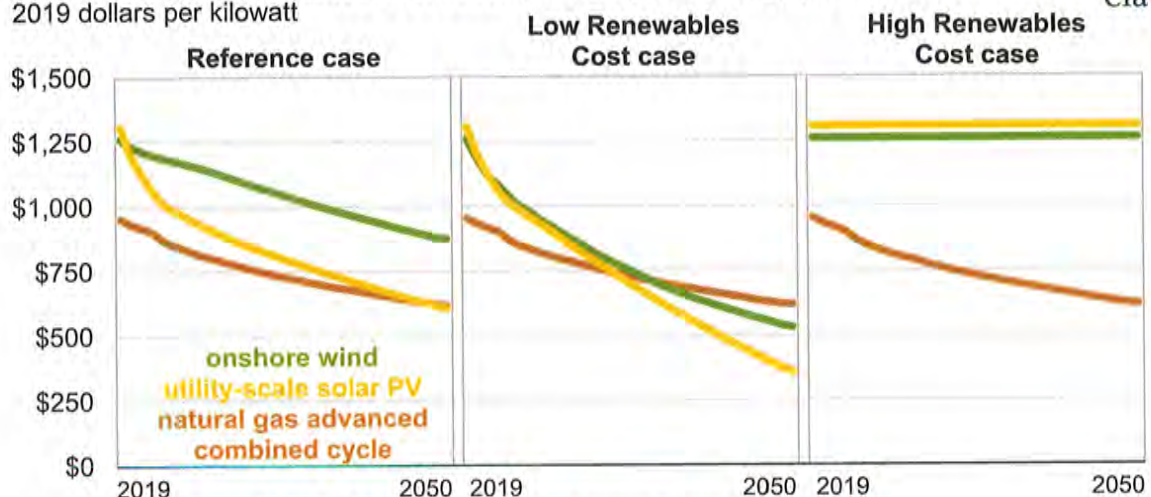
Alternative scenarios in AEO2020 examine the sensitivity of results to changes in the costs of renewables and the availability of oil and natural gas resources. Even in the High Oil and Gas Supply (where natural gas prices remain lower than in the Reference case) and High Renewables Cost cases, renewable generation nearly doubles from current levels by 2050.

The High and Low Renewables Cost cases evaluate the effects of changing cost assumptions for constructing and operating renewable energy power plants. In all AEO2020 scenarios, experience-based factors (such as [learning-by-doing](#)) contribute to lower capital costs over time.

For the Low Renewables Cost case, EIA assumed learning rates for renewable technologies that result in [overnight capital costs](#) that, by 2050, are 40% lower than the Reference case assumptions for each renewable technology (including those in the end-use sectors, such as small-scale solar PV). For the High Renewables Cost case, EIA assumed the overnight capital cost for all renewable technologies are held constant at the 2019 level through 2050.

AEO2020 overnight installed cost assumptions by technology (2019-2050)

2019 dollars per kilowatt

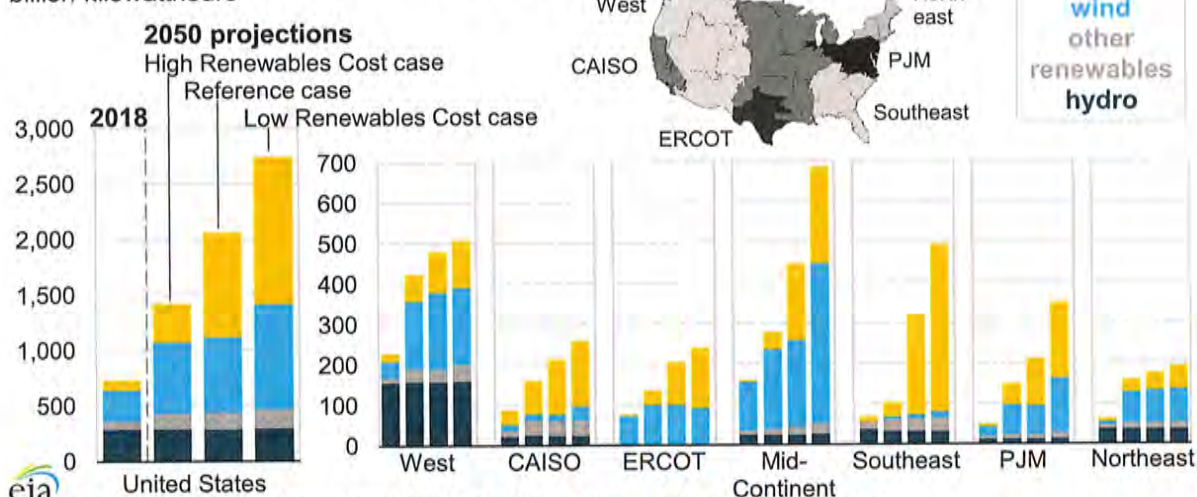


Source: U.S. Energy Information Administration, [Annual Energy Outlook 2020](#)

Renewable generation grows in all regions of the United States in all AEO2020 scenarios, but the preferred technology type depends on the availability of renewable energy resources. Wind-powered generation grows the most in the West and Mid-Continent regions, and solar-powered generation grows the most in the Southeast. Offshore wind is only built off the coast of the Northeast and the PJM Interconnection.

Renewable electricity generation (2018 and 2050)

billion kilowatthours



Source: U.S. Energy Information Administration, [Annual Energy Outlook 2020](#)

Principal contributor: Vikram Linga



PLASKOLITE

70 Years, 11 Sites



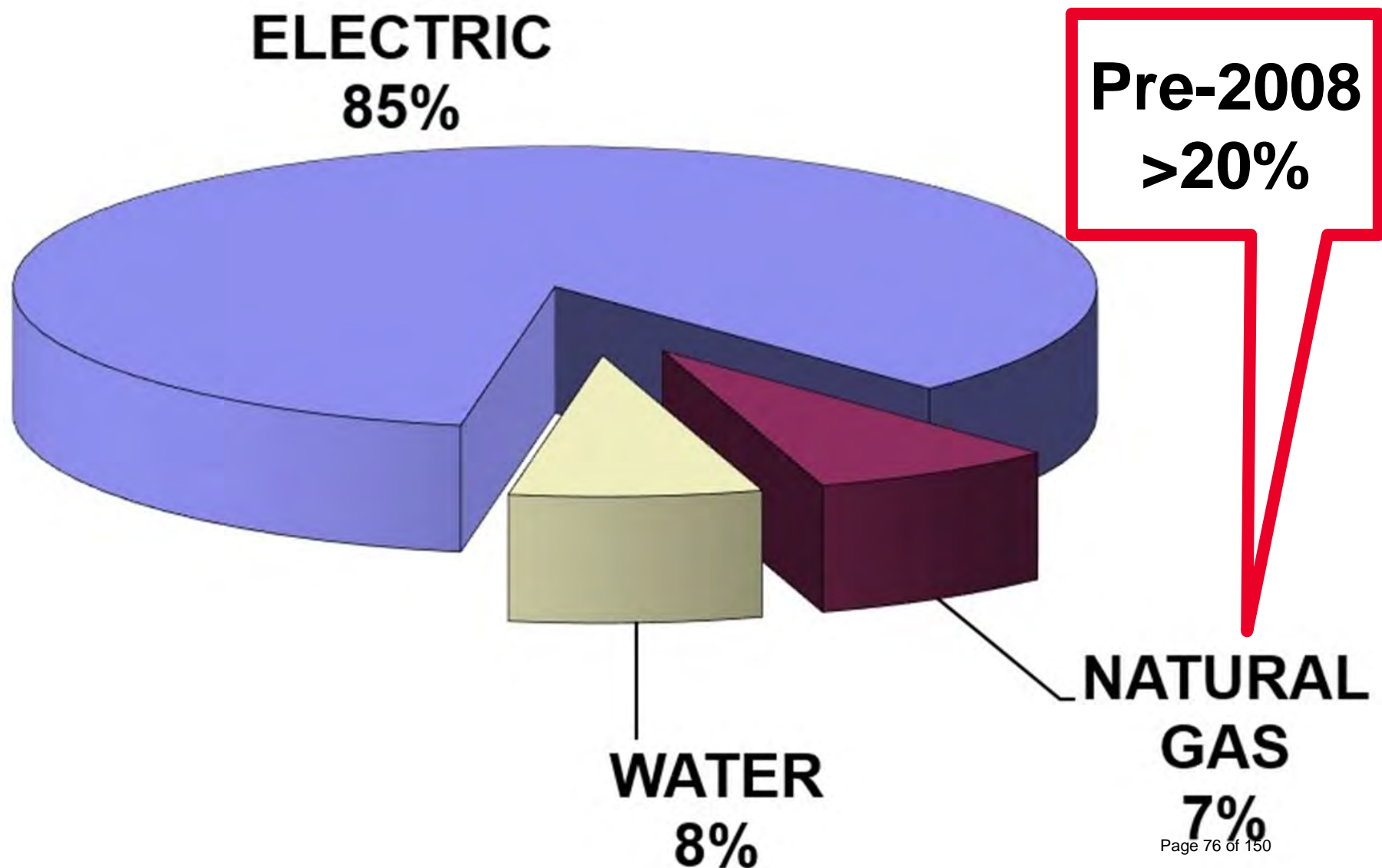




Energy Management In A Turbulent Environment

***Timothy W. Ling, P.E.
Corporate Environmental Director
Plaskolite, LLC.***

Plaskolite Utility Costs



Why Is My Electric Bill Still **HIGH**?



— Electric Bill Breakdown

% Total Bill	2001	2019	Future?
Distribution+Transmission	20%	40%	67%
Generation	80%	60%	33%

**>30% LOST SAVINGS
ON TOTAL BILL !!!**

Here's The Problem



– You're On The Hook...

- Distribution/Transmission Costs

- Monopoly

- **Non-bypassable**

- Governed by PUCO & Statehouse



- Distribution breakdown:

- KW demand charge (~20%)

- **Riders/subsidies (~55%) = Public Policy**

- Transmission costs (~25%)

— Electric De-Regulation Since 2015

- Generation free-market **HAS** delivered
- Ohio's shale revolution in high gear
- Power generation fuel shift from coal to natural gas
- **BUT...**

— Electric De-Regulation Since 2015

- Distribution/Transmission costs **“EATING-UP”** Generation & Efficiency savings
- ESPs here to stay (“euphemistic” riders)
- “Politically-savvy” utilities & companies extract money through **your** electric bill
- Benefits of Ohio’s shale revolution “blunted”

— Recent Ohio Trends

- Utility-friendly Ohio government
- House Bill 6
 - Precedent-setting
 - Anti-free-market legislation
 - Ohio citizens forced to subsidize money-losing nuclear/coal plants
 - “Decoupling” = not about electricity

— Nuke Bailout

Customer	Monthly Cap/Acc	Bills/Yr	Annual MWH	Annual Revenue	Rate (\$/MWH)
Residential	\$0.85	48,627,852	43,437,019	\$41,333,674 (24.3%)	\$0.95
C&I	???	6,152,268	52,554,270	\$124,432,726 (73.2%)	\$2.37
Large C&I (>45MM KWH/yr)	\$2,400	1,764	24,809,090	\$4,233,600 (2.5%)	\$0.17
TOTAL		54,781,884	120,800,379	\$170,000,000	

1 million KWH/month = \$2,400

But WAIT...

There's MORE



— HB 247 Then (2017-2018)



- Rep. Mark Romanchuk bill
- Customer refunds if charges declared illegal by courts **(Fix KIKO)**
- Utilities to go through a distribution rate case **(Show bills for reimbursement)**
- Full separation of distribution from generation **(NO monopoly AND retail market)**

— HB 247 Now (2019-)

- Rep. Dick Stein bill
- Utilities to get back into generation, including “behind-the-meter” projects at full cost recovery (**Pass meter & into your plant**)
- Loosens corporate separation (**Double-dip in monopoly & retail market**)



— What Can You Do?



- **RE-MONOPOLIZATION** of electric market is underway
 - Customers/manufacturers need to be united
 - Don't shift your costs to Ohioans, through frivolous subsidies
- **Alarmed** at your Ohio government
 - Try to petition your government to be more accountable to Ohio citizens, not utilities

— “Cut-the-Cord”



Non-generation:

- Energy efficiency
- Demand response

On-site Generation:

- Renewables (Wind & Solar)
- CHP
- Battery

— Final Thoughts



- Increasing electrical costs challenge Ohio manufacturing competitiveness
- **REAL** public policy risks to energy cost escalation - **RE-MONOPOLIZATION**
- Seriously think of **“Cutting-the-Cord”**
- Beware of utility **“behind-your-meter”**

— Burning Questions



Energy Engineering Report

OMA ENERGY COMMITTEE – MARCH 2020



Energy Efficiency Programs



- ☐ State-mandated energy efficiency programs
 - ☐ Applications due by September 30th
 - ☐ Ramp down 4th quarter
 - ☐ Cost true-up in 2021
 - ☐ Subject to mercantile opt-out. Customers using > 700,000 kWh/year or part of a national account can forgo paying into and participating in the programs

- ☐ Voluntary energy efficiency programs
 - ☐ Ongoing interest in utility efficiency programs in 2021 and beyond
 - ☐ Opt-outs do not apply to voluntary efficiency programs
 - ☐ Likely will have a lower budget
 - ☐ Likely will have a focus on peak loads

Energy Efficiency Programs



Energy engineering & management assistance

- ☐ 75% cost share up to \$22,500 for an energy study
- ☐ Limited availability
- ☐ Ohio Department of Services Agency (DSA), Energy Efficiency Program for Manufacturers (EEPM)
- ☐ Contact jseryak@gosustainableenergy.com asap

AEP Ohio Energy Renewable Energy project



- ☐ AEP Ohio, the distribution “wires” company, did not prove need
 - ☐ Cannot build or own 500 MW of solar, 400 MW of wind
 - ☐ Recall, these projects were an environmental group trade in exchange for subsidizing OVEC
- ☐ The deal is back! With AEP Energy!
 - ☐ May or may not be getting HB 6 credits
 - ☐ Is being promoted through various parties to corporations, government, healthcare, universities, etc.
- ☐ Renewable energy deals are proliferating, but can also be complex
 - ☐ Deals can take months to more than a year to develop
 - ☐ Shopping is typical and beneficial: ex. corporate RFP received > 50 responses
 - ☐ Customized to the customer: balance cost, attribution, additionality, risk exposure
- ☐ Ask critical questions, especially on REC ownership, if a deal is a vPPA
- ☐ Watch our webinar:

<https://register.gotowebinar.com/recording/9020816008957443080>

FERC MOPR EXPANSION



- ☐ Plants effected –
 - ☐ HB6 - Davis Besse, Perry, OVEC (Kyger Creek and Clifty), affected utility scale solar, likely Sammis
 - ☐ Others – Any state-subsidized renewable project from here on
 - ☐ Any other directly or indirectly state subsidized power plant
- ☐ Risk – states respond by withdrawing from the market
- ☐ Problem –
 - ☐ State subsidies distorting markets
 - ☐ Capacity auction delayed now by about a year
- ☐ PJM rules due March 18th
- ☐ Impact on costs
 - ☐ It depends on the choices and reaction of power plant owners and states

FERC MOPR EXPANSION



Nuclear plants (Davis Besse, Perry)

- ☐ Subsidy: \$150 million/year; Capacity Revenue: ~\$94 million/year at risk
- ☐ Door #1 – Good Money After Bad - Plants do not receive capacity revenue they need, and as a result shut down
- ☐ Door #2 – If You Give a Mouse a Cookie – Plants do not receive capacity revenue they need, come back to state for additional subsidies, or the creation of an FRR, or to pull Ohio out of PJM
- ☐ Door #3 – Greed is Good – Nuke plants request and receive a unit specific exemption, thus demonstrating they didn't need the subsidy
- ☐ Door #4 – Zombie Plant – Nuke plants request and do not receive a unit specific exemption, but keep operating, demonstrating we're subsidizing a plant to stay online that is no longer needed or economical
- ☐ Why the uncertainty? There still is not transparency with the nuclear plant financials

FERC MOPR EXPANSION



- ☐ OVEC
 - ☐ \$37 million/year at risk
 - ☐ All losses get passed through to the customer
- ☐ Solar plants
 - ☐ \$22 million/year at risk
 - ☐ Capacity revenue is more than HB 6 subsidy
 - ☐ Plants likely will be able to receive voluntary RECs and capacity revenue
 - ☐ Big questions over whether plants will take HB6 renewable energy subsidy
- ☐ Sammis
 - ☐ \$54 million/year at risk
 - ☐ FERC order specifically includes “indirect subsidies”
 - ☐ Sammis previously slated to close, announced to be re-opened after HB6 passed
 - ☐ Fewer options with an indirect subsidy

CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300
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COLUMBUS, OHIO 43215

MEMORANDUM

To: OMA Energy Committee
From: Kim Bojko, OMA Energy Counsel
Re: Energy Committee Report
Date: March 12, 2020

Active Administrative Actions in which OMAEG is Involved:

American Electric Power (AEP):

- **Application to Expand ESP III Case/New ESP (Case Nos. 16-1852-EL-SSO, et al.)**
 - On November 23, 2016, AEP filed its application to amend its ESP extending the term through May 2024 and to add several new riders and charges. AEP also requested an expedited procedural schedule.
 - OMAEG filed the testimony opposing AEP Ohio's plans for microgrids, renewable energy, submetering, and electric vehicle charging stations.
 - On August 25, 2017, most parties reached a Settlement resolving this matter. The Settlement extends the term of the ESP through May 31, 2024 and provides for Distribution Investment Rider caps that are significantly lower than AEP requested, an OVEC PPA Rider that does not affect pending appeals to the Supreme Court regarding the lawfulness of the PPA Rider, and a Renewable Generation Rider (RGR) which will be populated in a separate proceeding that all parties reserve the right to challenge.
 - The PUCO approved the settlement reached between many of the parties with slight modifications affecting residential customers and suppliers. Through the settlement, OMAEG was able to secure benefits for some members who will participate in the BTCR and IRP programs and maintain its opposition to OVEC cost recovery from ratepayers.
 - OCC appealed the PUCO's approval of the stipulation in this case to the Supreme Court of Ohio.
 - In January 2020, the Supreme Court of Ohio affirmed PUCO's order approving recovery from customers for the OVEC coal plant. The Court determined it could not hear OCC's challenge regarding Federal Preemption because the challenge was not presented in OCC's application for rehearing. More specifically, OCC had argued that FERC has exclusive jurisdiction over the wholesale sale of electricity and the PUCO was preempted from regulating the wholesale market. The Justices also found

that OCC did not cite evidence in the record that the Smart City Rider does not relate to distribution, service, infrastructure, or modernization. Lastly, the Court concluded that consumers were not harmed by PUCO's decision to implement the Renewable Generation Rider on a placeholder basis.

