

10 a.m. (EST)

Via Zoom



**Energy Committee Agenda
December 2, 2020**

Welcome and Introductions

Brad Belden, President, Belden Brick Company, Committee Chair

State Public Policy Report

Ryan Augsburger, OMA Staff

- State government overview
- Householder corruption scandal
- HB 6 Repeal
- Other legislation / activity
- FERC intervention Columbia Pipeline

Terry Lewandowski, Nutrien

Federal Public Policy

- What American industry might anticipate in the way of Biden administration energy policy

Ross Eisenberg, American Chemistry Council

Energy Engineering Report

- HB 6: Updated decoupling costs
- HB 6: Costly and worsening OVEC situation
- FERC MOPR case / PJM update

John Seryak, PE, RunnerStone, LLC
OMA Energy Engineer

Counsel's Report

- House Bill 6 Repeal
- Attorney General Yost injunction
- Significantly Excessive Earnings
- PUCO case highlights

Kim Bojko, Carpenter Lipps & Leland
OMA Energy Counsel

Natural Gas Market Trends

Darin King, NiSource, Columbia Gas of Ohio

Electricity Market Trends

Susanne Buckley, Scioto Energy

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**2021 Meeting Dates Coming Soon!
Meetings begin at 10 a.m.**



Ross Eisenberg is Vice President of Federal Affairs for the American Chemistry Council, the association representing the \$565 billion industry engaged in the business of chemistry. Ross leads the ACC's federal advocacy and is responsible for developing and maintaining strong relationships with elected officials and their staffs in the House and Senate, White House and Executive Branch. A member of the ACC senior leadership team, Ross provides regular strategic advice and counsel to the ACC's members to help them navigate Washington and understand how policies affect their companies. He is also Chairman of the Board of the AmeriChem PAC political action committee.

Over the course of two decades in Washington, Ross has spent time as Vice President of Energy and Resources Policy at the National Association of Manufacturers, Policy Counsel at the U.S. Chamber of Commerce and an environmental litigator at the law firm Greenberg Traurig LLP. Ross has testified before Congress more than a dozen times and regularly appears in all forms of media, including television, radio and print. He has also developed a long list of successful issue advocacy campaigns, including multi-million dollar integrated media and government relations efforts on ozone, sustainability, climate change and infrastructure.

Ross has a B.A. in English and Political Science from Emory University and a J.D. from Washington and Lee University School of Law. He is a member of the Bar of the District of Columbia.



To: OMA Energy Committee
From: Ryan Augsburger
Re: Energy Public Policy Report
Date: December 2, 2020

Overview

For years customer interests were losing ground on energy policy. The controversial House Bill 6 which became law just last summer remains in the rearview mirror. Implementation is still underway, with some provisions not effective until 2021.

Then on July 21, 2020 federal prosecutors announced the arrest of former House Speaker Larry Householder and associates in what has been referred to as Ohio's largest public corruption scandal. At the center of the government's bribery and racketeering allegations: House Bill 6.

In the four months since, calls for "repeal" of HB6 have prevailed from both sides of the aisle. One would hope other bills that are unfavorable for electric customers will fade.

Bribery & Corruption at the Statehouse

In a press conference on the afternoon of July 21, just hours after the arrest of the Ohio Speaker of the House Larry Householder, the US Attorney described an undercover investigation that had been going on for over a year. Efforts by Ohio's top House Republican to deliver HB6 and prevent its repeal via referendum are alleged to have been traded for financial contributions to dark money groups (501C(4)s) from supporters of HB6, most notably, "Company A", widely understood to be FirstEnergy Corp.

The investigation, now in an "overt phase" continues and the US Attorney implied further criminal charges were possible in the racketeering case. Politicians are trying to respond by distancing themselves from the former Speaker and some of his policies, however repeal has been slow and HB 6 did not play prominently in the election. All that said, shoes continue to drop with the swift termination of FirstEnergy executive leadership.

More recently, following an FBI raid at his home, PUCO Chair Sam Randazzo resigned his post as the head of the cabinet agency dispatching a bizarre resignation letter to Governor DeWine. See enclosed.

PUCO Vacancy

With the resignation of Sam Randazzo, the PUCO nominating council is poised to interview candidates to recommend to the Governor for appointment. A second commissioner will be vacating the commission and so a second vacancy must be filled under the same process.

Repeal House Bill 6 During Lame Duck Session?

As soon as news of Larry Householder's arrest made its way around Cap Square, calls to repeal HB 6 started, especially from elected officials who went along with Householder's top legislative priority in 2019. As always, the devil is in the details. At this point, point two options have emerged: straight repeal and targeted repeal.

- Straight Repeal (Stalled): HB738 (Skindell & M. O'Brien), HB746 (Lanese & Greenspan), SB346 (S. O'Brien & Kunze)
- Targeted Repeal: HB 772 (Romanchuk) Informal hearing in the Senate on November 10 and sponsor testimony in the House Select Committee on November 19.

- Delayed Effective Date: HB 798 (Hoops) just introduced on 12/1/20. Sponsor testimony on 12/2 at 2pm.

Legislative leaders have stated that HB 6 repeal will be a priority for the lame duck session that began following the election. The session will conclude in just two weeks. If they don't complete a repeal, then it likely begins anew in January. Failure to repeal will impose new costs on customers starting in January.

The OMA testified in support of repeal in the House in October. The OMA considers HB 772 to be the preferred approach to repeal HB 6 and protect customer and protect markets. See attached summary of HB 772. Members are encouraged to take action to engage their state lawmakers to pass HB 772 before time runs out.

Attorney General Seeks to Prevent Subsidy Payments

In mid-November, Ohio Attorney General Dave Yost has gone to court to seek an injunction to prevent the collection of new HB 6 clean air fund subsidies beginning in January 2021. The OMA Energy Group has filed an amicus brief in support of the Attorney General's motion. A decision is expected before the end of the year.

HB 6 Scam – Nuke Plants Profitable without Subsidy

Before the racketeering investigation announcement, lawmakers were chastised for allowing the owners of Ohio's nuclear power plants to scam Ohio's ratepayers. As the OMA **reported** earlier, the owner of the plants, Energy Harbor (formerly FirstEnergy Solutions), announced in May it would be rewarding certain investors with hundreds of millions dollars of stock buybacks. This was made possible because the company and its allies were able to persuade lawmakers in Columbus to enact House Bill 6 last year.

Recent **testimony** from Judith Lagano, a senior vice president for independent power producer NRG Energy, reveals the lie behind House Bill 6 subsidies for Ohio's two nuclear power plants owned by Energy Harbor (formerly FirstEnergy Solutions). In November, Lagano told Ohio senators the following:

- "FirstEnergy told legislators during the HB 6 debate that without a subsidy, its affiliate's nuclear generation would close because it was unprofitable. That affiliate, FirstEnergy Solutions, filed a Chapter 11 bankruptcy. At the end of that bankruptcy process, the new company, now known as Energy Harbor, has a stronger balance sheet, less debt, and is forecasting robust cash flow and profits. In fact, Energy Harbor has revealed that the company's profits and cash flow are strong even without the HB 6 subsidies, as depicted in its May 10, 2020, 2020-2022 Financial Outlook."
- Lagano told lawmakers that Energy Harbor had since removed its financial presentations from its public website, but that the company expects to make approximately \$515 million in profit this year, \$585 million next year, and \$645 million in 2022, "even without the approximately \$150 million in annual HB 6 nuclear subsidies. ... Every dollar of the (roughly) \$150 million/year it collects from here on simply fills Energy Harbor's coffers at the expense of Ohio's customers."

FERC Decision Tips HB 6 on its Head

Even before the FBI and US Attorney arrested Larry Householder in July, things had not been going well for HB6 in the wake of a Federal Energy Regulatory Commission (FERC) 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 the OMA analysis included in the June Energy Committee meeting materials. At that meeting the Energy Committee heard directly from PJM's independent Market Monitor, Dr. Joseph Bowring about the clear limitations the order places on nuclear energy plants ability to participate in the capacity markets. The OMA warned of such market consequences last summer.

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.

Virtually all the warnings expressed by the OMA over the past year have materialized exposing manufacturers of all sizes to new costs. Just last week, the owner of the nuclear power plants took action to reward investors, sending hundreds of millions of dollars of revenue to be paid by captive Ohio customers and proving the bailout was not needed. See included resource material.

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. Even in the wake of the alleged corruption scandal, the executive branch has been implementing HB6 provisions. Even more surprising in the face of a threatened injunction by Ohio Attorney General Dave Yost and repeal conversations in the legislature.

Decoupling Revenue Guarantees Utility Record Revenue

Among the HB 6 provisions that opened the door to unknown new customer costs was the creation of a decoupling rider. Six months after passage of the HB6, the PUCO gave approval to FirstEnergy utilities to place the new rider on customer bills. Under the mechanism, if annual revenue in a given calendar year is less (or greater) than 2018's base distribution revenue, FirstEnergy utilities will charge (or credit) the difference to customers through the decoupling rider. 2018 produced record revenue for the utilities. Additionally, the rider will move tens of millions of dollars in "lost revenue" charges from the expiring energy efficiency rider into this new rider. The OMA estimates this will benefit FirstEnergy revenue by \$355 million between through 2024 and potentially \$400 million in the following five-year term. See enclosed memo on decoupling by OMA technical consultant RunnerStone, LLC. This memo has just been updated based on available work papers and pegs increased customer cost in 2021 at \$85 million.

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 of Ohio 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 was included in HB 6. OVEC faces an apparent dilemma from the FERC MOPR decision.

OVEC is a sinking ship. Why should Ohioans be forced to throw good money after bad? Attention FirstEnergy territory customers. You are paying for a new OVEC charge as a result of HB 6 and you carry significant future liability. See attached memo by RunnerStone and support passage of HB 772!

SEET Means More Cost for Customers

The House Finance Committee last year inserted language into the state budget (House Bill 166) to alter Ohio's prohibition of "significantly excessive" profits by regulated utilities. The provision, which would allow FirstEnergy to keep "significantly excessive" profits rather than issue refunds to customers, is set to take effect next year. OMA opposed the SEET revision charge and pegged costs at \$50 million in denied customer refunds between 2017-2019 and more in future years which will be exacerbated by the decoupling mechanism created by HB6.

- HB 740 (Skindell & Denson) Repeals the SEET giveaway to FirstEnergy. Pending in House Select Committee. No further action.

Post HB 6 Legislative Activity

In the months since HB 6 was completed both the Ohio House and Ohio Senate appeared poised to enact other energy reforms. 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. Contact staff for our analysis.
- **House Bill 246**
Sponsor state rep. Nino Vitale (R-Urbana) unveiled a new version of House Bill 246, legislation to purportedly modernize state agencies that regulate utilities. The bill would impose new risks on manufacturers and could give utilities even more sway over the regulations that govern them. It would also provide monopoly utilities an unfair advantage against competitive energy companies, including developers of renewable energy and electric vehicle charging businesses. Other provisions of HB 246 would diminish the role and voice of customer advocates in proceedings before the PUCO.

Also, the bill would create a natural gas supply access investment program within the Ohio Public Works Commission. The Commission traditionally coordinates the construction of public buildings and infrastructure financed from state approved bonds, which does not include privately-owned energy infrastructure. This provision appears to bypass market economics.

- **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.

HB 104 would establish an unwise and elaborate state agency that would take regulatory authority away from professional agencies — including the U.S. Nuclear Regulatory Commission — and instead place it under the Ohio Department of Commerce, which has no expertise in this arena. Moreover, the bill would empower bureaucrats at this new agency to act in the place of the governor in approving joint-development agreements.

The new agency would have some influence over nuclear plant decommissioning plans, according to an enclosed analysis prepared for the OMA. "Of special note is that Ohio's two nuclear power plants are required to maintain decommissioning funds, and that whether their

decommissioning plans were fully funded was a point of contention in the recent FirstEnergy Solutions (now Energy Harbor) bankruptcy. The Senate is poised to advance this legislation before year end.

- **House Joint Resolution 2**

Representatives Don Manning of Youngstown and Jamie Callender of Lake County 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. Representative Manning passed away earlier this year.

- **Senate "Comprehensive" Energy Reform**

Last autumn 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.

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.

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 and Renewable Siting 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. The PUCO ordered energy efficiency programs to wind down beginning September 30, 2020, so manufacturers who are using rebates will want to claim them soon. Presumably, if HB 6 is repealed these programs would reactivate.

- HB 223 (Strahorn & Skindell) relaxes overly restrictive wind farm siting regulations. No action.

- SB 234 (McColley) revises regulations governing siting of wind farms by expanding local control. No action.

Natural Gas Cost Hikes at FERC

The OMA Energy Group has joined an industrial coalition to pushback on proposals to hike natural gas shipping costs.

Honorable Michael D. DeWine
Governor of the State of Ohio
Riffe Center, 30th Floor
77 South High Street
Columbus, Ohio 43215

November 20, 2020

Re: Resignation

Dear Governor DeWine:

The events and news of this week have undoubtedly been disturbing or worse to many stakeholders who rightfully look to the Public Utilities Commission of Ohio (PUCO), the Ohio Power Siting Board (OPSB) and me as the Chair to act in the public interest within the statutory legal framework. Regardless of disclosures of prior business relationships to you and your team prior to my PUCO Nominating Council interview (January 31, 2019), the impression left by an FBI raid on our home, the statement included in FirstEnergy Corp.'s filing with the Securities and Exchange Commission yesterday and the accompanying publicity will, right or wrong, fuel suspicions about and controversy over decisions I may render in my current capacity. In present times, when you, good sir, are valiantly battling to save Ohioans from the surging attack of COVID-19, there is no room or time for me to be a distraction. Accordingly, I hereby resign from my position as Chair effective immediately.

There will be those who will eagerly contest what I say next. But it needs to be said.

When you asked me to consider going to the PUCO after discussions about opportunities to improve the public interest performance of the PUCO (rather than continue on with my semi-retirement plan), I took heart.

Since being appointed by you, much has been accomplished inside the PUCO to shed a dysfunctional Chair-centric operating system and to transparently render PUCO decisions based on the law, good engineering, good accounting and, of course, the public interest. The worst out-of-market compensation abuses of the Strickland Administration's electric security plan (ESP) statute, all of which were imposed on customers well prior to my arrival, have been mitigated or cut short where possible. The next step is, in my view, elimination of the ESP statute itself and focusing on the use of a proper competitive bidding process to set the generation supply price for retail electric customers not served by a competitive supplier. Ohio's pro-competitive legal framework, which I greatly helped to get incorporated into Ohio law, is working for customers. The elimination of the too-utility-friendly ESP statute will improve outcomes for customers and fairly compensate Ohio's electric distribution utilities while, hopefully, reducing the number, size and scope of riders that transfer utility business and financial risk to captive customers with little or no recognition in the specification of a just and reasonable return. And, in this regard, the legislation currently being advanced by

Representative Romanchuk is a fine vehicle to rescind the nuclear bailout, the OVEC bailout, rescind the unbalanced version of decoupling given to FirstEnergy Ohio's operating companies (despite the concerns we raised), put the ESP statute out of commission and allow Ohio's electric customers to enjoy an even greater electric bill reduction (in excess of \$300,000,000) that is scheduled to take place through current law on January 1, 2021.

Among other things, the PUCO and Federal Energy Advocate have taken on the runaway electric transmission service rate increases by proactive intervention and advocacy at the Federal Energy Regulatory Commission, a federal agency that has exclusive jurisdiction in this area and seems eager to give transmission utilities money for nothing. Prior to my arrival, this important work was not getting much if any attention and the customer impacts of federal decisions on the price and availability of energy in Ohio were not getting their deserved attention.

Prior to my arrival at the OPSB, decisions were better characterized as being the product of a rubber stamp than reasoned analysis and proper application of the law. Local interests were unnecessarily subordinated to the virtue signaling demands of wind and solar farm developers some of which were only interested in flipping their project. Prior to my arrival, no OPSB Board Member attended local public hearings further signaling disinterest in local views and concerns. Since my arrival, I have personally attended almost all of these hearings listening for hours as citizens offered their testimony. Further reform is also needed here, however. In my opinion, the next step is to modify the OPSB's statutory framework to require the OPSB to consider the views and preferences of local land use planning authorities on the front end of the process so that decisions might better balance local and statewide interests when determining public convenience and necessity.

In any event, I believe my actions as Chair have done much to put the PUCO and OPSB on a better foundation to serve the public interest. In the days ahead, I hope the Commissioners and Board Members who remain or follow me can continue this important mission.

Your efforts to save Ohioans from the COVID-19 virus continue to inspire hope that we might all come together for the common good. I will continue to do my part.

I will greatly miss working with the dedicated public servants who make up the PUCO and OPSB staff as well as other agency Directors and your team. I regret that I must step away but it is the right and necessary thing to do.

Respectfully yours,

Sam

Samuel C. Randazzo



Post-HB 6 Energy Policy Options

Restoring Ohio's Competitive Marketplace for Electric Customers

Ohio manufacturers depend on economical, reliable power to operate their facilities. The subsidies provided to monopoly electric distribution utilities and select electric generation companies under House Bill 6 (HB 6) do nothing to aid Ohio customers, including manufacturers. Instead, those subsidies layer more costs on the backs of customers while distorting competitive markets.

How did Ohio get here? And what can policymakers do now to restore the state's energy policy to a more competitive, market-oriented path that benefits Ohio's businesses and households?

Ohio's Free-Market Reforms of 1999

In 1999, the General Assembly passed deregulation legislation (SB 3), unleashing the power of markets to drive competition and lower generation costs, while reducing emissions and providing for greater fuel diversity and more innovative products. Deregulation has produced an estimated [\\$3 billion in savings per year](#) for Ohio's customers, making Ohio one of the nation's energy-cost leaders for both businesses and households.

Over the past two decades, however, policymakers have watered down Ohio's deregulation efforts, driving up costs for customers. The enactment of House Bill 6 in July 2019 marked the most egregious of these regressive steps.

HB 6's Assault on Ohio's Ratepayers

In short, House Bill 6 rewards energy companies at the expense of Ohio electric consumers. Harmful provisions of HB 6 include the following:

- **Clean Air Fund/Subsidies for Nuclear Plants:** HB 6's "crown jewel" is a \$150 million-a-year subsidy for the owner of Ohio's two nuclear power plants. This subsidy, financed by Ohio electric consumers, cannot be justified as publicly available financial data and the owner's proposed \$800 million stock buyback have demonstrated the power plants are not financially strapped. An additional \$20 million subsidy for select solar plants brings this total to \$170 million annually.
- **Decoupling (Profit Guarantees):** The bill's decoupling mechanism will provide the FirstEnergy utilities with 2018 revenue levels (plus an additional \$66 million each year), regardless of the amount of electricity sold. These [data and analyses](#) demonstrate how FirstEnergy utilities may collect \$355 million through 2024 – and hundreds of millions more in later years – from Ohio's electric customers. (FirstEnergy CEO told investors this provision would make the company "somewhat recession proof.")
- **OVEC Subsidies:** HB 6 provides additional subsidies for the utility owners of the Ohio Valley Electric Corporation (OVEC) coal plants – subsidies estimated to be worth \$405 million through 2030. One of the two plants is in Indiana.

(Continued)

HB 6 Repeal and Reform to Protect Customers and Ohio's Competitiveness

To restore Ohio's electricity sector to the free-market pathway envisioned by policymakers at the turn of the century, Rep. Mark Romanchuk (R-Ontario) has introduced [House Bill 772](#). If signed into law, HB 772 would eliminate the above-market riders of HB 6, as well as of SB 221 (e.g., energy efficiency and nuke subsidies).

HB 772 would save customers hundreds of millions of dollars per year, while restoring Ohio's competitive advantages. Whether customers should pay for above-market charges for all the various competing technologies should be the subject of separate legislation, considered later as part of a fair and transparent legislative process.

HB 772 Summary

Specifically, HB 772 would do the following:

1. Repeal the Clean Air Program and rider created by HB 6 to subsidize the nuclear power plants and select renewable energy projects.
2. Repeal the OVEC rider created by HB 6 to subsidize the two old coal plants (including one in Indiana) owned by a consortium of energy companies, and prevent the PUCO from reviving or enacting a new OVEC rider.
3. Require a refund of OVEC charges collected from customers pursuant to HB 6 immediately.
4. Repeal the decoupling mechanism in HB 6 that benefits FirstEnergy by rewarding it with unearned income at the expense of customers. Additionally, terminates all other decoupling mechanisms established and prevents the PUCO from reviving or enacting new decoupling riders.
5. Require FirstEnergy to immediately refund the full amount of decoupling charges to customers.
6. Require the PUCO and the Ohio Air Quality Development Authority to eliminate or rescind any mechanism, charge, rule, or order enacted, authorized, or issued to implement a provision of HB 6.
7. Include an emergency clause, ensuring that HB 772's reforms go into effect immediately upon being signed by the governor.

Unlike other "straight repeal" bills pending in the House and Senate, HB 772 does not reinstate the energy efficiency standards (and rider) or renewable portfolio standards (and rider) that HB 6 repealed and modified. In other words, HB 772 allows the energy efficiency standards and costs to sunset at the end of 2020, and maintains the modifications to the renewable portfolio standards as directed by HB 6.

HB 772 also prevents utilities from offering so-called "voluntary" energy efficiency programs that are voluntary for the utility, but mandate customer participation and costs paid for by customers.

Utility administered renewable energy and energy efficiency programs have changed a great deal – in both capabilities and costs – since the adoption of the standards in SB 221. At the same time, these technologies and their customer-driven markets have advanced and evolved. Ohio should take a fresh look at what policies are appropriate to stimulate adoption of these technologies in a market-based economy.



REPRESENTATIVE MARK ROMANCHUK
HOUSE DISTRICT 2

HB 772| Change electric utility service law/repeal part of HB 6
Sponsor Testimony
November 10, 2020

Chairman Wilson, Vice Chair McColley, Ranking Member Williams and members of the committee, thank you for giving me the opportunity to testify on HB 772. HB 772 is not a full repeal of HB 6 rather it is a partial repeal that removes bad policy that harms Ohioans.

Background

Let me start with some history. In 1999, the general assembly passed SB 3-123, historic legislation to deregulate the electric generation portion of our electric bills and use competitive “markets” for the purpose of lowering utility bills and improving services. Unfortunately, the legislature hasn’t always followed the path to achieve full deregulation and competitive markets; HB 6 is an example of that. Among other things, HB 6 subsidizes certain electric generating plants which, 21 years after deregulation, should be competing without ratepayer subsidies in the wholesale electricity market operated by PJM Interconnection, LLC (PJM). When Ohio deregulated and joined PJM, a 13 state (plus DC) regional grid operator, Ohio essentially abdicated the responsibility of “electric generation” to PJM. Therefore, it is irresponsible and unnecessary for this body or the PUCO to be engaged in any policy that affects the generation market.

Deregulation and SB 3 are bearing fruit. Billions of dollars are being saved annually on the “generation” portion of the customer bill. Old, inefficient generating plants are exiting the market and being replaced with newer technology that is cleaner, more reliable, and cheaper to operate. Markets are functioning. Instead of staying the course of SB 3, HB 6 disrupts the principles of markets by unfairly and needlessly subsidizing certain generation plants at the expense of other generation resources and Ohio ratepayers.

Why have we lost our way to achieving the goals of SB 3 and full deregulation? It’s because of poor business decisions by legacy generation plant owners and effective lobbying to bail them out. Interest groups often turn to the legislature and ask for handouts to prop up failing businesses and old, inefficient, and costly generators. The legislature is a “political” body and should only be involved with new, transformative energy policy such as: regulation v. deregulation, Renewable Portfolio Standards (RPS), or Energy Efficiency (EE) programs, to name a few. The legislature should not be choosing winners and losers within a policy already created. But that is exactly what HB 6 did. It chose winners by subsidizing only a handful of

select generating plants. It also created riders that *increased* Ohioan's electric bills. Why would any legislator want to vote for that?

Throughout last year's HB 6 debate and the subsequent debate this year, I have heard on numerous occasions that this is a "complex" subject. As in other debates, when someone says something is "complex", it's a red flag and should be treated with skepticism. It is commonly used as a distraction to keep you from researching and understanding the policy matter. In my view, this is not complex. This debate can be boiled down to two questions: 1) should Ohio policy be interfering with a deregulated competitive generation market and, (2) should Ohioans be forced to bail out corporations when they make bad business decisions?

HB 772 Repeals Both the Nuclear Resource and Renewable Energy Credit Programs (Nuclear and Solar Subsidies)

The \$150 million annual nuclear subsidy from Ohioans was never needed to sustain the operation of the two Ohio nuclear plants. Evidence was provided by witnesses during the HB 6 debate that financial instability was likely untrue. Subsequently, the owners of the new company, Energy Harbor, confirmed in May 2020 using their \$800 million stock buyback that money is not a problem. In addition to the stock buyback, it is not hard to learn that Energy Harbor is performing well in the market. Anecdotal evidence and a recent Wall Street Journal article suggests they are winning contracts to supply power to consumers – all before receiving any subsidies from HB 6.

PJM, the regional transmission operator responsible for ensuring the safety, reliability, and security of the wholesale electricity markets, testified last year that reliability will not be negatively affected by the closing of the two nuclear plants. Also, PJM recently testified to the House Select Committee on Energy Policy and Oversight that Ohioan's bills will *decrease* if the nuclear plants close and the scheduled new plants are placed into service. Further, Mr. F. Stuart Bresler, III of PJM testified in April 2019 in front of the House Energy and Natural Resources Committee that, if necessary, PJM would undertake three remedial actions if the nuclear plants closed for a total cost of \$24 million.

So we have two choices:

1. Charge Ohioans \$1 billion to keep two, inefficient nuclear power plants open, or
2. Charge Ohioans \$24 million to upgrade the grid while lowering Ohioan's bills, all without sacrificing reliability.

Mr. Chairman and members of the committee, I believe the latter is clearly the best for Ohio's electricity consumers.

With regard to the \$20 million annual subsidy for what will likely be five solar projects, again, the legislature should adhere to the principles of deregulation and SB 3; and should not be picking winners and losers or interfering in competitive generation markets.

HB 772 Repeals the Legacy Generation Resource Cost Recovery (OVEC Subsidy)

Ohio Valley Electric Corporation (OVEC) consists of two, 1950's coal power plants with one operating in Ohio and the second in Madison, Indiana. The plants were originally built for the purpose of providing electricity to a uranium enrichment plant owned and operated by the federal government. After the enrichment plant closed and OVEC's contract ended with the U.S. Department of Energy (and later the U.S. Enrichment Corporation) in the early 2000's, the owners of the plants made a business decision to enter into another contract (without the federal government), continue operation of the plants and sell their power into PJM's wholesale electric market. The owners again (without the federal government) renewed that contract in 2011. The OVEC companies freely entered into these contracts – they were not ordered to do so by the PUCO or any other governmental entity. Unfortunately for the owners, the plants haven't been profitable since 2012. Ohioans should not be responsible for bad business decisions made by the plants' owners, including utilities. Prior to HB 6, ratepayers had paid \$150 million in subsidies to the OVEC plants through 2019 (this was PUCO approved recovery). It's estimated the OVEC plants will remain uncompetitive and HB 6 continues to subsidize these plants with \$100's of millions of additional ratepayer money, transfers the business risk to Ohioans, and does nothing to make the plants competitive. Even though the subsidy ends in 2030, charges to customers will likely continue because of the deferred cost recovery allowed under HB 6. Again, per SB3 and deregulation, we should not be interfering in the competitive generation market.

HB 772 Repeals Decoupling and Provides Refunds

HB 772 repeals the decoupling mechanism which was included in HB 6 to benefit FirstEnergy by rewarding them with unearned income. As PUCO Chairman Randazzo recently testified to the House Select Committee on Energy Policy and Oversight, decoupling has been allowed previously as a rate mechanism in certain circumstances, but it is typically a ratemaking issue that the PUCO decides on a case-by-case basis. The PUCO has the expertise and experience to approve or not approve these ratemaking mechanisms if it deems them to be necessary, reasonable and prudent. Since charges related to the decoupling mechanism authorized under HB 6 have already started to be collected, HB 772 requires FirstEnergy to refund the full amount of these ill-gotten gains to customers.

HB 772 Repeals the Changes to the Home Energy Assistance Program (HEAP)

This provision would have provided for the Ohio Development Services to divert more federal HEAP funds to low income weatherization instead of utility bill payment assistance for Ohioans. With the advent of COVID-19, it is especially important to keep people connected to utility service. According to an October 27, 2020 Columbus Dispatch article which states, "Because of the novel coronavirus and its ensuing economic crisis, nearly 100,000 ratepayers in the greater Columbus area and tens of thousands of ratepayers in Cincinnati have fallen behind on their utility bills." After the pandemic passes, revisiting this change may make more sense.

HB 772 Repeals Any Actions Taken by the PUCO to Implement HB 6 and Refunds All Charges Collected

HB 772 simply terminates all actions taken by the PUCO to implement HB 6 and requires all revenue collected from customers due to HB6 be refunded.

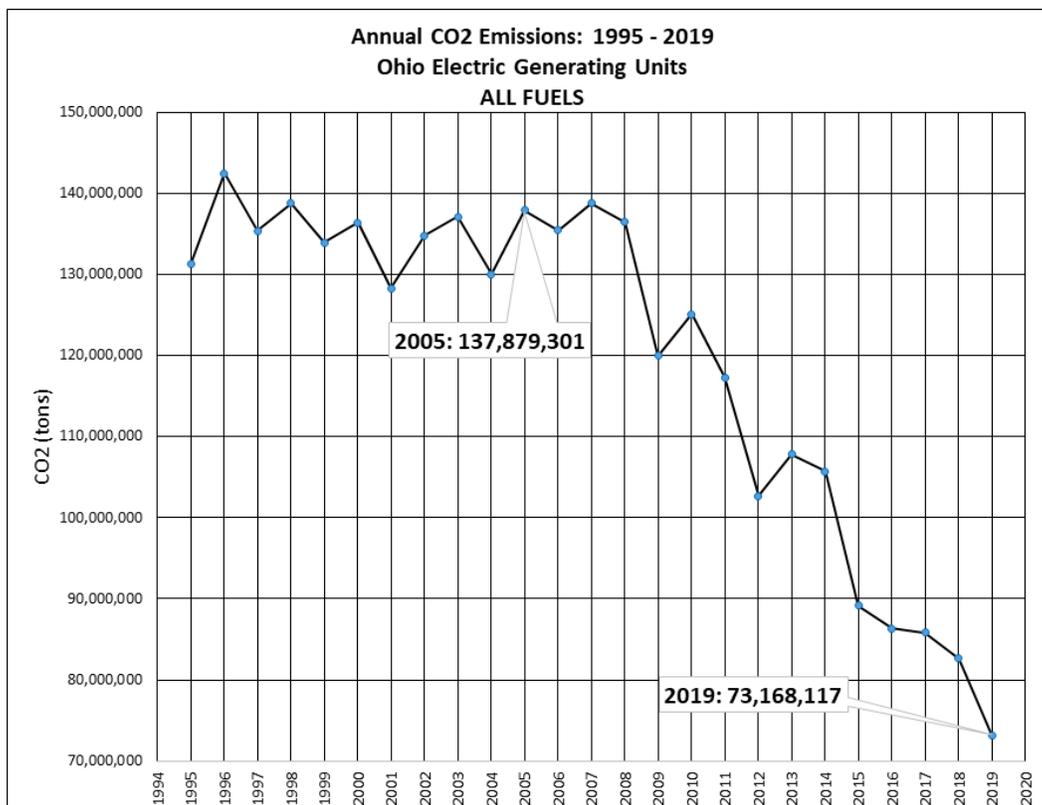
HB 772 Declares an Emergency

Since most of the new charges start January 1, 2021, it is necessary to pass this bill with an emergency clause.