▪ **AEP Request to Develop Renewable Resources (Case No. 18-501-EL-FOR)**

- AEP requested that the PUCO permit it to amend its longer-term forecast report to allow AEP and its affiliates to develop at least 900 MW of renewable projects. AEP concedes that PJM wholesale markets already provide sufficient capacity, yet strangely argues that these proposed renewable projects are necessary for AEP to meet its obligation to provide customers with a standard service offer (SSO). The proposal appears to be an attempt by AEP to charge customers for generation supplied by itself and its affiliates, which is contrary to Ohio's state law and policy, which support competitive electric generation markets.
- AEP has additionally opened separate proceedings seeking approval of specific projects.
- The PUCO held a multi-week hearing on this matter in January and February of 2019. OMAEG participated extensively in the hearing through examination of AEP witnesses and by offering the testimony of John Seryak, which offered additional arguments against AEP Ohio's attempt to develop non-competitive generation at customer expense.
- On November 21, 2019, the PUCO found that AEP Ohio failed to demonstrate a need, under any offered definition of the term, for at least 900 megawatts of renewable generating facilities.
- On December 23, 2019, AEP filed an application for rehearing, which was opposed by multiple parties, including OMAEG. The PUCO denied the rehearing request by operation of law.

▪ **Application for Establishment of Renewable Reasonable Arrangements With Multiple Non-Residential Customers (Case No. 19-2037-EL-AEC)**

- On November 15, 2019 AEP filed its application, which, if ultimately granted, would allow implementation of a significant number of MWs as part of the approved commitment for AEP Ohio to develop 900 MW of renewable generation resources in Ohio, without a general finding of need for the solar wind resources the Company is requesting in Case No. 18-501-EL-FOR. As part of a future Amended Application to be filed in this proceeding, AEP Ohio plans to request that the Commission approve each of the individual reasonable arrangements.
- On January 2, 2020, the PUCO suspended deadlines regarding motions to intervene, filing comments, and filing objections to the application.

Duke Energy Ohio (Duke):

▪ Duke-Specific Tax Case (18-1185-EL-UNC, et al.)

- As the PUCO's investigation into the impact of the Tax Cuts and Jobs Act of 2017 (TCJA) on the rates charged to customers by public utilities continues, Duke initiated its own proceeding to address the impact of the TCJA on rates that it charges customers. Duke filed an Application to establish a rider that it can use to credit its customers with the benefits of the TCJA.
- OMAEG intervened in this case on July 31, 2018 in order to ensure that members in AEP's service territory receive the full benefits of the TCJA.
- Staff of the PUCO reviewed the application and after noting that the rate design for the return of benefits will be consistent with the current base distribution rates and that benefits already accrued by Duke will be returned to customers with carrying costs, it recommended approval of the application.
- Over the objections of OEG regarding rate design, the PUCO approved the application without a hearing and Duke filed updated tariff sheets implementing the new credit rider effective with the first billing cycle in March 2019. Thus, all customers, except those taking service under Rate TS, will receive a credit equal to 5.6% of the customer's applicable base distribution charges (i.e., customer charge plus base distribution charge).
- Under the new tariff sheets filed on January 31, 2020, the TCJA credit has been reduced to 3.87% across all customer classes.

▪ MGP Remediation Rider (Case Nos. 17-596-GA-RDR, et al.)

- On March 31, 2017, Duke filed an application to recover 2016 costs for investigation and remediation of its Manufactured Gas Plant (MGP) site. In Duke's natural gas distribution case (Case No. 12-1685-GA-AIR), the PUCO approved up to \$55.5 million for investigation and remediation costs incurred from January 2008 through December 2012.
- OMAEG filed reply comments regarding Duke's proposed MGP Rider to collect costs from customers for the remediation of gas plants which are no longer in service. In those comments, OMAEG argued that the parties to these cases are entitled to a hearing on these issues, that Duke should continue exploring cost recovery from other parties to mitigate the burden on customers, and that any cost recovery should be carefully audited and only persist for a limited duration.
- Duke has now sought to recover its MGP remediation costs incurred since 2013 through 2018 from customers, requesting an additional \$45.8 million.
- Staff issued Staff reports recommending that \$23.3 million be disallowed and not recovered from customers.
- On May 10, 2019, Duke filed a motion to continue the recovery of Rider MGP costs at the then current rate. OMAEG and others opposed Duke's attempt to seek recovery of these costs without a full hearing process on the appropriateness of the proposed recovery.

- On July 23, 2019, Duke informed the PUCO that its recovery of remediation costs is complete and filed revised tariffs setting the MGP rider to zero.
- On August 13, 2019, the PUCO consolidated all of the cost recovery cases, 2013 through 2018, and set a procedural schedule. The PUCO also denied Duke's request to continue the MGP rider during the pendency of the cases and set the rider to zero, which will result in cost savings to customers.
- OMAEG and other parties presented evidence demonstrating that Duke is not entitled to recover certain remediation costs related to 2013 through 2018, including costs incurred remediating the Ohio River and Kentucky.
- Awaiting PUCO decision.

FirstEnergy:

- **ESP IV Case on Remand (Case No. 14-1297-EL-SSO)**
 - OMAEG, and others, successfully appealed the PUCO decision to the Supreme Court of Ohio, challenging the PUCO's Order approving FirstEnergy's Distribution Modernization Rider (Rider DMR).
 - On June 19, 2019, the Supreme Court of Ohio agreed with OMAEG and others and struck down FirstEnergy's Distribution Modernization Rider or credit support rider as an unlawful charge under Ohio law.
 - FirstEnergy filed a motion asking the Court to reconsider its decision, which was denied on August 20, 2019 (with Justice Kennedy dissenting).
 - While the motion for reconsideration was pending, the PUCO approved updated tariffs to make all funds collected under Rider DMR since July 2, 2019 subject to refund.
 - Two days after the Court's denial to reconsider its original order striking down the rider, the PUCO issued an Order directing FirstEnergy to immediately file tariffs that set Rider DMR to zero and to issue a refund to customers for any monies collected through Rider DMR for services rendered after July 2, 2019.
 - After the refund was remitted to customers, on October 18, 2019, FirstEnergy eliminated Rider DMR, effective November 1, 2019.
- **FirstEnergy Revenue Decoupling Case (Case Nos. 19-2080-EL-ATA)**
 - On November 21, 2019, FirstEnergy filed an application for approval of a decoupling mechanism pursuant to HB 6. HB 6 authorizes an electric distribution utility to file an application to implement a decoupling mechanism.
 - FirstEnergy used its 2018 revenues as a baseline from which further rates will be determined. Staff recommended that FirstEnergy's baseline be weather-normalized to protect against high over collections in years with average weather.

- On January 15, 2020, the PUCO approved the decoupling without the modification that Staff requested, stating that it lacked authority to do so.
- **Rider DMR Extension Application (Case No. 19-361-EL-RDR)**
 - FirstEnergy applied to extend its Distribution Modernization Rider (Rider DMR) for an additional two years after its expiration at the end of this year. FirstEnergy currently collects \$168 million per year from customers under Rider DMR and, as evidenced by the renewal application, is using these funds to subsidize its generation-owning parent company. For this reason, OMAEG appealed the initial establishment of Rider DMR to the Supreme Court of Ohio, where oral argument has occurred and the parties await a decision. The proposed extension, if approved, would authorize FirstEnergy to collect additional amounts, totaling more than \$300 million in 2020 and 2021.
 - In light of the Supreme Court of Ohio's decision, OMAEG, and others, opposed the application in a joint motion filed August 30, 2019, stating that the application is unlawful and should be dismissed.
 - On November 21, 2019, the Commission denied as moot the application to extend Rider DMR for an additional two years should and dismissed the case.
 - The PUCO also concluded that, in light of the changed circumstances of DMR invalidation, it is no longer necessary or appropriate for the Companies to be required to file a new distribution rate case at the conclusion of the Companies' current ESP.
 - OMAEG challenged the ruling regarding distribution rates, stating that eliminating the requirement to file a new distribution rate case at the conclusion of FirstEnergy's current ESP was not based in law or fact.
 - The PUCO denied OMAEG's challenge on January 15, 2020.

Dayton Power & Light (DP&L):

- **Electric Security Plan (Case Nos. 16-395-EL-SSO, et al.)**
 - DP&L filed an amended application on October 11, 2016, proposing to withdraw its Reliable Electricity Rider (RER) request. Instead, it sought a Distribution Modernization Rider (DMR) for a term of seven years to recover \$145 million per year from customers.
 - DP&L and certain intervening parties reached a settlement, which was opposed by numerous other intervening parties, including OMAEG.
 - On March 13, 2017, a new settlement was reached between a majority of the parties, including PUCO Staff and OMAEG (as a non-opposing party). Under the new settlement, DP&L will receive \$105M/year for 3 years from customers, with an option to request a two-year extension. The Distribution Investment Rider (DIR-B) rider was eliminated (which had been estimated to cost consumers \$207.5M), and DP&L agreed to convert the forgone tax sharing liabilities to AES Corporation into equity payments (estimated by DP&L to be a \$300M gain for customers). DP&L will

also provide several OMAEG members the economic development rider (EDR) credit of \$.004/kWh. For OMAEG members that do not qualify for the EDR credit, DP&L agreed to slightly discount those members' previous rates. Thus, those members will receive a collective total of \$18,000 per year in shareholder dollars to compensate them for the increase in rates.

- After a hearing, the PUCO approved the settlement, but also modified it to include non-bypassable OVEC recovery. OMAEG filed an application for rehearing, arguing that this modification was unjust, unreasonable, and unlawful.
- The PUCO denied rehearing on its decision to modify the settlement.
- Interstate Gas Supply, Inc. (IGS) withdrew from the settlement and reopened the proceedings based upon the PUCO's modification to make OVEC recovery non-bypassable.
- After IGS' withdrawal, the PUCO held a hearing on the reopened proceeding. OMAEG participated in that hearing as a non-opposing party along with Staff, DP&L, and several other parties. OCC, who had opposed the settlement, has appealed the PUCO's modified approval of the settlement to the Supreme Court of Ohio.
- In light of the Court's decision regarding FirstEnergy's credit support rider, the PUCO ordered DP&L to eliminate its DMR rider.
- As a result of the PUCO's order, DP&L withdrew from its ESP, which the PUCO approved, and DP&L reverted to a prior "blended" ESP containing favorable elements of its past ESPs.
- OMAEG and others challenged the blended ESP. Rehearing is pending.
- **Application to Establish a Distribution Modernization Plan (Case Nos. 18-1875-EL-GRD, et al.)**
 - Pursuant to its ESP Stipulation, DP&L filed an application to establish a distribution modernization plan. DP&L asks the Commission to approve over \$600 million in cost recovery for the implementation of this plan. DP&L offers speculative benefits that customers will purportedly receive from this plan and states that it is advancing the PUCO's goals established in the PowerForward initiative.
 - Given that the enabling ESP Stipulation has been withdrawn, DP&L has re-initiated settlement discussions for this case based on a smart grid rider approved in an earlier case. DP&L is no longer attempting to tie this case with its DMR Extension case.
- **DMR Extension Application (Case No. 19-162-EL-RDR)**
 - DP&L's Rider DMR was established in DP&L's most recent ESP proceeding. DP&L filed an application to extend Rider DMR for an additional two years, with Rider DMR set at \$199 million per year.
 - OCC filed a motion to dismiss in light of the PUCO's decision to eliminate the DMR from DP&L's ESP.

Statewide:

▪ Review of Interconnection Services Rules (Case No. 18-884-EL-ORD)

- The PUCO opened a proceeding to review the PUCO's rules governing interconnection services and scheduled a workshop to discuss changes to those rules.
- The PUCO sought comments regarding the proposed interconnect rules, which are due on March 13, 2020.

▪ Nuclear Bailout Bill (HB 6)

- The Ohio General Assembly passed a bill that effectively serves as a bailout for nuclear generation. OMAEG actively participated throughout the hearing process regarding this proposed legislation, including various members and legal counsel offering testimony opposing the bill. The bill has been amended several times, and each amendment has included provisions that would impose unreasonable costs on customers in order to subsidize uneconomic generation.
- The Governor signed into law House Bill 6 on July 23, 2019. This unfortunate development means that customers will be forced to subsidize failing nuclear and coal facilities. The mechanics of the increase in charges to customers has been left to the PUCO, which will now open proceedings to establish new rates and rules in light of House Bill 6.
- Not enough signatures were gathered to place the referendum on the ballot as required by the Ohio Constitution. Challengers went to federal court to obtain an extension, but they were directed to the Supreme Court of Ohio to resolve what the federal court considered a "state question."
- In *FirstEnergy Solutions Corp. vs. Ohioans Against Corporate Bailouts*, the Supreme Court of Ohio denied FES' first request for an expedited case schedule on October 16, 2019, but a second request for an expedited schedule was requested on October 28, 2019 in light of the federal court's ruling. FES is challenging the referendum's constitutionality on the grounds that HB 6 creates a tax that is not subject to referendum.
- Appellants Ohioans Against Corporate Bailouts voluntarily dismissed their appeal against the Ohio Secretary of State. Counsel for the group told the Court that the group did not have sufficient money to continue the appeal. The effort to repeal HB 6 by veto measure appears to have ended.

▪ HB 6 Implementation Issues

- OAQDA Rulemaking
 - OAQDA requested written comments on its proposed rules. As established in HB 6, the rules provide for utility ratepayer funding of two newly created funds – the nuclear generation and renewable generation funds. OMAEG and OCC were the only entities that filed written comments by the published deadline. OMAEG filed comments requesting clarification and supplementation, to ensure that the proposed rules are complete and allow for

adequate and transparent reporting and accountability regarding the nuclear and renewable generation program and funding mechanism.

- OAQDA issued a memorandum rejecting all comments filed by OMAEG and OCC, stating that their rules comply with the minimal requirements of HB 6 and OMAEG's and OCC's comments address considerations outside the scope of rules.
- Subsequently, OAQDA held a public hearing regarding its proposed rules on November 18, 2019. OMAEG presented its previously filed written comments at the hearing. AEP provided oral and written comments, requesting a rule clarification that the nine dollar per megawatt hour payment created in HB 6 does not strip the underlying renewable or green attribute in the power so that customers may count the renewable energy as green power or use it for sustainability purposes. FES provided written comments stating that the rules met the minimum requirements of HB 6 and rebutted OMAEG's proposed accountability and transparency provisions. Hillcrest renewables also provided oral comments agree with our comments regarding the importance of transparency and accountability and requested a rule modification allowing entities to opt-in and out of the program.
- OVEC Recovery Mechanism (Case No. 19-1808-EL-UNC)
 - PUCO Staff proposed to establish a nonbypassable rate mechanism to recover the prudently incurred costs related to OVEC through a newly created legacy generation resource rider (LGR Rider) on customers' bills. Staff proposed to charge the LGR Rider and establish the monthly cap on a "per month per customer account/premise." OMAEG has argued that HB 6 explicitly used the terms "per customer" to differentiate from a "per account" or "per meter" cap, while OEG and IEU-Ohio commented that Staff's proposed methodology largely complies with the requirements in HB 6.
 - On November 21, 2019, despite the mandate that the PUCO implement a per customer cap, the PUCO established a nonbypassable mechanism that is collected on a "per customer account" basis and which creates only one nonresidential monthly cap. The PUCO also determined that the program was not subject to a refund if HB 6 is invalidated.
 - OMAEG challenged the decision, which was denied in January.
- PUCO Solicits Comments Regarding Future of Energy Efficiency Programs (Case No. 17-1398-EL-POR)
 - The PUCO requested comments from interested persons regarding the appropriate steps to be taken with respect to energy efficiency programs once the statewide cap of 17.5 percent, set by HB 6, has been reached. Staff has been tracking the EDUs' progress towards the benchmark, and has been filing periodic reports regarding that progress in the utilities' energy efficiency dockets.
 - The PUCO solicited comments from interested persons on: (1) whether the PUCO should terminate the energy efficiency programs once the statutory cap

of 17.5 percent has been met; and (2) whether it is appropriate for the EDUs to continue to spend ratepayer provided funds on energy efficiency programs after the statutory cap has been met.

- On November 25, 2019, OMAEG and other stakeholders submitted comments regarding the future of Energy Efficiency programs for FirstEnergy and the other EDUs since implementation of HB 6.
- OMAEG argued that the EDUs should continue their Energy Efficiency programs through December 31, 2020, with programs continuing as economically appropriate thereafter.
- The PUCO agreed with OMAEG and others and concluded that HB 6 and the public interest require all of the utilities' EE Programs to continue through 2020. The PUCO, however, determined that there should be an orderly wind-down of the programs beginning on September 30, 2020 to minimize any recovery of costs associated with the programs after 2020. The PUCO directed the utilities to honor any application for EE programs approved prior to September 30, 2020 and to cease accepting applications for direct rebate programs on September 30, 2020. The PUCO also ordered the utilities to notify customers beginning April 1, 2020 that EE applications will no longer be accepted as of September 30, 2020 and stated that any programs that do not involve a direct rebate to consumers should continue only until September 30, 2020 in order to ensure that all activities are completed by December 31, 2020.

▪ **Reasonable Arrangement Rule Revisions (Case No. 18-1191-EL-ORD)**

- The PUCO is currently in the process of revising its rules regarding economic development arrangements, energy efficiency arrangements, and unique arrangements (collectively, reasonable arrangements). As part of that process, the PUCO released its proposed rules and solicited comments from interested parties.
- OMAEG submitted comments and reply comments on the proposed rules, arguing that the PUCO should create clear standards governing these arrangements in order to ensure fairness and predictability in the process, including both standards for approval and for addressing recipients of reasonable arrangements who do not meet their commitments.

▪ **OPSB Seeks Stakeholder Input to Improve Siting Process**

- The Ohio Power Siting Board (OPSB) held informal stakeholder discussions to learn how to improve public participation in the siting process, technical application requirements, and construction compliance efforts.
- Next, OPSB will open a formal rulemaking docket and hold public workshops to solicit ideas from interested parties.
- OPSB will then issue draft rules and solicit formal public comments prior to issuing final rules. OMAEG will participate in the workshops and make recommendations for

improvement to the rules as appropriate, including an improved transmission siting process in an attempt to control the costs of supplemental transmission projects being passed on to customers.

▪ **PUCO Seeks Comments on Electric Vehicle Charging Service**

- The PUCO is seeking comments on whether an entity that provides electric vehicle charging service is a public utility subject to the jurisdiction of the PUCO. The PUCO explained that its Staff has consistently taken the position that entities that provide electric vehicle charging services are neither electric light companies nor public utilities in this state, but the PUCO has never decided this specific issue.
- Interested persons may file comments and reply comments by March 23, 2020 and April 7, 2020, respectively.

Federal Actions

FERC:

▪ **MOPR Expansion (Docket EL16-49)**

- On March 21, 2016, Dynegy and others filed a complaint against PJM requesting that the Minimum Offer Price Rule be expanded to apply to existing resources.
- The complaint aims to protect against AEP and FirstEnergy offering the subsidized affiliate generating units into the capacity market below costs, which will suppress capacity prices.
- Dominion, American Municipal Power, and others filed a motion to dismiss on mootness grounds given FERC's order rescinding the waiver on affiliate sales restrictions granted to AEP, FirstEnergy, and their unregulated generating affiliates.
- The Independent Market Monitor claims that the issues are not moot given the Staff's proposal adopted in the FirstEnergy ESP IV case for a DMR, and the pending DP&L DMR proposal.
- In a 3-2 decision, FERC found that PJM's current tariff is unjust, unreasonable, and unduly discriminatory because it fails to account for state policies that subsidize favored sources of generation, thus disrupting the competitive wholesale market. FERC is now considering how to best address state subsidies provided to certain generation resources in order to avoid market disruption.
- OMAEG joined several other industrial consumer groups in filing comments and reply comments urging FERC to adopt measures to account for out-of-market subsidies. Those comments were filed on October 2, 2018 and November 6, 2018, respectively.
- On December 19, 2019, FERC ordered that subsidized generation resources (with some exceptions) could only bid into the wholesale capacity auctions subject to the FERC-determined Minimum Offer Price Rule (MOPR), which sets an offer price

floor for each resource class. By broadening the definition of “subsidy,” more generation resources that bid into the PJM auctions are now subject to the MOPR.

- The OVEC plants, Ohio nuclear plants, HB 6-subsidized renewable facilities and possibly Sammis will be subject to MOPR.
- **FERC Rulemaking (Docket RM18-1)**
 - FERC considered a rule proposed by the Secretary of Energy that would subsidize inefficient and failing coal plants in the name of promoting grid reliability and resiliency. In reality, however, the Proposed Rule would only act as a subsidy to prop up failing generators at the expense of electric customers.
 - OMAEG filed initial comments opposing the Proposed Rule on October 23, 2017. It then filed Reply Comments to support the arguments of other manufacturing coalitions and oppose comments of parties who supported the Proposed Rule.
 - FERC agreed with OMAEG and others and rejected the proposed rule. FERC concluded that the record did not support the claim that the grid faces reliability or resiliency threats from the retirement of inefficient generation, and, even if a problem existed, FERC explained that the proposed solution was contrary to FERC’s longstanding commitment to markets and market-based solutions and did not satisfy the legal requirements for the creation of a new rule. Instead, FERC defined resiliency and sought comments and data from the regional transmission organizations and independent system operators regarding their resiliency challenges on a regional basis.
 - Rehearing is pending.
- **Proposed PJM Tariff Revisions to Address Impacts of State Public Policies (Docket ER18-1314)**
 - On April 9, 2018, PJM filed an application to address state public policies. PJM advocated for two different approaches to addressing these issues.
 - The PUCO filed comments advocating the rejection of PJM’s approach and retention of the status quo. The PUCO noted that capacity market has recently been overhauled and that PJM has not substantiated its comments. The PUCO further pointed out that PJM failed to provide cost impacts on customers. The PUCO advocates that PJM should maintain the status quo until a better approach is found.
 - OMAEG joined several other industrial and commercial customer groups in filing comments and reply comments that urged FERC to adopt measures that account for out-of-market payments received by some generation resources under policies pursued by individual states. These anticompetitive payments disrupt the competitive wholesale market that, when left undisturbed, works to benefit customers.

- **Grid Resilience in RTOs and ISOs (Docket AD18-7)**
 - FERC opened this proceeding to evaluate bulk power system resilience. PJM filed comments that advocated a broader approach to system resilience and asserting that PJM should be involved in improving resilience.
 - The PUCO filed reply comments that supported PJM's position in favor of a broader approach to system resilience, but also urged FERC to avoid adopting PJM proposals without acknowledging the state and local role in the process. The PUCO believes that resilience is already considered in existing reliability standards and does not want ratepayers to be burdened by a new approach to resilience through increased charges without receiving any benefits.
- **FES Bankruptcy Proceeding**
 - On March 31, 2018, FirstEnergy Solutions Corporation (FES) filed for bankruptcy in the United States Bankruptcy Court.
 - FES announced an agreement that would provide for FES and its creditors to release all claims against FirstEnergy (including FirstEnergy's non-debtor affiliates, directors, employees, and professionals) in return for receiving \$1.645 billion in value flowing from FirstEnergy to FES. This agreement is contingent on approval by the boards of FirstEnergy Corp. and Allegheny Energy Supply Company LLC, as well as the United States Bankruptcy Court in the FES bankruptcy proceeding. While the specific claims that are being released have not yet been publicly described, the size of this proposal indicates that FirstEnergy must have significant concerns about litigation arising from its transactions with FES over the years.
 - FES filed a motion for approval of its sale to Exelon Generation Company (Exelon), the parent company of Constellation Energy.
 - The bankruptcy court agreed to allow FES to abandon its contracts with two money-losing OVEC plants. This could cause OVEC charges for AEP, Duke, and DP&L customers to increase.
 - The bankruptcy court approved FES' proposal to allow FES to walk away from its obligations under its power purchase agreement with OVEC.
 - FES filed a term sheet that contained provisions of an agreement with the Official Committee of Unsecured Creditors, the Ad Hoc group of Pollution Control Notes, the Ad Hoc group of Mansfield bond holders, and certain holders of rejection damage claims. In the next few months, FES will file a Restructuring Support Agreement (RSA), which will contain FES' complete restructuring plan.
 - The judge rejected FES' proposed settlement release of FirstEnergy Corp. from its decommissioning and environmental obligations to the government. The judge determined that this proposed release made the plan unconfirmable, which means that FES had to develop a new plan for its exit from bankruptcy. This triggered the renegotiation of the FirstEnergy bankruptcy settlement.
 - FES submitted a new bankruptcy settlement plan. The judge refused to confirm the plan unless the unions voluntarily agreed to a new collective bargaining agreement or FES goes through the difficult process to reject a collective bargaining agreement.

- FES union workers reported that they had reached an agreement with FES creditors to retain their pensions, wages, and benefits.
- In a win for consumers in Ohio, the Sixth Circuit overturned the Bankruptcy Court decision that enjoined FERC from taking any actions with respect to the OVEC contract and that authorized rejection of the OVEC contract through bankruptcy.
- The Sixth Circuit found the Bankruptcy Court's injunction on FERC was overly broad in prohibiting any action by FERC related to the OVEC contract and that the Bankruptcy Court erred in approving the rejection of the contract based solely on whether the OVEC contract was burdensome on FES.
- The Sixth Circuit remanded the cases to the Bankruptcy Court to reconsider FES' attempt to walk away from the OVEC contract under a "heightened standard," taking into account the impact on the public (including customers) and not just whether the OVEC contract is burdensome on FES.
- FES received final approval of its Bankruptcy Plan, which became effective February 27, 2020 after the bankruptcy court issued the final approval necessary on February 25, 2020, just days before FES' nuclear outage was scheduled. FES asked the court to issue an expedited ruling, claiming that it needed the plan to take effect prior to the scheduled nuclear outage on February 29, 2020. FES claimed (without providing detail) that a number of challenges existed, which could prevent the debtors from emerging from bankruptcy during a nuclear outage, if the plan was not approved prior to the outage. This means that FirstEnergy's shares in FES were cancelled and FES is now owned by the various bankruptcy creditors.
- On February 14, 2020, FERC authorized certain transactions to implement FES and its public utility subsidiaries' reorganization plan filed in the Northern District of Ohio's Bankruptcy Court regarding the disposition of facilities and acquisition of securities. FERC specifically stated that its order does not address FES' proposed rejection of certain FERC-jurisdictional power purchase agreements (OVEC) as part of its review under section 203 of the Federal Power Act ("FPA").

CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

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280 NORTH HIGH STREET
COLUMBUS, OHIO 43215

MEMORANDUM

TO: Ohio Manufacturers' Association Energy Group

FROM: Kim Bojko, Carpenter Lipps & Leland LLP

DATE: January 16, 2020

SUBJECT: PUCO Authorizes FirstEnergy's Decoupling Rider

HB 6 authorized a utility to apply to implement a revenue decoupling mechanism to recover lost revenue as a result of implementing energy-efficiency or energy-conservation programs within thirty days of the effective date of the new law (October 22, 2019). If implemented, each utility's annual revenue will be compared against the 2018 baseline revenue of the utility. If annual revenue in a given calendar year is less (or greater) than the 2018 baseline revenue, the utility will charge (or credit) the difference to customers through the decoupling rider. Thus, if the economy takes a downturn and the utility receives less revenue from its customers, the utility will always be guaranteed to receive the same amount of revenue as it did in 2018, which will continue until the utility files a new base distribution rate case.

On November 21, 2019, FirstEnergy was the only utility to file an application for approval of a decoupling mechanism. OMAEG and others intervened in the matter and argued 1) the PUCO should ensure that there is no double recovery of costs through the decoupling mechanism, including lost distribution revenue; and 2) that the PUCO should only approve decoupling based on actual costs, not projections, and 3) that any refunds are passed back or credited to customers. The PUCO Staff released a report that revealed why 2018 was likely chosen in the legislative process and included in HB 6 as the baseline for the decoupling mechanism. Stakeholders surmised that a utility's revenues must have been high for that year, but it was not clear exactly why. The PUCO Staff report explained that 2018 was the warmest summer in history for two of the FirstEnergy utilities and the second warmest for the other. Therefore, 2018 produced high revenue for the three FirstEnergy utilities. Based upon this information, Staff recommended that FirstEnergy weather normalize rates to reflect average weather to avoid large discrepancies through the years and minimize any rate impacts to customers based upon the unusual high temperatures in 2018. This weather adjustment is regularly used in ratemaking proceedings to normalize rates and is sound policy.

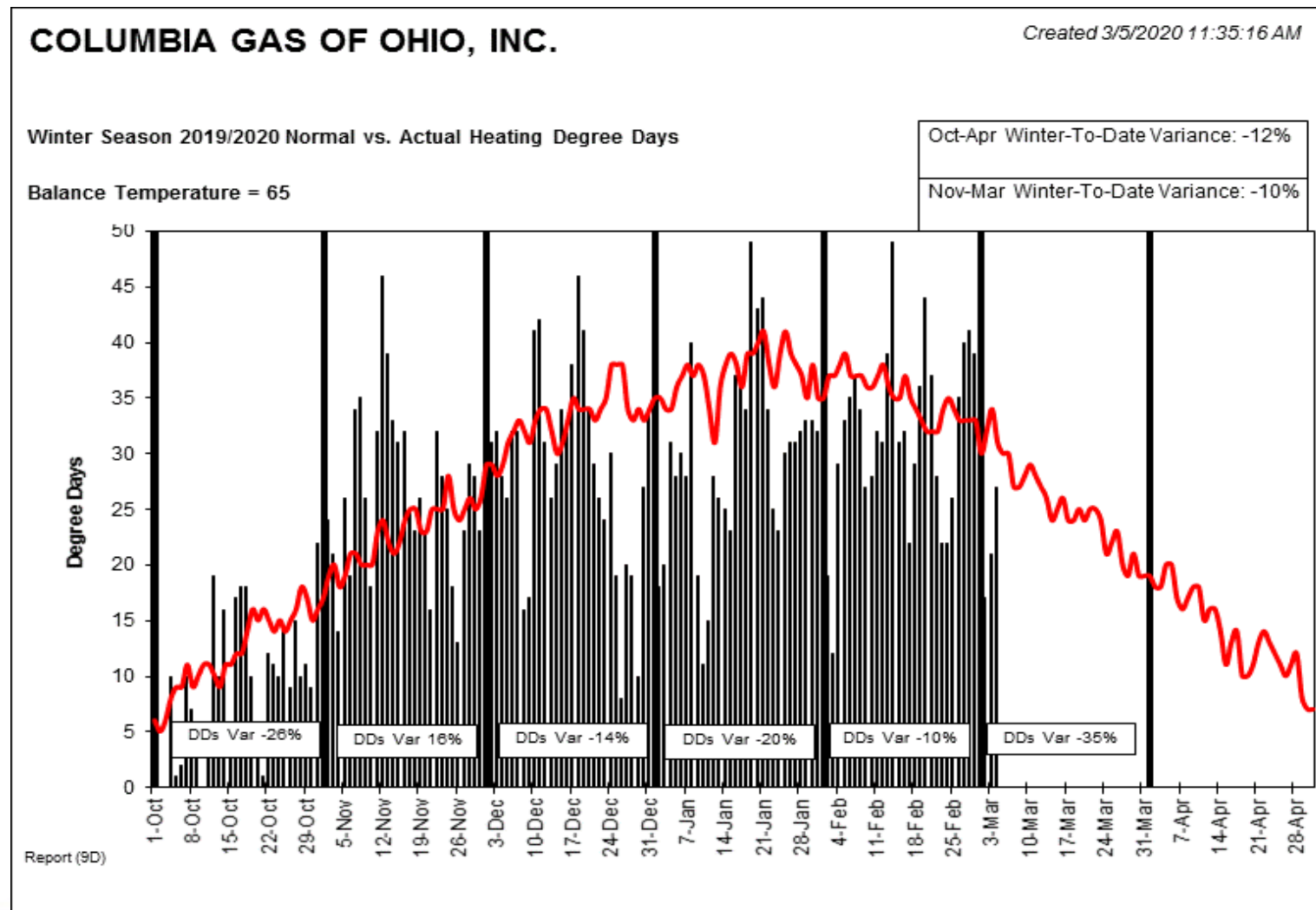
This week, the PUCO granted FirstEnergy's request for a decoupling mechanism and established a decoupling rider (called Rider CSR). The Commission approved FirstEnergy's application as filed, **rejecting** Staff's recommendation to weather normalize the 2018 baseline revenue due to the unusual

high temperatures in 2018. Staff's approach would have minimized the possibility of creating a large decoupling rider to make up for the difference in revenue between future years and 2018. Although Commissioner Conway expressed his sympathy for Staff's view, the PUCO did not order FirstEnergy to weather normalize the baseline. FirstEnergy will now be guaranteed to receive the level of revenues that it received in 2018 (during the warmest summer in history) each and every year, regardless of its operating and maintenance costs and the actual revenue received from customers for base distribution rates.

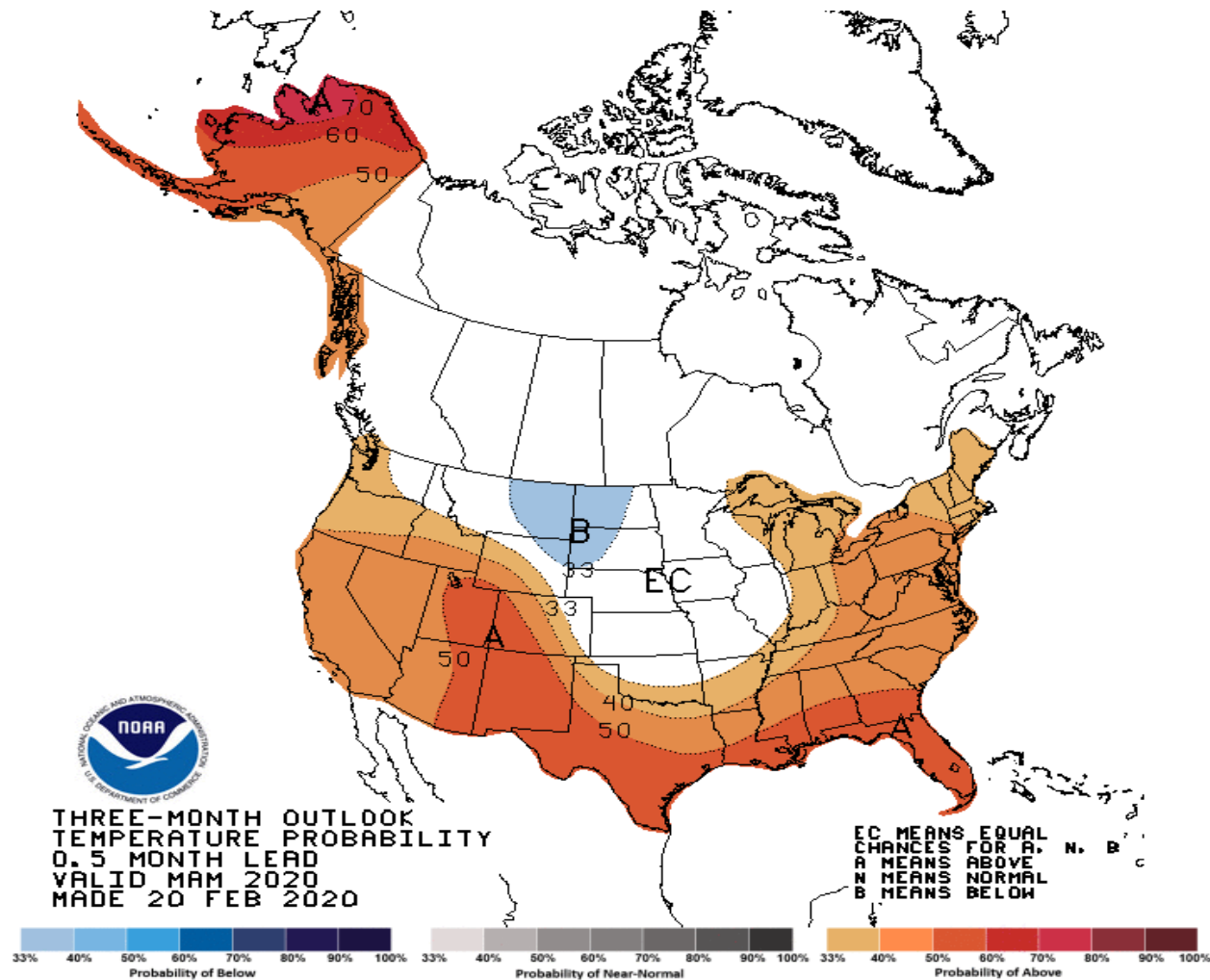
Natural Gas Update OMA Energy Committee

**Richard Ricks
NiSource/Columbia Gas of Ohio
March 12, 2019**

YTD Ohio Winter Degree Days: ~10 % Warmer



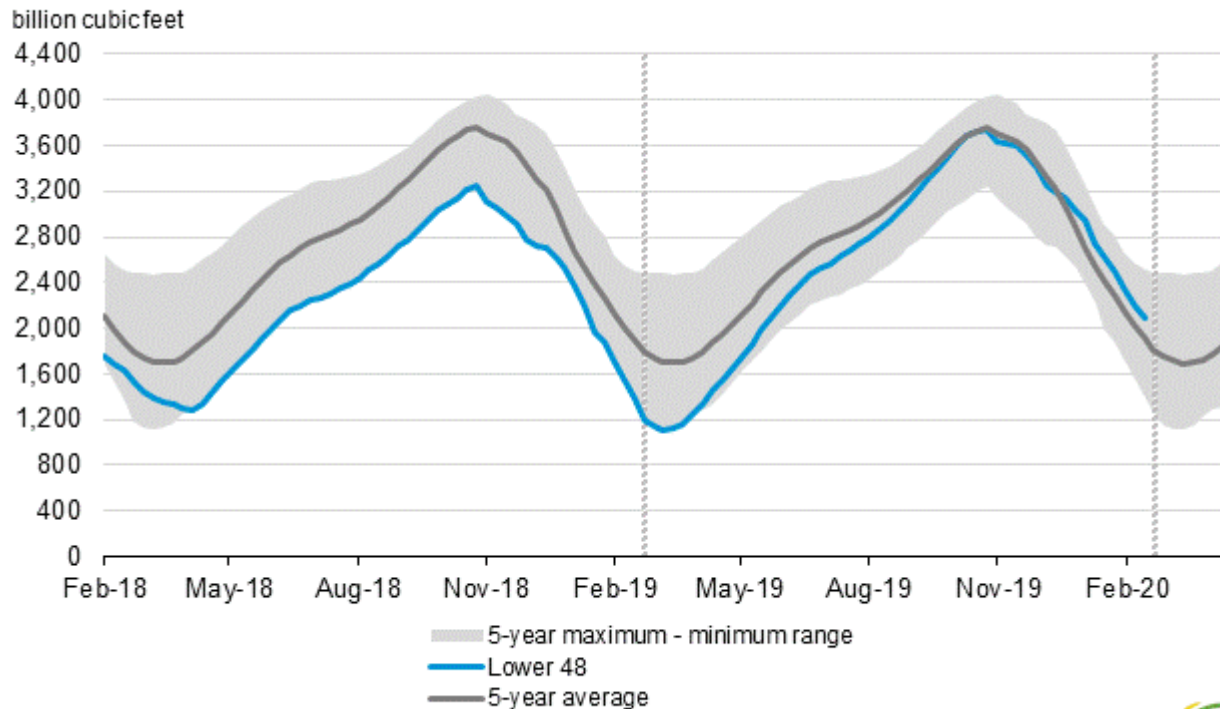
NOAA Temperature Outlook: Months of March, April, & May 2020



Storage – About at the 5 Yr Average

Working gas in storage was 2,091 BCF as of Friday, February 28, 2020, according to EIA estimates. This represents a net decrease of 109 BCF from the previous week. Stocks were 680 BCF higher than last year at this time and 176 BCF above the five-year average of 1,915 BCF. At 2,091 BCF, total working gas is within the five-year historical range.