The Reasons Used to Pass HB 6 Were Flawed and Misguided

First, we were told we had to subsidize two nuclear power plants because the operations were not generating enough cash to keep the plants open. During the HB 6 debate, the legislature asked to see the company's financial statements to verify their financial need. We were told that would not be possible – that was the first clue something was amiss. Can you imagine walking into a bank and claiming you have a financial need and need to borrow money, then telling the banker you won't supply financial statements or your tax returns? In addition to the \$800 million stock buyback and the fact they are winning business, the Wall Street Journal reported on October 15, 2020 that the company was doing well because of "low debt levels and a growing retail electricity business". This is all coming months before Energy Harbor is set to receive any of the HB 6 subsidies. It is the shedding of debt through the bankruptcy proceedings, *not* ratepayer subsidies, which have bolstered Energy Harbor, and will likely be the reason the plants remain operational into the future.

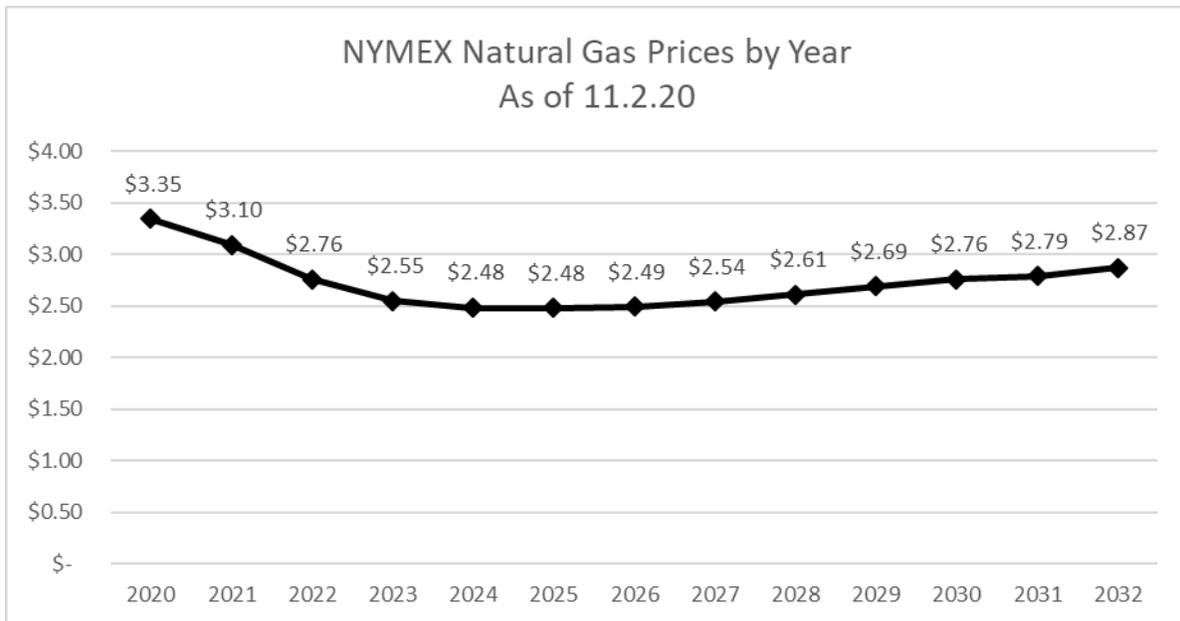
Second, we were told we needed to preserve the two nuclear power plants because of their low carbon emissions. While that may be true, have we forgotten about a nuclear plant's waste stream – spent nuclear fuel which remains high-level radioactive waste and a pollutant for thousands of years? Nuclear plants are hardly pollution free. In addition, the Ohio Environmental Protection Agency (OEPA) reports Ohio has reduced CO₂ emissions from Ohio electric generating plants for all fuel types by 47% since 2005. That equates to over 64 million tons of CO₂ removed from our air in a 14-year period. While one can argue that more work needs to be done, this reduction occurred not because of any decision made by this body or any other Ohio official but by technology and the market. If our goal is to further reduce emissions, technology and the market will provide the best chance of that occurring.



*Data from Ohio EPA

Third, it's said that because other fuel types used to generate electricity are receiving subsidies we should, therefore, subsidize nuclear and coal. To begin, not all subsidies are created equal. Some subsidies such as tax abatements are available to everyone, not a select few. Also, some of the subsidies mentioned such as the Production Tax Credit (PTC) are federal and are out of the control of this legislature. While we can dispute the need for these subsidies, adding more *state* subsidies is not how we should combat them.

Fourth, it's said we need nuclear plants to hedge against natural gas plants cornering the market and raising their prices. There is no evidence this will occur. First, Ohio (the Utica shale formation) is fortunate to have an abundant supply and one of the world's largest natural gas fields. With the addition of natural gas plants in Ohio, we will enjoy lower electricity bills while buying our own resources – a double benefit. Second, natural gas has many uses making it improbable that increased demand by power plants would drive up pricing. Lastly, the financial markets (which are the best indicator we have), are signaling through their futures that natural gas pricing will remain low for the foreseeable future.



*Futures Data from NYMEX

Lastly, we heard the subsidies were necessary to preserve jobs. This assumes, of course, the plants actually close if they do not receive the state subsidies. A fact that has not yet been proven as explained previously. But, assuming closures do occur, it's completely understandable that any legislator would fight to preserve jobs and protect their constituents. On the other hand, every Ohio community has experienced business closures. It's still fresh in my mind when, in my district, our General Motors stamping plant was closed in 2009 displacing 2,800 workers. While we felt sorry for ourselves for a month or two, we pulled ourselves up by our bootstraps and eventually replaced the lost jobs. This scenario has, sadly, repeated itself many times throughout Ohio. The communities affected by the *potential* closing of the nuclear plants, can and will rebound. Furthermore, it takes years to decommission a nuclear power plant, so the number of jobs will not decrease for several decades.

And more recently, I am hearing that a strengthened audit provision will fix the nuclear subsidy policy in HB 6. It will not. Due to deregulation, electricity generators are not entitled to subsidies from Ohio ratepayers. Not to mention, audit results can be manipulated. PUCO audits have uncovered that the OVEC plants continue to sell electricity for less than it cost to make. A recent audit of the AEP Ohio PPA Rider (OVEC subsidy), uncovered questionable business decisions. Unfortunately, the audit did not lead to changes that would lower cost to consumers. An audit, therefore, does not incentivize better business decisions that will make the plants competitive and save the ratepayer money.

Conclusion

Mr. Chairman, I do not know what standard we are using to replace HB 6. What I do know is, we don't represent lobbyist that usually sit in this hearing room, and we don't represent the interest groups that routinely walk the halls of this statehouse. We do, however, represent constituents who are everyday Ohioans - and it's our duty to do what's best for them.

HB 6 was bad policy that had no benefit to Ohioans and was going to cost ratepayers billions. HB 6 was simply a handout that was intended to bailout corporations that made bad business decisions. We all want financially strong, innovative electric power plants. Market forces will deliver that. It's time for our policy to return to markets and make the consumer our focus. Sadly, almost every piece of energy legislation that has been deliberated by this body since I have been in the General Assembly has neglected one thing – what's best for the consumer. It's time to repeal the anti-market provisions of HB 6 that have no benefit to the residential and business constituents that we all represent.

Again, I do not know what standard we are using to replace HB 6. If the standard is to save our constituents money on their electric bills, HB 772 is the only repeal bill (at the time of this testimony) that will save Ohioans additional money. Per the attached LSC fiscal note, Ohioans will save a total of **\$2.93 billion** as a result of passing HB 772. If you add this savings to the \$2.3 billion LSC calculated savings from the passage of HB 6, ratepayers will avoid paying a total of **\$5.23 billion**. It's time to put our constituents first and leave this money where it belongs, in their pockets.

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



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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 772
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 772's Bill Analysis](#)

Version: As Introduced

Primary Sponsors: Rep. Romanchuk

Local Impact Statement Procedure Required: No

Russ Keller, Senior Economist

Highlights

- The bill repeals select provisions enacted in H.B. 6 of the 133rd General Assembly. Specifically, it:
 - Repeals the Nuclear Generation Fund and the Renewable Generation Fund, both of which are custodial funds;
 - Repeals the charges scheduled to be implemented in January 2021 to raise \$170 million per year from electric distribution utility customers;
 - Repeals the nonbypassable statewide charge paid by retail electric customers for utilities' ownership stakes in the Ohio Valley Electric Corporation (OVEC);
 - Restores the administrative duties of the Ohio Air Quality Development Authority to those that existed prior to H.B. 6, reducing its future expenditures for administering the custodial funds and payments to electric generating facilities.
- The bill provides refunds to customers for amounts collected in 2020 for two separate charges authorized by H.B. 6 – the statewide OVEC charge and the decoupling mechanism.
- The bill affects utility compliance costs, so state agencies and local governments, as utility customers, will likely see reductions in costs of purchasing electric utility services.
- The bill declares itself to be an emergency measure; therefore, it goes into immediate effect upon its enactment.

Detailed Analysis

The bill makes numerous changes to codified laws governing electric distribution utilities (EDUs). Ohio's six EDUs offer essential electric service to consumers under an electric security plan (ESP) approved by the Public Utilities Commission of Ohio (PUCO). These state-regulated plans enable EDUs to recover prudently incurred costs of providing service. Additional state policy objectives are often recovered in the form of "riders" on customers' monthly electric bill. The principal fiscal effect of this bill is on EDUs' compliance costs and the associated riders that recoup the costs of these policy directives from ratepayers.

Table 1 below summarizes by category the three prominent utility compliance costs affected by H.B. 772. The three primary changes are to (1) the Clean Air Fund rider, (2) the Legacy Generation rider, and (3) all varieties of decoupling mechanisms, including the iteration authorized by H.B. 6. A brief description of each category will follow. Following that are sections explaining the fiscal effects on the Ohio Air Quality Development Authority and on the Low Income Heating Assistance Program.

EDU	Annual Savings for All Customers	Monthly Savings for Typical Residential Customer
AEP Ohio	\$100,241,994	\$2.67
Cleveland Electric Illuminating	\$48,769,019	\$2.44
Dayton Power and Light	\$26,266,651	\$1.43
Duke Energy Ohio	\$44,779,806	\$2.10
Ohio Edison	\$53,570,245	\$1.87
Toledo Edison	\$18,478,371	\$2.22
Total	\$292,106,087	\$2.26

Note: Annual amounts in table are estimated using calendar year 2020 rider collections. Estimated annual savings amounts, especially those related to the decoupling mechanisms could vary substantially in future years.

H.B. 772 does not affect H.B. 6 changes to the energy efficiency savings requirements, the renewable portfolio standard, the property tax treatment of smaller (i.e., under 20 megawatts) renewable energy projects, or specialty rate schedules that EDUs implemented for county fairs and agricultural societies.

Financial support for nuclear power plants and solar farms

H.B. 772 repeals the legal basis for a new customer charge that would otherwise begin in January 2021. The prospective charge, which is referred to as the "Clean Air Fund rider" in PUCO proceedings, would financially support two Ohio-based nuclear power plants and certain utility-scale, solar energy electric generating facilities. Under H.B. 772, customers would not be charged up to \$170 million per year, from 2021 through 2027. The intended recipients would not

receive these proceeds, which would have been dedicated to the nuclear power plants (\$150 million) and qualifying solar farms (\$20 million). Proceeds of this rider were to be deposited into two custodial funds established by H.B. 6, prior to distribution to these intended recipients: the Nuclear Generation Fund and the Renewable Generation Fund. The two funds are eliminated by H.B. 772. Table 2 estimates the reduction in compliance costs paid by Ohio’s six EDUs under the bill. The table also identifies the reduction in the amount paid by the typical residential customer for this rider, which H.B. 6 capped at 85¢ per month.

Table 2. Estimated Savings and Monthly Impact of Repealing the Clean Air Fund Rider		
EDU	Total Annual Rider Reductions, All Customer Classes	Monthly Residential Rider
AEP Ohio	\$54,481,884	85¢
Cleveland Electric Illuminating	\$27,113,621	85¢
Dayton Power and Light	\$18,021,197	85¢
Duke Energy Ohio	\$26,485,346	85¢
Ohio Edison	\$33,348,937	85¢
Toledo Edison	\$10,549,014	85¢
Total	\$170,000,000	85¢

Source: PUCO Case No. 20-1143-EL-UNC

Ohio Valley Electric Corporation

Prior to H.B. 6, three EDUs separately obtained PUCO approval for an ESP that included funding for the Ohio Valley Electric Corporation (OVEC). The rider charged customers for the deficits that EDUs incurred through their ownership stakes in OVEC. H.B. 6 repealed these separately imposed riders and replaced them with a single rider applicable to all six EDU territories. Beginning in January 2020, the new “Legacy Generation rider” applied a statewide rate to various customer classes (e.g., residential) in every territory. Current law enables EDUs to incur recoverable costs (via the Legacy Generation rider) through December 31, 2030. H.B. 772 repeals the legal basis for the Legacy Generation rider, and prohibits PUCO from reinstating the previous OVEC-specific riders.

H.B. 772 requires the “the full amount of revenues collected from customers through an amount, charge, mechanism, or rider established under [R.C.] 4928.148” be promptly refunded upon the enactment of the bill. This language refers to proceeds collected under the Legacy Generation rider, which are separately grouped within the “Current Law” columns in Table 3. The total savings estimated in Table 1 incorporate the savings from repealing these current law amounts. The bill also prohibits the previous OVEC riders from being “revived, reimposed, reestablished, or in any way reinstated.” The prospective impact of that prohibition is best summarized under the “Previous Structure” columns in Table 3.

Table 3. OVEC-specific Charges for 2020 With and Without H.B. 6

EDU	Current Law (H.B. 6)		Previous Structure (Prior to H.B. 6)	
	Total EDU Costs	Residential Rider	Total EDU Costs	Residential Rider
AEP Ohio	\$24,627,280	58¢	\$45,699,165	\$1.18
Cleveland Electric Illuminating	\$12,328,309	58¢	\$0	\$0
Dayton Power and Light	\$8,245,454	58¢	\$11,235,620	74¢
Duke Energy	\$12,013,254	58¢	\$20,636,853	91¢
Ohio Edison	\$15,516,982	58¢	\$0	\$0
Toledo Edison	\$4,840,360	58¢	\$0	\$0
Total	\$77,571,639	58¢	\$77,571,639	63¢

Notes: Both scenarios assume Ohio EDUs responsible for 33.83% of OVEC's \$229.3 million annual deficit. Current law reflects Legacy Generation rider terms approved by PUCO in Case No. 19-1808-EL-UNC. Previous structure reflects OVEC-specific riders formerly authorized by PUCO, as adjusted for the 2020 revenue requirement. Monthly residential rider assumes consumption of 833 kilowatt-hours (kWh).

Background

OVEC operates two coal-fueled plants along the Ohio River and each of its “sponsoring companies” are entitled to their specified share of all net power and energy produced by OVEC’s two generating stations. In return, the sponsoring companies must pay their share of all of OVEC’s costs resulting from the ownership, operation, and maintenance of its generation and transmission facilities. Among the dozen sponsoring companies are three Ohio EDUs: Ohio Power Company (19.93% ownership stake), Duke Energy Ohio (9.0%), and Dayton Power and Light Company (4.9%).

Prior to H.B. 6, three EDUs received their OVEC-specific costs through riders with various dates for their scheduled expiration: October 31, 2023 (Dayton Power and Light), May 31, 2024 (AEP Ohio; the Ohio Power Company is a subsidiary of AEP), and May 31, 2025 (Duke Energy Ohio). H.B. 772 prohibits EDUs from reimposing the previous riders or any other OVEC-related cost recovery mechanism.

In theory, the three separate OVEC riders and the Legacy Generation rider operate as a “hedge.” In the event that OVEC’s revenues exceed its costs for a given year, ratepayers would have received a credit rather than a charge. The hedge aspect, as proposed by EDUs, suggests that OVEC’s costs are largely stable and uncorrelated with the price of natural gas, which is a large determinant of Ohio’s on-peak power prices. Since the riders were implemented, they have only yielded charges to customers.

Revenue decoupling mechanism

H.B. 772 repeals the legal basis for all varieties of revenue decoupling charges. Revenue decoupling mechanisms preceded H.B. 6, and several EDUs gained PUCO approval for an iteration prior to the enactment of H.B. 6. The three FirstEnergy EDUs¹ jointly applied for their own decoupling mechanism in 2018, but were denied approval by PUCO.² Later, these three EDUs gained approval for a unique decoupling mechanism codified by H.B. 6. Table 4 summarizes the annual rider collections forecasted by EDUs in their most current filings. All of these decoupling mechanisms would be repealed under H.B. 772, and the amounts collected by the three FirstEnergy EDUs would be promptly refunded per Section 6 of the bill.

EDU	Total Rider Collections in 2020, All Customer Classes	Monthly Residential Rider in 2020
AEP Ohio	\$21,132,830	\$1.24
Cleveland Electric Illuminating	\$9,327,089	\$1.01
Dayton Power and Light	\$0	\$0
Duke Energy Ohio	\$6,281,206	67¢
Ohio Edison	\$4,704,326	44¢
Toledo Edison	\$3,088,997	79¢
Total	\$44,534,448	83¢

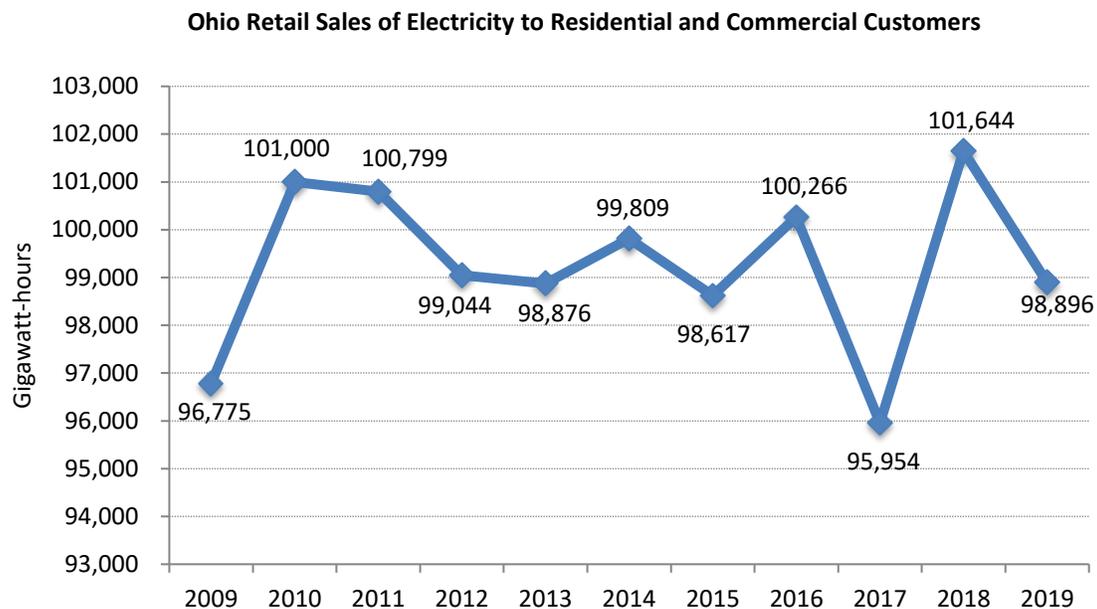
Source: PUCO Case Nos. 19-2080-EL-ATA (FirstEnergy's EDUs), 20-0530-EL-RDR (AEP Ohio), and 20-0574-EL-RDR (Duke Energy Ohio)

In general, a decoupling mechanism separates a utility's revenues from the volume of electricity it delivers. Consequently, a decoupling mechanism ensures that an EDU's revenue target³ is reached, regardless of how much electricity is sold. Energy efficiency and peak demand reduction requirements began in 2009, upon the enactment of S.B. 221 of the 127th General Assembly. Decoupling riders have subsequently been implemented for EDUs' residential and commercial customer base. As seen in the chart below, Ohio's overall consumption of electricity attributable to these consumers is largely flat, if not trending slightly downward once adjusted for weather (such an adjustment is excluded from the graph). For this reason, a decoupling mechanism often manifests as a customer charge, but it could provide a credit if consumption exceeds the baseline target. In practice, all decoupling riders have only yielded charges rather than credits for residential customers since their inception.

¹ Specifically, Cleveland Electric Illuminating, Ohio Edison, and Toledo Edison.

² Refer to PUCO Case No. 17-0334-EL-ATA.

³ The type of revenue target can vary, whether based on revenue per customer or an aggregate amount.



As of this writing, the H.B. 6 decoupling rider (or “Conservation Support rider”) only applies to the three FirstEnergy EDUs. Future receipts are measured against its 2018 base distribution revenues. AEP Ohio administers a “Pilot Throughput Balancing Adjustment Rider,” which uses the 12-month period ending May 31, 2011, as the baseline year for its revenue target (on a per-customer basis). Duke Energy’s customers pay a “Pilot Distribution Decoupling Rider,” which also uses a revenue-per-customer basis, but instead uses a baseline year ending March 31, 2017. The decoupling riders of AEP Ohio and Duke Energy further differentiate from the H.B. 6 version because they cap cost increases. PUCO limits annual increases attributable to those riders at 3% per customer class (and potential rate decreases are uncapped). As seen in Table 4, the five EDUs project that their decoupling riders will raise \$44.5 million in 2020 from residential and commercial customers.

FirstEnergy

The three FirstEnergy utilities operate under the same base distribution rates imposed in 2009, and this rate freeze will continue through May 31, 2024. Whereas PUCO previously required these EDUs to file an application for new base distribution rates by that date, the Commission later commented in November 2019 that such a requirement is “no longer necessary or appropriate.” Although PUCO made this pronouncement in a separate regulatory matter, the declaration has implications for the decoupling mechanism authorized by H.B. 6. The rider only expires once a utility gains PUCO approval for its “next” application of base distribution rates.

Given the other characteristics of the H.B. 6 decoupling rider, FirstEnergy lacks financial incentive to file such an application, as the rider will likely collect larger amounts after 2020. The Ohio Manufacturers’ Association submitted testimony to the House Select Committee on Energy Policy and Oversight suggesting ratepayers in the three FirstEnergy territories will collectively pay between \$76 million and \$83 million per year in decoupling charges. The anticipated collections for 2020 are suppressed by the presence of the energy efficiency and peak demand reduction (EE/PDR) rider, which separately recovers certain lost distribution revenues. Once this EE/PDR charge expires, a portion of its proceeds will instead be recovered through the decoupling rider.

However, none of this will occur under H.B. 772, because the bill eliminates all decoupling mechanisms.

Dayton Power and Light

In a development unrelated to H.B. 6, Dayton Power and Light filed a “Notice of Withdrawal” of its “ESP III” application in November 2019. PUCO approved the withdrawal and reverted Dayton Power and Light to its earlier “ESP I” rate plan. In doing so, several riders were removed, including the “Distribution Decoupling Rider.” The utility reported that the rider would have raised \$13.8 million in 2019.⁴ As of this date, no decoupling rider is levied on its customers.

Ohio Air Quality Development Authority

The bill eliminates the Ohio Air Quality Development Authority’s (OAQDA) role in administering payments to nuclear power plant stations and select solar energy electric generating facilities. Since enactment of H.B. 6, OAQDA reports that to date approximately \$250,000 has been spent on preparing to handle the agency’s responsibilities under H.B. 6. Furthermore, OAQDA estimates around \$200,000 to \$250,000 in continuing annual operating costs to administer the Nuclear Generation Fund and Renewable Generation Fund under its purview, costs that would be avoided under H.B. 772. As of this writing, however, OAQDA has not hired any new staff as a result of H.B. 6. A hiring process was initiated in January 2020, but it was subsequently put on hold due to the hiring freeze involved with the cost-saving measures put in place because of the COVID-19 pandemic.

Home Energy Assistance Program

The bill repeals permanent law included in H.B. 6 that would have required the Development Services Agency (DSA) to use 25%⁵ of federal Home Energy Assistance Program (HEAP) funds for weatherization services beginning in FY 2021. The fiscal effect is that more federal funding received by DSA for HEAP will be used for the program’s main purpose (providing energy assistance to low-income households) instead of for weatherization services. Both purposes will still be funded, however. Beyond FY 2021, the ultimate share of funding for the two purposes will depend on federal program requirements, other state law (typically the main operating budget bill enacted each General Assembly specifies exact or maximum amounts for weatherization using HEAP funds in those two fiscal years), and DSA’s administration of the program.

Emergency provision

H.B. 772 declares itself an emergency measure; therefore, it goes into immediate effect upon its enactment.

HB0772IN/zg

⁴ FERC Form 1, filed by Dayton Power and Light for the year ending December 31, 2019. The company reported a decoupling deferral equal to \$13.8 million as a regulatory asset, but noted that this was subject to a petition pending before PUCO in Case No. 20-0140-EL-AAM.



FOR IMMEDIATE RELEASE
Nov. 10, 2020

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Ohio Manufacturers Endorse Legislation to Repeal Key Provisions of HB 6, Reform Energy Law

COLUMBUS, Ohio – The Ohio Manufacturers' Association (OMA) is calling on Ohio lawmakers to quickly pass [House Bill 772](#), legislation that would repeal and reform harmful provisions of House Bill 6 – the state's nuclear subsidy law – in a manner that protects customers and protects markets.

Earlier today, Nov. 10, Rep. Mark Romanchuk (R-Ontario), the sponsor of HB 772, delivered testimony before the Senate Energy and Public Utilities Committee in support of the legislation. Romanchuk's testimony included an analysis by the Legislative Services Commission (LSC) showing HB 772 would save Ohioans nearly \$3 billion over the next decade by slashing ratepayer-funded subsidies to electricity companies.

"For the benefit of both families and businesses, HB 6 cannot be allowed to remain as Ohio's energy law," OMA President Eric Burkland said. "House Bill 772 will repeal and reform provisions of the law that were corrupt manifestations of the HB 6 debacle, keeping Ohio energy policy competitive for manufacturers and other power consumers."

HB 6 is at the heart of the ongoing federal investigation into the shadowy 501(c)(4) Generation Now and the activities of former House Speaker Larry Householder, who allegedly engineered a \$60 million racketeering and bribery scheme. Without repeal and reform, Ohioans will be forced to pay for HB 6's subsidies via their electric bills at a cost of \$170 million annually, beginning Jan. 1, 2021.

The OMA has produced [this two-page document to summarize HB 772](#) and explain why the bill would be benefit Ohioans.

The OMA is part of a customer coalition formed to support the enactment of HB 772. Other members of the coalition include the Office of the Ohio Consumers' Counsel; the Ohio Hotel & Lodging Association; the Ohio Chemistry Technology Council; the Ohio Cast Metals Association; the Northeast Ohio Public Energy Council; and the Northwest Ohio Aggregation Coalition.

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The Ohio Manufacturers' Association is Ohio's largest statewide business association comprised solely of manufacturers. Established in 1910, the OMA's mission is protect and grow Ohio's manufacturing industry, while representing small and large manufacturers in every sector of the industry. For more, visit ohiomfg.com – or follow us on [LinkedIn](#), [Twitter](#) and [Facebook](#).

OHIO SENATE ENERGY & PUBLIC UTILITIES COMMITTEE
PROPONENT TESTIMONY OF JUDITH LAGANO
SENIOR VICE PRESIDENT, ASSET MANAGEMENT, NRG ENERGY INC.
SENATE BILL 346
NOVEMBER 10, 2020

Chairman Wilson, Vice Chairman McColley, Ranking Member Williams and members of the Senate Energy & Public Utilities Committee, thank you for the opportunity to testify as a proponent of Senate Bill 346 (“SB 346”). My name is Judith Lagano, I am Senior Vice President for Asset Management at NRG Energy, Inc. (“NRG”) and have more than 25 years of experience overseeing power generation assets.

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

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

information, and began to unravel the course of Ohio's competitive energy advantages. The passage of SB 346 will correct these inadvertent errors.

NRG supports passage of SB 346 for three reasons.

First, to restore the public trust and confidence in the legislative process.

Second, FirstEnergy told legislators during the HB 6 debate that without a subsidy, its affiliate's nuclear generation would close because it was unprofitable. That affiliate, FirstEnergy Solutions, filed a Chapter 11 bankruptcy. At the end of that bankruptcy process, the new company, now known as Energy Harbor, has a stronger balance sheet, less debt, and is forecasting robust cash flow and profits. In fact, Energy Harbor has revealed that the company's profits and cash flow are strong *even without* the HB 6 subsidies as depicted in its May 10, 2020, 2020-2022 Financial Outlook. Since we downloaded it earlier this year from Energy Harbor's website, the company has now made its financial presentations off-limits to the public.¹ Energy Harbor expects to make about \$515 million in profit this year, \$585 million next year, and \$645 million in 2022.² What does that mean? Even *without* the approximately \$150 million in annual HB 6 nuclear subsidies, Energy Harbor would still be turning a substantial profit. To use a different metric, the company has provided Wall Street with their primary financial metrics including estimated free cash flow generation of approximately \$4/share *without* the HB 6 subsidies, which increases to approximately \$6/share, a ~50% increase when normalizing the impact of the HB 6 subsidy for a full year. These figures show Energy Harbor has emerged from bankruptcy highly profitable having shed the bloated cost structure and pervasive inefficiency within the traditional regulated model. Every dollar of the ~\$150MM/year it collects from here on in simply fills Energy Harbor's coffers at the expense of Ohio's customers.

Additionally, Energy Harbor disclosed in May 2020 that it authorized an increase to its share buyback program from \$500 million to \$800 million dollars (a significant percentage of its overall equity valuation) referencing a market dislocation while clean air emissions credits have become a source of visible cash flow. The

¹ For example, the data that follows comes from Energy Harbor's May 10, 2020 2020-2022 Financial Outlook, which is no longer publicly available on energyharbor.com, but is only available to shareholders who submit a registration form to the company, and which the company approves for access. ("Energy Harbor Financial Outlook").

² *Id.*

dots are all there for Ohio lawmakers to connect: Energy Harbor has parlayed FES's distress call into a subsidized cash flow generator using Ohio ratepayer's pocketbooks to enrich its executives and Wall Street.

Third, and finally, HB 6 contains other provisions that are not often commented upon, but which are also bad policy. The law's "decoupling" provision pays utilities for energy that they may not deliver. Decoupling will allow FirstEnergy to charge customers for the difference between current year revenues and revenue earned in 2018 for every year from 2019 to 2024 when it just so happens 2018 was a high revenue year arising from peak energy deliveries. While the cost of the nuclear subsidies has been established by law, the cost of decoupling will not be known until each year is over and the math is complete. FirstEnergy will lock in revenues at an unrealistically high figure and customers will pay higher rates *because* they used less energy... how does that make any sense?

Before that provision was enacted by the PUCO in January of this year, former FirstEnergy CEO Chuck Jones told investors it would make the utility "recession-proof."³ Mr. Jones was recently terminated after a FirstEnergy internal investigation determined that he, and other FirstEnergy executives, "violated certain [c]ompany policies and its code of conduct."⁴ And, of course, a recession did happen—and is still ongoing—but HB 6 insulates FirstEnergy from having skin in the game in the economic cycle that has negatively affected so many Ohioans. At the same time, HB 6 suspended energy efficiency programs, but fixed FirstEnergy's utility profits in a way that included payments for "lost" sales due to energy efficiency programming. In the words of Ned Hill, an economics professor at the Ohio State University, FirstEnergy was "ordered by the legislature to not provide services while receiving the money that was once earned from providing those services from a de facto tax."⁵ It is hard to imagine a more inappropriate and socially unjust policy in the current moment.

There are other troubling provisions of HB 6, as well. The law provides nearly \$343 million in subsidies for the OVEC coal plants (one of which is in Indiana). Another \$140 million for six specific solar projects. HB 6 is a grab bag of subsidies, but one thing unites them in the legislation's basic architecture: consumers always pay but they don't always benefit.

³ <https://energynews.us/2020/05/15/midwest/ohio-policies-cushion-the-pandemics-impact-on-electric-utilities/>

⁴ See *FirstEnergy Corporation*, Form 8-K, filed before the United States Securities and Exchange Commission on October 30, 2020 at Item 5.02, available at: <https://investors.firstenergycorp.com/IRW/Docs/4056944>

⁵ See *Energy Harbor Financial Outlook*.