Working gas in underground storage compared with the 5-year maximum and minimum



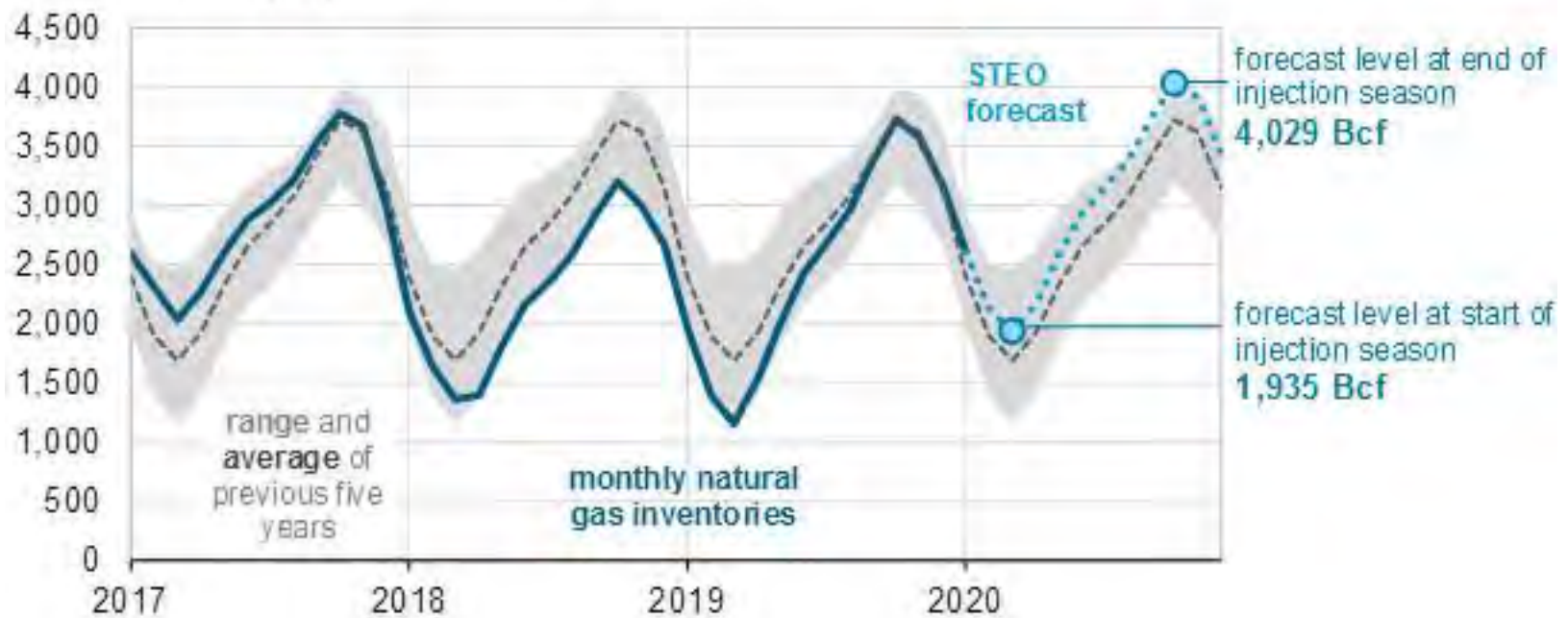
Source: U.S. Energy Information Administration



Storage – EIA forecasts high storage into Next Winter

With the warm 2019/2020 winter & continuing strong production, the EIA forecasts gas storage levels to be very high heading into the 2020/2021 winter season

Lower 48 states working natural gas in storage (Jan 2017-Dec 2020)
billion cubic feet (Bcf)

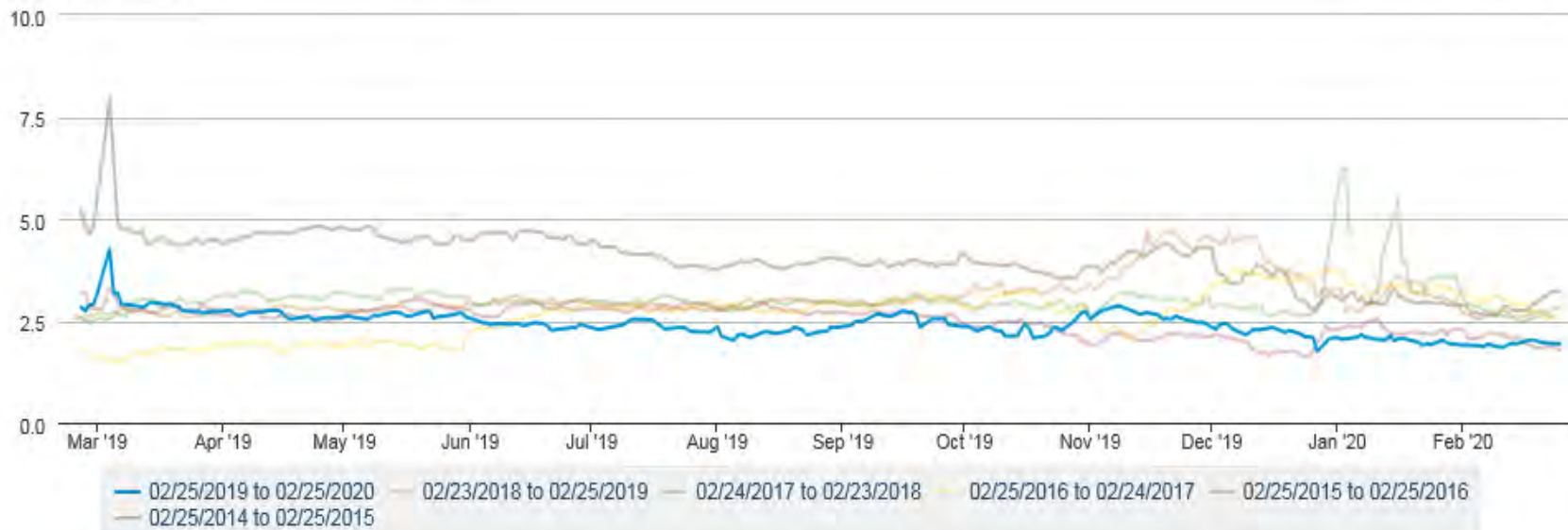


NYMEX Prompt Month Settlement – 5 Years

Henry Hub Natural Gas Spot Price

DOWNLOAD


Dollars per Million Btu



NYMEX Prompt Month Settlement History

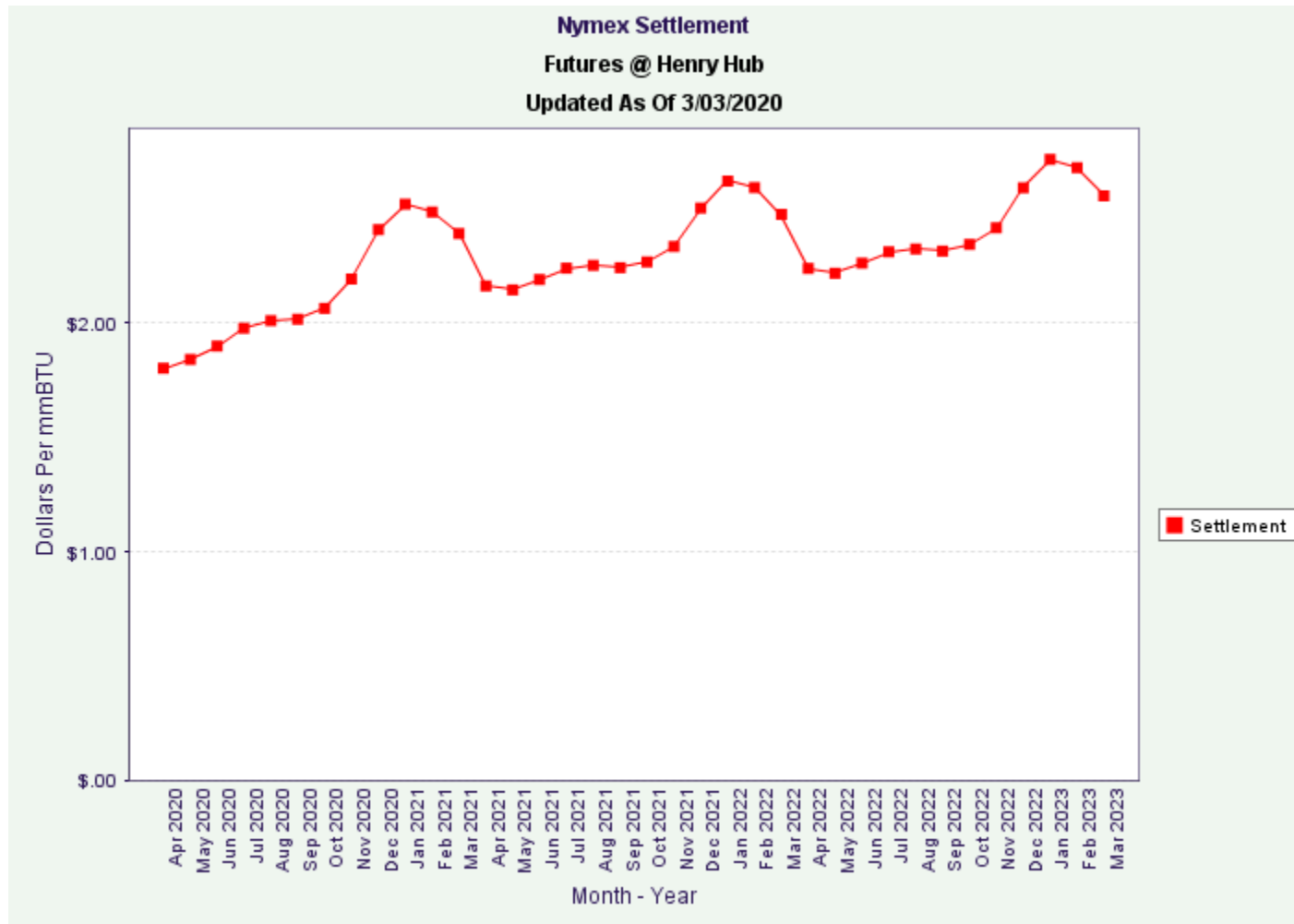
Henry Hub Natural Gas Spot Price

Dollars per Million Btu

 DOWNLOAD



NYMEX Futures Settlement: 03/3/2020 – \$3 still MIA



NYMEX Term Pricing: 3-9-2020 – Lower

<u>TERM</u>	<u>PRICE 11-15-19</u>	<u>PRICE 3-9-20</u>
3 month	\$2.68	\$1.76 (-\$0.92)
6 month	\$2.55	\$1.84 (-\$0.71)
12 month	\$2.50	\$2.07 (-\$0.43)
18 month	\$2.53	\$2.10 (-\$0.43)

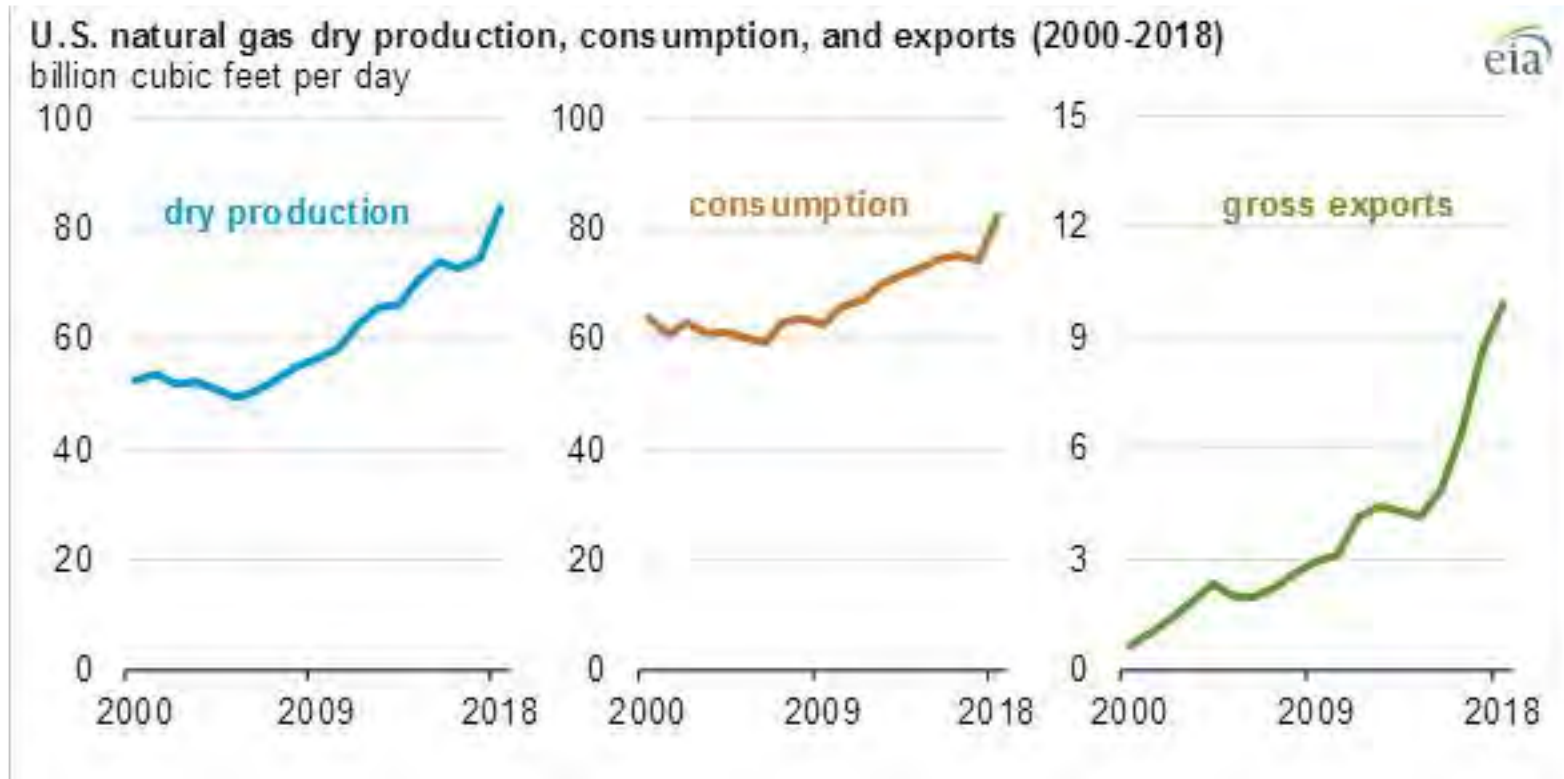
Select Hub Pricing – March 9, 2020 – A Lot Lower

<u>HUB LOCATION</u>	<u>11-15-19</u>	<u>3-9-20</u>	
Henry Hub	\$2.67	\$1.74	(-\$0.93)
Houston Ship Channel	\$2.61	\$1.65	(-\$0.96)
TCO Pool	\$2.31	\$1.50	(-\$0.81)
Dominion South Point	\$2.26	\$1.40	(-\$0.86)
TETCO M-2	\$2.28	\$1.41	(-\$0.87)
TGP Zone 4	\$2.20	\$1.37	(-\$0.83)

Dominion, TCO, TETCO, & TGP pricing is Marcellus/Utica Area.

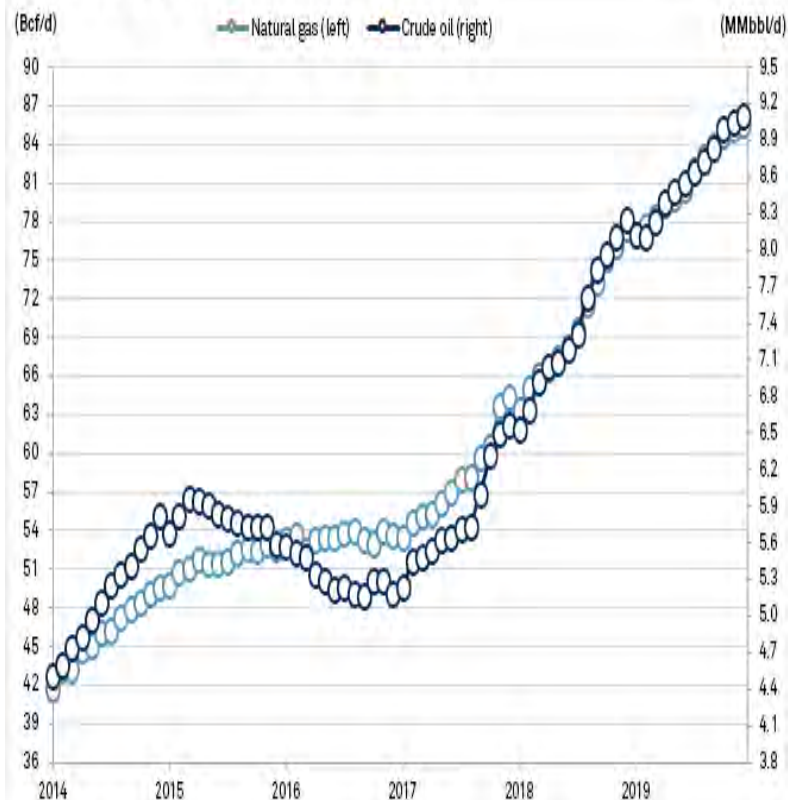
NOTE: The convergence of the Appalachian basin prices; Due to all of the recent pipeline projects in Appalachia taking the gas to market.

US Natural Gas Supply, Demand, & Export - Increasing



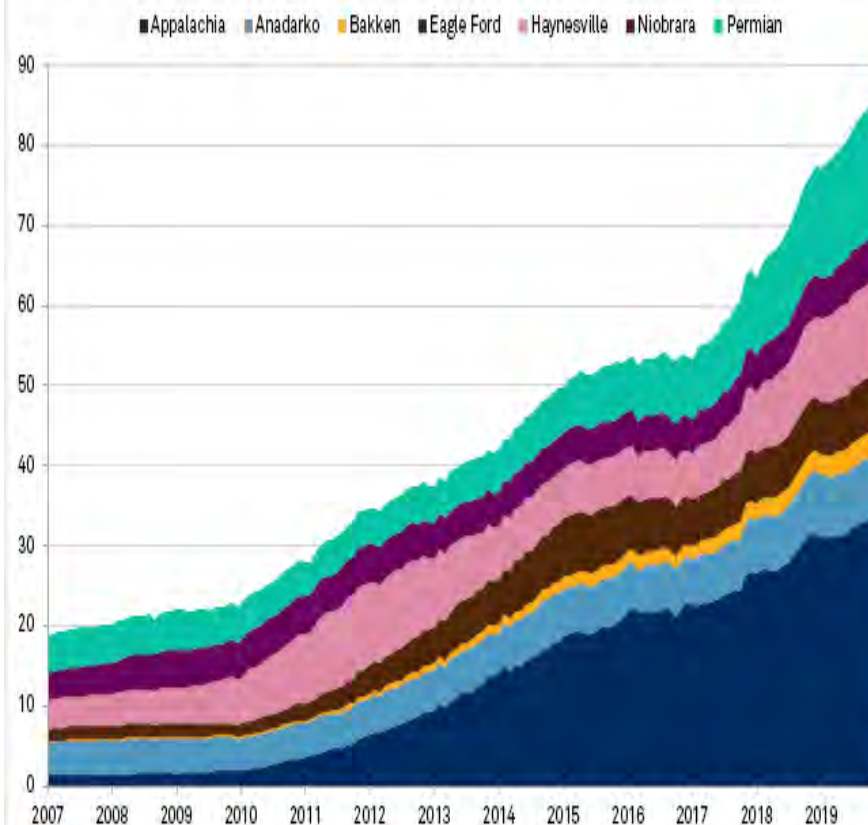
US Shale Gas & Oil Production - Continues to Grow

US shale energy production



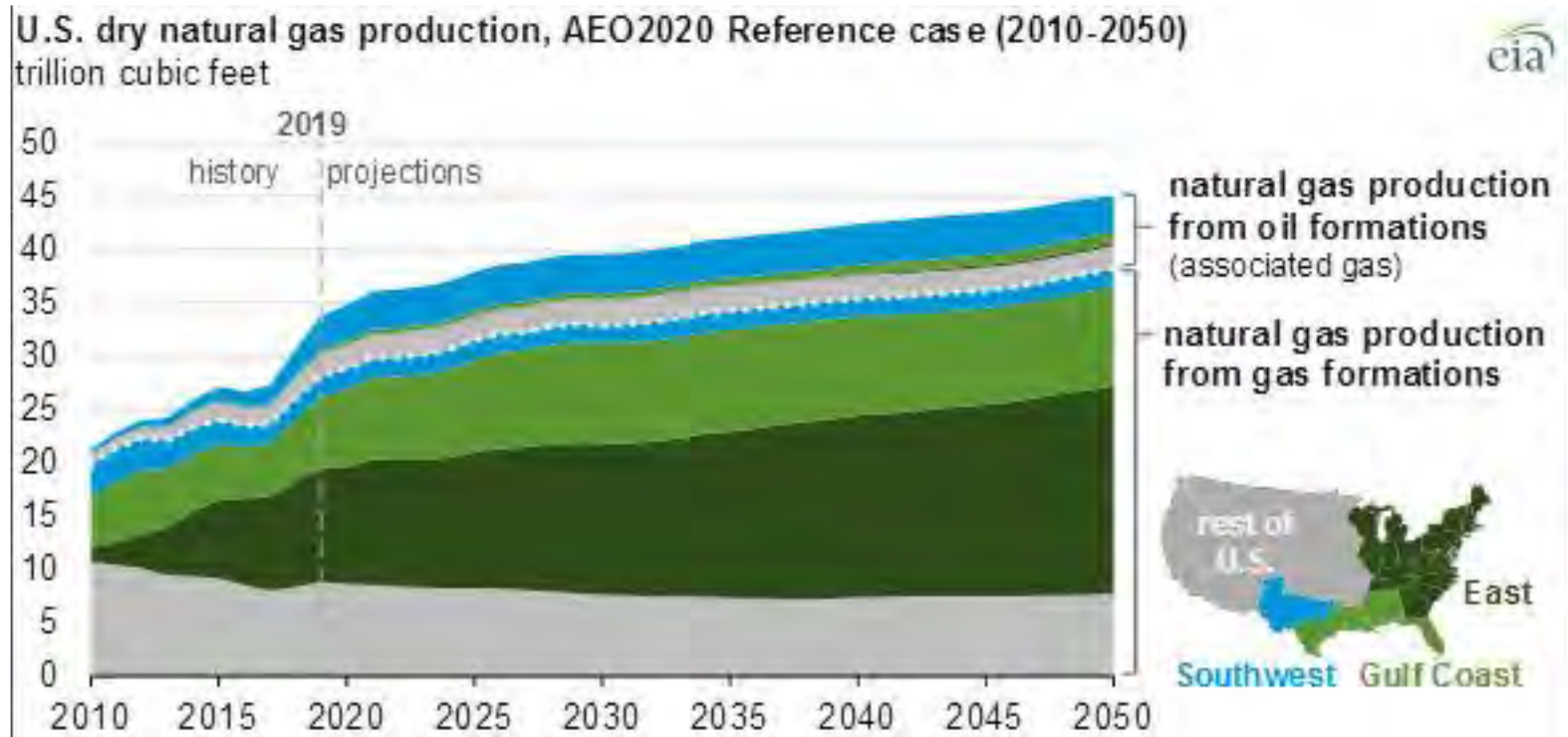
As of Dec. 16, 2019.
Source: U.S. Energy Information Administration

US dry shale gas production (Bcf/d)



As of Dec. 16, 2019.
Source: U.S. Energy Information Administration

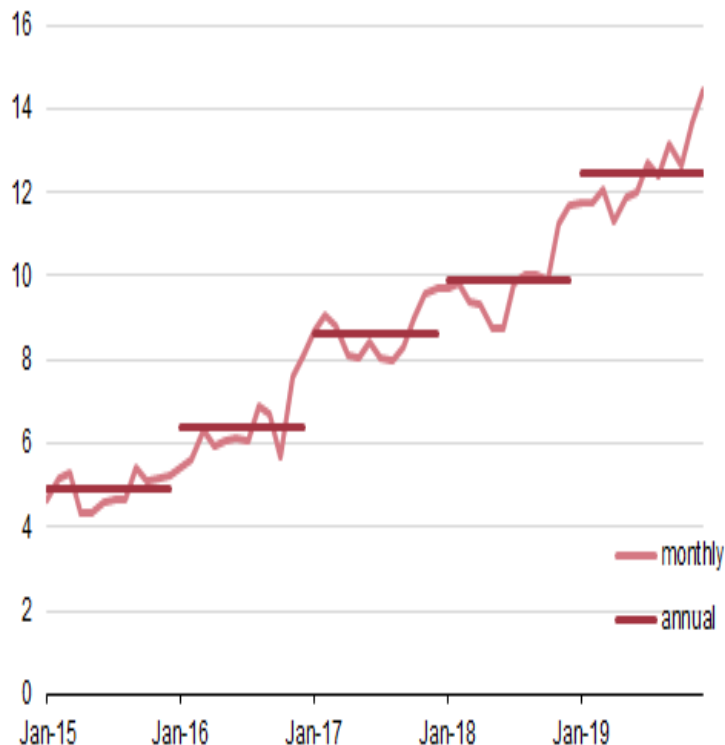
Production Basin Outlook – Appalachia Growth



Natural Gas Exports – Mostly LNG & Growing

Gross exports of natural gas, (2015 – 2019)

billion cubic feet per day

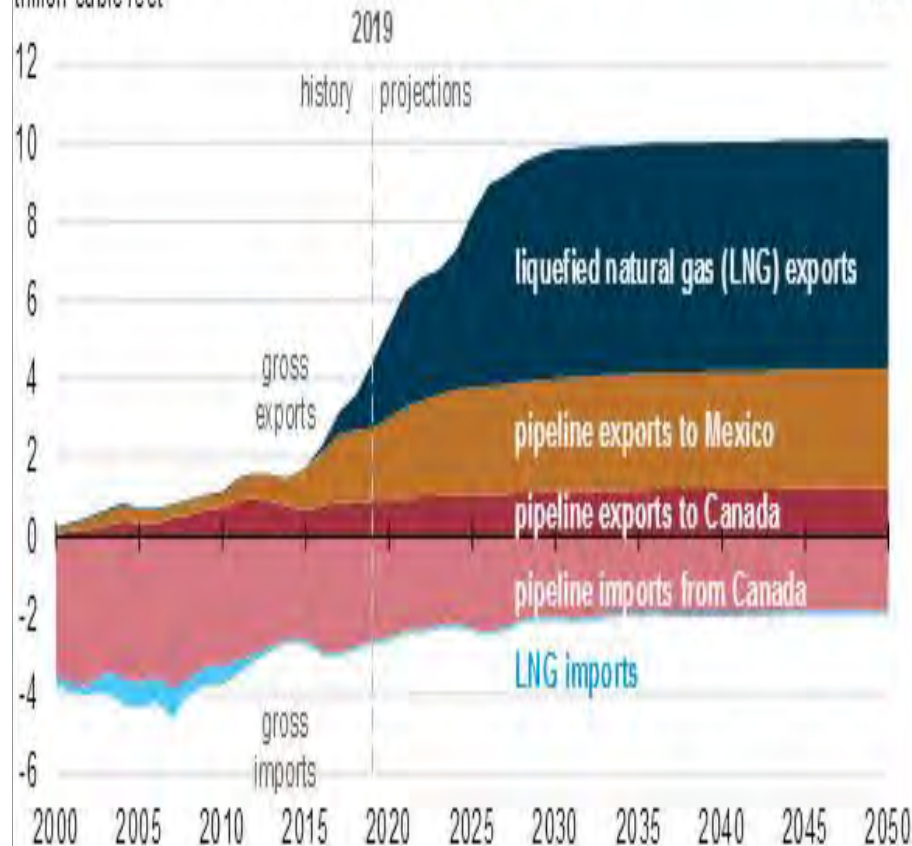


Source: U.S. Energy Information Administration, *Natural Gas Monthly* (December 2019), *Short-term Energy Outlook* (December 2019)

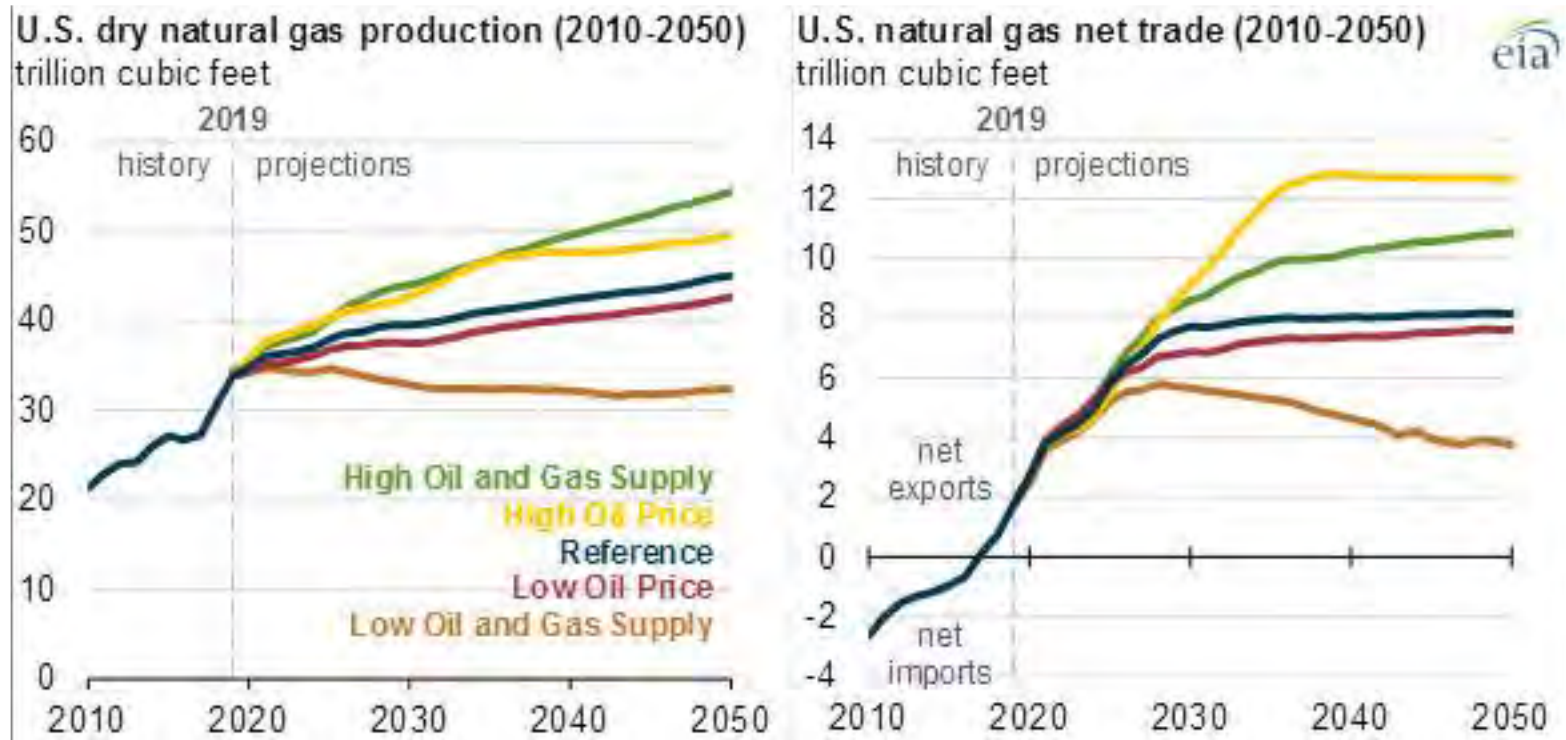
Note: Data for October, November, and December 2019 are based on *Short-term Energy Outlook* projections. Gross exports include both pipeline and LNG exports.

U.S. natural gas trade, AEO2020 Reference case (2000-2050)

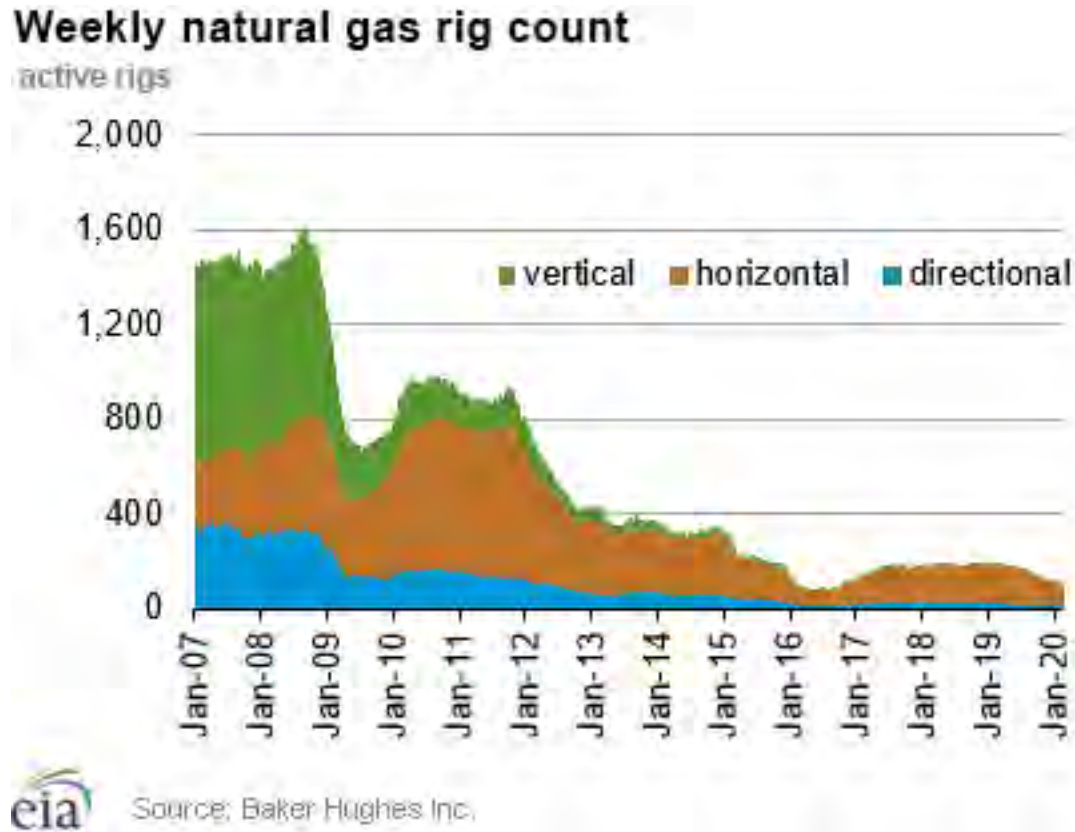
trillion cubic feet



Gas Production & Net Trade Outlook – Expected to Grow



Natural Gas Rig Count – Low – Price is too low



Climate Related Legislation in 2019

Key climate-related legislation enacted in 2019

State	Enacted legislation
New York	100% carbon free power by 2040
Washington	100% carbon free power by 2045
Maine	100% renewables by 2050
Puerto Rico	100% renewables by 2050
Maryland	50% renewables by 2030
Nevada	50% renewables by 2030
New Mexico	50% renewables by 2030
California	Emergency wildfire measures passed
Texas	Pipeline protests become a felony
Wisconsin	Pipeline protests become a felony
Oregon	Target to have 90% of in-state car sales be zero emissions vehicles by 2035

Data as of Dec. 31, 2019.