NRG recognizes that nuclear energy can play a role in Ohio's energy future, but it must compete fairly. As a part owner of a nuclear facility in Texas, NRG's South Texas Project nuclear facility operates in a competitive wholesale electric market to provide carbon free, safe, reliable energy and is an important part of a fuel-diverse and competitive generation fleet serving the south Texas region. Passage of SB 346 would restore the competitiveness of the wholesale market which has afforded Ohio with low electric generation rates and billions in new capital investment and new jobs. The Perry and Davis-Besse nuclear plants would compete in the PJM capacity auctions based on their true costs and have an opportunity to earn capacity revenue based on free-market competition, without requiring Ohioans to foot the bill for Energy Harbor's alternative uses of capital such as share buybacks.

Ohio has made impressive strides reducing carbon emissions since it embraced free market competition in the electric sector. In fact, according to the US Energy Information Administration, carbon dioxide emissions in Ohio fell by 67 million metric tons between 2005 and 2016, the largest absolute reduction in the nation⁶. Competition has helped drive efficiencies and corresponding reductions in air emissions. Preserving a competitive market in Ohio will secure even more emission reductions in the future.

NRG appreciates the opportunity to provide this testimony about this very important issue. We urge you to pass SB 346.

⁶ United States Energy Information Administration, Energy-Related Carbon Dioxide Emissions by State, 2005-2016, February 27, 2019.



DEEP DIVE

MOPR reconsidered: Competitive generators move away from FERC's PJM order, toward carbon pricing

Though competitive suppliers initiated the complaint that led to the MOPR expansion, they are now pivoting toward more markets-based mechanisms, in response to state threats to exit the markets.

By Catherine Morehouse

Published Nov. 13, 2020

Competitive generators are quietly reversing course on a controversial federal rule many see as a blatant attempt to squash state energy policies.

Though competitive suppliers, led by generator Calpine, initiated the complaint that led to the Minimum Offer Price Rule (MOPR) expansion with the PJM Interconnection, they are now pivoting their support toward more market-based mechanisms, largely as a response to state threats to exit the PJM capacity market altogether, three industry sources close to discussions confirmed.

"The [MOPR expansion] policy has no economic foundation — price controls never 'fix' subsidies — and it's painted merchants as the political villain," Devin Hartman, director of energy and environmental policy at free market think tank R Street Institute, said in an email. Merchant generators "need to turn political angst against subsidies and towards embracing their core business model: market competition."

The MOPR sets a minimum price floor for resources bidding into the wholesale markets, and the Federal Energy Regulatory Commission in December expanded that rule to apply to all resources receiving a state subsidy. It quickly became a source of political animosity between states, clean energy interests, generators and federal regulators, causing merchant generators to rethink their approach.

The transition has been in the works for a while — the Electric Power Supply Association (EPSA) and several of its members were among the broad coalition that requested the Federal Energy Regulatory Commission host a technical conference on carbon pricing. Though EPSA has supported carbon pricing since 2007, some stakeholders now see it as one potential offramp for the PJM MOPR expansion. And Calpine as early as May indicated it and other members were willing to come to the table to workshop long-term solutions to the MOPR, an early recognition that some generators did not find the policy politically viable.

But while EPSA acknowledges there are "more efficient" solutions than the MOPR, the group maintains it was necessary public policy, and says stakeholder fears that it will impinge of state clean energy ambitions are likely overblown.

"The FERC order granted much of what the [Calpine] complaint asked for," said Todd Snitchler, president and CEO of EPSA, adding the commission "was duty bound to do something" to address what EPSA and others view as the market-distorting impacts of state subsidies.

"In the end, you still need to have a just and reasonable market," he said. "The current state approach is not achieving that objective." EPSA members are made up of competitive suppliers across the U.S. including Vistra, NRG Energy and Competitive Power Ventures, who own fleets of merchant gas plants across the

country, and felt their gas resources were at a disadvantage in states with subsidized nuclear or renewable resources.

Less than a year after the MOPR's expansion, EPSA and its members hope to see the conversation shift toward more efficient state solutions. But the MOPR battle may not end there — two other generators, Cricket Valley Energy Center and Empire Generating Company, are pushing for a proposal similar to the MOPR within the New York Independent System Operator, and say they want it by the end of the year.

MOPR's PJM expansion

The PJM MOPR was originally intended to prevent load-serving entities, from offering resources into the capacity market at an artificially low price that could suppress the overall market price. It initially applied almost exclusively to new gas resources.

New Jersey and Maryland started a program in 2009 that guaranteed income for new state-sponsored gas plants in order to ensure they could clear the PJM capacity market auction, something FERC and others at the time said violated the MOPR structure. A 2016 ruling from the U.S. Supreme Court affirmed the legitimacy of the MOPR, as well as FERC's ability to prevent price suppression in the markets. Competitive generators filed a complaint with FERC in 2017 alleging that state subsidies for clean energy resources such as nuclear and renewable energy were also artificially suppressing prices.

FERC in 2019 decided the only way to address this issue was to expand the MOPR's application to all new market entrants that receive state subsidies, something clean energy interests feared would stifle market growth for renewable energy, and that states protested was an illegal effort to interfere in state resource decisions.

PJM itself has questioned the broad reach of this decision, speculating in January comments that the MOPR "may have paradoxically unintended consequences over time and may result in less economic efficiency." But stakeholders became much more nervous when states began to threaten to leave the wholesale markets altogether, something PJM's independent market monitor found would cost New Jersey and Maryland millions of dollars per capacity auction.

One study from consulting firm Grid Strategies found, on the flipside, that the expanded MOPR could cost billions of dollars annually long-term. But PJM's market monitor found short-term costs will not rise, and former FERC Chair Neil Chatterjee as well as Snitchler have encouraged stakeholders to wait for future capacity auction results in order to determine the order's impacts.

"Given the fact that the MOPR has yet to be implemented, it's premature to speculate on what we might see," said Snitchler. "The auctions need to run."

But the harsh rhetoric surrounding MOPR is still making some competitive generators rethink their support, something market stakeholders say is essential for state confidence as well as the future of wholesale markets.

"A graceful transition from MOPR is imperative for the long-term political support of independent power generation," said Hartman. "MOPR is not only causing states to rethink their participation in organized markets, but it's deterring stakeholders in the West and Southeast from forming an RTO."

"I think a lot of parties have come to the realization that MOPR is not the answer. Direct attacks on state policies are not a way to win friends among state policy makers," Rob Gramlich, former

economic advisor to FERC Chair Pat Wood III and founder and president of Grid Strategies, agreed in an email.

Making friends with states

Competitive generators have attained a bad reputation through all this, and EPSA wants that to change, said Snitchler. "EPSA has been painted by some as the fossil generators who want to protect their own interests ... that's fundamentally not true," he said.

The trade group, which represents U.S. competitive power suppliers including Calpine, NRG Energy, Vistra, bp and others, released a report last month that outlines a number of "alternative" market-based, clean energy solutions within the 13-state PJM region. The report, commissioned by EPSA and written by Energy and Environmental Economics, argues the current "patchwork of policies" laid out by states is "inefficient and ineffective," said Snitchler.

Carbon pricing or a well-designed clean energy standard would achieve the greatest outcome at the lowest cost, the report argues, versus renewable portfolio standards, which the report says are more limited in scope.

Carbon pricing has made some political and legal gains in the past year, but some opposition remains on the political right — after FERC issued a policy statement affirming its jurisdiction to implement a state or grid operator-proposed carbon price, the commission's Chairman, Neil Chatterjee, was demoted by the White House. Some, including former FERC staff and Chatterjee, believe the two are related.

But being on the side of carbon pricing is in general a more politically tenable stance than the MOPR these days, said Gramlich, adding that it would benefit generators to focus more on

their competitive attributes in contrast with traditionally vertically-owned utilities as the conversation around decarbonizing the grid evolves.

"Carbon pricing at either the state or federal level is a much better focus," he said. "I also think competitive generators have a very strong argument to make about independent generation vs. utility ownership, and I hope they regain the focus and moral high ground on that issue."

MOPR expansion in NYISO?

As these discussions are brewing in PJM, two generators are attempting to replicate the MOPR expansion within NYISO, and want FERC to take action by the end of the year. Similar to the 2017 complaints, the Cricket Valley Energy Center and Empire Generating Company argue in their October FERC filing that NYISO's rates are unjust and unreasonable because of suppressed prices caused by state subsidies for renewables and nuclear.

And although generators agree that carbon pricing is a tenable solution, it "is not a substitute for a clean MOPR," Damon Anderson, commercial vice president at Advanced Power, which led the development of the Cricket Valley project, said in an email. A "clean MOPR" as defined by Cricket Valley and Empire, as one that is transparent and leads to the cheapest resources meeting reliability needs.

Cricket Valley supports a federal, not state, carbon policy that "covers all sources of CO₂ and utilizes CO₂ prices set by supply and demand with market participants," said Anderson.

Hartman says that Cricket Valley and Empire's pursuit of a MOPR expansion is a sign of the potential long-lasting harm of FERC's December decision.

"MOPR in PJM was always a gateway drug to other mechanisms and markets," he said. "It delineates the consequences of FERC playing a deferential role to regional stakeholders in building a record for major precedent setting. ... Now interests outside of PJM fight an uphill battle to counteract a damaging precedent they had no initial say on."

Energy

Randazzo Resigns From PUCO As HB 6 Scandal Adds Another Chapter November 25, 2020

Last Friday's (Nov. 20) resignation of Public Utilities Commission of Ohio (PUCO) Chair Sam Randazzo **topped off an active week** as the House Bill 6 scandal continues to unfold.

Randazzo's **resignation** came less than a week after FBI agents searched his home, and less than 24 hours after FirstEnergy disclosed that its former CEO and two other senior executives were fired after it was learned that a \$4.3 million payment was made in January 2019 to end a consulting agreement with a company tied to a person who soon after was appointed to regulate Ohio utilities. Randazzo was not named in the disclosure.

PUCO Vice Chair **M. Beth Trombold** will serve as acting chair, while the PUCO Nominating Council prepares to identify a list of finalists for Randazzo's permanent replacement. This development will be covered in depth at the **upcoming OMA Energy Committee meeting** on Dec. 2. *11/23/2020*

Testimony Shows Ohio Nukes Profitable Without Subsidies November 25, 2020

Recent **testimony** from Judith Lagano, a senior vice president for independent power producer NRG Energy, reveals the lie behind House Bill 6 subsidies for Ohio's two nuclear power plants owned by Energy Harbor (formerly FirstEnergy Solutions). Earlier this month, Lagano told Ohio senators the following:

"FirstEnergy told legislators during the HB 6 debate that without a subsidy, its affiliate's nuclear generation would close because it was unprofitable. That affiliate, FirstEnergy Solutions, filed a Chapter 11 bankruptcy. At the end of that bankruptcy process, the new company, now known as Energy Harbor, has a stronger balance sheet, less debt, and is forecasting robust cash flow and profits. In fact, Energy Harbor has revealed that the company's profits and cash flow are strong even without the HB 6 subsidies, as depicted in its May 10, 2020, 2020-2022 Financial Outlook."

Lagano told lawmakers that Energy Harbor had since removed its financial presentations from its

public website, but that the company expects to make approximately \$515 million in profit this year, \$585 million next year, and \$645 million in 2022, "even without the approximately \$150 million in annual HB 6 nuclear subsidies. ... Every dollar of the (roughly) \$150 million/year it collects from here on simply fills Energy Harbor's coffers at the expense of Ohio's customers." More evidence that it's past time to repeal and reform HB 6. *11/24/2020*

Still Time to Tell Lawmakers to Repeal, Reform HB 6 November 25, 2020

Ohio's House and Senate leaders say they want to take action on House Bill 6 repeal and/or reform during the current lame duck session. Several bills are under consideration, but only one has been endorsed by the OMA.

Introduced by Rep. **Mark Romanchuk** (R-Ontario), a manufacturer, **House Bill 772** would protect customers and markets by repealing HB 6's subsidies, as well as the law's "decoupling" mechanism that benefits FirstEnergy by rewarding it with unearned income from customers. Unlike the pending "straight repeal" bills, HB 772 would not reinstate energy efficiency standards (and rider) or renewable portfolio standards (and rider) that HB 6 repealed and modified. (For more, **see this two-page summary**.)

If you haven't yet urged your lawmakers to support HB 772, **there's still time**. While the OMA has testified and heavily lobbied in support of HB 772, nothing is more valuable than lawmakers hearing directly from manufacturers in their districts. *11/24/2020*

FBI Searches Home of PUCO Chairman; FirstEnergy Filing Sheds Light on Recent Firings November 20, 2020

More developments tied to the House Bill 6 scandal unfolded this week as FBI agents **searched** the Columbus home of Public Utilities Commission of Ohio (PUCO) Chairman Sam Randazzo. No arrests are planned at this time, according to FBI officials, who declined to specify the nature of the search. Randazzo **was a no-show** at this week's PUCO meeting.

When asked about the incident, Gov. Mike DeWine said he's waiting for more information, adding, "I hired him, I think he's a good person. If there's evidence to the contrary, we'll act accordingly."

Then on Thursday evening, Nov. 19, it was reported that FirstEnergy's latest filing with the Securities and Exchange Commission says former senior management members were fired **after an internal investigation discovered** certain executives made a \$4 million payment to an entity with ties to an unnamed state regulator. **Cleveland.com reports** on this breaking development. *11/18/2020*

ACTION ALERT: Tell Lawmakers to Repeal, Reform HB 6 Before Lame Duck Session Ends **November 20, 2020**

The OMA encourages members to contact their state lawmakers and urge timely passage of **House Bill 772**, legislation that would repeal and reform harmful provisions of House Bill 6 — the state's nuclear subsidy law — in a manner that protects Ohio's customers and competitive markets.

Email or call your representative and senator by using the **OMA Manufacturing Advocacy Center**. It provides a sample message that can be personalized. *11/19/2020*

OMA Calls for HB 6 Repeal, Reform **November 13, 2020**

This week, the OMA called on Ohio lawmakers to quickly pass **House Bill 772**, legislation that would repeal and reform harmful provisions of House Bill 6 — the state's nuclear subsidy law — in a manner that protects customers and markets. The OMA is part of a customer coalition that supports the enactment of HB 772. **Read the OMA's press release.**

The sponsor of HB 772, Rep. **Mark Romanchuk** (R-Ontario), **this week testified** before the Senate Energy and Public Utilities Committee in support of the legislation. His testimony included **this analysis** by the Legislative Services Commission showing HB 772 would save Ohioans nearly \$3 billion over the next decade by slashing ratepayer-funded

subsidies to electricity companies. (Here is the bill's **full text**.)

There remains no clear timeline for HB 6 action in either chamber, although Senate President **Larry Obhof** (R-Medina), Speaker **Bob Cupp** (R-Lima), and Gov. Mike DeWine have listed it as a lame duck priority. *11/11/2020*

HB 6's OVEC Subsidies: Bailing Out a Sinking Ship **November 13, 2020**

Among its numerous flaws, House Bill 6 created a generous, ratepayer-funded subsidy for the Ohio Valley Electric Corporation (OVEC) and its two 1950s-era coal power plants – one in Ohio and one in Indiana.

As explained in this memo, authored by OMA's energy engineering consultants John Seryak and Peter Worley of RunnerStone LLC, the OVEC coal plants have been selling electricity for less than it costs to generate for nearly a decade. Under HB 6, Ohioans will be forced to continue to subsidize these uneconomical plants through 2030 to the tune of an estimated \$700 million. Because OVEC has a power agreement and debt through 2040, OVEC owners will likely seek more subsidies in 2030.

Meanwhile, OVEC estimates its energy output this year will be 39% less than in 2010, adding to the reasons why HB 6 needs to be repealed and replaced with market-oriented, competitive energy policy. *11/10/2020*

PUCO Initiates FirstEnergy Audit **November 6, 2020**

This week, the Public Utilities Commission of Ohio (PUCO) **initiated an audit** of FirstEnergy's compliance with corporate separation laws and regulations. The action by the PUCO comes after the agency has been petitioned and criticized for not investigating wrongdoing by the regulated monopoly utility company, FirstEnergy, referred to as "Company A" in the federal prosecution against Larry Householder for its role in HB 6.

In the wake of guilty pleas entered by two of the accused conspirators last week, FirstEnergy fired its CEO and other executives. FirstEnergy's

board said that the executives had violated company policies and its code of conduct. With that admission, the PUCO initiated the audit of FirstEnergy.

Meanwhile eyes are on the post-election or lame duck legislative session that will soon convene for a month or so. Late last week, Senate President Larry Obhof told the **Columbus Dispatch** (subscription) that the Senate will hold informal hearings on **House Bill 772** (Romanchuk) to repeal HB 6. 11/5/2020

Guilty Pleas in HB 6 Corruption Case; FirstEnergy Fires CEO Chuck Jones October 30, 2020

The fallout continues from the House Bill 6 scandal.

On Thursday, Oct. 29, U.S. District Court Judge Timothy Black accepted guilty pleas from two of the individuals facing federal racketeering charges alongside former Ohio House Speaker **Larry Householder** (R-Glenville). Hours later, **FirstEnergy Corp. announced** it had terminated CEO Charles E. Jones Jr. and two senior vice presidents for **violating company policies** and its code of conduct. As reported at **Cleveland.com**, Juan Cespedes, a former lobbyist for FirstEnergy, and Jeffrey Longstreth, a longtime campaign and political strategist for Householder, admitted they took part in a “massive pay-to-play scandal” tied to the nuclear subsidy law and a subsequent referendum campaign. Federal authorities allege the scheme involved more than \$60 million in bribes to Householder and a handful of allies.

The **Statehouse News Bureau** writes that the guilty pleas mean the defendants have “reached a deal with federal prosecutors.” U.S. Attorney David DeVillers says the “investigation remains ongoing.” 10/29/2020

Utility-Scale Battery Storage Costs Fell Nearly 70% in Recent Years October 30, 2020

The ability to store electricity — and do so in a way that’s affordable — is critical to expanding the use of renewable energy. So it’s worth noting the U.S. Energy Information Administration **has reported** that the average energy capacity cost of utility-scale battery storage in the U.S. fell from \$2,152 per kilowatt

hour (kWh) in 2015 to \$625 per kWh in 2018 — a nearly 70% decrease. 10/28/2020

Analysis: Markets Prepare for Possible Changes to Renewable Energy Policies October 30, 2020

The prospect of a Joe Biden victory on Election Day has spurred a rise in renewable energy stocks, according to OMA Connections Partner RSM. **The firm writes:** “By contrast, returns for oil and gas producers are down for the year, not only because of weaker demand that followed the economic slowdown, but also because of the prospect of regulatory headwinds for fossil fuels under a new administration.” 10/28/2020

Crain’s: Ohio Can’t Allow HB 6 to Stand October 23, 2020

Crain’s Cleveland Business has weighed in on repeal of House Bill 6. The paper writes: “Allowing this bill to stand sends an unmistakable signal that corruption is tolerated, at least when crafting an alternative to the result of the corruption is hard. ... The Legislature loses credibility by the day as it lets HB 6 stand.” The editorial signals support for **House Bill 772**, which would, among other things, “repeal the nuclear, solar, and coal subsidies included in HB 6” while preserving other parts of the legislation, including ending green energy standards. For a brief background on HB 772 and why it has OMA’s support, **see the OMA’s summary.** 10/19/2020

Another Week of No Hearings on HB 6 Repeal October 16, 2020

More than 12 weeks have passed since federal agents arrested then-House Speaker Larry Householder (R-Glenford) for his ties to the alleged a \$60 million conspiracy to pass House Bill 6.

And in just 75 days — on Jan. 1 — Ohioans will be forced to start paying for HB 6’s subsidies via their electric bills, costing ratepayers \$170 million annually.

Fortunately, **House Bill 772** has been offered by Rep. Mark Romanchuk (R-Ontario) to repeal and reform provisions of Ohio’s energy law that have been negatively impacted by HB 6. (The

OMA has produced **this two-page document** to summarize HB 772 and why it's needed.) But the **House Select Committee on Energy Policy and Oversight**, which is considering HB 6 repeal options, has not held a hearing since Sept. 30.

As **this Cleveland.com editorial** indicates, calls for the General Assembly to act are growing louder. Gov. Mike DeWine **this week said** he thinks Ohio lawmakers will pass some type of repeal legislation after the Nov. 3 election. This will be a key topic of discussion at the OMA's **Government Affairs Committee meeting** on Nov. 10. *10/15/2020*

Romanchuk Briefs OMA Members on HB 6 Repeal and Reform Legislation October 9, 2020

This week, Rep. **Mark Romanchuk** (R-Ontario) addressed a joint meeting of the OMA's Government Affairs Committee and Energy Committee. Romanchuk briefed members on **House Bill 772**, legislation he has introduced to repeal and reform provisions of Ohio's energy law that have been negatively affected by what he called "the HB 6 debacle."

OMA staff has produced **this two-page document to summarize HB 772** and why it's needed.

According to Rep. Romanchuk, Ohio has continued to subsidize electric generation despite the enactment of deregulation legislation (SB 3) more than two decades ago. He said Ohio needs to return to market-driven energy policy. OMA staff stressed that a strong, unified manufacturing coalition will be needed to pass HB 772. *10/7/2020*

Ohio to Lose Two More Coal-Fired Generation Plants October 9, 2020

Ohio will be down to nine coal-fired plants — providing 9,000 megawatts (MW) of generation — after Texas-based **Vistra Energy**, an OMA Connections Partner, shuts two power stations near Cincinnati in the next six years.

Hannah News Service (subscription) **reported** this week that "the state will lose more than 2,500 MW at the Miami Fort and W.H. Zimmer coal plants with the

company's continued transition from high-carbon technologies to gas-fired and renewable sources."

The coal plants "remain economically challenged," Vistra said, noting that the retirements reflect the major technology investments that would be required to comply with federal environmental regulations. *10/6/2020*

Romanchuk Introduces HB 6 Repeal and Reform Bill October 2, 2020

This week, Rep. **Mark Romanchuk** (R-Ontario) introduced **House Bill 772** to repeal and reform provisions of Ohio's energy law that have been altered by House Bill 6.

HB 772 differs from the so-called "straight repeal" bills in that Rep. Romanchuk's legislation would reverse the law on new customer costs imposed by HB 6, including subsidies for nuclear power plants, old coal plants, and subsidized profits for FirstEnergy. HB 772 appears to line up with the four suggested elements for repeal and reform as outlined by the OMA in **testimony last week**.

The OMA will be studying the bill in detail and will share analysis next week. Stay tuned. *10/1/2020*

Urgency of HB 6 Repeal Fades October 2, 2020

This week, the **House Select Committee on Energy Policy and Oversight** conducted its fourth hearing on a pair of House Bill 6 repeal bills (**HB 738** and **HB 746**). Afterward, Chairman **Jim Hoops** (R-Napoleon) told Statehouse news media that the committee's exact schedule remains undetermined. He added that "whether the two nuclear plants need the financial support remains a key question." Meanwhile, only 90 days remain until Jan. 1, when Ohioans start funding HB 6's nuclear subsidies via their electric bills. *10/1/2020*

Comparing Utility Bills From Akron to Zanesville October 2, 2020

The Ohio Public Utilities Commission of Ohio (PUCO) **has published the results** of its most recent Ohio Utility Rate Survey.

The PUCO's **September survey** provides an overview and comparison of electric, telephone, and natural gas bills across Ohio. It includes utility bills paid by industrial customers in eight major Ohio cities. *10/1/2020*

EIA: Big Drop in Industrial Consumption of Natural Gas October 2, 2020

The consumption of natural gas in the U.S. industrial sector declined from 25.4 billion cubic feet per day (Bcf/d) in January 2020 to 20.1 Bcf/d in June 2020, **according** to the U.S. Energy Information Administration. Industrial natural gas consumption in June 2020 was nearly 1.0 Bcf/d lower than its year-ago level due to COVID-19. *10/1/2020*

OMA Makes Case for HB 6 Repeal and Reform September 25, 2020

The OMA this week provided insight and analysis to Ohio lawmakers charged with reviewing the state's nuclear bailout law (House Bill 6). In a **Sept. 23 hearing** by the **House Select Committee on Energy Policy and Oversight**, OMA board member and past chair David Johnson, CEO of Summitville Tiles Inc. in Columbiana County, told lawmakers that the OMA supports repeal and reform of the law. Johnson was one of multiple OMA members who testified against HB 6 last year.

"We believe the preferred legislative package would repeal the anti-market provisions of HB 6 that are punitive to customers," Johnson said in **his testimony**. "We suggest a repeal that protects customers and maximizes customers' cost savings."

Also testifying were OMA's energy counsel, Kim Bojko of Carpenter Lipps & Leland LLP, and OMA's engineering consultant, John Seryak of RunnerStone LLC. Bojko and Seryak explained anti-competitive aspects of HB 6, including the law's unique **decoupling mechanism**, as well as the **"significantly excessive profits" provision** contained in the state's 2019 budget.

Committee Chair Rep. **Jim Hoops** (R-Napoleon) told news media that the panel remains in "fact-finding mode." He has not yet indicated when the committee will vote on **proposals to repeal HB 6**. *9/23/2020*

Ohio Sues to Block Nuclear Subsidies From Being Paid September 25, 2020

Ohio Attorney General **Dave Yost** this week **sued** FirstEnergy companies, former Speaker Larry Householder, and several other parties for their alleged ties to a scandal involving House Bill 6. The complaint, filed in Franklin County Common Pleas Court, names 14 defendants, including Householder and his four associates who have been indicted and pleaded not guilty to racketeering charges.

The AG's office is also seeking to block any party from receiving HB 6 subsidies. **Cleveland.com reports** that "the lawsuit doesn't seek to stop the collection of any nuclear bailout money — just to block its payment to Energy Harbor (formerly FirstEnergy Solutions). The suit doesn't state what would or should happen to any surcharge money collected from Ohioans."

Meanwhile, FirstEnergy says the attorney general's complaint is **"without legal merit."** *9/24/2020*

OCC Again Demands Independent Probe of FirstEnergy September 25, 2020

The Office of Ohio Consumer Counsel (OCC) — the state's official consumer advocate — this week made a second request that utility regulators authorize an independent investigation into whether FirstEnergy improperly used ratepayer funds to fuel what federal prosecutors are calling the biggest bribery scandal in state history.

As reported by **Ohio Capital Journal**, OCC objected to a directive **last week** by the PUCO that FirstEnergy itself show that it didn't use ratepayer funds to pay for a scheme to pass House Bill 6 last year.

The OCC is also asking the PUCO to reopen an investigation into the \$465 million FirstEnergy was allowed to collect from Ohio ratepayers in 2017 and 2018 in the form of a "distribution modernization rider." The Supreme Court of Ohio **declared the charge to be unlawful**, but the money was not refunded. *9/23/2020*

HB 6 Decoupling Explained September 18, 2020

During this week's House hearing on legislation to repeal House Bill 6, discussion and questions centered around the nuclear bailout law's poorly understood "decoupling mechanism." The provision, which has been implemented, will assure FirstEnergy utilities will be made whole to 2018 revenue levels.

During an investor call earlier this year, FirstEnergy's CEO bragged that the provision would make the company "somewhat recession proof." Previous **OMA analysis** showed how FirstEnergy utilities stand to benefit from hundreds of millions of dollars in unearned income.

In response to questions from our members and policymakers, OMA technical consultants at RunnerStone LLC have developed **this primer on decoupling and how HB 6 decoupling benefits FirstEnergy** by deviating from best practices. The research finds that while there is a legitimate purpose and public policy for decoupling, the HB 6-enabled decoupling mechanism is a horse of a different color — one that provides no offsetting customer benefits. Read the memo to compare a typical decoupling mechanism to the special decoupling mechanism in HB 6. *9/17/2020*

PUCO Opens Investigation Into FirstEnergy's HB 6 Spending September 18, 2020

Last week, the Ohio Consumers' Counsel (OCC) requested that the PUCO **launch an investigation** into FirstEnergy's political spending to determine if the company used money collected from consumers in its activities associated with the nuclear bailout, House Bill 6.

This week, the PUCO **opened a review** of FirstEnergy's political and charitable spending related to HB 6 and the subsequent referendum effort. While this action is more limited than the OCC request, the PUCO directed FirstEnergy to show cause by Sept. 30 that the cost of these activities were not included, directly or indirectly, in any rates or charges paid by customers. The PUCO did not issue a ruling on OCC's **other motions**, including the request to re-open the Distribution Modernization Rider audit case.

Interested parties will have an opportunity to file comments on FirstEnergy's response by Oct. 29 and reply to comments by Nov. 13. *9/17/2020*

Report: Fossil Fuels Account for 80% of U.S. Energy Production, Consumption September 18, 2020

Research from the U.S. Energy Information Administration (EIA) shows that despite **falling costs** to produce renewable energy, fossil fuels — including petroleum, natural gas, and coal — continue to account for the largest share of energy production and consumption in the U.S. Last year, **80% of domestic energy production** was from fossil fuels, and 80% of domestic energy consumption originated from fossil fuels. *9/16/2020*

House Committee Begins Review of HB 6 Repeal Bills September 11, 2020

The Ohio House **Select Committee on Energy Policy and Oversight** has begun consideration of legislation that would repeal the nuclear subsidy law (House Bill 6). The committee this week held initial hearings on two repeal bills (**HB 738** and **HB 746**), as well as **HB 740**, which would reverse budget language that benefited FirstEnergy by modifying the significantly excessive earnings test.

Rep. **Jim Hoops** (R-Napoleon), who chairs the select committee, told **Gongwer News Service** (subscription) "there remains no firm timeline for a potential repeal or for wrapping up the committee's work." But Chairman Hoops added that he "has no intention on repeating the hundreds of hours of testimony" heard during the 2019 debate on HB 6. *9/10/2020*

Did Utility Customers Foot the Bill for Passage of HB 6? September 11, 2020

This week, the Office of the Ohio Consumers' Counsel (OCC) — the statewide advocate for residential utility customers — **filed a motion** to compel the Public Utilities Commission of Ohio (PUCO) to conduct a management audit of Akron-based FirstEnergy.

The OCC wants to find out if FirstEnergy or its affiliated companies used money collected from

consumers to help pass and defend House Bill 6, the nuclear bailout law. As reported in **this Cincinnati Enquirer article**, the consumers' counsel wants the PUCO to appoint an independent auditor "to probe whether millions collected from a fee on FirstEnergy customers' bills, called a distribution modernization rider, was used improperly."

The PUCO, which has been mum about the activities of the regulated utility, has until Sept. 23 to make a decision on the OCC's motion. *9/10/2020*

Utilities Cast Doubt on Biden's 'Carbon Neutral' Plan September 11, 2020

This week, an **analysis** by Reuters reported that the U.S. power industry "would struggle to meet presidential hopeful Joe Biden's proposed mandate that it become carbon neutral by 2035 without some big breakthroughs in clean energy technology."

According to the news agency, the country's largest electricity suppliers said "rapid advances in nascent technologies — such as batteries to store power for lean times, carbon capture to trap waste from fossil fuels, and advanced nuclear power — will be critical to reaching net-zero carbon dioxide emissions." *9/8/2020*

Energy Legislation
Prepared by: The Ohio Manufacturers' Association
Report created on November 30, 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: 12/1/2020 - Senate Energy and Public Utilities, (Third 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: 5/28/2020 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (First Hearing)
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: 5/19/2020 - House Transportation and Public Safety, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-499>
- HB564** **PREVENT UTILITY DISRUPTION DURING COVID-19** (LELAND D) To prevent the disruption of utility service during the state of emergency declared regarding COVID-19 and to declare an emergency.
Current Status: 5/5/2020 - Referred to Committee House Public Utilities

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-564>

HB738 REPEAL HB6 - REVIVE PRIOR LAWS (SKINDELL M, O'BRIEN M) To repeal Sections 4 and 5 of H.B. 6 of the 133rd General Assembly to repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.

Current Status: 9/30/2020 - House Energy Policy and Oversight Select Committee, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-738>

HB740 EARNINGS - UTILITY SECURITY PLAN (SKINDELL M, DENSON S) Regarding the significantly excessive earnings determination for an electric distribution utility's electric security plan.

Current Status: 9/10/2020 - House Energy Policy and Oversight Select Committee, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-740>

HB746 REPEAL HB6 (LANESE L, GREENSPAN D) To repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.