* Some bills referenced contained additional climate-related measures beyond those listed in the chart.

* List includes instances when states passed measures that might not be viewed as climate-friendly.

Source: S&P Global Market Intelligence

Recent Developments - Energy

- **Carbon/Fossil free & Natural Gas use initiatives** (Part 2 from last meeting):
 - New York City considering phase out of natural gas
 - City of Columbus Mayor announces commitment for City to be “carbon neutral” by 2050
 - BP & Repsol SA announce net zero GHG emissions goal by 2050; Shell by 50% by 2050
- Financial pain in Appalachia shale field: Price & this winter’s demand too low
- William’s cancels Constitution Pipeline (PA to NY) due to NY & Environmentalist opposition
- BP leaves 3 U.S. trade associations (American Fuel & Petrochemical Manufacturers, Western States Petroleum Association, & Western Energy Alliance) for “misalignment of climate positions”.
- Definitely some developing “headwinds” for traditional US fossil fuel energy sources.

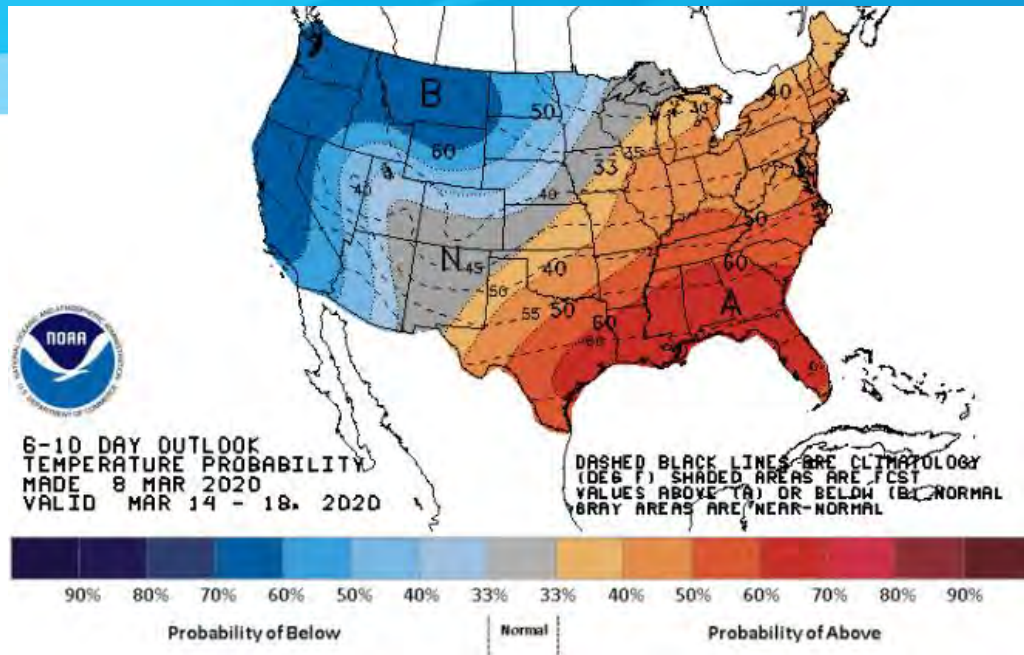
Electricity Market Update

March 12, 2020



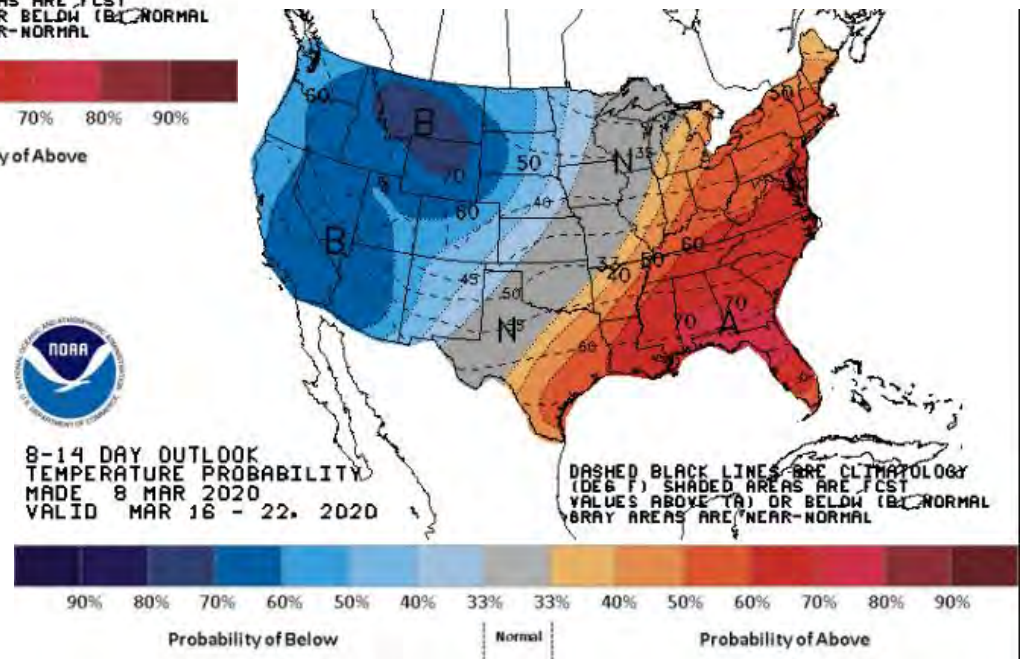
scioto energy

Temperature Forecast

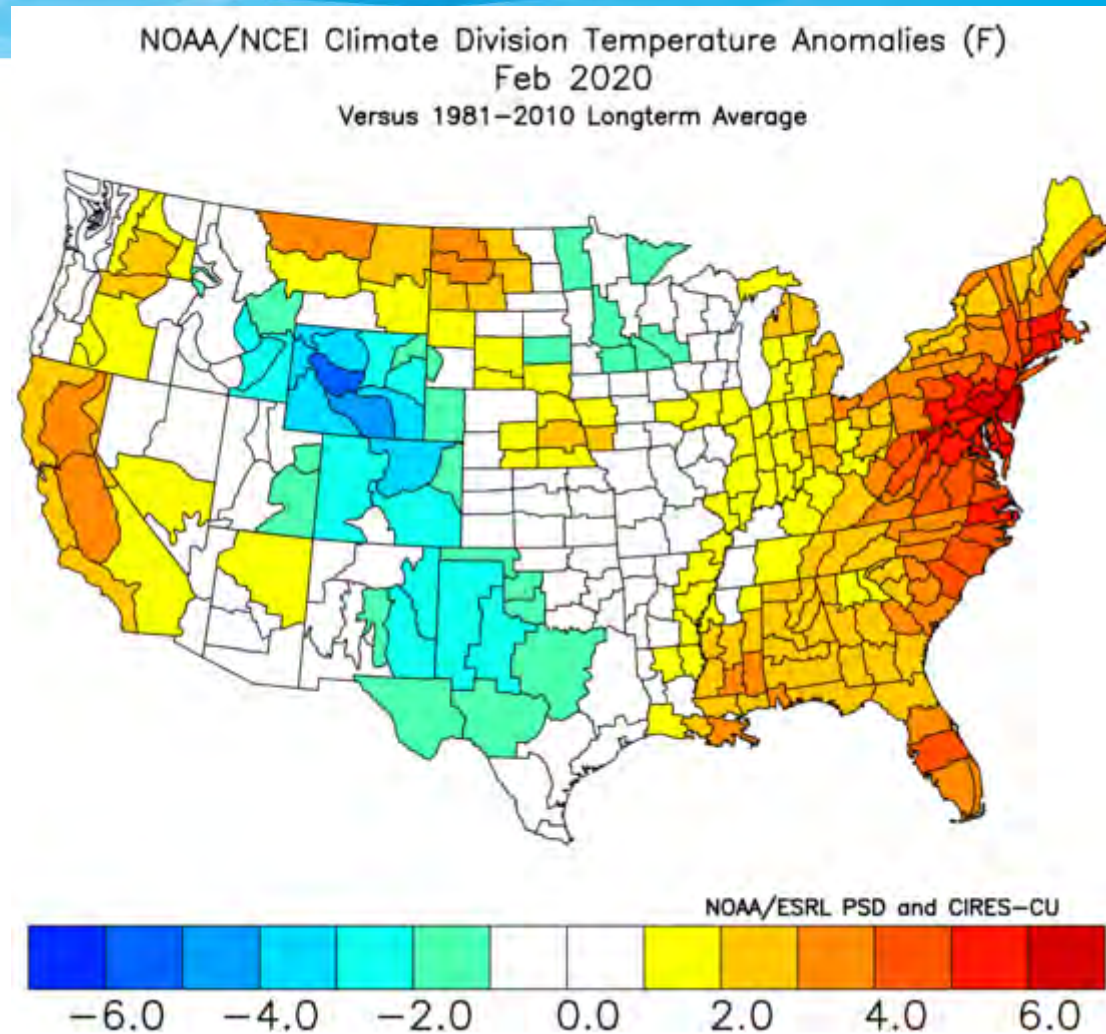


← 6 – 10 day

8 – 14 day →

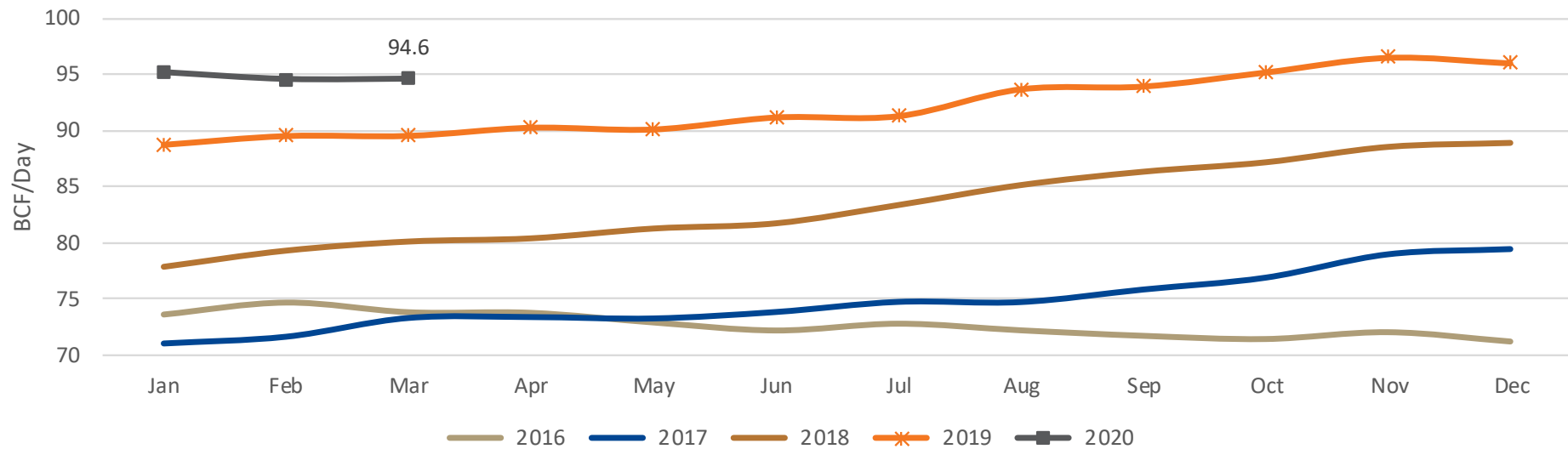


Historic Temperatures



Natural Gas Production

US Production of Dry Natural Gas: EIA 2020 Forecast Ave: 94.16 BCF/Day
Current 2020 Ave: 94.78 BCF/Day

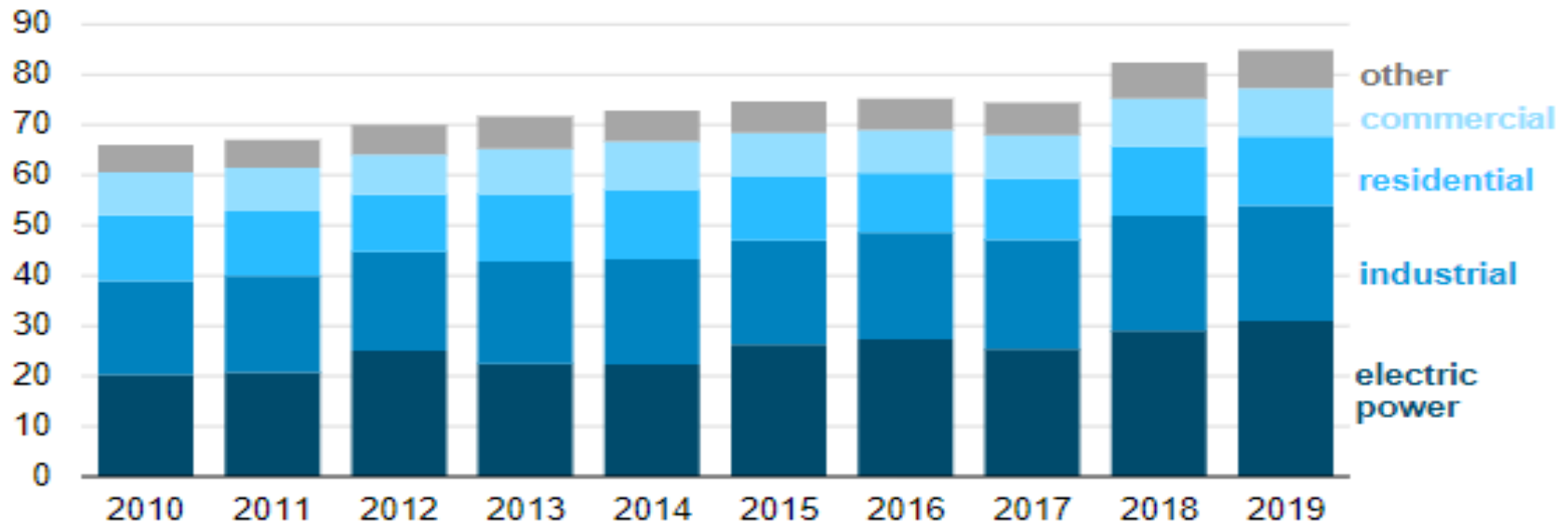


*Updates Monthly

U.S. natural gas consumption sets new record in 2019

U.S. natural gas consumption by sector (2010-2019)

billion cubic feet per day



Source: U.S. Energy Information Administration, *Natural Gas Monthly*

Note: Other includes lease and plant fuel consumption, pipeline and distribution use, and vehicle fuel consumption.

Dry Natural Gas Production

Monthly Dry Gas Production - Shale (BCF/Day)