Current Status: 9/30/2020 - House Energy Policy and Oversight Select Committee, (Fourth Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-746>

HB772 ELECTRIC UTILITY SERVICE LAW/REPEAL PART OF HB 6 (ROMANCHUK M) To make changes regarding electric utility service law, to repeal certain provisions of H.B. 6 of the 133rd General Assembly, and to declare an emergency.

Current Status: 11/19/2020 - House Energy Policy and Oversight Select Committee, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-772>

HB776 GARY LEE MCKIDDY MEMORIAL HIGHWAY (ANTANI N) To name a portion of State Route 725 in Montgomery County as the "SGT Gary Lee McKiddy Memorial Highway."

Current Status: 12/1/2020 - House Transportation and Public Safety, (First Hearing)

State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-HB-776>

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>
- SB346** **REPEAL HB6** (O'BRIEN S, KUNZE S) To repeal the changes made by H.B. 6 of the 133rd General Assembly to the laws governing electric service, renewable energy, and energy efficiency and the changes made to other related laws.
Current Status: 12/1/2020 - Senate Energy and Public Utilities, (Fifth Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-346>
- SB363** **ELIMINATE AUTOMATIC ENROLLMENT-AGGREGATION PROGRAMS** (HOAGLAND F) To eliminate automatic enrollment in governmental electric and natural gas aggregation programs.
Current Status: 11/17/2020 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: <https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA133-SB-363>

Energy Engineering Report

OMA ENERGY COMMITTEE – DECEMBER 2020



Energy Efficiency Programs



- Utility programs - gone!
 - Investor-owned utilities efficiency mandates are effectively over – AEP Ohio, DP&L, Duke, FirstEnergy
 - Applications were due by September 30th
 - Ramp down 4th quarter – some lingering projects may still be being paid out
 - Cost true-up in 2021

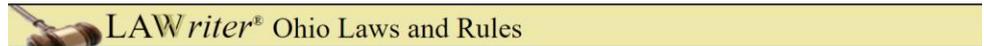
- Other efficiency opportunities
 - Some municipal electric companies still have efficiency programs
 - State government technical assistance – Energy Efficiency Program for Manufacturers
 - PJM capacity payments for efficiency projects

- Contact jseryak@gosustainableenergy.com for assistance

Decoupling Update

- ❑ \$355 million through 2024
- ❑ Possibly around \$750 million through 2030
- ❑ FirstEnergy CEO on an investor call:

“..essentially it takes about one-third of our company and I think makes it somewhat recession-proof”



LAWriter[®] Ohio Laws and Rules

Route: [Ohio Revised Code](#) » Title [\[49\] XLIX PUBLIC UTILITIES](#) » Chapter [4928: COMPETITIVE RETAIL ELECTRIC SERVICE](#)

4928.471 Application to implement a decoupling mechanism.

(A) Except as provided in division (E) of this section, not earlier than thirty days after the effective date of this section, an electric distribution utility may file an application to implement a decoupling mechanism for the 2019 calendar year and each calendar year thereafter. For an electric distribution utility that applies for a decoupling mechanism under this section, the base distribution rates for residential and commercial customers shall be decoupled to the base distribution revenue and revenue resulting from implementation of section [4928.66](#) of the Revised Code, excluding program costs and shared savings, and recovered pursuant to an approved electric security plan under section [4928.143](#) of the Revised Code, as of the twelve-month period ending on December 31, 2018. An application under this division shall not be considered an application under section [4909.18](#) of the Revised Code.

(B) The commission shall issue an order approving an application for a decoupling mechanism filed under division (A) of this section not later than sixty days after the application is filed. In determining that an application is not unjust and unreasonable, the commission shall verify that the rate schedule or schedules are designed to recover the electric distribution utility's 2018 annual revenues as described in division (A) of this section and that the decoupling rate design is aligned with the rate design of the electric distribution utility's existing base distribution rates. The decoupling mechanism shall recover an amount equal to the base distribution revenue and revenue resulting from implementation of section [4928.66](#) of the Revised Code, excluding program costs and shared savings, and recovered pursuant to an approved electric security plan under section [4928.143](#) of the Revised Code, as of the twelve-month period ending on December 31, 2018. The decoupling mechanism shall be adjusted annually thereafter to reconcile any over recovery or under recovery from the prior year and to enable an electric distribution utility to recover the same level of revenues described in division (A) of this section in each year.

(C) The commission's approval of a decoupling mechanism under this section shall not affect any other rates, riders, charges, schedules, classifications, or services previously approved by the commission. The decoupling mechanism shall remain in effect until the next time that the electric distribution utility applies for and the commission approves base distribution rates for the utility under section [4909.18](#) of the Revised Code.

(D) If the commission determines that approving a decoupling mechanism will result in a double recovery by the electric distribution utility, the commission shall not approve the application unless the utility cures the double recovery.

(E) Divisions (A), (B), and (C) of this section shall not apply to an electric distribution utility that has base distribution rates that became effective between December 31, 2018, and the effective date of this section pursuant to an application for an increase in base distribution rates filed under

Decoupling Update



- ❑ Decoupling increasing \$85 million in 2021, to a total of \$102 million
- ❑ Cost increase only on FirstEnergy residential and general service secondary customers
- ❑ “Lost Distribution Revenue” in 2018 was \$66 million, that full amount will now be recovered in 2021

Collection Year	Base Distribution Revenue Decoupling	Lost Revenue Decoupling	Total Decoupling
2020	\$ 21,916,065	\$ (4,795,659)	\$ 17,120,406
2021	\$ 35,382,840	\$ 66,495,247	\$ 101,878,087
Year-over-Year Increase	\$ 13,466,776	\$ 71,290,905	\$ 84,757,681

FirstEnergy’s Decoupling – 2020-21 Year-Over-Year Change

Decoupling Update



- \$0.5083 /kW-month for commercial/industrial users on general service secondary
- \$0.005 /kWh for residential
- Unluckiest secondary customer - \$115,000 /year
- Manufacturer costs could be higher than \$2,500, ex.
 - Mill - \$16,300 /year
 - Casting plant - \$11,500 /year
 - Plastic molding - \$9,300 /year

	Load Factor (%)	Example Typical Energy Use (kWh/year)	Example Typical Demand (kW)	2021 Decoupling Rate (\$/kWh)	2021 Decoupling Rate (\$/kW)	2021 Decoupling Cost (\$/year)
Small Manufacturer	40%	1,000,000	285	\$ 0.000788	\$ 0.5083	\$ 2,498
Lodging	60%	708,400	135	\$ 0.000788	\$ 0.5083	\$ 1,350
School	35%	487,790	159	\$ 0.000788	\$ 0.5083	\$ 1,324
Restaurant	50%	206,544	47	\$ 0.000788	\$ 0.5083	\$ 420
Small Retail	35%	156,332	51	\$ 0.000788	\$ 0.5083	\$ 404
Church	20%	45,245	26	\$ 0.000788	\$ 0.5083	\$ 163
Residential		8,751		\$ 0.004947	\$ -	\$ 43

Decoupling rates and customer impacts

Ohio's Costly and Worsening OVEC Situation

- ❑ OVEC sells power for less than it costs to generate it, and has since 2012

- ❑ State subsidies could amount to \$1.5 billion in charges to Ohioans through 2040
 - ❑ \$159 million from prior PUCO rulings
 - ❑ \$700 million due to HB 6
 - ❑ \$700 million more from 2031-2040

- ❑ OVEC power output down 39% since 2010



<http://wikimapia.org/1361692/Indiana-Kentucky-Electric-Corporation-Clifty-Creek-Power-Plant>

Ohio's Costly and Worsening OVEC Situation

- ❑ OVEC employment down 20% since 2015
- ❑ OVEC carbon emissions equivalent to two nuclear power plants' worth of emissions offset
- ❑ OVEC chooses to run at a loss for certain times, against PUCO audit recommendations



<http://wikimapia.org/1361692/Indiana-Kentucky-Electric-Corporation-Clifty-Creek-Power-Plant>

HB6 Costs



- Clean Air Fund
 - Nuclear plants (Davis Besse, Perry)
 - Select solar plants
 - Rider CAF
 - Highest cost for nuclear subsidy – Duke ratepayers
 - DP&L has very low rate

- OVEC
 - Rider LGR

- Rider CAF and Rider LGR only applied to first 833,000 kWh/month

Utility	Rider CAF (\$/kWh)*
AEP Ohio	\$0.00260
DP&L	\$0.00088
Duke	\$0.00263
FirstEnergy	\$0.00219

*On first 833,000 kWh each month

Rider CAF

Utility	Rider LGR(\$/kWh)*
AEP Ohio	\$0.001801
DP&L	\$0.001801
Duke	\$0.001801
FirstEnergy	\$0.001801

*On first 833,000 kWh each month

Rider LGR

	Electric (kWh/year)	Ave. Clean Air Fund (\$/year)	OVEC (\$/year)	CAF + OVEC (\$/year)
Small	1,000,000	\$ 2,074	\$ 1,801	\$ 3,875
Medium	7,500,000	\$ 15,557	\$ 13,508	\$ 29,064
Large	100,000,000	\$ 20,734	\$ 18,003	\$ 38,737
Extra Large	1,000,000,000	\$ 20,734	\$ 18,003	\$ 38,737

PJM – Capacity Auctions

- ❑ 2022/23 Base Residual Auction scheduled for May 2021 – two years late
- ❑ Multiple incremental auctions cancelled
- ❑ Auctions will be back on schedule May 2024

Delivery Year	Original BRA schedule		Revised BRA Schedule	IAs cancelled
2022/2023	May	2019	May 2021	1 st and 2 nd
2023/2024		2020	December 2021	1 st and 2 nd
2024/2025		2021	June 2022	1 st
2025/2026		2022	January 2023	
2026/2027		2023	July 2023	
2027/2028		2024	 May 2024	

 Indicates auction is back on schedule

MEMORANDUM

Date: November 30, 2020
To: The Ohio Manufacturers' Association
From: John Seryak, PE and Peter Worley
RE: Ohio's Costly – and Worsening – OVEC Situation

House Bill 6 (HB 6) created a statewide customer subsidy for the Ohio Valley Electric Corporation (OVEC), which owns two 1950s-era coal power plants, Kyger Creek in Ohio and Clifty Creek in Indiana. The OVEC power plants previously realized PUCO-approved subsidies for three Ohio electric distribution utilities with ownership interests in OVEC. The OVEC coal plants have been selling electricity for less than it costs to generate it since 2012, and Ohioans had already been forced to pay about \$159 million in subsidies to the plants through 2019. An immediate halt to OVEC subsidies would lower customer costs, reduce carbon dioxide emissions, and bolster market competition.

OVEC almost certainly will remain uneconomical through 2030, the term of its HB 6 subsidy, costing Ohioans an estimated \$700 million. And yet this is not the end: OVEC has a power agreement and debt through 2040. OVEC's owners, including the three Ohio electric distribution utilities, have repeatedly sought subsidies to cover OVEC's losses in Ohio – and if asked to foot the bill again at these rates, Ohioans would be on the hook for another possible \$700 million from 2031-2040. Policymakers should anticipate that the OVEC owners will seek additional subsidies in 2030. The potential cost to Ohio ratepayers of this government-approved

OVEC's Expensive Subsidies, Poor Performance

- OVEC sells power for less than it costs it to generate it and has since 2012.
- State subsidies could amount to \$1.5 billion in charges to Ohio's consumers through 2040.
- \$159 million in customer-paid subsidies have been collected through 2019 under Ohio's previous subsidy scheme.
- ~\$700 million in potential Ohio customer-paid subsidies due to HB 6 are projected to be paid through 2030.
- Another ~\$700 million in future subsidies are potentially necessary to maintain OVEC operations from 2031 through 2040.
- OVEC has had a 39% reduction in power output since 2010.
- OVEC has reduced its employment 20% since 2015
- OVEC's carbon emissions are equivalent to two nuclear power plants' worth of emissions offset.
- OVEC ignores PUCO audit findings, running at a financial loss & forgoing market revenue while continuing to receive cost recovery and profit



support that could span several decades could be around \$1.5 billion, but possibly more.

These customer subsidies have done nothing to improve OVEC's performance, which remains poor, and runs counter to Ohio's energy policy aims. OVEC sells electricity for less than it costs to generate it. OVEC estimates its energy output this year will be 39% less than in 2010. Its carbon dioxide emissions offset that of two nuclear plants' worth of emission-less electricity. OVEC employment is down 20% since 2015. And OVEC has failed to make improvements noted in a PUCO audit, with no consequence.

HB 6's statewide treatment of OVEC was to shift subsidies from certain customers to others, while increasing the overall total cost of OVEC subsidies to Ohioans over time, as compared to previous PUCO-approved OVEC subsidies. This policy framework of "which bad subsidy design is best?" is a false choice and worsened the overall situation. The real question before policymakers should be how to prevent Ohio customers from being forced to subsidize old, uneconomical power plants, one of which isn't even located in Ohio. Of critical importance to policymakers should be whether, absent subsidies, the OVEC owners will make decisions about OVEC that would be in their own financial best interest.

In the remainder of this memorandum, we demonstrate OVEC's chronic underperformance, the costs to Ohioans thus far, potential costs going forward, and how these subsidies have had no positive effect as OVEC's power output which continues to decline.

Ohioans Subsidized \$159 Million of OVEC's \$1.3 Billion Loss from 2012-2019

OVEC's two coal plants are uneconomical. From 2012 to 2019, their average weighted price of electricity was approximately 34% more expensive than the market price. The OVEC average price was approximately \$59/MWh,¹ while the average competitive market price in Ohio was \$44/MWh.² This is about a \$1.3 billion total loss for OVEC. Ohio's electric distribution utilities own about 38%

¹ Production weighted average. OVEC Annual Report Documents under Section "Power Costs." For example, 2019 Annual Report: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

² The OVEC and PJM prices include Energy and Capacity. Energy price is the PJM RTO load-weighted LMP price. Capacity price is the PJM RTO Base Residual Auction price (assuming OVEC had all of its 2,350 MW of capacity clear.) Prices do not include Ancillary Services because OVEC does not attempt to sell them into PJM currently.

of OVEC,³ and thus their pro-rated share of this loss is about \$493 million.⁴ Ohio customers have covered approximately \$159 million of those losses through 2019.⁵

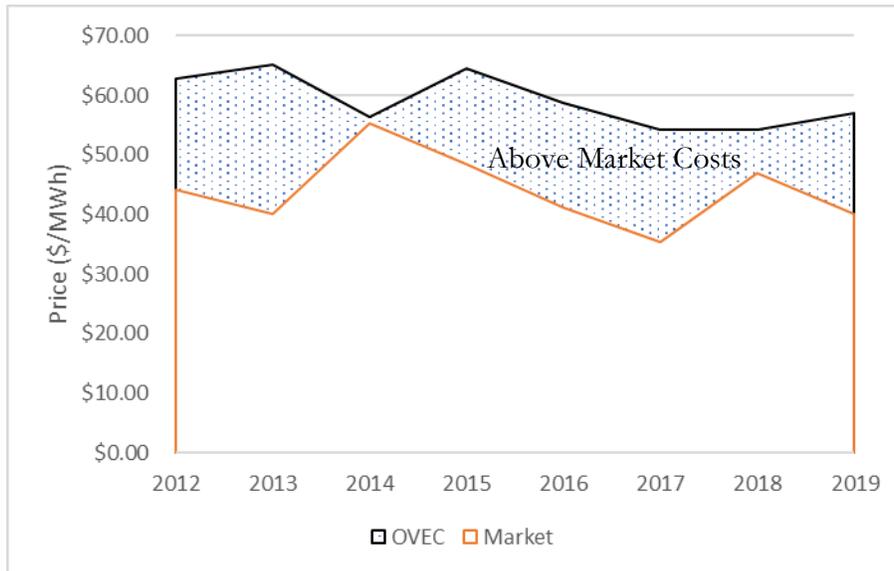


Figure 1. OVEC Price of Electricity vs. PJM Wholesale Market Price of Electricity

³ Dayton Power and Light Co. (DP&L) owns 4.9%, Duke Energy Ohio (Duke) owns 9%, Energy Harbor Corp. owns 4.85%, and Ohio Power Co. (AEP Ohio) owns 19.93%. <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

⁴ Each year the difference in OVEC price and market price was multiplied by OVEC's production. The years were summed and then multiplied by 38%, which is how much Ohio's customers were responsible for prior to HB 6. Prior to HB 6, Ohio customers were responsible for their utility's percentage share in the OVEC power participation benefits and requirements: AEP Ohio (a.k.a Ohio Power) has 19.93%, DP&L has 4.90%, and Duke has 9.00%. These percentages come from OVEC's 2019 Annual Report (page 2 of PDF). We assume these percentages were not considerably different in previous years. <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

⁵ \$113.8 million through AEP Ohio's Rider PPA from 2017-2019; \$16.4 million through DP&L's Reconciliation Rider from 2017-2019; \$28.3 million through Duke's Rider PSR.

Year	PJM Wholesale		
	OVEC Price (\$/MWh)	Market Price (\$/MWh)	Price Difference (OVEC minus PJM)
2012	\$62.87	\$44.25	\$18.62
2013	\$65.18	\$40.00	\$25.18
2014	\$56.38	\$55.23	\$1.15
2015	\$64.40	\$48.50	\$15.90
2016	\$58.66	\$41.14	\$17.52
2017	\$54.27	\$35.33	\$18.94
2018	\$54.29	\$46.84	\$7.45
2019	\$57.04	\$40.11	\$16.93
8-yr weighted average	\$58.84	\$43.87	\$14.97

Table 1. OVEC Price of Electricity vs. PJM Wholesale Market Price of Electricity

The combined production of the two OVEC plants has decreased 23% over the past decade from 14,600,000 MWh in 2010 to 11,200,000 MWh in 2019.⁶ OVEC expects its production to decrease further in 2020 down to 9,000,000 MWh,⁷ which amounts to a 39% less electricity generated than in 2010.

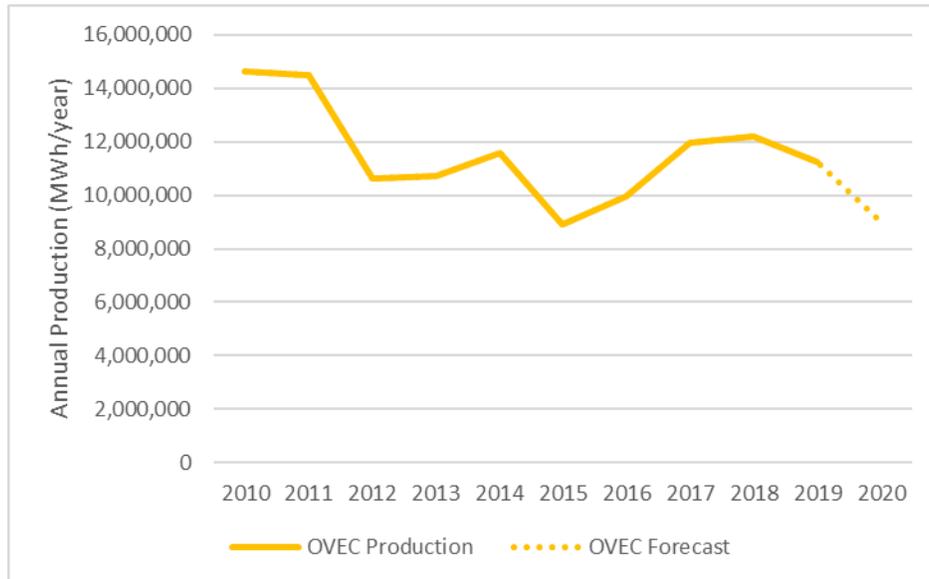


Figure 2. OVEC Electricity Production

⁶ Form EIA-923: <https://www.eia.gov/electricity/data/eia923/>

⁷ OVEC 2019 Annual Report; page 4 of PDF: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>



Year	Annual Production (MWh/year)		
	Clifty Creek	Kyger Creek	OVEC Production
2010	7,898,624	6,740,162	14,638,786
2011	7,948,267	6,514,656	14,462,923
2012	5,945,617	4,688,606	10,634,223
2013	5,610,367	5,129,185	10,739,552
2014	6,062,463	5,493,736	11,556,199
2015	5,225,154	3,681,044	8,906,198
2016	5,030,848	4,934,172	9,965,020
2017	6,037,635	5,899,969	11,937,604
2018	6,369,305	5,801,085	12,170,390
2019	5,722,979	5,515,010	11,237,989
2020			9,000,000

Table 2. OVEC Electricity Production

The company has reduced the number of employees by 20% from 738 in 2015 down to 591 in 2019.⁸ Lastly, OVEC is a high carbon emitting plant, emitting on average 12 million tons of carbon dioxide per year, which is roughly equivalent to the amount of carbon dioxide savings that the Davis Besse and Perry nuclear plants could claim as compared to PJM’s marginal electricity emissions averages.⁹ To put in context, the electricity market in Ohio over this period emitted approximately 30% less per MWh than OVEC.¹⁰

Ohio Policy Mandates Ohioans to Subsidize OVEC for the Next Decade, ~\$700 Million Cost at Current Rates

Prior to 2019, the PUCO authorized AEP Ohio, Duke, and DP&L to add charges to customers’ bills to subsidize the OVEC plants.¹¹ The PUCO permitted the utilities not only to charge customers for prudently incurred costs at the plants, but also to earn a profit no matter how well the plants operated.¹² The PUCO authorized DP&L to charge customers through 2023, AEP Ohio though

⁸ OVEC 2019 Annual Report, page 45 of PDF: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>

⁹ Form EIA-923, OVEC plant average emissions of 12,225,169 tons CO₂/year; Davis Besse and Perry nuclear plant average generation of 12,798,134 MWh/year x 0.73 tons CO₂/MWh (PJM marginal off-peak emissions rate) = 12,798,134 tons CO₂/year

¹⁰ From PJM Reports, using Table 2 - Marginal Off-Peak Emissions
<https://www.pjm.com/~media/library/reports-notice/special-reports/20160318-2015-emissions-report.ashx>
<https://www.pjm.com/~media/library/reports-notice/special-reports/2019/2019-emissions-report.ashx?la=en>

¹¹ They were authorized in utility Electric Security Plans (ESP). The corresponding PUCO cases were for AEP Ohio 16-1652-EL-SSO; for DP&L 16-395-EL-SSO; for Duke 17-1263-EL-SSO

¹² FERC Form 1 (page 30 of PDF) “The Companies have continued and expect to continue to operate pursuant to the cost-plus rate of return recovery provisions at least to June 30, 2040”



2024, and Duke through 2025. HB 6 created a new subsidy, which supplanted the previously approved PUCO subsidies. HB 6 expanded the OVEC subsidy to include recovery of losses for Energy Harbor (in addition to AEP Ohio, Duke, and DP&L), extended the subsidy through 2030, and recovered the cost of the subsidy from all ratepayers in the state.

DP&L and Duke estimated they would each need approximately \$10.6 million to cover their losses in OVEC for the year of 2019.¹³ AEP Ohio calculated it would need \$49.1 million.¹⁴ Together, the costs amount to \$70.3 million. If OVEC continues to operate like it did in 2019 compared to the market, Ohio ratepayers would end up paying \$703 million to subsidize OVEC through 2030.

The HB 6 subsidy amount fluctuates yearly based on OVEC's operational costs and wholesale electric market prices. In a study, the Institute for Energy Economics and Financial Analysis (IEEFA) forecasted that OVEC's operational costs would continue to rise, while market prices would remain low, resulting in \$110 million per year in subsidies or \$1.1 billion over the decade.¹⁵ Ohio's Legislative Service Commission has also estimated \$703 million in costs charged to customers. Subsequently, the \$703 million estimate could be conservative because other factors can affect OVEC's profitability, including if OVEC fails to clear PJM's capacity auction, if OVEC continues to lose efficiency as it ages (OVEC is over 65 years old), and if utilities increase capital investment in the OVEC plants.

OVEC Has Outstanding Debt through 2040

HB 6 is silent on OVEC's future after 2030. Still, AEP Ohio, DP&L, and Duke all are part of an inter-company power agreement with OVEC through 2040. And the agreement permits OVEC to sell electricity for less than what it costs to generate. Furthermore, OVEC has \$570 million of debt due between 2031-2040.¹⁶ If the trend in Ohio policy to cover the costs of OVEC's uncompetitive

¹³ Based on DP&L's "Reconciliation Rider"; PUCO Case 18-1379-EL-RDR; DP&L projected their OVEC net-costs on 9/2018 for 10/2018-11/2019; <https://dis.puc.state.oh.us/TiffToPDF/A1001001A18I14B61728G01403.pdf> (page 4 of PDF)

Based on Duke's "Price Stabilization Rider (Rider PSR)"; PUCO Case 19-447-EL-RDR; Duke projected their OVEC net-costs on 2/2019 for 1/2019-12/2019; <https://dis.puc.state.oh.us/TiffToPDF/A1001001A19B28B45404G05311.pdf> (page 3 of PDF)

¹⁴ Based on AEP Ohio's "Power Purchase Agreement (PPA) Rider"; PUCO Case 18-1392-EL-RDR; AEP Ohio calculated their actual OVEC net-costs for 1/2019-12/2019. See Figure 16 in London Economic International's audit of the rider. <http://dis.puc.state.oh.us/TiffToPDF/A1001001A20I17B31207C02236.pdf> (page 36 of PDF)

¹⁵ IEEFA 2017 Report <https://ieefa.org/wp-content/uploads/2017/06/Dont-Bail-Out-Retire-OVEC-Coal-Plants.pdf> (page 11 of PDF)

¹⁶ OVEC 2019 Annual Report; page 18 of PDF: <https://www.ovec.com/FinancialStatements/AnnualReport-2019-Signed.pdf>



business continues, Ohioans could be charged for \$220 million of the debt as well as the continued losses in the power markets.¹⁷

If Ohio’s distribution utilities continue to lose \$70.3 million per year on OVEC in the 2031-2040 timeframe, that is an additional \$703 million that Ohio’s ratepayers will likely be asked to subsidize.

PUCO Audit Findings Have Not Affected OVEC Business Practices

In an audit of the AEP Ohio PPA Rider, London Economics International identified several business decisions by OVEC that were questionable, and possibly could be deemed imprudent. This audit appears to be ineffectual – the PUCO has not reduced payments to AEP Ohio for possibly imprudent decisions regarding the OVEC operations, has not compelled OVEC to operate differently, and indeed OVEC has not changed important business practices that could lower costs to customers.

First, as explained previously, OVEC sells electricity into the market at prices that are less than what it costs to generate the power, accumulating losses. A PUCO-contracted audit of OVEC highlighted this issue, stating that OVEC should “carefully consider when and whether the must-run offer strategy is optimal, as it appears that in some months, it may result in negative energy earnings for the plants.”¹⁸ However, OVEC did not adopt this operational recommendation.

Second, OVEC delayed exploring the ability to earn additional market revenue through PJM’s Ancillary Services market, despite the previous PUCO audit recommending it.¹⁹ Again, this foregone revenue was not deducted from the costs that Ohioans are forced to pay to the utilities for OVEC.

Third, OVEC makes capital investments that may not be economically justified given the revenues it receives from the electricity market. In 2011-2013, OVEC made capital investments, creating debt, in a new scrubber system that cost \$1,000,000,000.²⁰ This, among other investments, the PUCO 2020 audit questioned: “... this does not imply that the level of capital spending is justified by the revenues earned in PJM. Most coal plants of similar size ... in PJM have either announced or are planning for deactivation due to economic issues and aging problems and are therefore having limited capital investment.”²¹

¹⁷ Relevant Ohio utilities are responsible for 38% of the OVEC Power Participation Benefits and Requirements. OVEC 2019 Annual Report (page 2 of PDF) AEP Ohio (a.k.a Ohio Power) has 19.93%. Dayton Power and Light has 4.90%. Duke Energy Ohio has 9.00%. Energy Harbor has 4.85%.

¹⁸ London Economic International’s audit of the AEP Ohio PPA Rider., Case No. 18-1759-EL-RDR, Page 53 of PDF.

¹⁹ London Economic International’s audit of the AEP Ohio PPA Rider, Case No. 18-1759-EL-RDR, Page 53 of PDF.

²⁰ IEEFA 2017 Report
<https://ieefa.org/wp-content/uploads/2017/06/Dont-Bail-Out-Retire-OVEC-Coal-Plants.pdf> (page 3 of PDF)

²¹ London Economic International’s audit of the AEP Ohio PPA Rider, Case No. 18-1759-EL-RDR (page 97 of PDF)



M E M O R A N D U M

Date: December 1, 2020

To: The Ohio Manufacturers' Association

From: John Seryak, PE and Ryan Schuessler (RunnerStone, LLC)

RE: H.B. 6 Decoupling Provision Update – An \$85 Million Increase Beginning Jan. 1, 2021

H.B. 6's abstruse decoupling provision will increase some Ohioans' electricity bills by \$85 million beginning January 1, 2021. The cost increase will be fully borne by residential and small commercial and industrial customers in FirstEnergy's electric distribution territories in Ohio, unlike other H.B. 6 provisions that impact customers across the state. FirstEnergy filed the so-called decoupling rate increase on November 3, 2020 with the Public Utilities Commission of Ohio, increasing the collection of its Rider CSR from \$17 million in 2020, to \$102 million in 2021, as shown in Table 1.¹

Collection Year	Base Distribution Revenue Decoupling	Lost Revenue Decoupling	Total Decoupling
2020	\$ 21,916,065	\$ (4,795,659)	\$ 17,120,406
2021	\$ 35,382,840	\$ 66,495,247	\$ 101,878,087
Year-over-Year Increase	\$ 13,466,776	\$ 71,290,905	\$ 84,757,681

Table 1. FirstEnergy Decoupling Year-Over-Year Rate Increase

The rate increase is fully borne by residential customers and small commercial and industrial customers, including small-to-mid-sized manufacturers, small businesses like restaurants and lodging, but also churches and schools. Table 2 shows typical costs these customers will pay for H.B. 6's decoupling provision in 2021. Electricity users with higher voltage service are exempt from the decoupling charges.

	2021 Decoupling Cost (\$/year)
Small Manufacturer	\$ 2,500
Lodging	\$ 1,350
School	\$ 1,320
Restaurant	\$ 420
Small Retail	\$ 400
Church	\$ 160
Residential	\$ 40

Table 2. H.B. 6 Decoupling Customer Impact

¹ In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Decoupling Mechanism, Case No. 19-2080-EL-ATA



FirstEnergy's decoupling rider provides no benefits to customers and offsets no costs. Thus, it will accrue to FirstEnergy as bottom-line profit. House Bill 772, which is currently before Ohio's General Assembly, could halt the cost collection if it is passed with an emergency clause yet this year.

The decoupling rate increase is about \$15 million greater than we previously estimated in our memo of August 20, 2020.² In this memo we estimated H.B. 6's decoupling provision to cost customers \$355 million from 2020 – 2024. The 2021 increase in one component of decoupling, "lost revenue", was expected and accurately estimated in our previous memorandum. However, the increase in the base distribution revenue component of the decoupling rider was much greater than we had estimated, likely due to decreased electricity sales from milder weather and from the COVID-19 pandemic.

H.B. 6's decoupling provision is a distortion of a complex electric policy concept. Our September 17, 2020 memorandum provides an overview of a typical decoupling policy and how H.B. 6's version deviates from standard practices.³

Customers and policymakers may find interesting a broader view of H.B. 6's decoupling provision, with the context of a prior law change from 2014's controversial Senate Bill 310 (S.B. 310), and a post-H.B. 6 *sua sponte* action of Ohio's public utility Commissioners.

A significant component of the H.B. 6 decoupling provision is that it allows "revenue resulting from implementation of 4928.66 of the Revised Code, excluding program costs and shared savings" in select cases.⁴ In effect, this opaque language allows FirstEnergy to collect \$66 million per year in revenue from "lost distribution" sales associated with FirstEnergy's energy efficiency programs, in addition to the decoupled base distribution revenue. What readers should know is that this \$66 million is itself unusual. It is likely FirstEnergy can collect this much lost distribution revenue due to a series of law changes to how energy-efficiency was "counted" by the electric utilities. The changes occurred in the controversial Senate Bill 310, signed into law on June 13, 2014. The law changes benefitted electric utilities at the cost of customers, by allowing the electric utilities to receive credit for customer efficiency investments of which the utility was not involved, and charge customers back for "lost distribution revenue". At the time, these "counting provisions" were billed by proponents as cost saving actions. The OMA rightly warned that these provisions could be used to create new costs to customers.

² Seryak, J. and Worley, P., "H.B. 6 Decoupling Provision – \$355 Million for FirstEnergy through 2024, Possibly Millions More", Memorandum to the Ohio Manufacturers' Association, August 20, 2020, [https://ohiomfg.informz.net/ohiomfg/data/images/-%20OMA%20MEMO%20-%20HB%206%20Decoupling%20-%20FINAL%20\(Aug.%2014,%202020\).pdf](https://ohiomfg.informz.net/ohiomfg/data/images/-%20OMA%20MEMO%20-%20HB%206%20Decoupling%20-%20FINAL%20(Aug.%2014,%202020).pdf)

³ Seryak, J. and Worley, P., "H.B. 6's Decoupling Provision – A Primer on Decoupling and How H.B. 6 Decoupling Benefits FirstEnergy by Deviating from Best Practices", Memorandum to the Ohio Manufacturers' Association, September 17, 2020, <https://ohiomfg.informz.net/ohiomfg/data/images/-%20HB%206%20Decoupling%20101%20Memo%20-%2009.17.2020%20-%20FINAL.pdf>

⁴ Ohio Revised Code, Section 4928.471 Application to implement a decoupling mechanism.



After the passage of H.B. 6, the Commission acted in its own accord in a manner that stands to greatly benefit FirstEnergy, and only FirstEnergy. H.B. 6 limited the duration of this decoupling, stating, “the decoupling mechanism shall remain in effect until the next time that the electric distribution utility applies for and the commission approves base distribution rates for the utility.” At the time, for FirstEnergy, this would have taken place in late 2024. After the passage of H.B. 6 however, the PUCO lifted the requirement that FirstEnergy file a base distribution rate case until such time as FirstEnergy decides to. In effect, this will allow FirstEnergy to collect millions of dollars in unearned revenue via decoupling in perpetuity. It is unusual for the PUCO to act in this manner. This change was not formally requested by FirstEnergy in a filing, received no hearing, required no presentation of evidence, and allowed for no customer intervention. The Commission did not appear to act on a recommendation from their own staff. Instead, this financial windfall to FirstEnergy appears to be the initiated by the five Commissioners of the PUCO.

Typical Decoupling Costs

Table 3 presents assumptions for typical customer types that will pay FirstEnergy’s decoupling charge, Rider CSR. For non-residential customers charged Rider CSR, much of the charge is allocated to monthly demand, but only that exceeding five kilowatts (kW). We used a ballpark load factor⁵ for these customer types to estimate monthly demand. Since specific rates vary between the three Ohio FirstEnergy Distribution Companies (Ohio Edison, Cleveland Electric Illuminating, and Toledo Edison), we average these rates to calculate the impact to a typical FirstEnergy customer. For example, the costs to an example small manufacturer would be:

$$1,000,000 \text{ kWh/year} \times \$0.000788 / \text{kWh} + (285 \text{ kW} - 5 \text{ kW}) \times 12 \text{ months} \times \$0.5083 / \text{kW-month} = \$2,498 / \text{year}$$

	Load Factor (%)	Example Typical Energy Use (kWh/year)	Example Typical Demand (kW)	2021 Decoupling Rate (\$/kWh)	2021 Decoupling Rate (\$/kW)	2021 Decoupling Cost (\$/year)
Small Manufacturer	40%	1,000,000	285	\$ 0.000788	\$ 0.5083	\$ 2,498
Lodging	60%	708,400	135	\$ 0.000788	\$ 0.5083	\$ 1,350
School	35%	487,790	159	\$ 0.000788	\$ 0.5083	\$ 1,324
Restaurant	50%	206,544	47	\$ 0.000788	\$ 0.5083	\$ 420
Small Retail	35%	156,332	51	\$ 0.000788	\$ 0.5083	\$ 404
Church	20%	45,245	26	\$ 0.000788	\$ 0.5083	\$ 163
Residential		8,751		\$ 0.004947	\$ -	\$ 43

Table 3. H.B. 6 Decoupling Customer Impact Assumptions

Example energy use for each commercial customer type was derived from US Department of Energy’s Commercial Building Energy Consumption Survey (CBECS) and residential energy use is the average FirstEnergy residential customer energy use according to the US Energy Information Administration. Small manufacturer energy use varies widely, and our example small manufacturer is for illustrative purposes.

⁵ Load factor is the relationship between energy use and demand, expressed as Load Factor (%) = annual energy use (kWh/year) / (peak load (kW) x 8,760 hours/year)



MEMORANDUM

Date: September 17, 2020
To: The Ohio Manufacturers' Association
From: John Seryak, PE and Peter Worley (RunnerStone, LLC)
RE: H.B. 6's Decoupling Provision – A Primer on Decoupling and How H.B. 6 Decoupling Benefits FirstEnergy by Deviating from Best Practices

H.B. 6 has well-known provisions that affect Ohio's nuclear power plants, coal power plants, select solar power plants, and energy efficiency. Less well-known is a confusing decoupling provision. Fortunately, FirstEnergy's CEO put the effect of the provision in plain language for its investors:

“essentially it takes about one-third of our company and I think makes it somewhat recession-proof”¹

As a result of this decoupling provision, FirstEnergy could collect about \$355 million in unearned revenue through 2024. Ratepayers will incur higher electricity costs with no associated benefits. Moreover, a unilateral ruling from the PUCO could extend FirstEnergy's decoupling at the utility's discretion. This could, for example, cost FirstEnergy customers an additional \$400 million if extended from 2025 through 2030.²

Decoupling can be a legitimate policy when carefully implemented with best practices and coupled to other state policy objectives. However, H.B. 6's decoupling provision does not follow best practices, nor does it advance any state policy goal. The table below shows a comparison of the design features of a typical decoupling mechanism and those of FirstEnergy's HB6-enabled decoupling mechanism.

¹ <https://www.utilitydive.com/news/firstenergy-nears-proposal-to-decouple-ohio-utility-revenues-electricity-c/566610/>

² Memorandum to The Ohio Manufacturers' Association, “H.B. 6 Decoupling Provision - \$355 Million for FirstEnergy through 2024, Possibly Millions More”, [https://ohiomfg.informz.net/ohiomfg/data/images/-%20OMA%20MEMO%20-%20HB%206%20Decoupling%20-%20FINAL%20\(Aug.%2014,%202020\).pdf](https://ohiomfg.informz.net/ohiomfg/data/images/-%20OMA%20MEMO%20-%20HB%206%20Decoupling%20-%20FINAL%20(Aug.%2014,%202020).pdf).

Characteristic	Typical Decoupling Mechanism	HB 6 Decoupling Mechanism
Utility revenue recovered from ratepayers	Average sales year	Very high sales year
Overcharges	Credited to customers	Unlikely to be credited to customers
Revenue requirement reevaluation	Next scheduled distribution rate case	No scheduled distribution rate case (could be in perpetuity)
Joint policy initiatives	Energy efficiency programs, distributed generation programs	None
Effected utilities	Available to all state-regulated electric distribution utilities	Just FirstEnergy utilities
Regulatory process allowing customer engagement	Yes	No

Table 1. Typical Decoupling vs H.B. 6 Decoupling Design Features

In the remainder of this memo we review the policy behind decoupling and further describe differences between H.B. 6’s decoupling provision and typical decoupling provisions.

Decoupling Basics

Electric utility monopolies are motivated to increase their profits, like any business. However, electric utility monopolies do not compete for new customers or with new products to increase profits. Instead, monopoly electric utilities receive a government-administered return on and of its investments. Overtime, this traditional model has incited utilities to overbuild to increase its financial return. The more a utility builds, the greater its total return.

The utility recovers its costs and return - the sum of which is called the revenue requirement - through charges on electricity sold (kWh), charges on customer peak power needs (kW), and customer service charges set in rate cases which have been historically held every 3 to 10 years. However, because customer kWh and kW are not constant in any given year, a utility will collect more or less than its revenue requirement in years between rate cases. A utility would prefer to over-collect between rate cases. This dynamic incites utilities to actively discourage customer energy-efficiency and on-site generation. By driving up customer consumption between rate cases, utilities can increase their profits. As a result, utility cultures and practices can form that actively discourage customer energy-efficiency and on-site generation adoption. Utilities can actively discourage customer energy management through their electric tariff designs, interconnection policies, and account management culture.

Simply put, traditional electric utility monopolies are incited to overbuild, oversell, and discourage customer energy management and choice.

Importantly, competitive markets have been an effective policy antidote for the distorted economic incentives of monopolies. Competitive markets have been employed for power generation. However, they have not been employed for electric distribution companies (the “wires” companies).



While electric distribution utilities were originally competitive during the very early years of the industry, today, it is typical for distribution companies to be government-granted monopolies.

Absent readily competitive markets for “wires” companies, some states have implemented decoupling to combat utility overbuilding and overselling. Traditional decoupling requires a utility to true-up its collected revenue between rate cases to its revenue requirement. As a result, where true decoupling is in place, the utility is not incented to over-sell electricity between rate cases, because it would have to refund customers for over-collection. Constraining energy sales thus also limits overbuilding, which is driven by sales forecasts. And, if sales for some reason are too low, the utility is also protected. Subsequently, decoupling has several goals:

1. Protects customers and automatically issues customer rate decreases or credits between rate cases in case of over-collection;
2. Allows distribution utilities to recover prudent costs to provide distribution service;
3. Encourages the distribution utility to be more cost-efficient with their operational costs and capital costs; and
4. Reduces the distribution utility’s opposition to customer choice around energy efficiency and on-site generation.

Decoupling policies are often jointly implemented with state policies to encourage energy efficiency and on-site generation. Sometimes these proactive policies are desired, especially where local utilities have strong anti-efficiency and anti-customer choice cultures. Common sense and recent experience tell us that an anti-customer choice culture persists within Ohio’s utilities.

H.B. 6’s Decoupling Provision Design Features

H.B. 6’s decoupling provision is missing or distorts important design features of a typical decoupling mechanism and will not have the intended effect of a true decoupling policy. In this sense, it is decoupling in name only. In effect, it is a semi-permanent over-charge policy that allows FirstEnergy’s utilities to profit. And, currently, it is only FirstEnergy’s utilities that profit.

There are best practices when designing decoupling. FirstEnergy’s decoupling does not follow those best practices.

Very High Utility Sales and Customer Overcharges

A typical decoupling mechanism pegs a utilities revenue requirement to a typical year of capital and operational expenses. H.B. 6 severely distorted this approach by instead prescribing FirstEnergy’s revenue requirement to the revenue it received in a peak sales year, 2018. Note, it was not based on the revenue requirement for 2018, which is based on expected costs, but, instead, it was based on the actual revenue FirstEnergy received. FirstEnergy had higher sales in 2018 as compared to other years, partially due to abnormally high temperatures which increased customer consumption. By prescribing 2018 as a representative year, this inflates the revenue requirement, which increases customer bills with no associated benefits.



Moreover, FirstEnergy’s decoupling mechanism includes no revenue adjustments, and its resulting significantly excessive profits are unlikely to be capped. Typically, there are adjustments required for situations such as unseasonable weather, major changes in number of customers, or economic recession. Such adjustments are to mitigate the risk to customers of the distribution utility receiving windfall profits from circumstances that make an actual year much different than the representative or “test” year. These adjustments are in place to handle the very circumstance we are facing in 2020. COVID-19 has significantly reduced customer consumption and peak usage than a typical year, causing the distribution utility to receive less revenue. Yet, since FirstEnergy’s decoupling plan includes no adjustments, FirstEnergy can receive greater profit due to the economic downturn, which increases customer bills with no associated benefits. Despite the economic downturn, the H.B. 6 decoupling mechanism will allow FirstEnergy to receive the same record revenue that it received in 2018.

Additionally, unusual revenue was also included in the H.B. 6 decoupling provision. Typically, decoupling establishes the revenue requirement based on typical operational and capital costs. FirstEnergy’s decoupling provision also included so-called “lost revenue” from energy efficiency programs from the past as revenue they also need in the future. This so-called lost revenue equals approximately \$66 million per year, potentially in perpetuity. Put proverbially, FirstEnergy is having its cake and eating it too.

Moreover, a near simultaneous law change governing FirstEnergy’s significantly excessive profits will allow FirstEnergy utilities to keep profits that previously may have been refunded to customers.³

Joint Policy Initiatives

As discussed, decoupling is often paired by lawmakers with polices that advance customer energy-efficiency or customer-sited distributed generation. FirstEnergy CEO Chuck Jones even referenced energy efficiency to justify this decoupling provision, saying it “Allows us to continue to promote energy efficiency with our customers so that they can get the benefit of that without impacting our base revenues.”⁴ This is a curious statement as H.B. 6 simultaneously ended the requirement for Ohio’s distribution utilities to achieve energy efficiency savings. And, FirstEnergy proactively suspended the bulk of their energy-efficiency programs early, in January 2020, even though they were under no requirement to do so. The other Ohio utilities, which have not implemented the H.B. 6 decoupling mechanism, offered efficiency programs through 2020. Furthermore, FirstEnergy also has taken no steps to offer non-mandated efficiency programs in 2020 as Jones’ statement may suggest.

The H.B. 6 decoupling provision furthers none of Ohio’s policy goals.

³ Memorandum to the Ohio Manufacturers’ Association Energy Group, “Impact of the 2019 FirstEnergy SEET Amendment”, <https://www.ohiomfg.com/wp-content/uploads/OMA-Memos-SEET-Combined-CLL-and-RS-Aug-20-2020.pdf>.

⁴ <https://www.utilitydive.com/news/firstenergy-nears-proposal-to-decouple-ohio-utility-revenues-electricity-c/566610/>



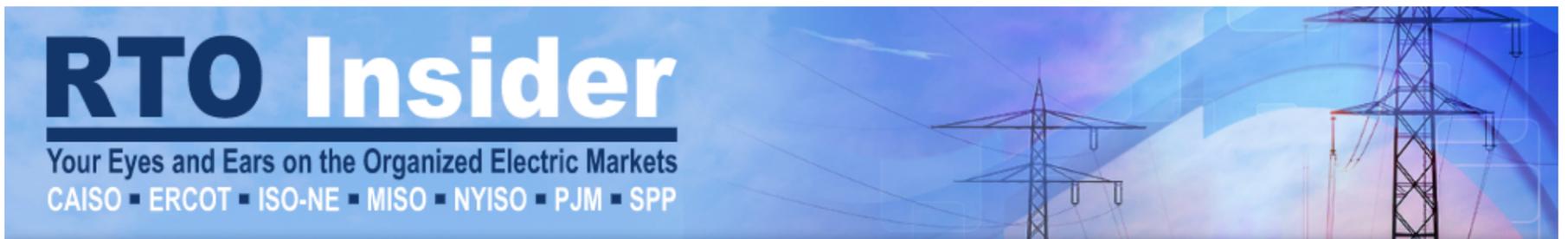
Effectuated Utilities

H.B. 6's decoupling provision does not apply statewide. H.B. 6 included some eligibility limitations to the decoupling provision that have constrained its application to other utilities. For example, the provision states that revenue recovery be "recovered pursuant to an approved electric security plan under section 4928.143 of the Revised Code, as of the twelve-month period ending on December 31, 2018." As it happens, only FirstEnergy has implemented a decoupling mechanism and is receiving decoupling revenues based on the H.B. 6 provision. Duke is not eligible for the decoupling mechanism and AEP Ohio and DP&L have not yet implemented an H.B. 6 decoupling mechanism (although AEP Ohio has tried).

Regulatory Process with Customer Engagement

Typically, the details of a decoupling mechanism will be determined within a regulatory process that allows customer intervention. H.B. 6's decoupling provision prescribed considerable detail without customer input. The design process was non-transparent and non-representative.

Finally, the PUCO issued a ruling on its own accord after the passage of H.B. 6, which gives FirstEnergy discretion on when it next files a distribution rate case. H.B. 6's decoupling provision's term is limited to its current distribution rate case. Thus, the PUCO's ruling could allow the H.B. 6 decoupling provision to extend in perpetuity. We expect that FirstEnergy will do so, so long as decoupling is more financially beneficial to it than what could be achieved with a new rate case.



PJM Sets BRA for May 2021

November 24, 2020

By [Michael Yoder](#)



[PJM](#) will hold the 2022/23 Base Residual Auction in May after being delayed since 2019 over [FERC's](#) expansion of the minimum offer price rule (MOPR).

The auction will take place from May 19-25 PJM said, and it will post the BRA results on June 2.

Pete Langbein of PJM [presented](#) the updated [schedule](#) for the 2022/2023 BRA and future auctions at last week's Markets and Reliability Committee meeting. Langbein said PJM determined the implementation of auction dates was appropriate after FERC's Nov. 12 order on the forward-looking energy and ancillary services (E&AS) offset calculation ([EL19-58-002](#)). (See [FERC Approves PJM Key Capacity Market Variable](#).)

Langbein said the order on E&AS offset was the final piece to establish the timeline for the BRA and all the associated activities leading up to the auction.

"We received a relatively clean forward-looking energy and ancillary services offset order," Langbein said. "We feel confident that we can move forward with the actual BRA."

FERC's order required PJM to make a compliance filing within 15 days to use the average equivalent ability factor of all the nuclear resources in the RTO to represent a projected refueling outage. Several stakeholders had argued that using individual anticipated refueling schedules when determining nuclear resources' availability was inadequate.

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Delivery Year	Original BRA schedule	Revised BRA Schedule	IAs cancelled
2022/2023	May	2019	May 2021
2023/2024		2020	December 2021
2024/2025		2021	June 2022
2025/2026		2022	January 2023
2026/2027		2023	July 2023
2027/2028		2024	May 2024

Indicates auction is back on schedule

Auction Schedule | PJM

Langbein said the commission provided PJM the red line Tariff language necessary to make the filing.

PJM has been working on a compressed BRA schedule since February when the RTO began sketching out its response to FERC's order expanding the MOPR. (See [PJM May Compress BRA Schedule over MOPR](#).)

Since the BRA is scheduled to take place soon, Langbein said PJM had to cancel the first and second incremental auctions for both the 2022/23 and the 2023/24 delivery years. The 2023/24 BRA is scheduled to take place December 2021.

PJM also proposed canceling the first incremental auction for the 2024/25 delivery year in June 2022.

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The incremental auction changes are based on the compressed BRA schedule, Langbein said, and PJM determined that a scheduled incremental auction will be canceled if its normally scheduled date has passed. PJM will also cancel a scheduled incremental auction if it falls within 10 months of the BRA for that delivery year, Langbein said. He continued that PJM will always conduct a third incremental auction.

PJM will use the January 2021 load forecast for the 2022/23 BRA and the most up-to-date load forecast in future BRAs, Langbein said.

“Our focus has really been on making sure we have all the dates established for the upcoming BRA, but we wanted to get out the subsequent BRA schedules as well,” he said.

The future BRA dates are January 2023 for the 2025/26 delivery year; July 2023 (2026/27) and May 2024 (2027/28).

PJM plans on conducting the BRA six months after the results are posted from the prior BRA, Langbein said, before returning to its normal auction schedule for the 2027/28 delivery year.

Langbein said some of the key pre-auction BRA dates for the 2022/23 delivery year include requests of winter capacity interconnection rights (CIRs) on Jan. 4 and the first-time fixed resource requirement (FRR) election on Jan. 18. Several activities will take place Jan. 19, he continued, including the generation state subsidy certification and the resource specific MOPR exception requests.

“We realize things are going to be a little tight with all the additional activities that normally go on prior to the start of the delivery year,” Langbein said. “But it’s the schedule we’ve come up with based on the timeline we have out there.”

CAPACITY MARKET

PJM

KEYWORDS [BASE RESIDUAL AUCTION \(BRA\)](#) [CAPACITY INTERCONNECTION RIGHTS \(CIRS\)](#) [EL19-58-002](#)

[ENERGY AND ANCILLARY SERVICES \(E&AS\)](#) [FIXED RESOURCE REQUIREMENT \(FRR\)](#)

[INCREMENTAL AUCTION](#) [MINIMUM PRICE OFFER RULE \(MOPR\)](#) [PJM INTERCONNECTION LLC \(PJM\)](#)



Additional news on this topic:

PJM IMM Warns Against Another Capacity Market Overhaul

PJM's Monitor urged the RTO not to rush into making changes to its capacity market before the recently approved design is given a chance to succeed. | [Monitoring Analytics](#)

FERC Approves PJM Key Capacity Market Variable

PJM moved a step closer to restarting its capacity auctions with FERC's approval of the RTO's new energy and ancillary services revenue offset calculation. | [PJM](#)

PJM Monitor Challenges MBRAs over Market Power

PJM's Monitor has opened another front in its bid to strengthen the RTO's market power rules, filing challenges to the renewals of market-based rate authorizations in 14 dockets. | [PJM](#)

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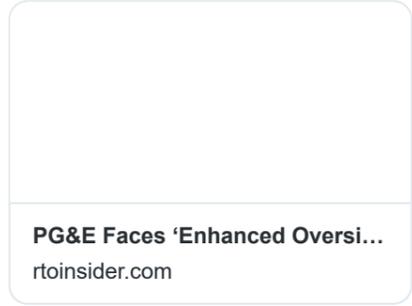
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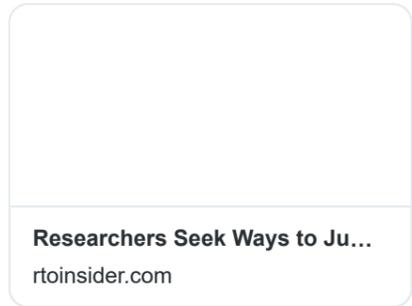


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MEMORANDUM

To: OMA Energy Committee
From: Kim Bojko, OMA Energy Counsel
Re: Energy Committee Report
Date: December 2, 2020

Active Administrative Actions in which OMAEG is Involved:

American Electric Power (AEP):

- **Application for a Reasonable Arrangement and Deferral Authority for COVID-19 Emergency Plan (Case Nos. 20-0602-EL-UNC, et al.)**
 - On March 17, 2020, AEP requested accounting authority and a recovery mechanism for the costs associated with its COVID-19 Emergency Plan.
 - On April 9, 2020, AEP filed a Second Amended Application requesting a reasonable arrangement to allow minimum demand charges for commercial and industrial customers to be temporarily reset at lower usage level and for authority to recover forgone revenue (including foregone discretionary revenue).
 - On April 27, 2020, OMAEG filed comments to protect members from being charged for AEP's imprudent costs and lost revenue claims during the declared emergency (including the impropriety of the reasonable arrangement mechanism, the type and level of deferrals, and potential for double recovery). Others filed similar concerns. IEU-Ohio and OEG, however, expressed support for AEP's reasonable arrangement and cost recovery proposal.
 - On May 6 2020, the PUCO agreed with OMAEG (and others) and denied the proposed reasonable arrangement and cost recovery through the Economic Development Rider. Although the PUCO granted AEP deferral authority for its foregone revenues and expenses, it explained, at OMAEG's and Staff's request, that recovery is not guaranteed and the amounts must be reasonable, properly computed, and not double recovered. The PUCO also stated that recovery for foregone revenue associated with eliminating minimum billing demand charges should only be collected from those benefiting and directed AEP to establish an opt-in process. Importantly, the PUCO also rejected AEP's request to repurpose its regulatory liability from an overcollection of the Phase-In-Recovery Rider and ordered that it be applied to the universal service fund rider to lower customers' costs. Lastly, the PUCO ordered AEP to track costs avoided due to emergency and to track and defer uncollectible expenses with its default service generation such that expenses could potentially be recovered through

a bypassable mechanism, and noted that AEP may be able to collect some of its costs through its next rate case.

- On August 12, 2020, the PUCO approved AEP’s plan to resume activities and operations previously suspended during the COVID-19 emergency. **AEP has resumed the assessment of late fees as applicable effective with August bills** and disconnections for nonpayment starting with the September billing cycle. AEP will offer payment plans to nonresidential customers subject to minimum demand billing provisions and will accommodate reasonable requests from nonresidential customers for additional payment plan options on a case-by-case basis.
- **New Distribution Rate Case Filed –NOI (Case No. 20-585-EL-AIR)**
 - On April 29, 2020 AEP filed a notice of intent to file an application to increase its distribution rates.
 - On May 18, 2020, OMAEG intervened to protect members from being charged unreasonable rates.
 - On June 8, 2020, AEP filed an application to increase its base distribution rates by 3.5%. AEP sought to continue existing riders, including the Distribution Investment Rider (DIR). In addition, AEP requested to delay the implementation of the rates purportedly due to concerns over COVID-19, but failed to mention its deferral authority for COVID-19 expenses or request to implement a HB 6 decoupling mechanism to increase rates to 2018 levels until the new distribution rates become effective. Lastly, AEP proposed a set of voluntary demand-side management (DSM) programs which contain a mandatory “administrative fee.”
 - On November 18, 2020, the PUCO Staff filed their report, which included a recommended revenue requirement of \$901,428,666 to \$921,950,845, as opposed to AEP’s requested amount of \$1,065,876,000. OMAEG will submit its objections advocating for reasonable rates and opposing any anticompetitive proposals included in the application.
- **Application to Initiate its gridSMART Phase 3 Project (Case No. 19-1475-EL-RDR)**
 - AEP filed to initiate phase 3 of its smart grid deployment project, which it claims will expand reliability benefits of Distribution Automation Circuit Reconfiguration (DACR) to additional distribution circuits, the energy efficiency and retail power cost savings of Volt-Var Optimization (VVO), and complete Advanced Metering Infrastructure (AMI) deployment.
 - OMAEG has intervened in this case in order to protect members’ interests.
 - On September 9 and September 25, 2020 OMAEG filed comments asserting that AEP’s proposal to install, own, and operate a fiber network not related to modernizing the distribution system and to require its customers to subsidize those investments is unlawful, anticompetitive, against the policy of the state, and should be rejected.
 - Awaiting further action by the PUCO.

- **Application for Establishment of Renewable Reasonable Arrangements With Multiple Non-Residential Customers (Case No. 19-2037-EL-AEC)**
 - On November 15, 2019, AEP filed to allow implementation of a significant number of MWs as part of the approved commitment for AEP to develop 900 MW of renewable generation resources in Ohio, without a general finding of need for the solar wind resources that the Company requested 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 PUCO approve each of the individual reasonable arrangements.
 - On January 2, 2020, the PUCO suspended the proceeding until further notice.

Duke Energy Ohio (Duke):

- **Application for a Reasonable Arrangement for COVID-19 Emergency Plan (Case Nos. 20-0856-EL-AEC, et al.)**
 - On April 16, 2020, Duke filed an application with the PUCO seeking an economic development reasonable arrangement to recover lost revenues from its proposal to reduce demand ratchets for commercial and industrial customers during the COVID-19 emergency.
 - On May 7, 2020, OMAEG filed comments to protect members from being charged for Duke's imprudent costs and lost revenue claims during the declared emergency (including the impropriety of the reasonable arrangement mechanism, the type and level of deferrals.
 - On May 11, 2020, Duke requested deferral authority for costs and lost revenues associated with its COVID-19 response. Shortly after, Staff recommended that the PUCO grant Duke's deferral request.
 - On June 17, 2020, the PUCO approved Duke's COVID-19 plan to suspend disconnections for non-payment, waive all late fees to be deferred for later recovery as a regulatory asset, and other actions to minimize social contact. As OMAEG recommended, the PUCO rejected Duke's request for a reasonable arrangement and instead directed Duke to make optional extended payment plans available to non-residential customers. The PUCO granted Duke's request for deferral authority but, consistent with OMAEG's comments, prohibited Duke from adding carrying costs on to that amount and emphasized that Duke will only be able to recover amounts that are prudently incurred, properly computed, and free of double recovery.
 - On July 29, 2020, the PUCO approved Duke's plan to resume certain activities and operations suspended during the COVID-19 emergency. Effective August 10, 2020, Duke resumed normal billing processes including the assessment of late fees during the regular billing cycles and issuing disconnection notices to customers. Duke estimated that disconnections for non-payment will begin in September 2020 for non-residential customers.

- **Application to Adjust Rider PF (Case No. 19-1750-EL-UNC)**
 - On April 15, 2020 and May 15, 2020, OMAEG and other stakeholders submitted comments on Duke’s request to recover costs associated with its Infrastructure Modernization Plan from customers in its Power Forward Rider (Rider PF). OMAEG asserted that Duke’s deferral request is improper and that Duke unlawfully sought recovery of past costs. OMAEG also stated that utility ownership of competitive products or services would violate Ohio public policy. Duke’s request for mandatory new service and requirement for separate meters for its Commercial Level II program would unnecessarily increase rates for customers.
- **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.
 - A hearing was held in November 2019, where 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.

- **2019 MGP Adjustment (Case Nos. 20-0053-GA-RDR, et al.)**
 - On April 30, 2020, Duke filed another application to increase rates for its Manufactured Gas Plant Rider (MGP) to recover another year (2019) of investigation and remediation costs.
 - On July 23, 2020, the PUCO Staff filed a report recommending a total disallowance of \$27.1 million from the total of \$85.2 million that Duke proposed for the ongoing MGP recovery from 2013-2019.
 - On August 21, 2020, Duke filed unsolicited comments on the PUCO Staff’s report disagreeing that it should only be allowed to recover remediation costs for certain geographic areas. Duke also opposed Staff’s proposal to offset \$50.5 million in insurance proceeds against costs incurred. Duke wants to hold the proceeds until remediation of the sites is complete and collect its current expenses from customers.
 - As in the other cases, OMAEG intervened to protect members from these extraordinary, unlawful costs.
- **University of Cincinnati Unique Arrangement Application (Case No. 18-1129-EL-AEC)**
 - The University of Cincinnati (UC) filed an application for a unique arrangement centered around the UC’s ability to interrupt a portion of its electric load. Under the proposed arrangement, UC would commit to interrupting up to 54.7 MW when certain conditions are met in exchange for a credit against its monthly distribution charges. The credit would be capped at \$2.3 million annually and \$12.8 million over the 7-year term. This credit would be paid for by other Duke customers. UC does not propose any capital investments or employment commitments as part of the proposed arrangement.
 - OMAEG intervened and filed comments on August 9, 2018.
 - Parties are awaiting a procedural schedule.
- **EE/PDR Recovery Case (18-0397-EL-RDR)**
 - Duke filed an application to recover costs related to compliance with energy efficiency mandates and lost distribution revenues.
 - OMAEG intervened in the case to protect the interests of its members as Duke attempts to recover additional costs from customers.
 - The PUCO approved Duke’s request for recovery of program costs, lost distribution revenue and performance incentives related to Duke’s EE/PDR programs for 2017. PUCO excluded from recovery incentive pay, dining, sponsorships, labor, employee and other expenses. The PUCO noted that Rider EE-PDR is subject to reconciliation as the result of annual audits by the PUCO.
 - Duke sought rehearing on August 30, 2019, seeking to recover the disallowed costs on the grounds that incentive pay and other employee incentives are not tied to “financial goals,” which was opposed.
 - Awaiting PUCO decision.
- **Duke Proposes New EE/DSM Programs (Case Nos. 20-1444-EL-POR, et al.)**

- On October 9, 2020, Duke proposed a new residential EE program for 2021 that will be paid for through a nonbypassable recovery mechanism. Duke proposed using its former Rider DSM to recover the costs associated with the Program and creating a Joint Benefit Recognition Mechanism to recover 4.5% of after tax avoided transmission and distribution costs (i.e., lost distribution revenue). Duke estimated the total Program costs collected from residential customers would be \$5.99 million, but capped the recovery at \$7.0 million.