01.01.20 Production Analysis

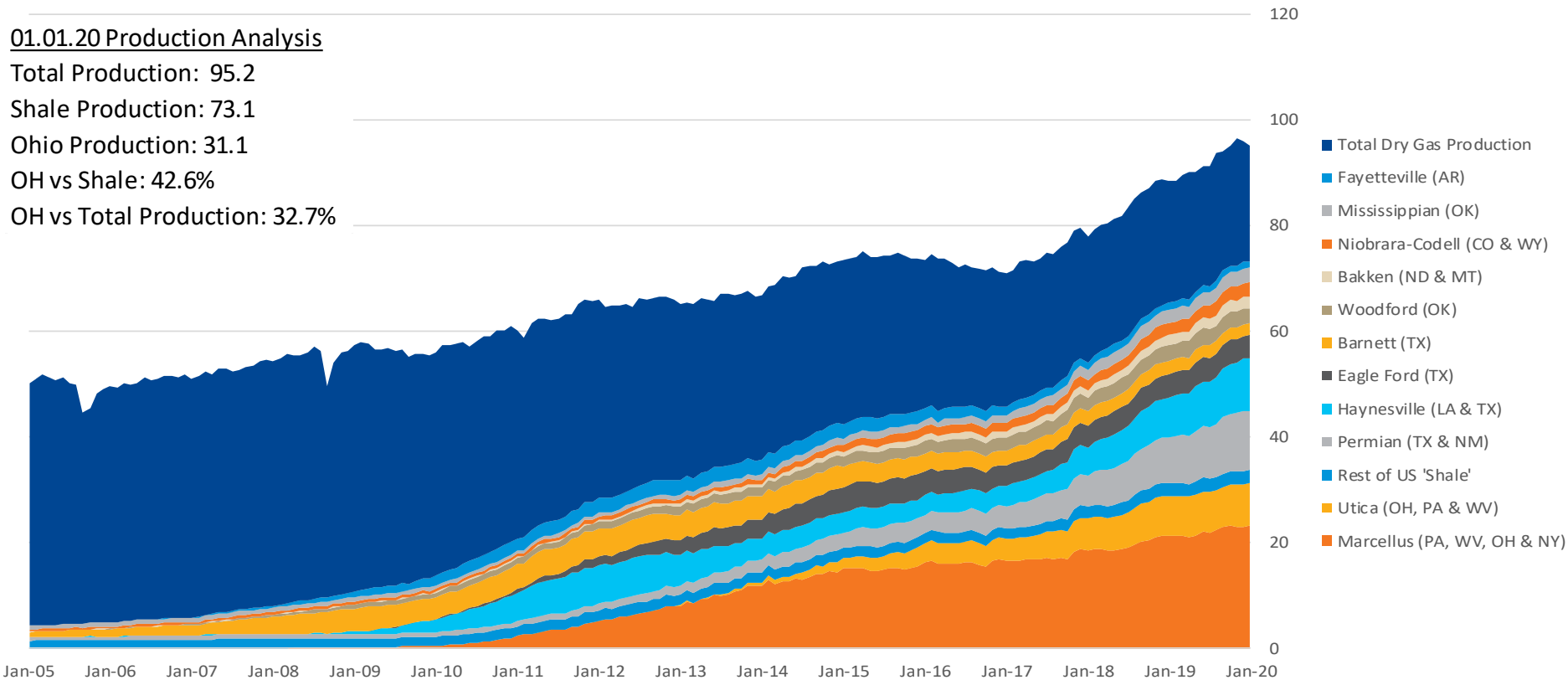
Total Production: 95.2

Shale Production: 73.1

Ohio Production: 31.1

OH vs Shale: 42.6%

OH vs Total Production: 32.7%

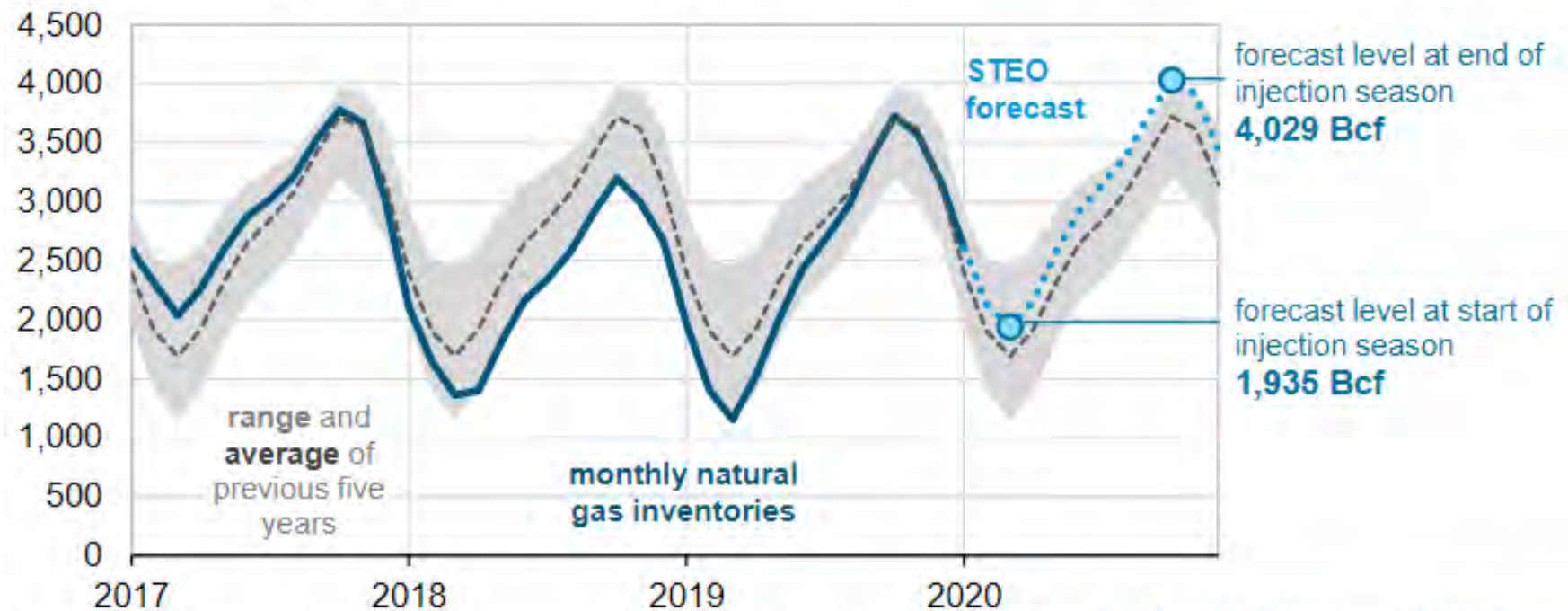


*Updates Monthly

Natural Gas Storage

Lower 48 states working natural gas in storage (Jan 2017-Dec 2020)

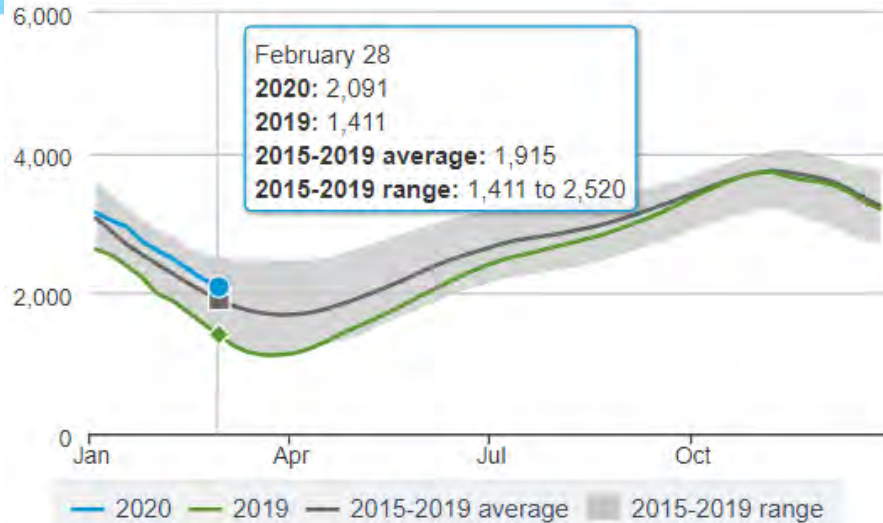
billion cubic feet (Bcf)



Source: U.S. Energy Information Administration, *Natural Gas Monthly*, *Weekly Natural Gas Storage Report*, and *Short-Term Energy Outlook*

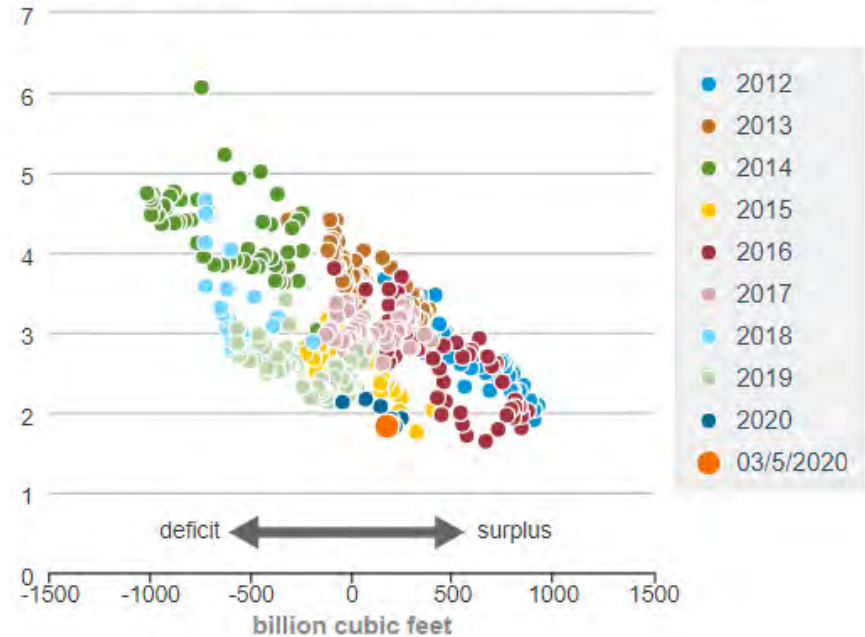
Lower 48 weekly working gas in underground storage

billion cubic feet



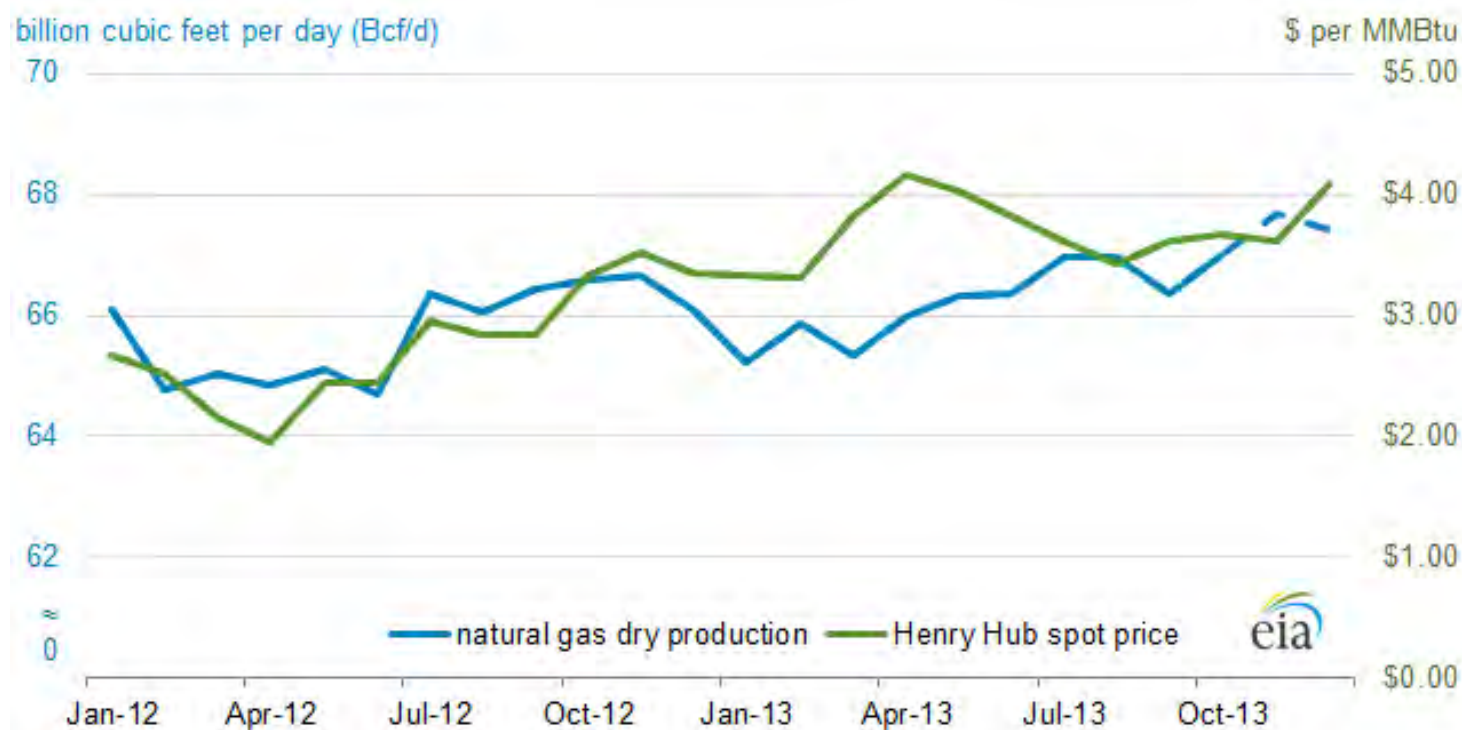
Lower 48 weekly working gas stocks, minus five-year average, and near-month futures prices

price of gas at the Henry Hub in dollars per million British thermal units



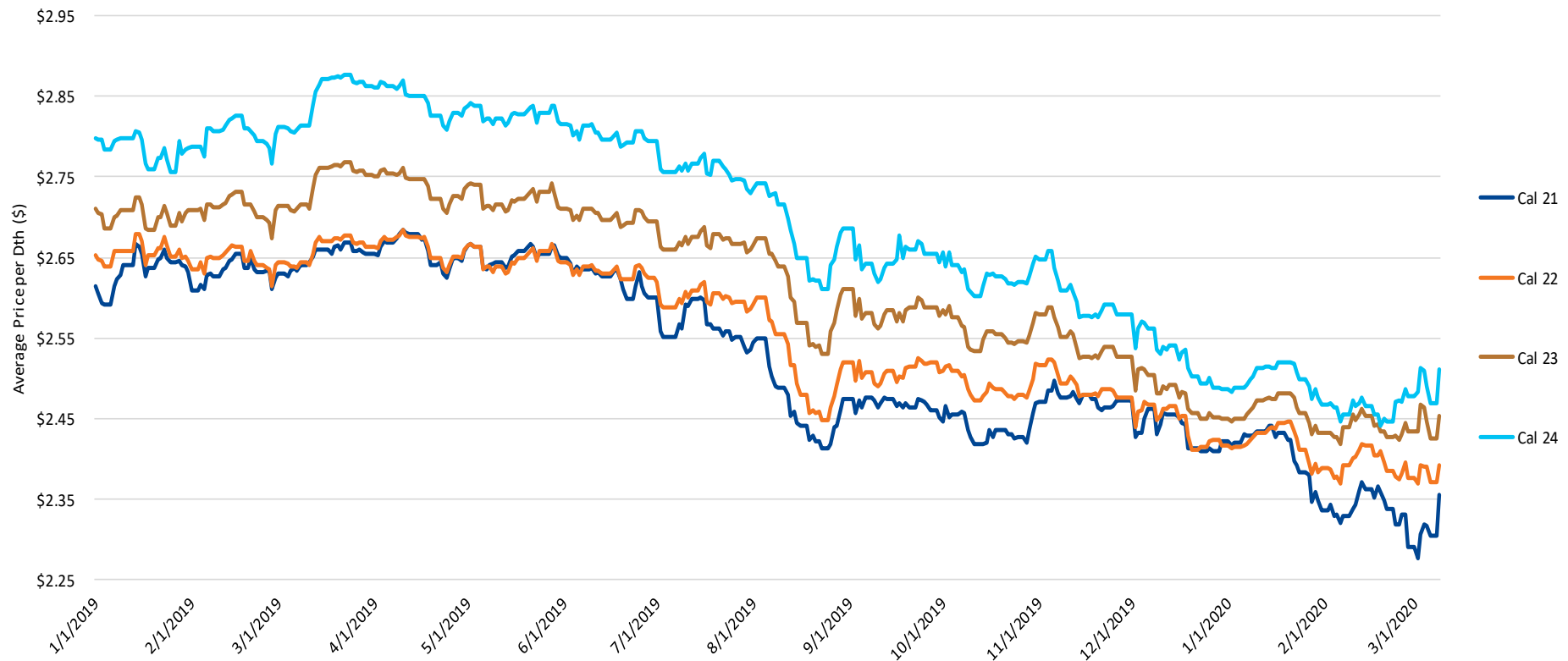
Monthly U.S. natural gas dry production and Henry Hub spot price

January 2012 – December 2013



NYMEX Natural Gas Forwards

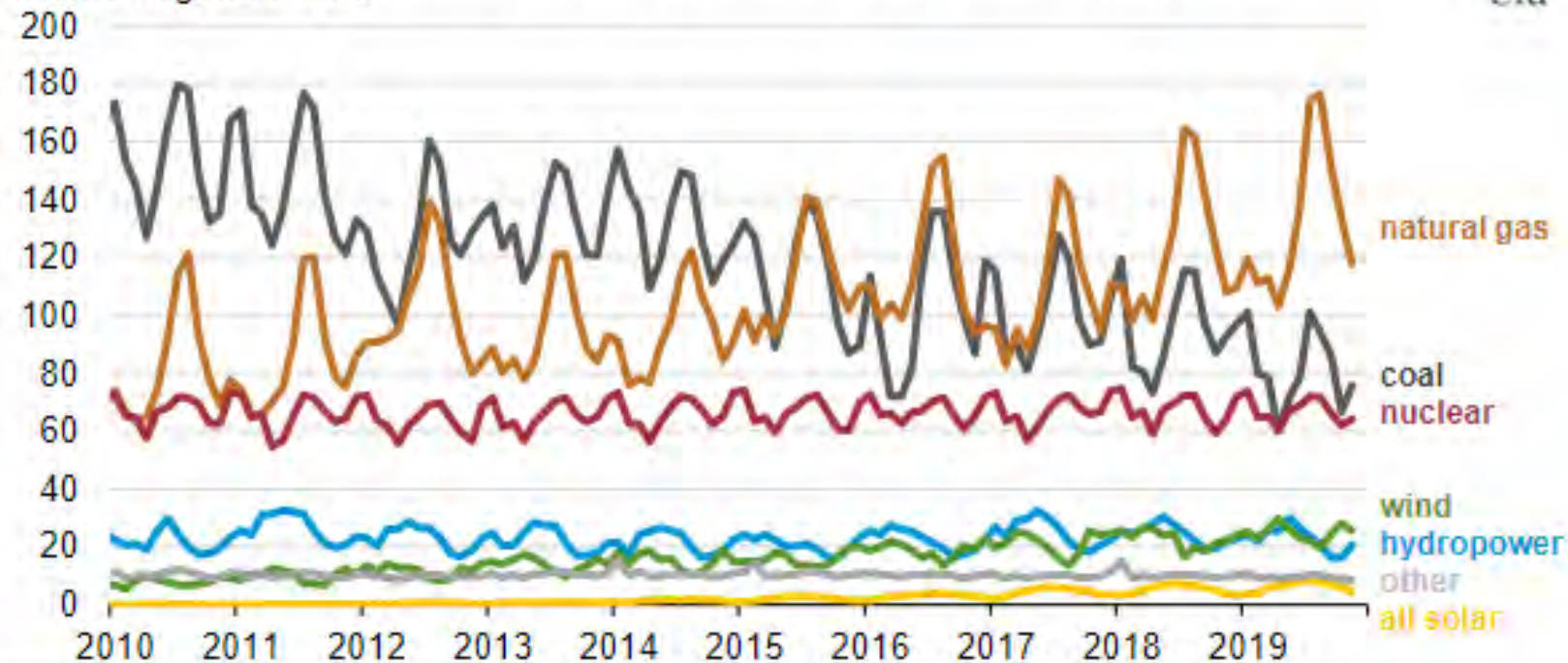
NYMEX Average Wholesale Prices



Generation by Fuel Type

Monthly U.S. net generation by fuel type (January 2010 - December 2019)