FirstEnergy:

- **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 future 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.
- On June 17, 2020, the PUCO directed FirstEnergy to re-file its tariffs so as to not limit reconciliation of the decoupling rider exclusively on the finding of double recovery.
- On November 3, 2020 FirstEnergy re-filed its tariffs with the refund language consistent with the PUCO's June 17 Order.

- **Rider DSE Update (Case Nos. 14-1947-EL-RDR, et al.)**

- FirstEnergy filed tariff pages reflecting changes to its Demand Side Management and Energy Efficiency Rider (Rider DSE). Rider DSE recovers costs associated with energy efficiency, peak demand reduction, and demand side management programs and is subject to an annual audit by the Commission. FirstEnergy's filing does not appear to be consistent with the PUCO's stated expectation that Rider DSE adjustments following the implementation of the Amended Portfolio Plan would reflect lower costs to customers.
- A Staff report was issued on February 28, 2019, and the PUCO set a procedural schedule with FirstEnergy's testimony due June 22, 2020, and a hearing scheduled for December 14, 2020.
- On November 2, 2020, the PUCO ordered that the evidentiary hearing be rescheduled to a date set by subsequent entry.

- **Corporate Separation Case (Case No. 17-0974-EL-UNC)**

- PUCO initiated a review of FirstEnergy’s compliance with the PUCO’s corporate separation rules. FirstEnergy is the first utility to undergo this review process.
- Comments and reply comments were filed.
- On April 29, 2020, PUCO directed interested persons to file supplemental comments regarding the audit report by May 29, 2020, and supplemental reply comments by June 15, 2020.
- Comments and reply comments were filed regarding the FirstEnergy utilities’ provision of competitive services, FERC’s classification of shared-service employees, the use of the “FirstEnergy” name by the Company’s competitive affiliates, and whether FirstEnergy’s unregulated generation affiliate is a barrier to retail electric competition.
- OMAEG is monitoring this case.
- On November 4, 2020, the PUCO initiated an audit of the FirstEnergy Utilities’ compliance with corporate separation laws and regulations. The audit will be a part of the existing proceeding reviewing the FirstEnergy Utilities’ compliance with corporate separation laws and rules and the Utilities’ corporate separation plans. The PUCO explained that its actions were in response to FirstEnergy Corp. providing information to federal regulators indicating that it was launching an internal investigation and that its employees’ actions violated the company’s “code of conduct.”
- OMAEG is considering intervening in this matter to protect its interests.
- **PUCO Review of FirstEnergy H.B. 6 Spending (Case No. 20-1502-EL-UNC)**
 - On September 15, 2020, the PUCO opened a case to review, not a formal Commission-ordered investigation, of FirstEnergy’s political and charitable spending related to H.B. 6. and the subsequent referendum effort. The PUCO directed FirstEnergy to show cause by September 30, 2020 that the cost of these activities were not included, directly or indirectly, in any rates or charges paid by customers.
 - On September 30, 2020, FirstEnergy filed a brief response to the order to show cause, stating that it would be impossible to include H.B. 6 costs in customers’ rates as the existing base rates came into existence well before H.B. 6 was enacted and that the inclusion of political or charitable costs in riders would be a clear violation of PUCO precedent.
 - OMAEG intervened to protect members against any H.B. 6 costs that may have been included in FirstEnergy’s rates or charges.
 - FirstEnergy attempted to prevent OMAEG, and nearly every other intervenor, from participating in the review and argued that OMAEG lacked standing, which OMAEG firmly opposed.
 - Subsequently, FirstEnergy sought to limit lawful discovery in the review, which OMAEG also opposed. The PUCO announced that a prehearing conference will occur to address the discovery dispute.
- **2018-2019 SEET Case (Case Nos. 19-1338-EL-UNC, et al.)**

- On July 15, 2019 and May 15, 2020 FirstEnergy filed applications seeking a determination that it did not have “significantly excessive earnings” for calendar years 2018 and 2019, respectively. FirstEnergy failed to include roughly \$134.7 million in after-tax revenue from its Distribution Modernization Rider (DMR) despite the Supreme Court of Ohio’s ruling invalidating the DMR.
- In addition, HB 166 amended the PUCO governing statute to require the PUCO to consider the total earned return on equity (ROE) of all affiliated distribution utilities operating a joint ESP. Consequently, FirstEnergy is able to shield one of its overearning distribution utilities by including the ROE of its less profitable affiliate distribution utility in the significantly excessive earnings test (SEET) calculation.
- OMAEG intervened to advocate that the PUCO return to customers any earnings that are excessive or unlawful.
- On September 4, 2020, the PUCO granted OMAEG intervention and scheduled a hearing for January 5, 2021.
- On October 29, 2020, the PUCO denied OCC’s interlocutory appeal requesting a delay of the procedural schedule until the Supreme Court renders a decision in the pending 2017 FirstEnergy SEET Case. However, the PUCO cited COVID-19 challenges and will reschedule the hearing in a subsequent entry (but it will not commence prior to May 3, 2021).

Dayton Power & Light (DP&L):

- **Application for a Reasonable Arrangement and Deferral Authority for COVID-19 Emergency Plan (Case Nos. 20-650-EL-AAM, et. al.)**
 - On March 23, 2020, DP&L requested deferral authority for expenses related to its Plan during the COVID-19 emergency.
 - On April 15, 2020, DP&L supplemented its Plan by proposing to temporarily revise demand charges for commercial and industrial customers. For customers whose meters cannot be read, DP&L will charge an energy-only rate and for customers whose meters can be read, it will reduce the minimum demand charge. DP&L sought to defer as a regulatory asset for future recovery charges avoided by customers provided that those costs are not already included in the distribution decoupling deferral request that DP&L filed on January 23, 2020 in Case No. 20-140-EL-AAM. Alternatively, DP&L proposed recovering these lost revenues through an economic development or unique reasonable arrangement.
 - On May 4, 2020, OMAEG filed comments to protect members from being charged for DP&L’s imprudent costs and lost revenue claims during the declared emergency (including the impropriety of the reasonable arrangement mechanism, the type and level of deferrals, the potential for double recovery and the impropriety of recovering foregone revenue associated with acts of good-will during the COVID-19 emergency.
 - On May 2020, the PUCO rejected DP&L’s proposed reasonable arrangement and acknowledged OMAEG’s comments. The PUCO directed DP&L to create an optional extended payment plan mechanism to benefit nonresidential customers. While the

- PUCO granted DP&L deferral authority, it recognized the concerns of various stakeholders, including OMAEG, and emphasized deferral amounts are not final until the PUCO review for reasonableness, proper computation, and the potential for double recovery.
- On August 12, 2020, the PUCO approved DP&L's transition plan to resume activities and operations suspended during the COVID-19 emergency. DP&L will offer nonresidential customers payment arrangements, up to six months in length. On September 1, 2020, DP&L will resume assessing late fees and disconnections for nonpayment.
 - **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.
- On May 12, 2020. The Supreme Court Ohio granted OCC’s request to dismiss its appeal of DP&L’s Distribution Modernization Rider (DMR). OCC opted to not pursue the matter in light of DP&L withdrawing its ESP and the PUCO eliminating the DMR rider.
- **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 PUCO 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.
 - On October 23, 2020, DP&L and several parties, including OMAEG, filed a global settlement agreement with the PUCO to resolve multiple DP&L proceedings. The PUCO established a procedural schedule to review and take testimony on the settlement agreement, with a hearing date set for January 11, 2021.
- **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.
 - On April 6, 2020, DP&L filed a motion to withdraw its application to extend the DMR, which the PUCO subsequently granted on August 12, 2020.
 - On May 12, 2020, the Supreme Court of Ohio granted OCC’s request to dismiss its appeal of DP&L’s Distribution Modernization Rider (DMR). OCC opted to not pursue the matter in light of DP&L withdrawing its ESP and the PUCO eliminating the DMR rider.
- **Distribution Decoupling Costs (Case No. 20-0140-EL-AAM)**
 - The June 18, 2018 Stipulation and Recommendation from that Distribution Rate Case established that DP&L was authorized to implement “Revenue Decoupling.” Recovery would occur through the Decoupling Rider that was established in DP&L’s third Electric Security Plan case (“ESP III”) (Case No. 16-0395-EL-SSO, et al.), which DP&L withdrew. Given this withdrawal, the PUCO ruled that DP&L could no longer implement the Decoupling.

- On January 23, 2020, DP&L requested accounting authority to defer its distribution decoupling costs that it would have been otherwise able to recover under ESP III.
- OMAEG intervened and submitted comments asserting that DP&L had no authority to implement a decoupling mechanism after it withdrew its ESP III and that it would be unreasonable for the PUCO to allow DP&L to unilaterally reap benefits from a settlement agreement that it breached.
- **SEET (Case No. 20-0680-EL-UNC)**
 - On April 1, 2020, DP&L requested a determination that its current ESP passes the Significantly Excessive Earnings Test (SEET) and More Favorable in the Aggregate Test over the forecast period of 2020-2023.
 - OMAEG intervened to protect members from excessive charges.
 - On July 1 and July 16, 2020, OMAEG submitted comments and reply comments asserting that DP&L failed to meet its burden of proof in demonstrating that its earnings were not excessive.
 - The SEET Case is a part of the global settlement agreement that DP&L, OMAEG, and other signatory parties filed with the PUCO on October 23, 2020. The PUCO established a procedural schedule to review and take testimony on the settlement agreement, with a hearing date set for January 11, 2021.
- **SEET II (Case No. 20-1041-EL-UNC)**
 - On May 15, 2020, DP&L filed an application requesting a finding that its 2019 earnings passed the SEET test.
 - On July 2, 2020, OMAEG intervened to protect members' interests.
 - The SEET II Case is a part of the global settlement agreement that DP&L, OMAEG, and other signatory parties filed with the PUCO on October 23, 2020. The PUCO established a procedural schedule to review and take testimony on the settlement agreement, with a hearing date set for January 11, 2021.
- **New Distribution Rate Case Filed –NOI (Case No. 20-1651-EL-AIR)***
 - On October 30, 2020, DP&L provided notice that in the next month it will file an application to increase its base distribution rates. DP&L proposed a test year of June 1, 2020 through May 31, 2021 and a date certain of June 30, 2020.
 - On November 30, 2020, DP&L filed its application requesting a ROR of 7.71%, which includes a 10.5% ROE. Accordingly, DP&L requested to increase its revenue requirement by \$120.8 million

Statewide:

- **PUCO COVID-19 Emergency Orders (Case No. 20-591-AU- UNC)**
 - On March 12, 2020, PUCO directed public utilities to review their disconnection policies and other practices and promptly seek approval to suspend any requirements that might impose a "service continuity hardship" on customers or create unnecessary risks associated with spreading the virus. The PUCO also encouraged municipalities

and cooperatives that are beyond their jurisdiction to take similar actions. The Order also empowered Chair Sam Randazzo and Vice Chair Beth Trombold to act individually on behalf of the full five-member PUCO for the duration of the emergency.

- The PUCO and Ohio Power Siting Board (OPSB) tolled any time period in an order, statute, or rule requiring PUCO or OPSB to act upon a pending application or filing during the declared emergency and fourteen days after. The tolling does not apply to automatic approval of filings to suspend service disconnection or reconnection requirements.
 - On March 13, 2020, PUCO extended the Winter Reconnect Order through May 1, 2020. The PUCO's Order does not eliminate customers' payment obligations.
 - On March 20, 2020, the PUCO ordered the suspension of utilities' non-essential activities during the COVID-19 emergency. The Order does not relieve utilities of the obligation to address safety concerns.
 - On April 8, 2020, the PUCO extended its March 12, 2020 emergency Order by an additional 30 days.
 - On April 8, 2020, the PUCO authorized eligible utilities to obtain loans through the Federal Paycheck Program without receiving additional PUCO approval. The program authorizes up to \$349 billion in forgivable loans to enable small businesses to retain employees during the COVID-19 emergency. Utilities with fewer than 500 employees are eligible.
 - On April 22, 2020, in response to the state of emergency, the PUCO temporarily waived requirements regarding provisional medical certification of commercial drivers. The waiver expires on June 30, 2020.
 - On June 1, 2020, the PUCO and OPSB terminated the suspension of deadlines requiring them to act on applications during the COVID-19 emergency.
 - On June 17, 2020, the PUCO terminated the suspension of door-to-door marketing services, pursuant to requirements and best practices issued by state and local health authorities.
 - On July 3, 2020, the PUCO granted water transportation companies waivers from Ohio Adm. Code provisions that would enhance COVID-19-related burdens. On July 29 and August 31, 2020, the PUCO extended these waivers.
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- **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, scheduled a workshop to discuss changes to those rules, and sought comments from stakeholders.
 - On March 13, 2020, OMAEG filed comments addressing costs, access to data, and the formation of a stakeholder group on distributed energy resources (DERs).

- On April 3, 2020, OMAEG filed reply comments asserting that allocation of distribution system upgrade costs should take into consideration system benefits. OMAEG requested that more data from the interconnection process be accessible, recommended the formation of a working group on interconnection issues, and that the PUCO clarify that a DER is permitted on adjacent property.
- **PUCO Investigation into CRES Contracts (Case No. 14-0568-EL-COI)**
 - The PUCO issued an order setting out its “fixed-means-fixed” guidelines which provide that CRES providers may not include a pass-through clause in a contract labeled as a fixed rate, pass-through provisions must be labeled as variable or introductory rates, regulatory-out clauses must be marked in “plain language,” and CRES providers had until January 1, 2016 to bring products into compliance with the fixed-means-fixed guidelines. On rehearing, the PUCO punted the determination of remaining issues, including whether small commercial customers should be more stringently defined, to a future rulemaking proceeding.
 - Rehearing is pending.
- **PUCO PowerForward Initiative**
 - The PUCO announced the launch of PowerForward to comprehensively explore technology and consider how it could serve to enhance the customer electricity experience.
 - Phase 1 featured presentations examining technologies affecting a modern distribution grid, what our future grid could offer customers, and what technologies are in development to realize such enhancements.
 - Phase 2 focused on the grid, platforms, the grid’s core components, requirements for building the grid of the future, distribution system safety and reliability, planning and operations of the distribution system, and energy storage.
 - Phase 3 focused on grid modernization, the distribution system, data access, ratemaking, and rate design.
 - Following the completion of the three phases of the PowerForward Initiative, the PUCO issued a report outlining its approach for maintaining a strong, robust power grid that will benefit Ohio consumers.
 - The PUCO established working groups and proceedings for each of the three PowerForward working groups: the PowerForward Collaborative, the Distribution System Planning Working Group, and the Data and the Modern Grid Working Group. The PUCO stated that it was establishing these proceedings in order to ensure that its PowerForward roadmap is being fulfilled. The PUCO invited interested parties to participate in these proceedings so that their views can be considered throughout this process.
 - The PUCO ordered electric distribution utilities to file reports regarding the current status of their grid architecture and distribution system capability. The PUCO determined the required contents of these reports after reviewing comments submitted

by various parties. The PUCO stated that these reports will be an important component in advancing various components of the PowerForward initiative.

- On April 22, 2020, the PUCO found that the works of the Collaborative, the Distribution System Planning Workgroup (PWG), and the Data and Modern Grid Workgroup have been completed and closed those cases. The PUCO stated that it will continue to address issues raised in the Power Forward Roadmap in discrete proceedings. In her concurring opinion, Commissioner Trombold stated EDUs should make interval data from advanced meters available to customers and competitive suppliers. Similarly, Commissioner Conway advocated in a concurring opinion for customer benefits resulting from customer energy usage data access. In addition, he supported the suggestions in EnerNex’s Final Report for the PWG regarding standards for the interconnection of distributed energy resources with the EDUs’ networks.

- **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 was amended several times, and each amendment included provisions that would impose unreasonable costs on customers in order to subsidize uneconomic generation.
- The Governor signed into law HB 6 on July 23, 2019, which 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 HB 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 it was punted to the Supreme Court of Ohio to resolve what the federal court considered a “state question.”
- Appellants Ohioans Against Corporate Bailouts voluntarily dismissed their appeal, explaining that the group did not have sufficient money to continue the appeal. Efforts to repeal HB 6 by veto measure have ended.
- Following the \$1 billion ratepayer-funded nuclear bailout that Ohio legislators passed last year, Energy Harbor LLC, formerly FirstEnergy Solutions, has moved to spend an additional \$300 million to repurchase the company’s stock. On May 8, 2020, Energy Harbor LLC’s board of directors voted to increase authorization for its stock buyback program from \$500 million to \$800 million. The company can buy back its stock at any time until August 26, 2020. This benefit to corporate shareholders comes after FirstEnergy Solutions declared bankruptcy and lobbied aggressively for the HB 6 subsidy, which will increase rates for Ohio customers.
- In light of the HB 6 scandal, repeal efforts are underway.

- **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, stating that its 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 agreeing with OMAEG’s 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 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.
- Clean Air Fund Rider (Case No. 20-1143-EL-UNC)*
 - On June 9, 2020, the PUCO Staff filed a proposal regarding the allocation and rate design for the utilities to collect \$170 million from customers annually to fund the Clean Air Fund Rider (Rider CAF) to subsidize the Ohio nuclear plants, now owned by Energy Harbor, and five solar arrays.

- On June 17, 2020, OMAEG intervened and filed comments recommending an alternative rate design and that the PUCO adhere to HB 6’s plain language.
 - On August 26, 2020, the PUCO established the nonbypassable recovery mechanism, which will become effective January 2021, and adopted Staff’s allocation and rate design proposal. As OMAEG warned in its comments, the likely result will be that similarly situated nonresidential customers will be charged disparate rates depending on the number of residential customers in their service territory and which service territory their business operations are located in. The PUCO unlawfully included Commercial Activity Taxes in (Rider CAF) and failed to ensure that customers are not being charged “abrupt and excessive charges” or provide for a refund/reconciliation in the tariff language, as HB 6 requires.
 - OMAEG requested that the PUCO reconsider its decision, which the PUCO denied on October 21, 2020.
 - In November 2020, the EDUs filed their respective Rider CAF rates and as OMAEG warned, the rates vary significantly with DP&L’s proposed rates being much lower than those of the other EDUs.
 - OMAEG is considering appealing the PUCO’s order and requesting that the Court stay the collection of the H.B. 6 nuclear subsidies.
- **PUCO Solicited 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.
 - 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 EDUs 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 EDUs 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.

- On September 4, 2020, in light of the impending EE wind-down, the PUCO waived the Ohio Adm. Code requirement that each EDU must file a new portfolio program by September 1 of each year.
- On November 18, 2020, the PUCO directed the EDUS to file proposed revised tariffs by December 1, 2020 for their respective EE program cost recovery riders, setting the riders to zero, effective January 1, 2021. Once the cumulative saving cap has been met on December 31, 2020, the EE cost recovery riders must terminate. The sole exception to this termination is the reconciliation between revenue collected and compliance efforts occurring prior to December 31, 2020. Each EDU will be authorized to file tariffs to implement the final reconciliation once the PUCO has approved the EDUs proposed final reconciliations. Lastly, The PUCO ordered that no cost recovery mechanism will be authorized beyond the period required to complete the final reconciliation.
- **Stakeholder Input to Improve OPSB Siting Process**
 - The OPSB held informal stakeholder discussions to learn how to improve public participation in the siting process, technical application requirements, and construction compliance efforts.
 - On March 10, 2020, the OPSB held its first stakeholder meeting. Stakeholders raised concerns about applicant costs, delays between certification and construction for wind and solar projects, and the appropriate level of private company involvement with the OPSB process. The Board also heard various proposals to increase public input, including the extension of the 90-day window following the public information meeting process. Stakeholders also discussed how increased flexibility could improve the application process for transmission lines for wind projects. It was further suggested that for transmission projects generally, there should be a higher level of scrutiny for need and an earlier determination of need.
 - On March 11, 2020, the OPSB held its second stakeholder meeting. Stakeholders stated that the Board should ensure it has adequate resources to conduct independent assessments on project impacts, using actual data from the area. Stakeholders urged that the pre-application conference be mandatory, held in the project area, and run by the OPSB with the developer present. It was stated that everyone, not just leaseholders, needs an opportunity to provide input, especially on wind projects. Stakeholders discussed that there are no siting regulations for solar projects, whereas there are specific requirements for wind projects. It was argued that OPSB should verify that the developer satisfies each condition post-certification and this information should be docketed and made public. Stakeholders asserted that decommissioning plans should be fully developed, giving communities a clear idea of when they will be funded.

- On May 12, 2020, the OPSB held its third stakeholder discussion. Stakeholders made several comments recommending what the Board should examine in its process including: the cumulative effect of multiple projects in a single area; the long-term impact of wind turbines; warranty and merchantability issues; promises of financial gains made to school districts; multigenerational land use issues; reporting requirements once sites are operating; the selection process for expert testimony; and taxation issues regarding pipeline developers.
 - Next, OPSB will open a formal rulemaking docket in early 2021 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 attended the workshops and will 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.
- **The PUCO Approved Suvon’s CRES Power Broker & Aggregator Application (Case No. 20-0103-EL-AGG)**
 - On April 22, 2020, over the objections of many stakeholders raising concerns of corporate separation violations among the FirstEnergy companies, including the regulated utilities, the PUCO approved Suvon, LLC’s, also known as FirstEnergy Advisors, application for certification as a Competitive Retail Electric Service (CRES) power broker and aggregator.
- **PUCO Chairman Randazzo Resigns**
 - Sam Randazzo has resigned as PUCO Chair, days after the FBI searched his Columbus home as part of an investigation into the H.B. 6 scandal. The day before the Chair’s resignation, in a new filing with the U.S. Securities and Exchange Commission, FirstEnergy Corp. described a \$4 million payment made in early 2019 to an entity associated with an individual subsequently appointed as a state official directly involved in regulating the FirstEnergy Utilities, including with respect to distribution rates.
 - Under Ohio law, PUCO Vice Chairman Trombold will be the acting PUCO Chairman until a new chair is named. The PUCO Nominating Council is required to make recommendations on a new commissioner to Governor DeWine within 30 days.
- **State of Ohio Files H.B. 6 Lawsuits (Case Nos. 20CV-6281, et al).**
 - On September 23, 2020, Ohio Attorney General Dave Yost filed a civil lawsuit in the Franklin County Court of Common Pleas regarding the HB 6 scandal. The lawsuit names fourteen Defendants, including FirstEnergy Corporation, FirstEnergy Service, FirstEnergy Solutions, Energy Harbor, and Larry Householder. The Defendants face allegations of corruption, money laundering, and bribery. The State of Ohio is seeking monetary damages and to prevent the Defendants (including parent companies, subsidiaries, and assigns) from profiting from HB 6 or holding government offices or engaging in political activities in Ohio for eight years

- The judge overseeing the State of Ohio’s civil lawsuit regarding the H.B. 6 scandal denied the State’s preliminary request on First Amendment grounds, which sought to prevent Defendants from making political contributions or publicly speaking about the modification, repeal, or replacement of H.B. 6 through the end of 2020. Subsequently, FirstEnergy Corp. and its affiliates requested that the court dismiss the case. The State must file a response to the request for dismissal by December 7, 2020.
- On November 13, 2020, Ohio Attorney General Dave Yost filed a related lawsuit to prevent the collection and distribution of H.B. 6’s nuclear generation fee.
- **Supreme Court Rules that the PUCO Improperly Excluded DMR Revenues from FirstEnergy 2017 SEET Calculation (Slip Opinion No. 2020-Ohio-5450)**
 - Under SEET, the PUCO must determine annually whether a utility excessively earned under its electric security plan. On December 1, 2020, the Supreme Court of Ohio granted the Office of the Ohio Consumers’ Counsel’s (OCC) appeal and ruled that the PUCO improperly excluded the FirstEnergy Utilities’ Distribution Modernization Rider (DMR) revenues from the 2017 SEET.
 - The Court held that the PUCO’s order was unreasonable because it cited no language from the SEET statute justifying the exclusion of the DMR revenues and that, according to precedent, the DMR constituted an “adjustment” and must be included in the SEET.
 - Subsequently, the Court concluded that OCC demonstrated prejudice because customers are only protected if the PUCO conducts a valid SEET, but found that OCC cannot show that a refund is warranted until a new SEET is conducted. Lastly, the Court ordered the PUCO to conduct a new SEET proceeding in which it includes the DMR revenues in the analysis.

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.
- On April 16, 2020, FERC denied requests for rehearing and clarification of its Order, finding that PJM’s then-existing tariff was unjust and unreasonable.
- Shortly after, several parties, including Energy Harbor LLC, filed Petitions for Review in the D.C. Circuit Court regarding FERC’s orders establishing a replacement rate and denying requests for rehearing and clarification of the determination that the MOPR was unjust and unreasonable.
- In July 2020, intervenors requested that the Seventh Circuit Court of Appeals transfer petitions for review of FERC’s PJM MOPR orders pending in that court to the D.C. Circuit.
- In an October 2020 order, FERC determined that competitive, non-discriminatory state default auctions and revenue from Fixed Resource Requirement (FRR) capacity plans are not “state subsidies” subject to the expanded Minimum Offer Price Rule (MOPR). FERC also ordered that replacement capacity restrictions for state subsidized resources include transactions within a portfolio as well as bilateral transactions.
- FERC then directed PJM to submit a compliance filing no later than November 16, 2020 revising: (1) resource exemptions from the MOPR; (2) sellers’ requirements to notify PJM of material change in subsidy status; and (3) provisions determining when a resource that claims a competitive exemption and then accepts a state subsidy will forfeit its capacity revenue. FERC granted PJM waivers from several tariff provisions relating to the timing and pre-auction processes of the base residual auction (BRA) but prohibited PJM from commencing the BRA schedule until FERC issues a subsequent order on a compliance filing in another proceeding.

- Subsequently, the Independent Market Monitor for PJM requested that FERC provide an exact definition of FRR revenues and clarify that additional revisions are necessary to address FERC’s directive regarding replacement capacity transactions.

FERC Rulemaking

- **Proposed Grid Reliability and Resiliency Rule (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 comments opposing the proposed rule and supporting the arguments of other manufacturing coalitions.
 - 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.
 - On June 22, 2020, the PUCO submitted comments on PJM’s compliance filings to implement the expanded MOPR in its capacity market. PUCO requested that FERC reconsider its inclusion of state default auctions in the definition of “state subsidy.” The PUCO opposed PJM’s proposal to require that each Demand Response registration be associated with one-end customer location. Lastly, the PUCO encouraged FERC to resolved outstanding MOPR-related issues so that PJM can conduct a Base Residual Auction for 2022/2023.

- On October 15, 2020, FERC ordered that state default auctions are not “state subsidies” subject to the expanded MOPR, directed PJM to file compliance tariffs no later than November 16, 2020, and prohibited PJM from commencing the BRA schedule until FERC issues a subsequent order on a compliance filing in another proceeding.
- **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. A version of this that released claims of FES and only other creditors who opted into the release was ultimately approved.
 - FES filed a motion for approval of its sale to Exelon Generation Company (Exelon), the parent company of Constellation Energy, which was later withdrawn.
 - 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.
 - 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. After FES’s Chapter 11 plan became effective, the company changed its name to Energy Harbor, LLC.
- 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”).
- On May 18, 2020, FES entered into a proposed settlement with OVEC under which it would maintain its responsibilities under the OVEC agreement.
- On June 15, 2020, a federal bankruptcy court approved the settlement agreement between Energy Harbor and OVEC. Energy Harbor will assume the role and obligations of FES in the OVEC contract as of June 1, 2020. Energy Harbor will pay OVEC \$32.5 million in exchange for OVEC permanently withdrawing the lawsuit.
- In light of the HB 6 scandal, the judge presiding over Energy Harbor’s bankruptcy case has ordered that the millions of dollars in fees and expenses for the utility’s outside law firms be held until November to provide the U.S. Attorney an opportunity to weigh in on how to proceed.

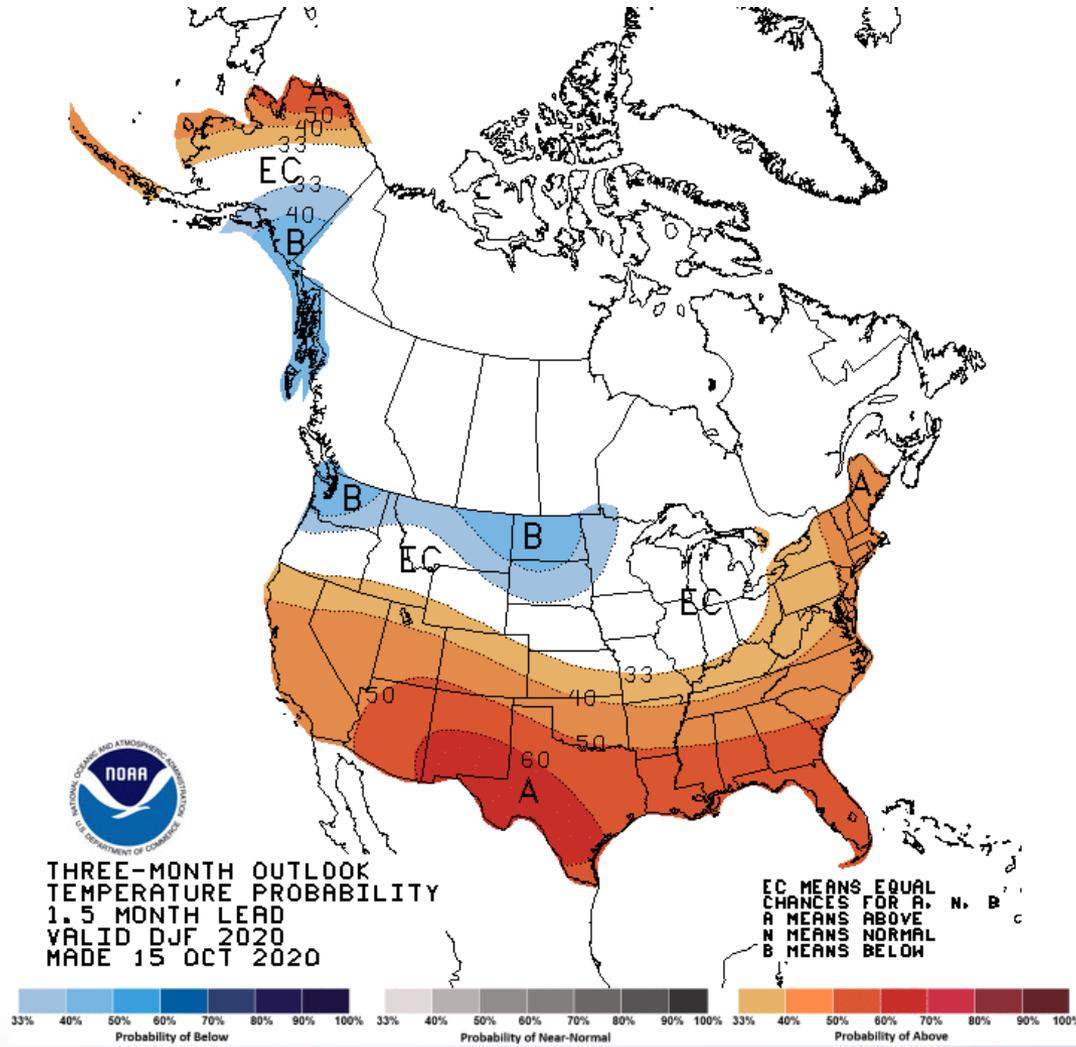
- The Environmental Law & Policy Center, Environmental Defense Fund, Ohio Citizen Action, and the Ohio Environmental Council requested that the Sixth Circuit direct the bankruptcy court that confirmed FES' reorganization plan in October 2019 to consider suspending the execution of the reorganization due to the H.B. 6 scandal.
- **U.S. Attorney Initiates H.B. 6 Prosecution (Case No. 1:20-MJ-00526)**
 - The U.S. Attorney for the Southern District of Ohio initiated a criminal prosecution against former Ohio House of Representatives Speaker Larry Householder, along with four other individuals and Generation Now, a 501(c)(4) organization, for allegedly engaging in a bribery scheme to pass the H.B. 6 nuclear bailout.
- **FERC Electric Transmission Incentives (Docket RM20-10-000)**
 - FERC recently released a Notice of Proposed Rulemaking (NOPR) which will almost certainly increase transmission rates for all electric consumers. The FERC NOPR proposes giving financial rewards to companies that build electric transmission projects. Specifically, the NOPR proposes allowing transmission owners to receive up to a 250-basis point adder to their current transmission return on equity. Since 2012, electric transmission costs have increased more than 52%. The FERC NOPR established a comment deadline of July 1, 2020.
 - In April 2020, OMAEG joined 60 other consumer groups in requesting an extension to protect customers from unwarranted transmission rate increases as customers deal with challenges associated with the COVID-19 emergency. The motion requests that FERC delay the comment process, by extending the comment deadline to the earlier of 30 days after the national emergency is lifted or October 1, 2020.
 - On May 15, 2020, FERC denied the request to delay and the deadline to comment on the NOPR remains July 1, 2020.
 - OMAEG joined the American Manufacturers' comments on FERC's NOPR and advocated for transmission incentive policies that ensure just and reasonable rates for the benefit of consumers.
 - The PUCO also submitted comments on FERC's NOPR and recommended limited incentives to avoid unnecessary overinvestment in the transition grid.
- **Columbia Transmission Rate Case (Docket RP20-1060)**
 - On July 31, 2020, Columbia filed a rate case with FERC to recoup roughly \$3 billion in capital and operational expenses associated with its transmission system.
 - OMAEG has joined the case to protect members' interest.
 - A prehearing conference will occur on October 7, 2020 to establish a procedural schedule and discuss other relevant matters.
 - A procedural schedule was established. Intervenor testimony is due March 26, 2021, a hearing will commence on June 17, 2021, and an initial decision will be issued on November 17, 2021.

Natural Gas Update OMA Energy Committee

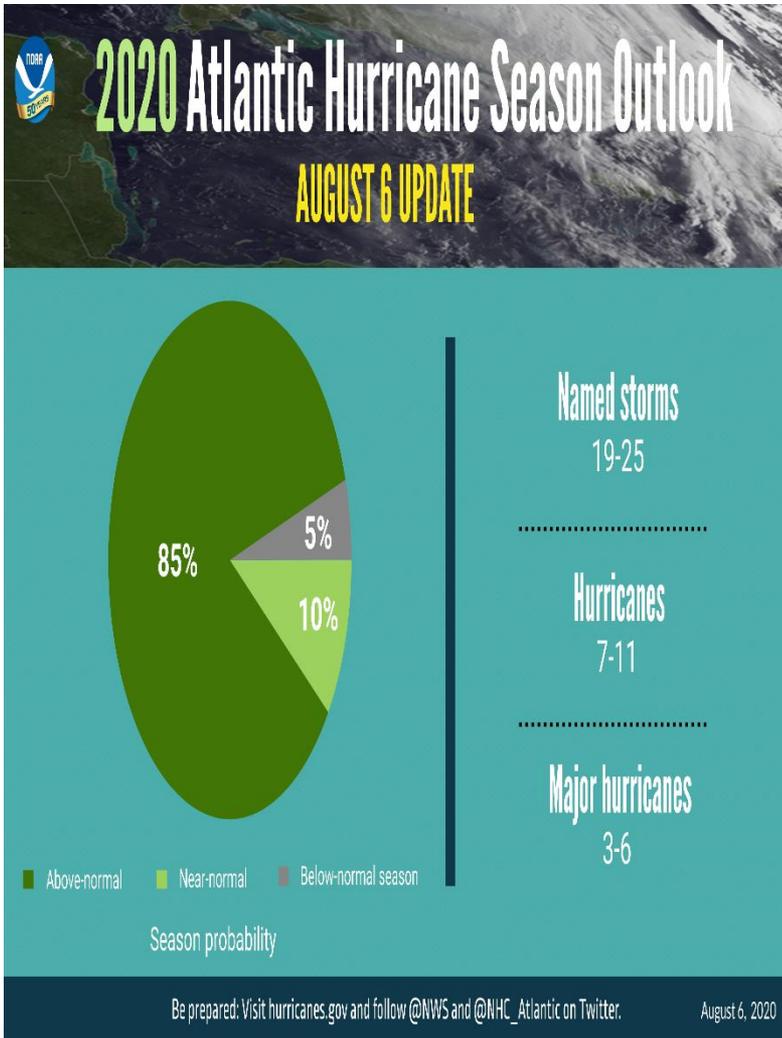
**Darin King
NiSource/Columbia Gas of Ohio
December 2, 2020**

Weather & Outlook

NOAA Temperature Outlook: Dec, Jan, Feb



NOAA Hurricane Outlook: “Extremely Active” Predicted



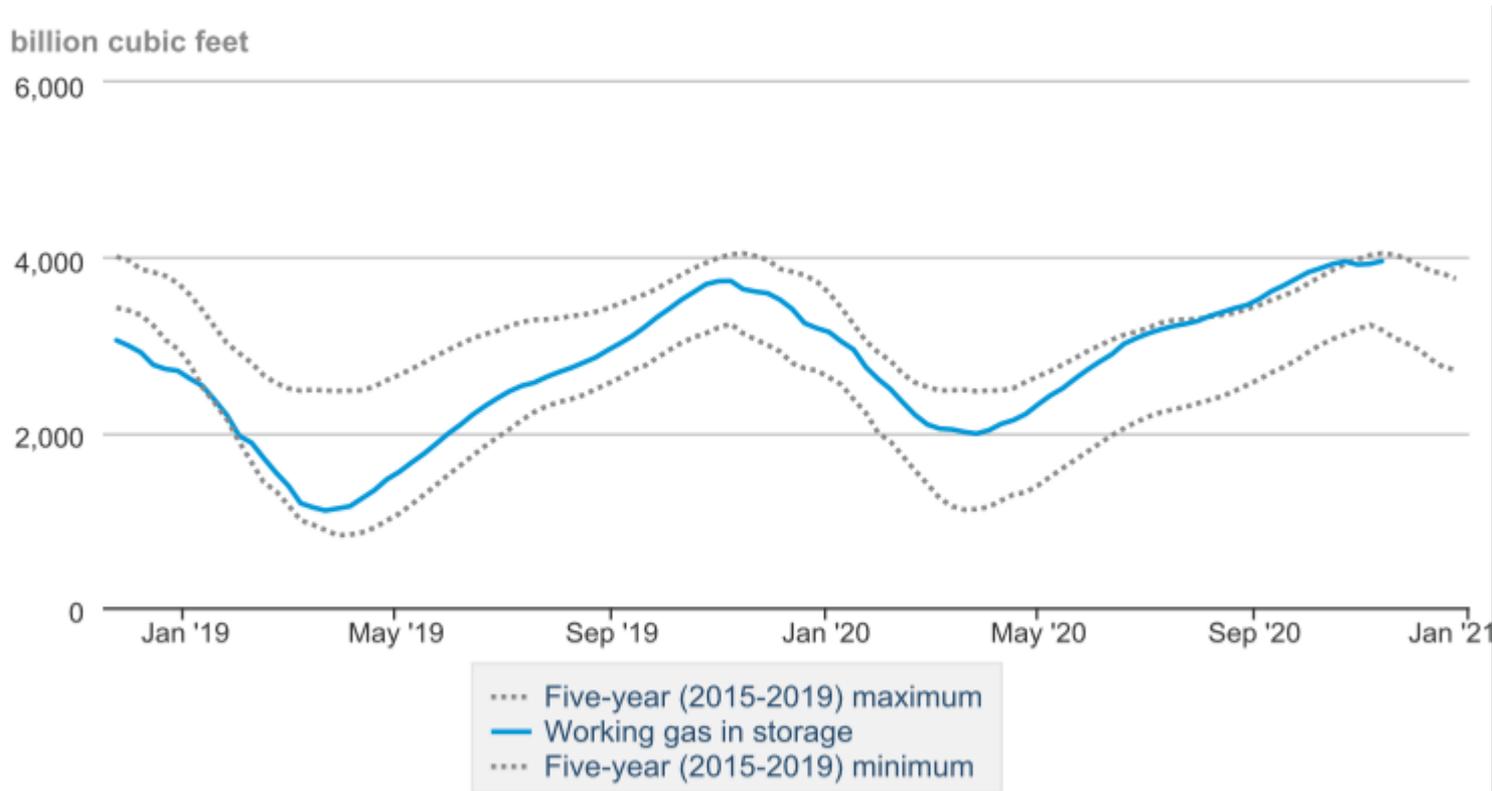
Summary Table

Name	Dates	Max Wind (mph)
TS Arthur	16-19 May	60*
TS Bertha	27-28 May	50*
TS Cristobal	1-9 Jun	60
TS Dolly	22-24 Jun	45
TS Edouard	4-6 Jul	45
TS Fay	9-11 Jul	60
TS Gonzalo	21-25 Jul	65
H Hanna	23-27 Jul	90
H Isaias	30 Jul-5 Aug	85
TD Ten	31 Jul-1 Aug	35
TS Josephine	11-16 Aug	45
TS Kyle	14-16 Aug	50
MH Laura	20-28 Aug	150
H Marco	20-25 Aug	75
H Nana	1-4 Sep	75
TS Omar	31 Aug-5 Sep	40
H Paulette	7-22 Sep	105
TS Rene	7-14 Sep	50
H Sally	11-17 Sep	105
MH Teddy	12-22 Sep	140
TS Vicky	14-17 Sep	50
TS Wilfred	18-20 Sep	40
SS Alpha	18 Sep	50
TS Beta	17-22 Sep	60
TS Gamma	2-5 Oct	70
MH Delta	4-10 Oct	145
MH Epsilon	19-26 Oct	115
H Zeta	24-29 Oct	110
TS Eta	31 Oct-	40

Storage & Gas Pricing

Storage – Above the 5 Yr Average

Working gas in storage was 3,958 Bcf as of Friday, November 13, 2020, according to EIA estimates. Stocks were 293 Bcf higher than last year at this time and 231 Bcf above the five-year average.



Source: Form EIA-912, *Weekly Underground Natural Gas Storage Report*

Historical Storage Capacity

Total underground storage capacity, including active and inactive fields (billion cubic feet)

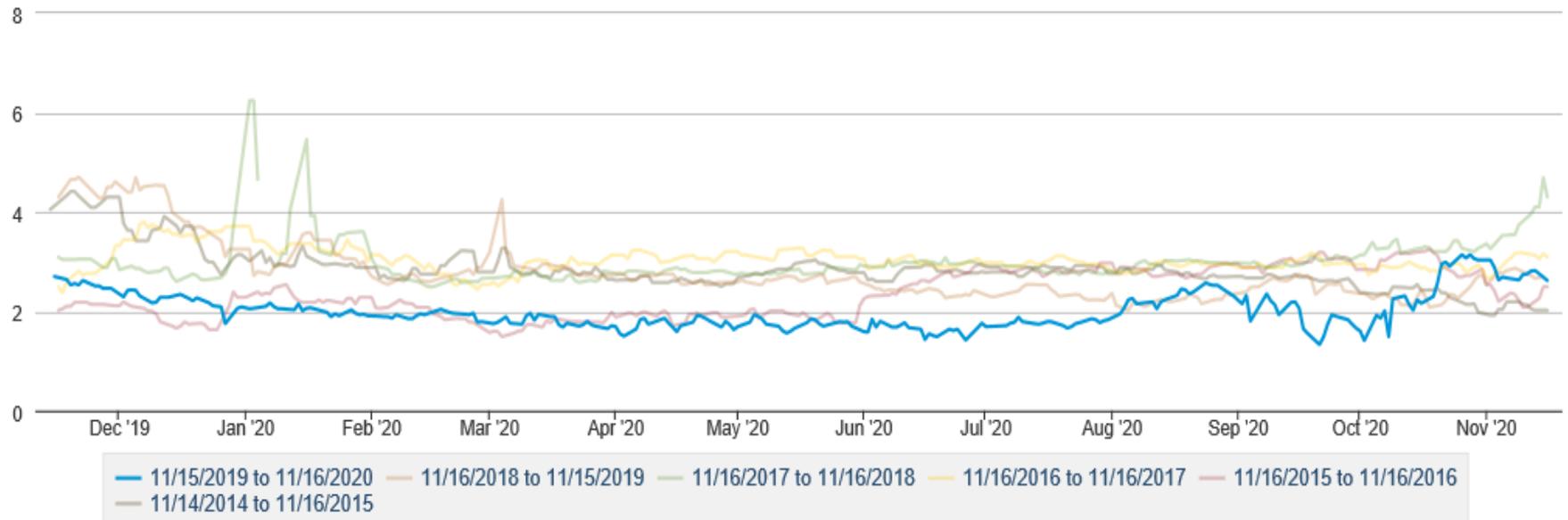
Decade	Year-0	Year-1	Year-2	Year-3	Year-4	Year-5	Year-6	Year-7	Year-8	Year-9
1970s						6,280	6,544	6,678	6,890	6,929
1980s	7,434	7,805	7,915	7,985	8,043	8,087	8,145	8,124	8,124	8,120
1990s	7,794	7,993	7,932	7,989	8,043	7,953	7,980	8,332	8,179	8,229
2000s	8,241	8,182	8,207	8,206	8,255	8,268	8,330	8,402	8,499	8,656
2010s	8,764	8,849	8,991	9,173	9,233	9,231	9,239	9,261	9,241	9,231

Need to change label to settlement waiting on Dwayne.....NYMEX Prompt Month Settlement – 5 Years

Henry Hub Natural Gas Spot Price

 DOWNLOAD

Dollars per Million Btu



NYMEX Spot Price History

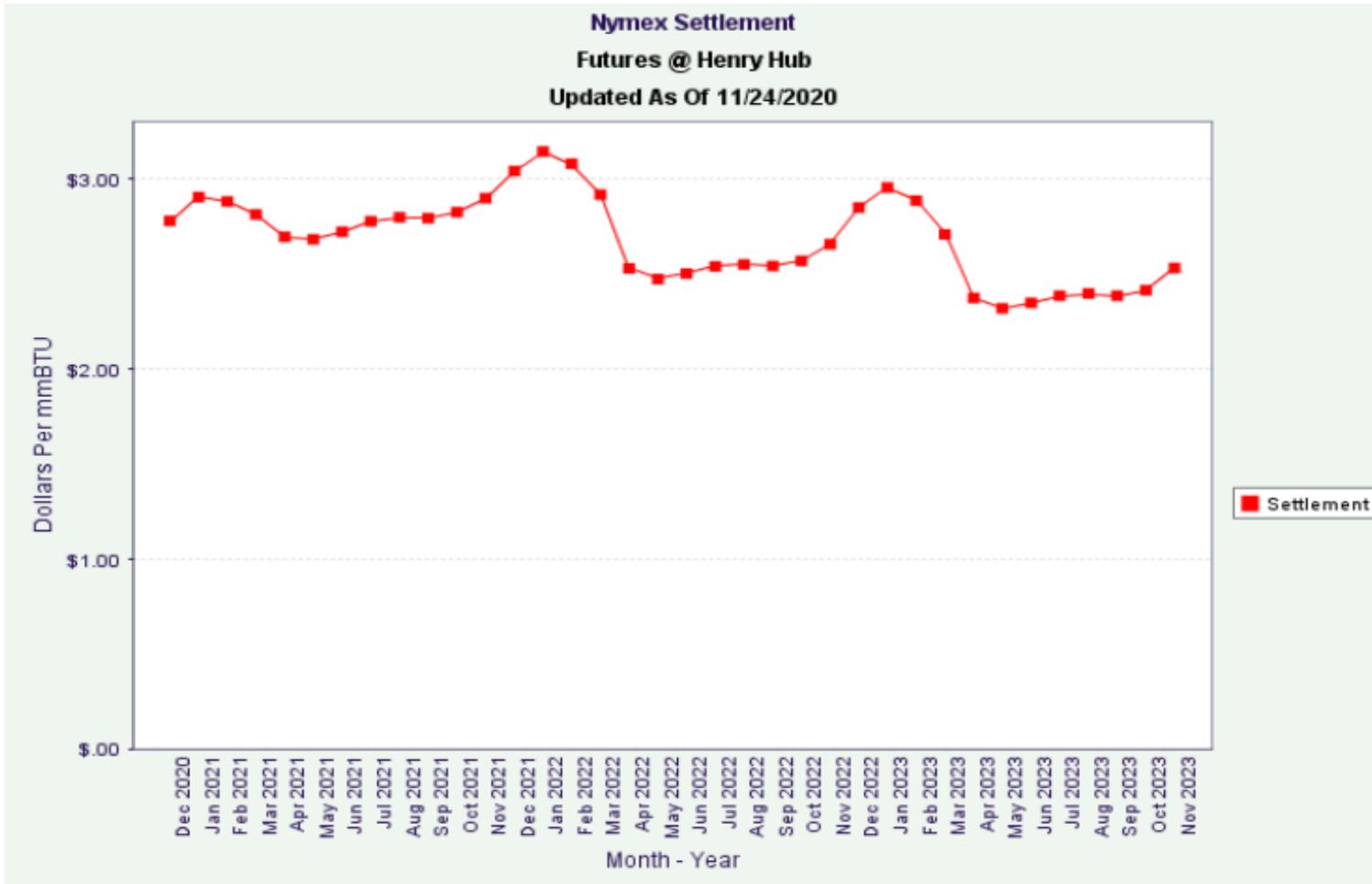
Natural gas spot prices (Henry Hub)

dollars per million British thermal units



Source: Natural Gas Intelligence

NYMEX Futures Settlement – 11/24/2020



NYMEX Term Pricing - Lower

<u>TERM</u>	<u>PRICE 9-4-20</u>	<u>PRICE 11-24 -20</u>
3 month	\$2.89	\$2.84 (-\$0.05)
6 month	\$3.10	\$2.78 (-\$0.32)
12 month	\$2.97	\$2.79 (-\$0.24)
18 month	\$2.98	\$2.81 (-\$0.21)

Select Hub Pricing – Nov 24, 2020 – Mixed

<u>HUB LOCATION</u>	<u>9-4-20</u>	<u>11-24-20</u>	
Henry Hub	\$2.32	\$2.23	(-\$0.09)
Houston Ship Channel	\$2.34	\$2.36	(+\$0.02)
TCO Pool	\$1.74	\$2.06	(+\$0.32)
Dominion South Point	\$1.44	\$1.40	(-\$0.04)
TETCO M-2	\$1.42	\$1.43	(+\$0.01)
TGP Zone 4	\$1.33	\$1.65	(+\$0.32)

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

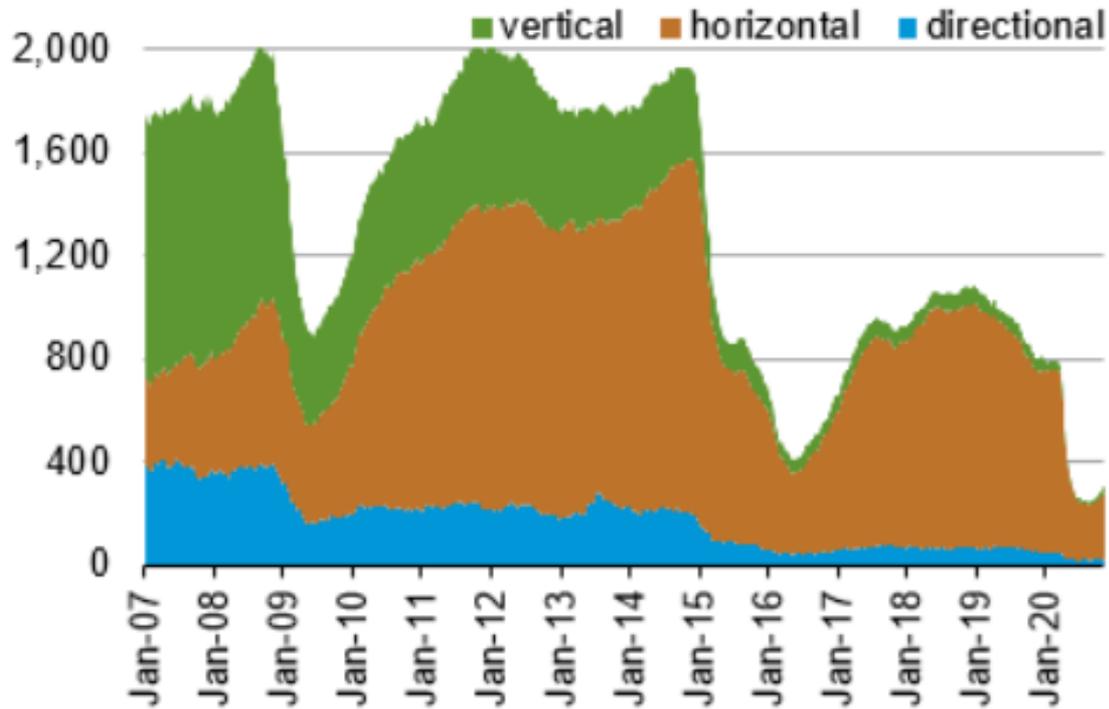
Note that Appalachian price increase is smaller than most areas due to strong production supply

Production, Demand, & Rig Count

Rig Count 11/10/2020

Weekly total rig count

active rigs



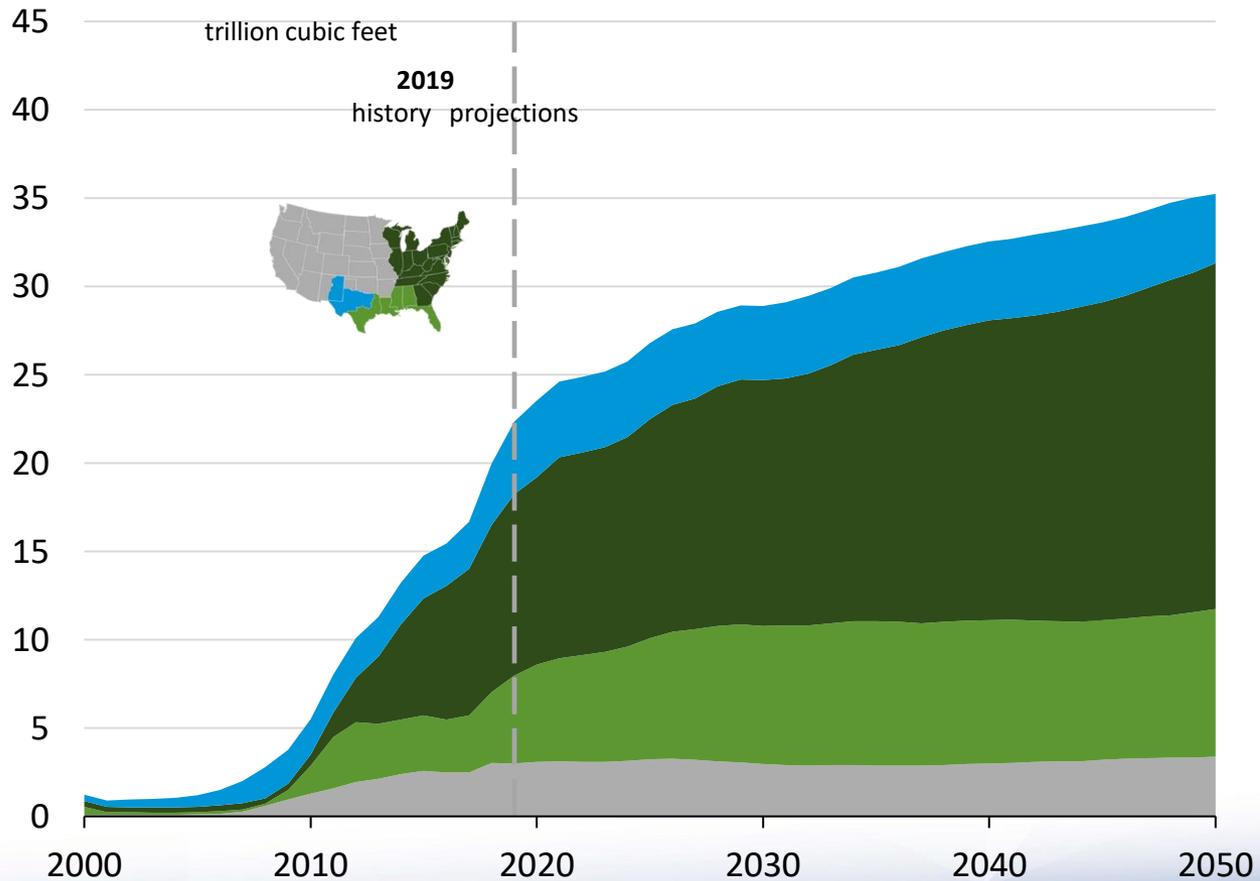
Source: Baker Hughes Co.

Oil Rigs 236

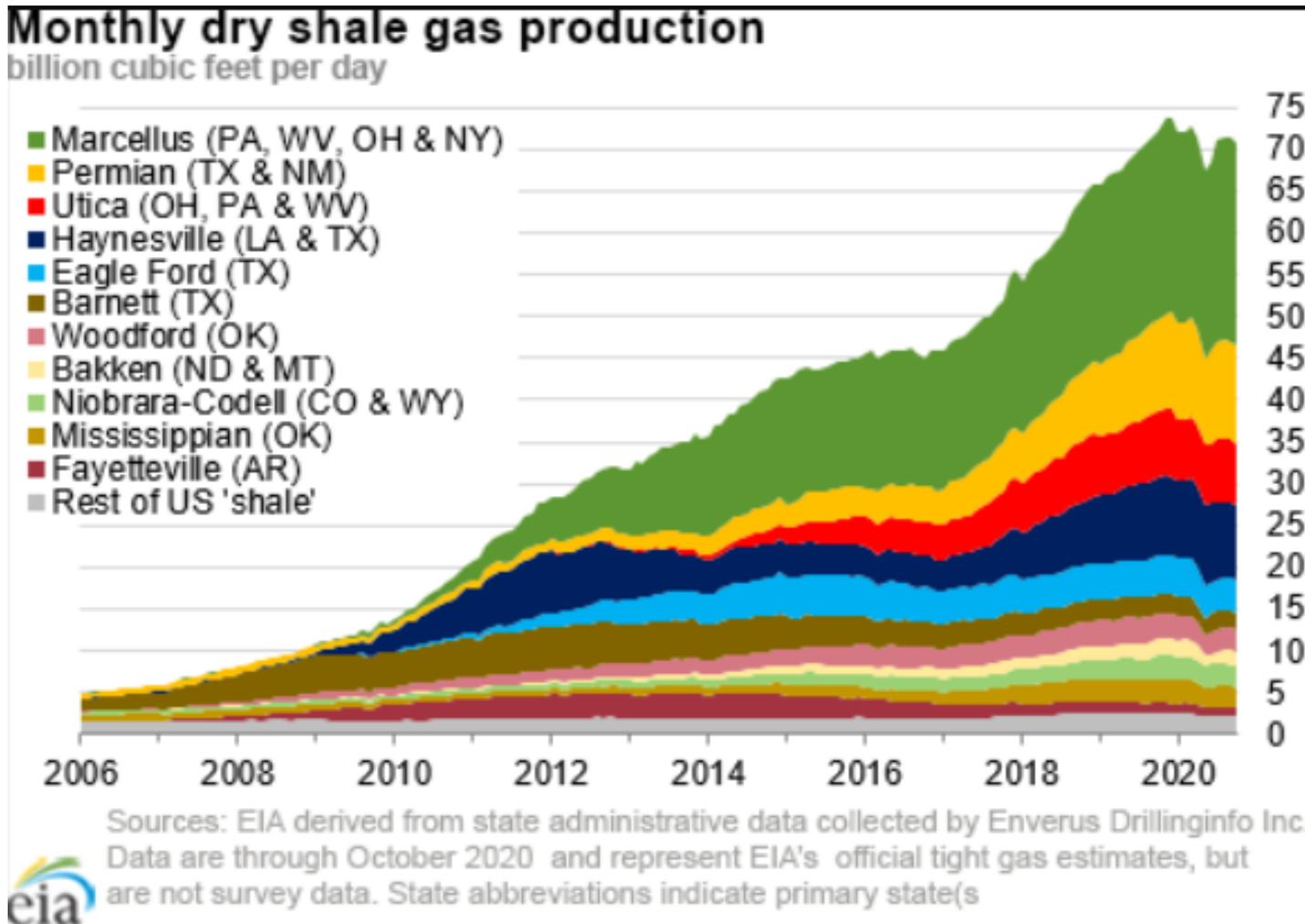
Gas Rigs 73

Eastern U.S. production of natural gas from shale resources

AEO2020 dry shale gas production by region



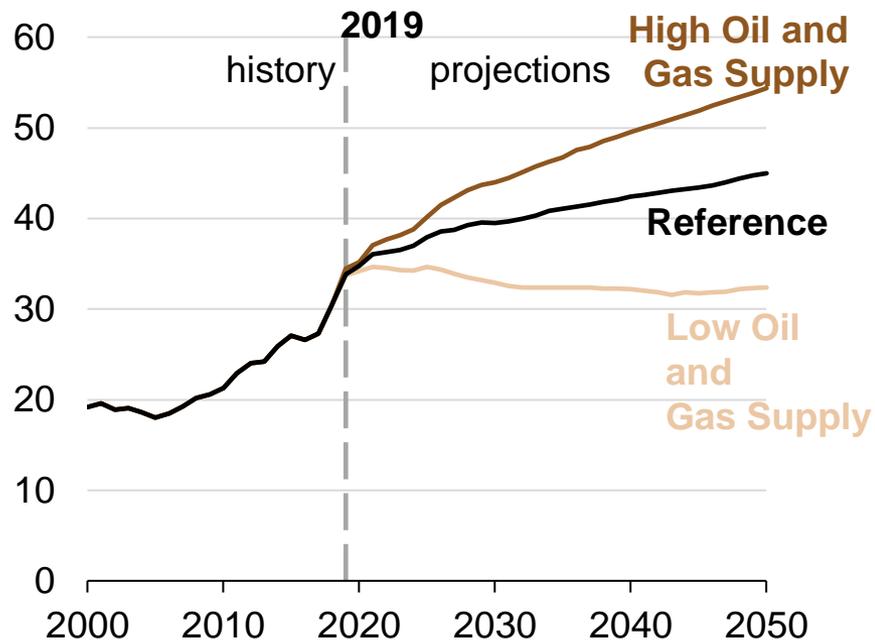
Recent Shale Gas Production Slight Decline – Low Prices



Prices Depend on Resources and Technology

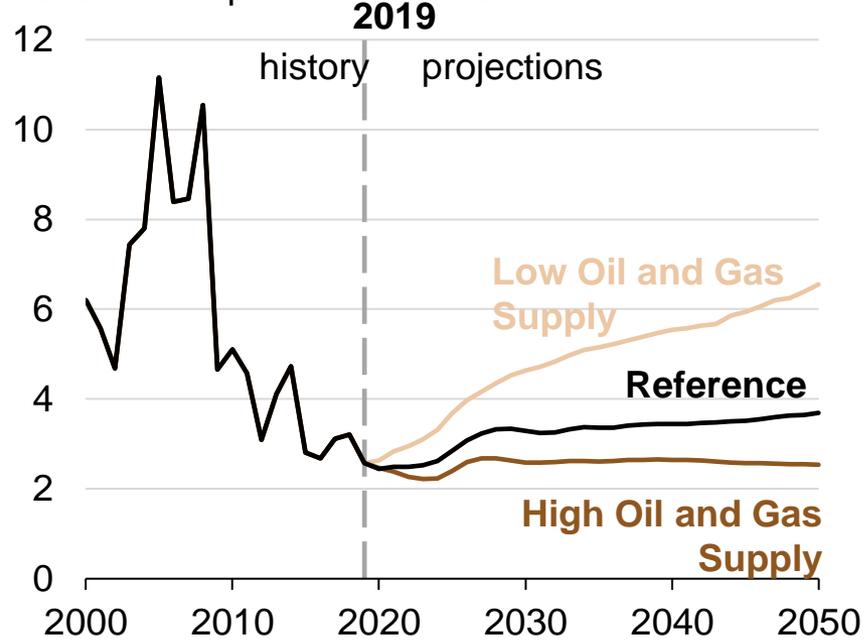
AEO2020 dry natural gas production

trillion cubic feet



AEO2020 natural gas spot price at Henry Hub

2019 dollars per million British thermal units



EIA.gov Annual Energy Outlook 2020

US Gas Production vs. Consumption

Production Growth slows to 1.9% 2020-2025,
versus the 5.1% from 2015-2020

Consumption Growth slows to **FLAT** 2020-2030,
due to lower Industrial consumption, as well as
lower Electrical Generation consumption