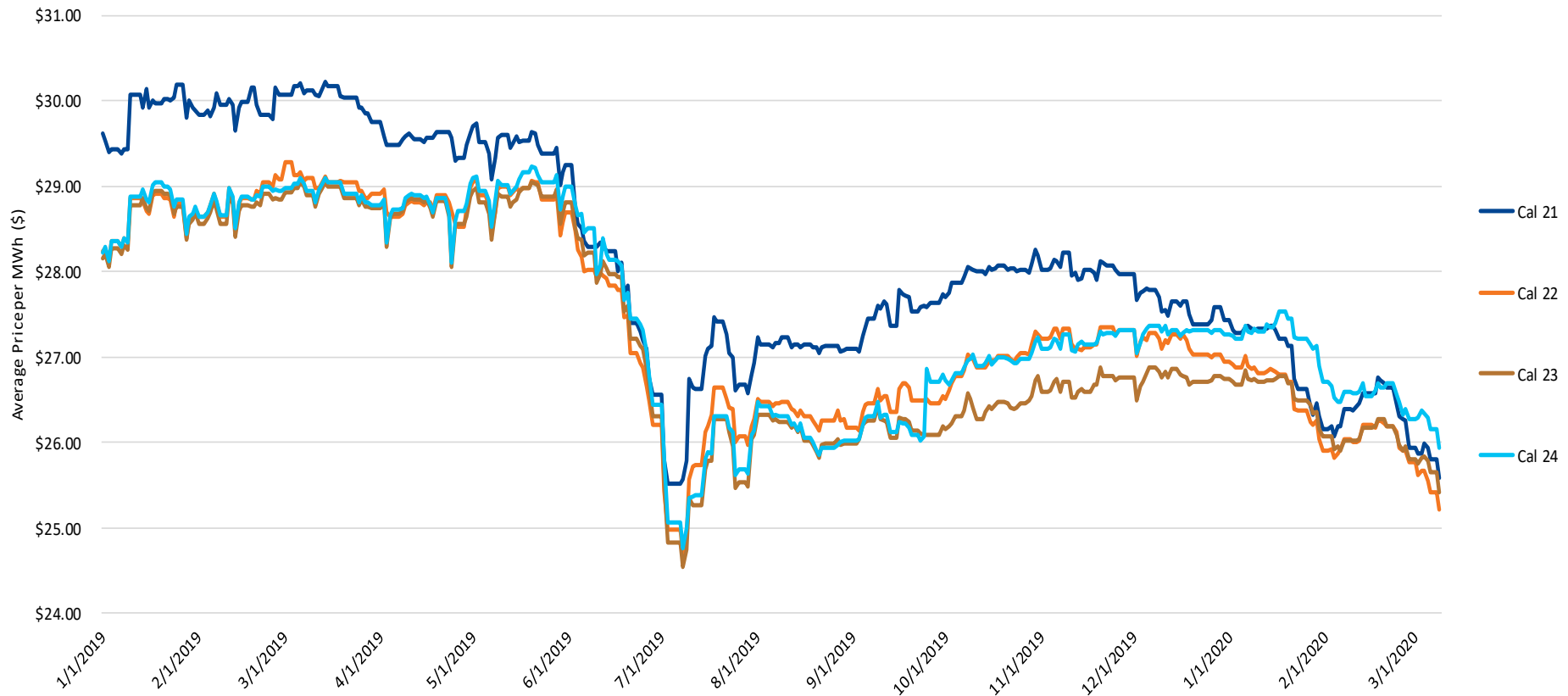
million megawatthours



Source: U.S. Energy Information Administration, *Electric Power Monthly*

PJM AD Hub Electricity Forwards

AEP Dayton Hub Annual Average Wholesale Prices



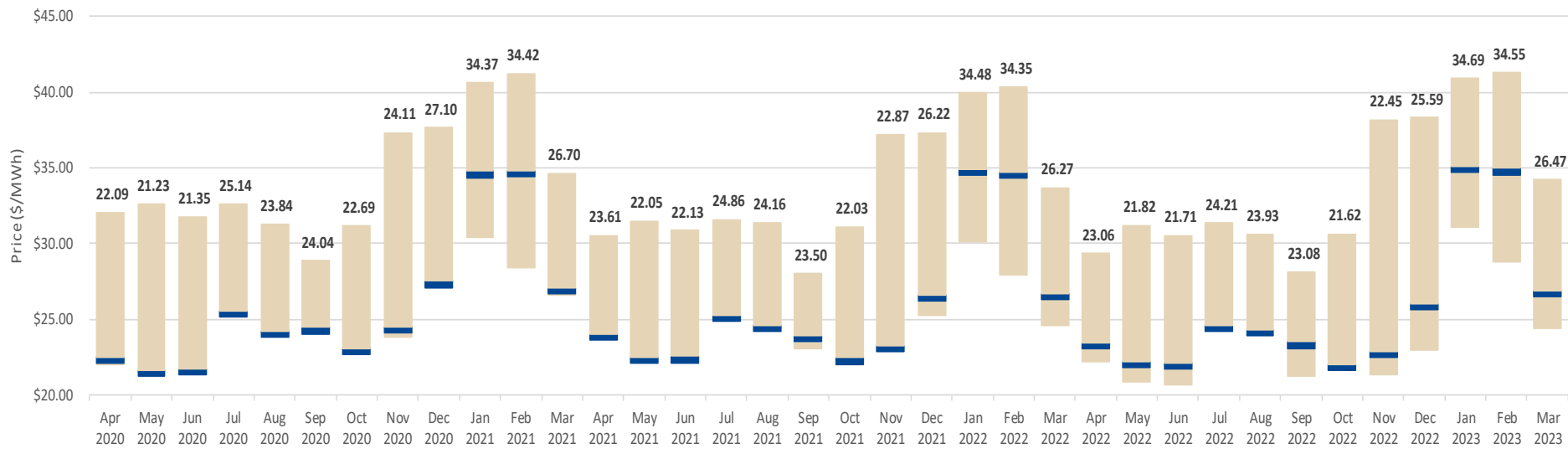
PJM AD Hub Electricity Forwards

Power RTC \$ / MWh on 03.09.20					
From	1/1/2016	1/1/2017	1/1/2018	1/1/2019	1/1/2020
To	3/9/2020	3/9/2020	3/9/2020	3/9/2020	3/9/2020
Cal Year	2021	2022	2023	2024	2025
Current Price	\$ 25.58	\$ 25.21	\$ 25.41	\$ 25.93	\$ 26.78
Maximum Price	\$ 30.22	\$ 30.22	\$ 30.87	\$ 29.22	\$ 28.18
Minimum Price	\$ 25.51	\$ 24.69	\$ 24.54	\$ 24.75	\$ 26.78
Date of Maximum	3/14/2019	12/28/2017	3/25/2018	5/20/2019	1/17/2020
Date of Minimum	7/3/2019	7/8/2019	7/8/2019	7/8/2019	3/9/2020
Compared to Low	0.2%	2.1%	3.6%	4.8%	0.0%

PJM AD Hub Electricity Forwards

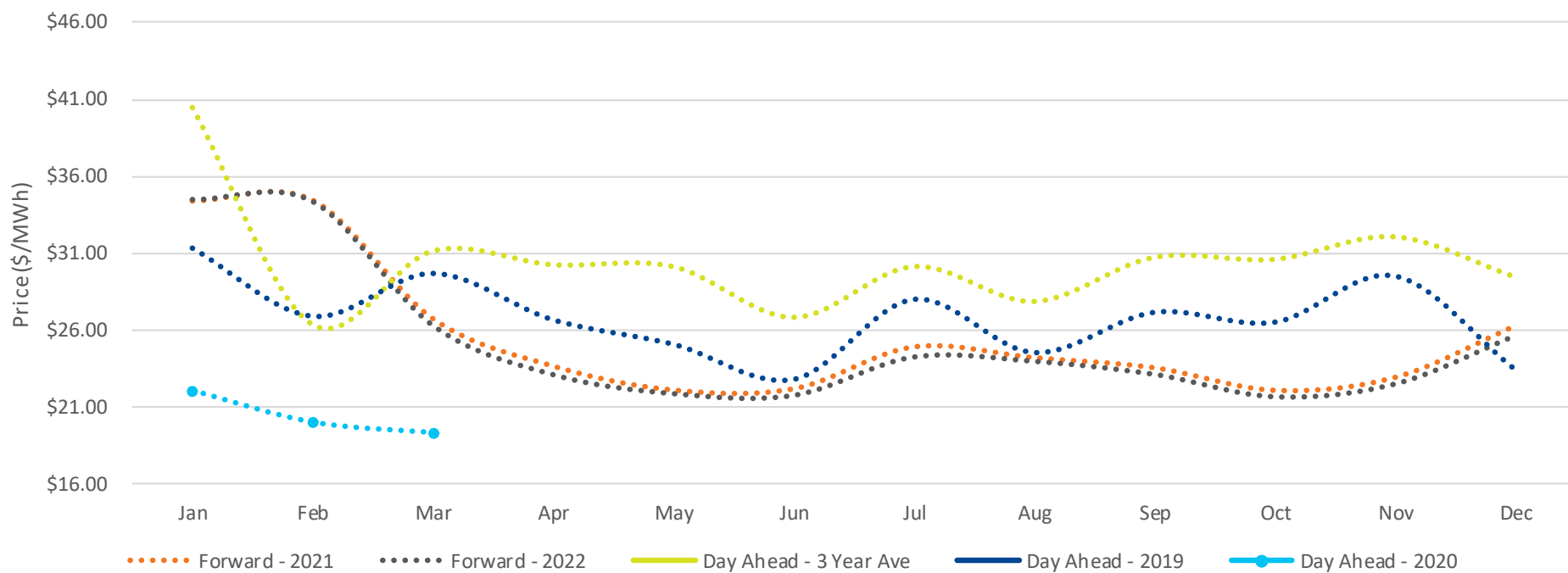
Electric Monthly Price Trend Analysis: Current Prices

Data Range: 11.30.17 - 03.09.20



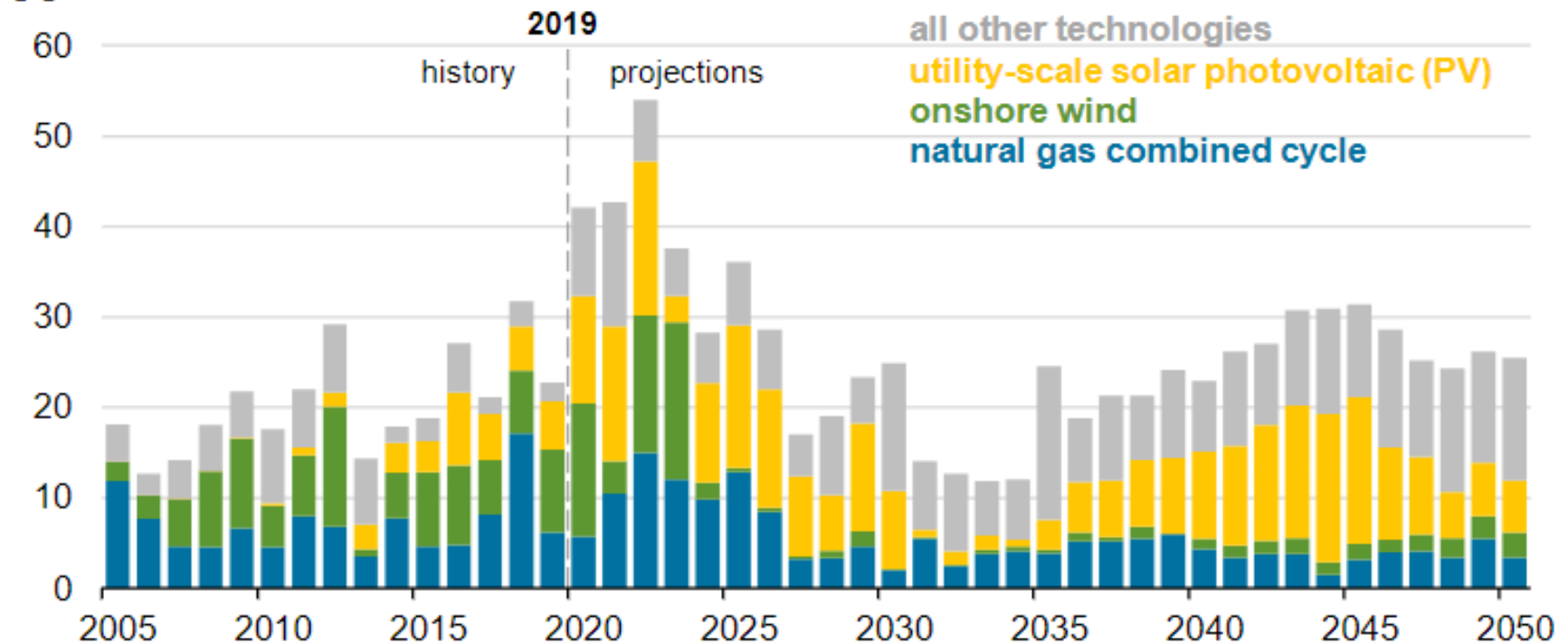
PJM AD Hub Electricity Forwards

AEP Historical vs Forward Price as on 03.09.20



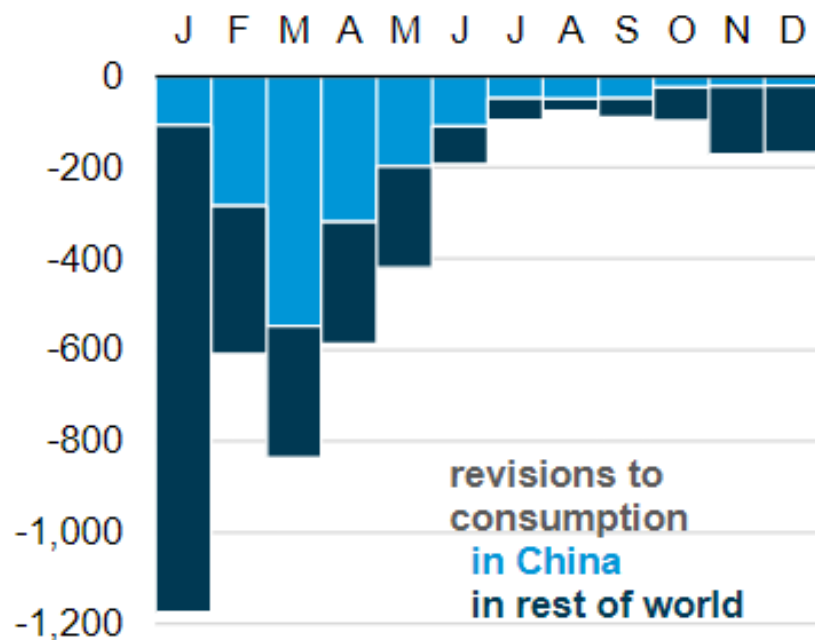
U.S. annual utility-scale electricity capacity additions (AEO2020 Reference case)

gigawatts



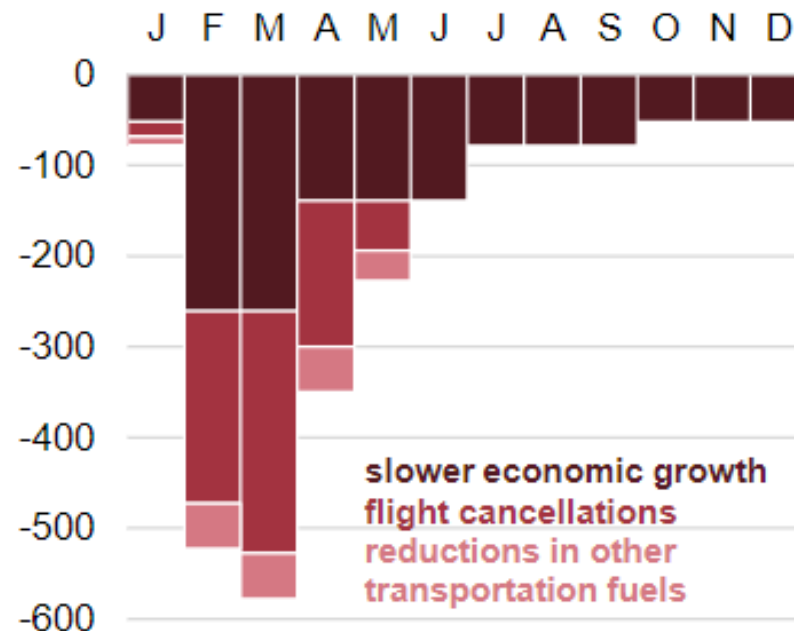
Source: U.S. Energy Information Administration, *Annual Energy Outlook 2020*

Revisions to global petroleum consumption forecast (2020)
thousand barrels per day



Source: U.S. Energy Information Administration

Coronavirus-related changes to China petroleum consumption (2020)
thousand barrels per day



slower economic growth
flight cancellations
reductions in other transportation fuels

EIA estimates that COVID-19 will reduce China's total petroleum and liquid fuels demand by an average of 190,000 b/d in 2020

TEAM'SIGHTS/(HTTP://ENERGYGUIDE.OHIOMFG.COM/INSIGHTS)

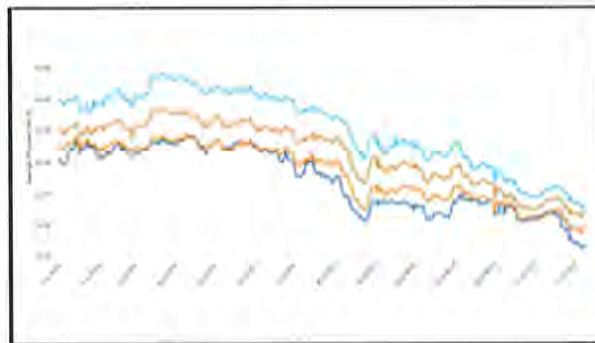
THE OHIO MANUFACTURERS' ASSOCIATION

ENERGY GUIDE (HTTP://ENERGYGUIDE.OHIOMFG.COM/)

THREE REASONS WHY ENERGY PRICES WILL LIKELY STAY LOW

Feb 14, 2020

Stay
Low
http://energyguide.ohio



With winter in full force, one might expect natural gas and electricity prices to be strong. High demand equals high prices, right? Well, nothing could be further from the truth this year with both markets tumbling to levels not seen in years. Analysts are always watching for fundamental reasons that could change the direction of the market, but are there any for 2020? Below are three reasons why these low prices will likely be with us for the remainder of this year.

Temperature

This winter could turn out to be the warmest recorded since 1950. Even with mid-February's arctic blast, the forecast for the remainder of the month calls for temperatures to be well above normal for most of the country. With most of the winter behind us, there is not much March temperatures can do to support higher pricing. These warm temperatures have eroded natural gas pricing with January NYMEX settling at \$2.158 and February at \$1.877. Current trading for future months has prices below \$2 all the way up to July of this year. Summer temperatures will have to be way above normal for extended periods for prices to reach above \$2 per dekatherm (dth).

Storage

Over the past year, storage has made an incredible turnaround. This time last year, natural gas storage inventories set new five-year lows and analysts were concerned about how quickly gains could be made. However, the pace of injections throughout the summer was astounding. Each week injections continued to be above normal, bringing inventories back to the five-year average in less than six months. Current levels now are 8% above the five-year average, which is an increase from this time last year of more than 38%!

Production

Even with prices sinking, natural gas production continues to be extremely strong at 95 billion cubic feet (bcf)/day. Production is on a three-year run of increases starting at 70 bcf/day in early 2017. Every month since then, production levels have continued to climb. This helps explain why storage was able to make up so much gain in such little time. There are signs that production run may be slowing as the last few weeks have seen slight declines. But so far, prices have not reacted to this production decline in any bullish or supportive way.

Cash in on Low Prices!

It is a great time to be an Ohio energy buyer. The electricity market is following the bearish sentiment of the natural gas market with forward prices hovering at all-time lows. This month, the hourly electricity market has settled at \$19 per megawatt hour (Mwh) with the forwards weakening and consolidating around \$26/Mwh. Natural gas futures have dropped 12% in a year to \$2.40 per dth and continue to decline each day. If above-normal temperatures do not show up this summer, it is very possible that both these markets will be setting new historic lows.

Buyers should consider locking in a portion of load at these levels and keeping some load open for a potential additional drop this summer.

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