After 2030, Consumption starts to grow by 1%
annually

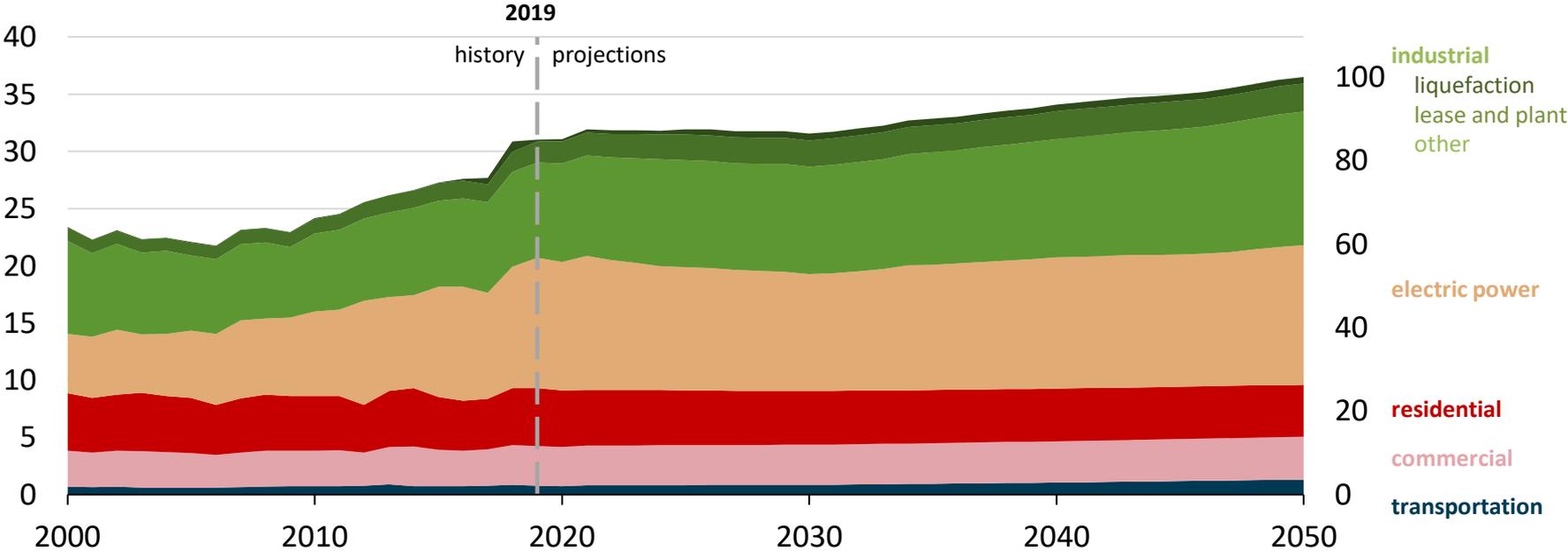
EIA.gov AEO 2020

Industrial and electric power demand drives U.S. natural gas consumption growth

Natural gas consumption by sector (AEO2020 Reference case)

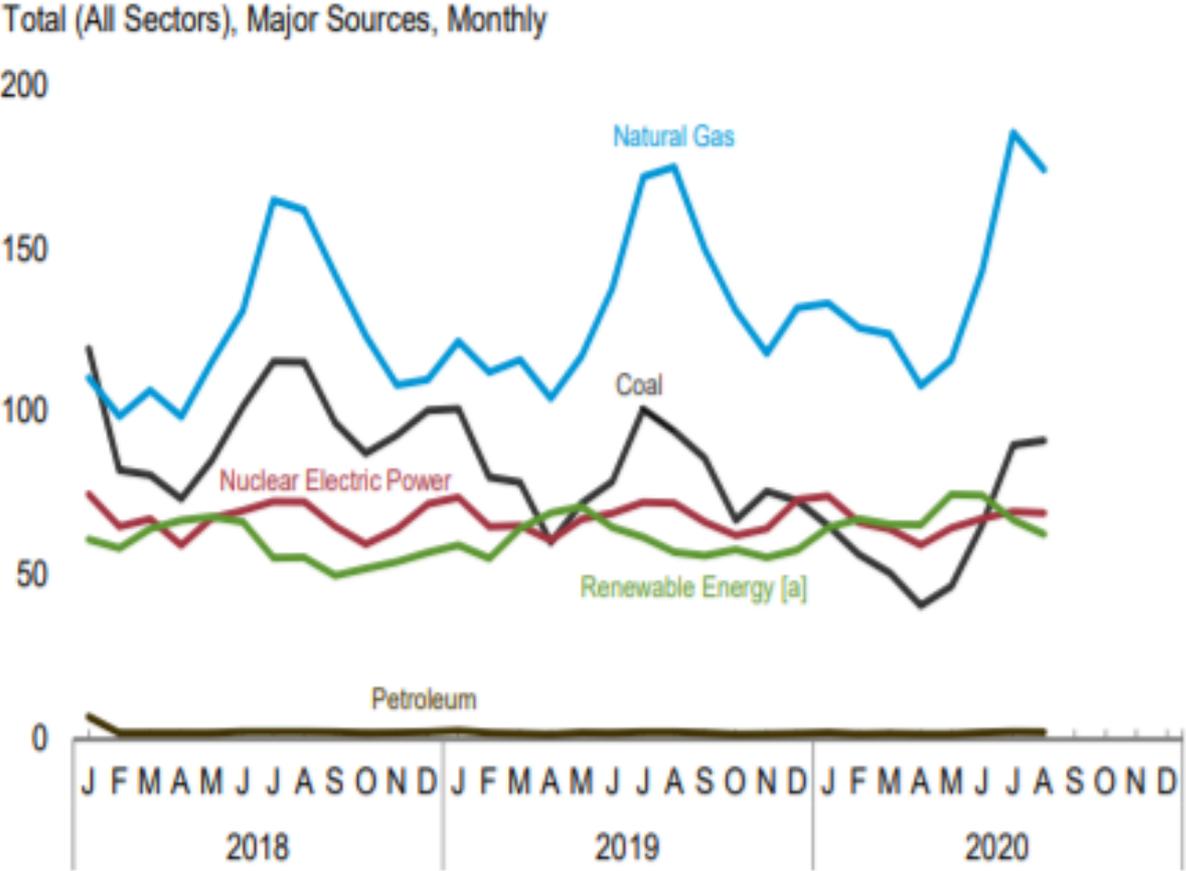
trillion cubic feet

billion cubic feet per day



EIA.gov AEO 2020

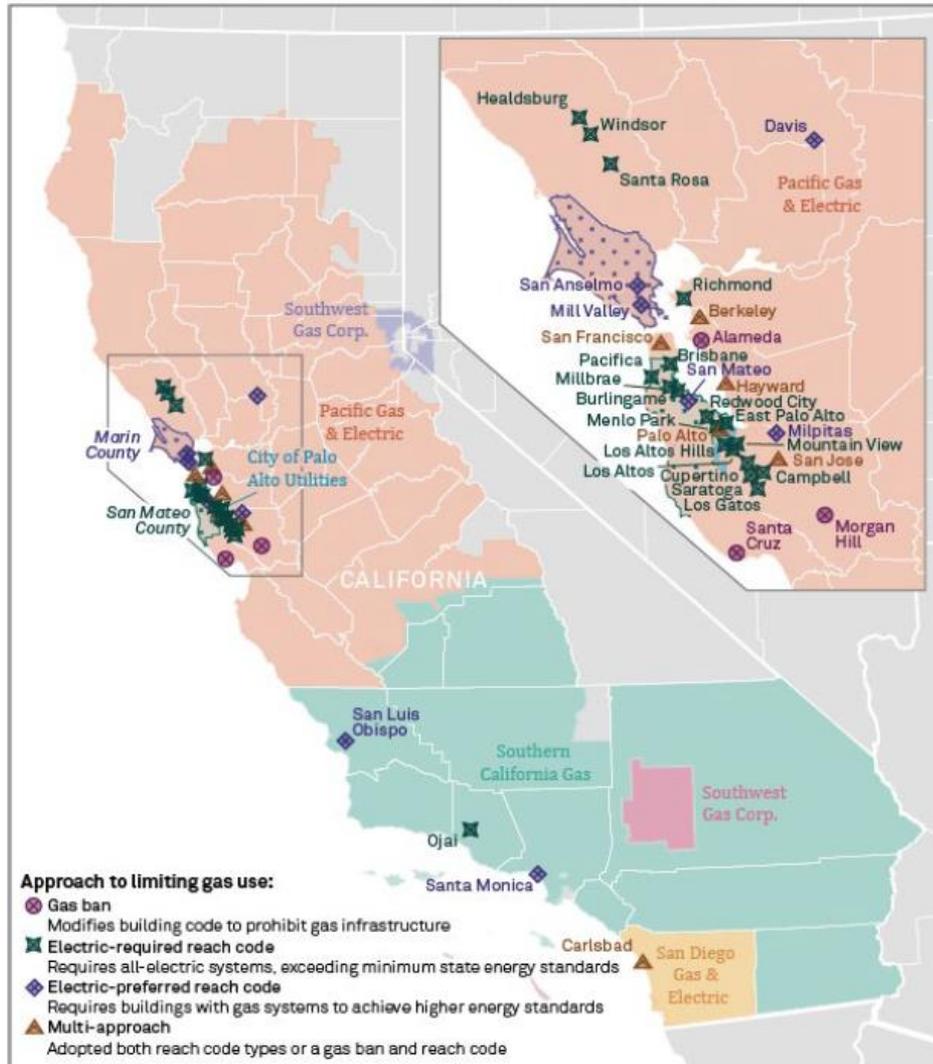
Industrial and electric power demand drives U.S. natural gas consumption growth



Recent Developments

Natural Gas Bans & No Natural Gas Bans

Building gas bans and electrification reach codes passed in California
 Natural gas utility service areas as defined by California Energy Commission



Data as of Nov. 20, 2020.
 Map credit: Elizabeth Thomas and Ciaralou Agaplo Palicpic
 Sources: Building Decarbonization Coalition; Sierra Club; California Energy Commission

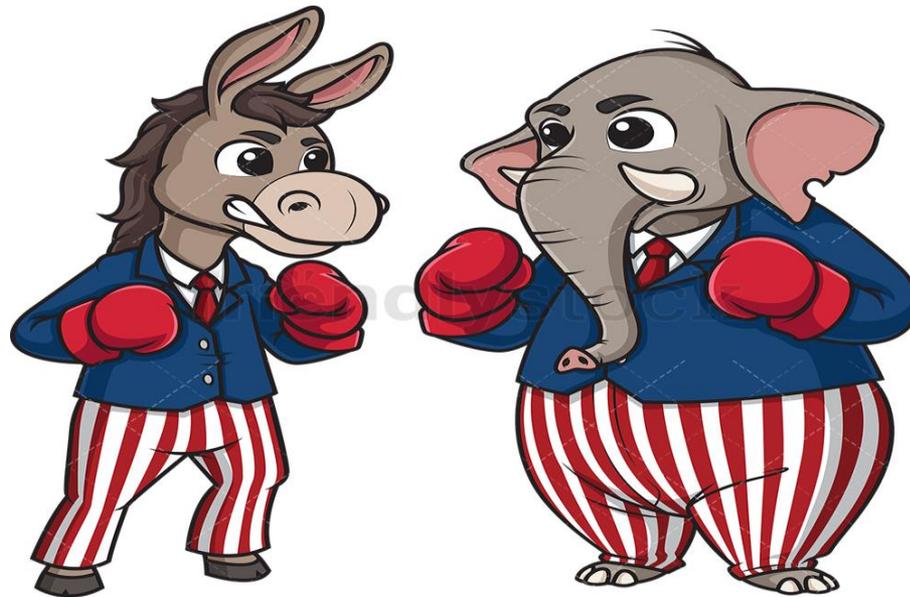
S&P Global
 Market Intelligence

Petroleum Products Pricing

<u>TERM</u>	<u>PRICE 9/2019</u>	<u>PRICE 9/2020</u>
Crude	\$62	\$41
Gasoline	\$2.59	\$2.16
Fuel Oil	\$1.33	\$1.19
Jet Fuel	\$1.86	\$1.16

The Likely Biggest Development Coming

????



Thank You

Electricity Market Update

December 2020



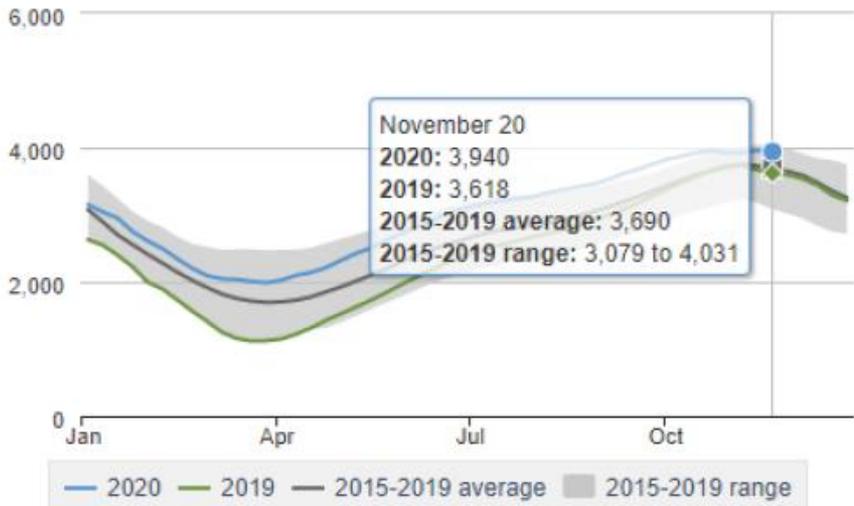
scioto energy

Natural Gas Storage

Lower 48 weekly working gas in underground storage



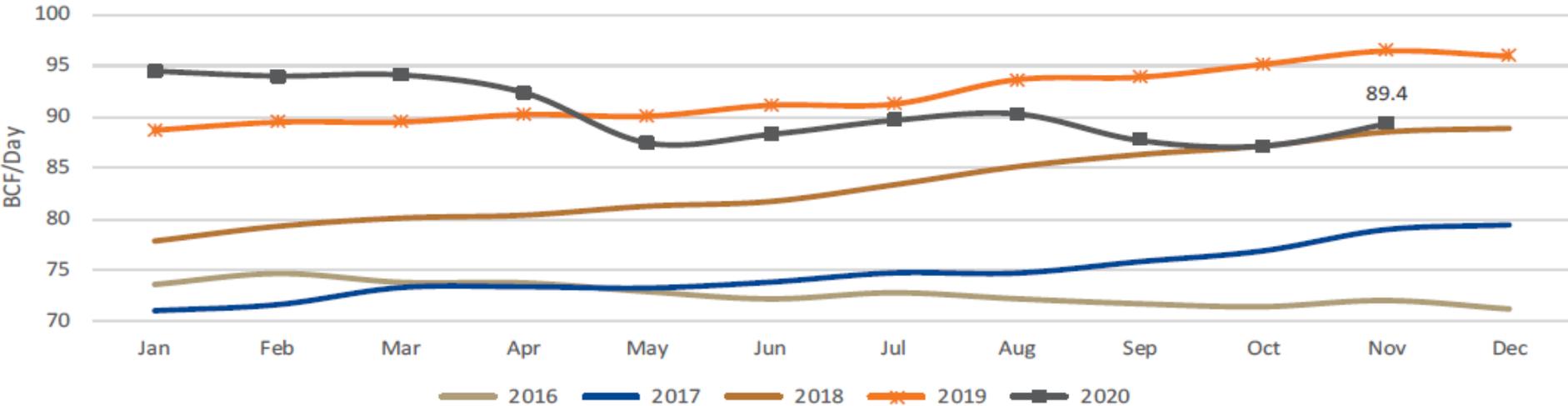
billion cubic feet



- 6.7% above the 5-year average
(Last update was 15% above the 5-year average)

Natural Gas Production

US Production of Dry Natural Gas: EIA 2020 Forecast Ave: 89.65 BCF/Day
 Current 2020 Ave: 90.49 BCF/Day



Dry Natural Gas Production

Monthly Dry Gas Production - Shale (BCF/Day)

09.01.20 Production Analysis

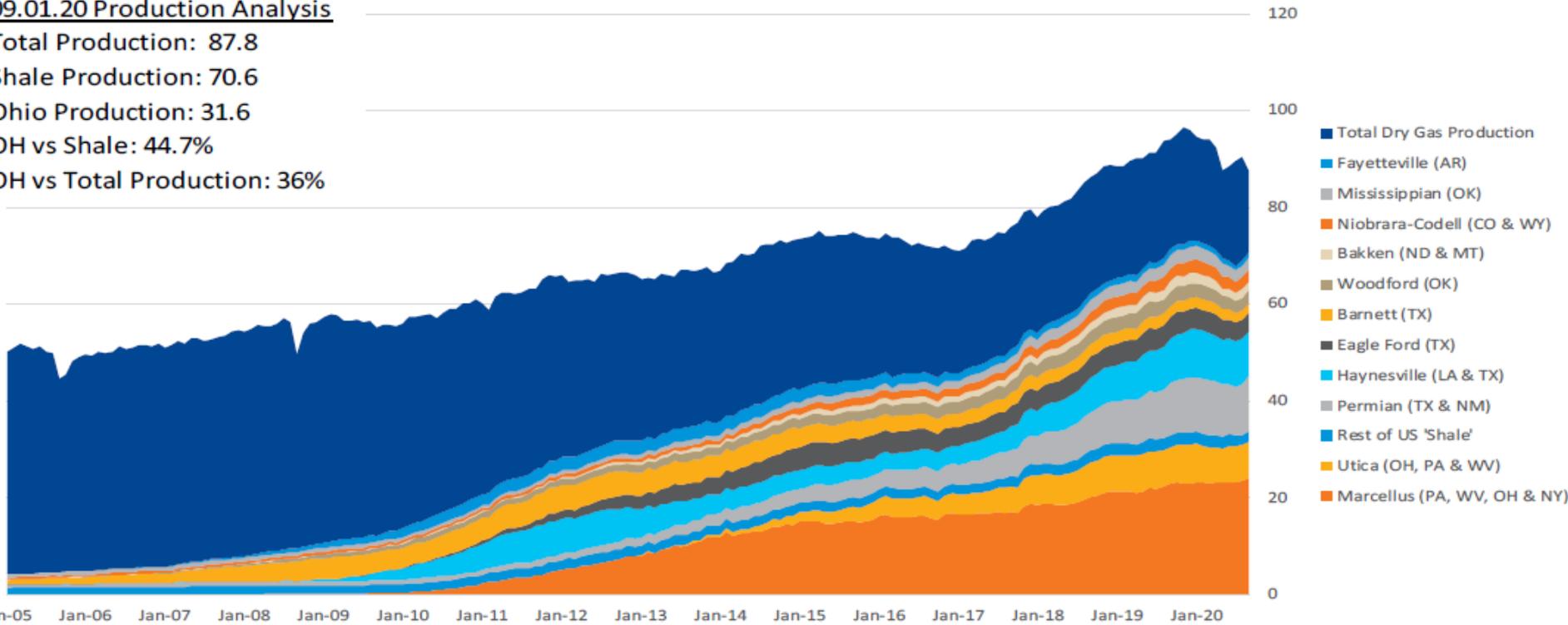
Total Production: 87.8

Shale Production: 70.6

Ohio Production: 31.6

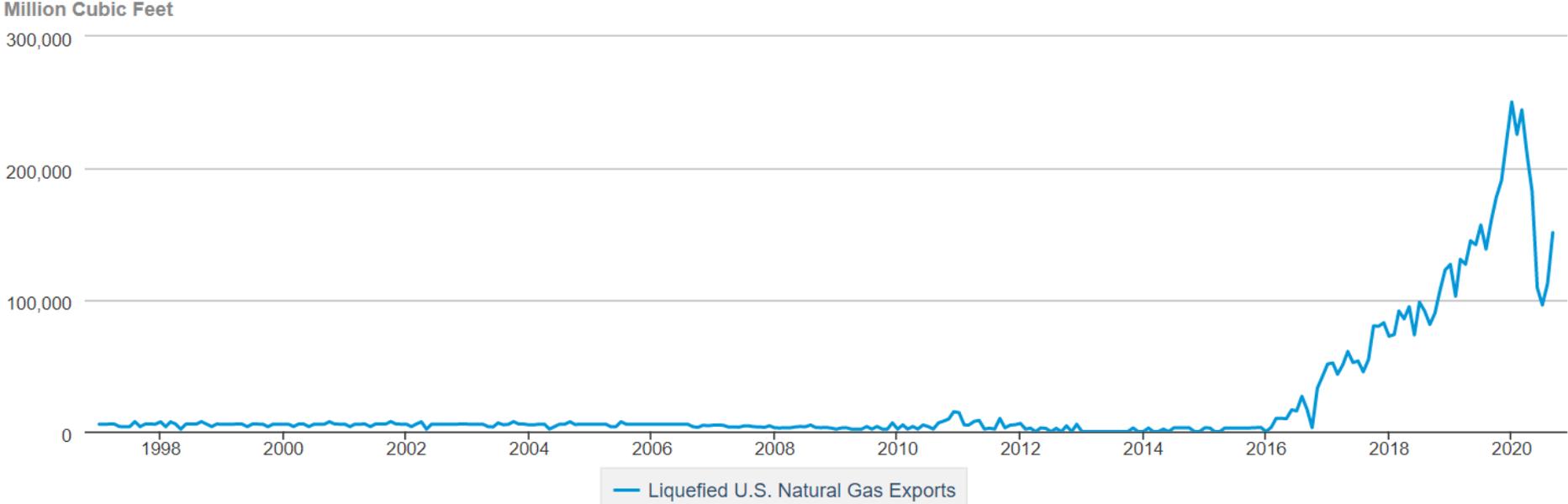
OH vs Shale: 44.7%

OH vs Total Production: 36%



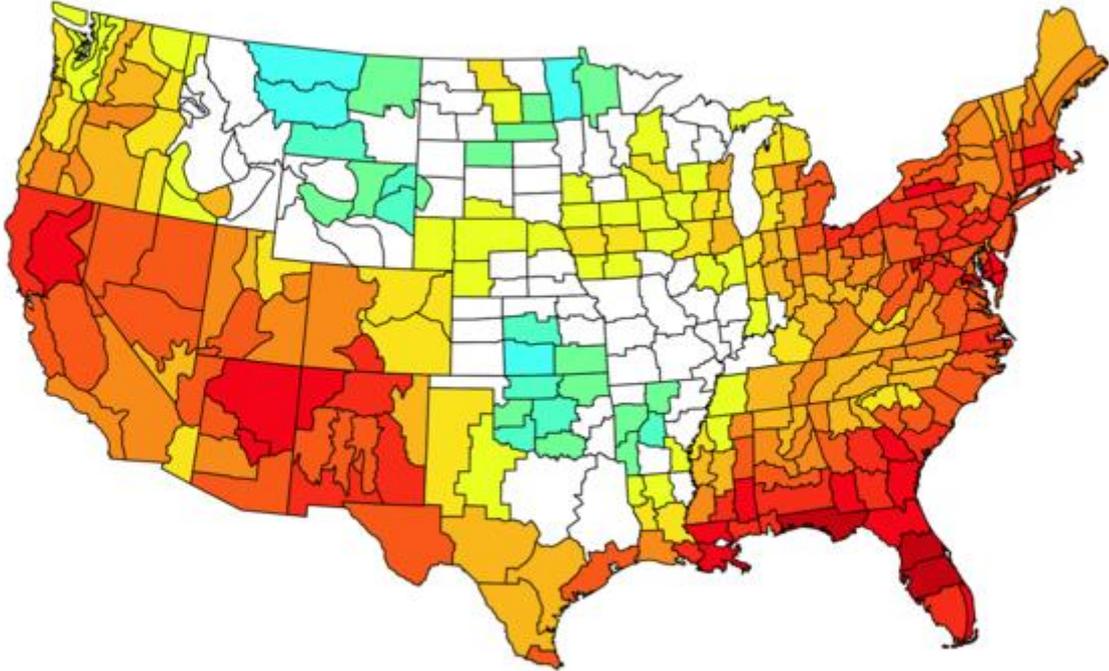
Liquefied U.S. Natural Gas Exports

 [DOWNLOAD](#)



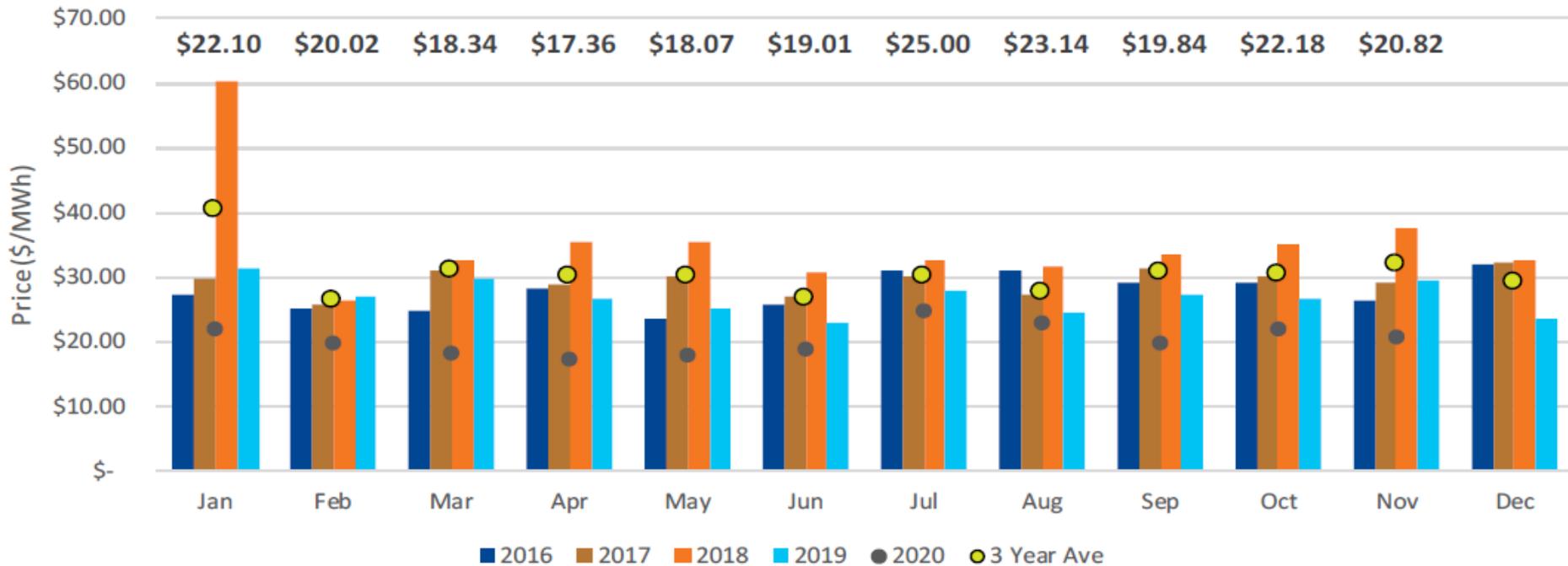
2020 Temperature Anomalies

NOAA/NCEI Climate Division Temperature Anomalies (F)
Jan to Oct 2020
Versus 2007–2016 Longterm Average

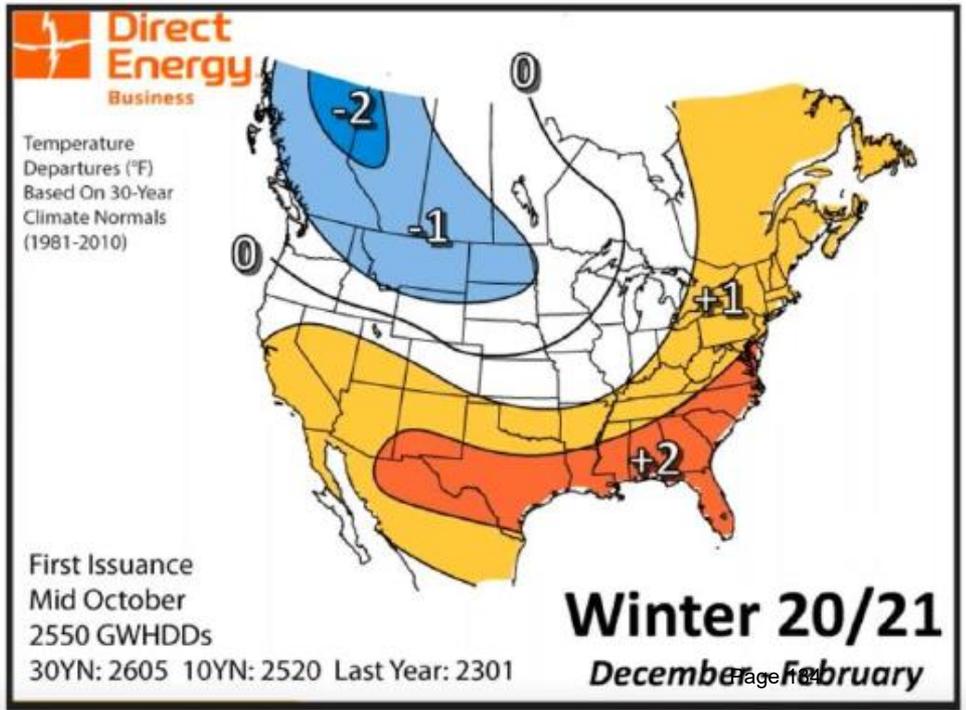
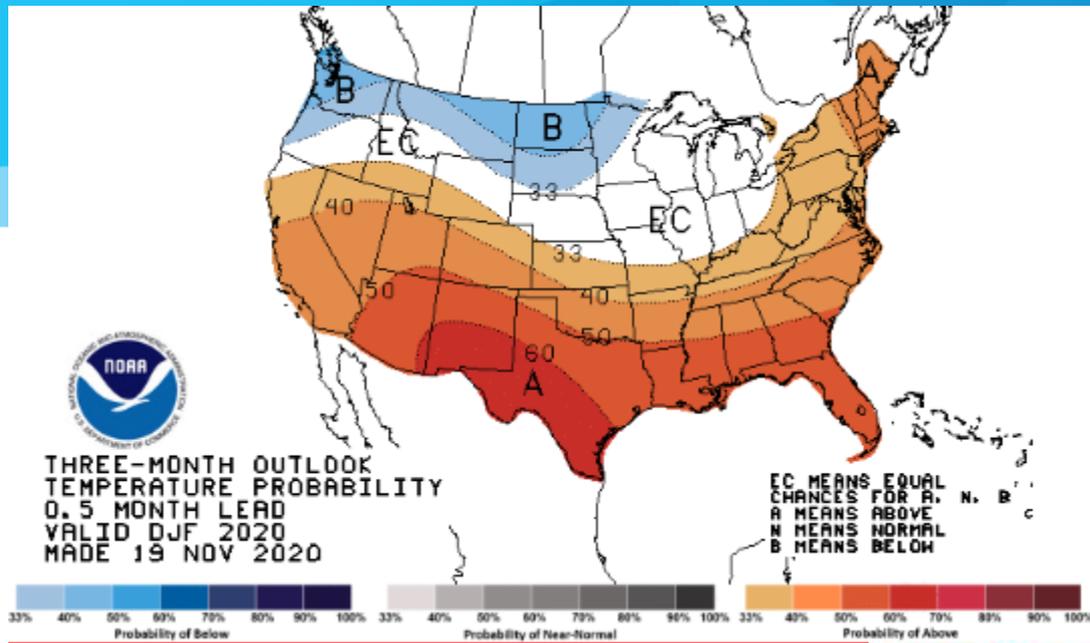


AD Hub Day Ahead Averages

DA LMP Averages with Monthly Average Pricing

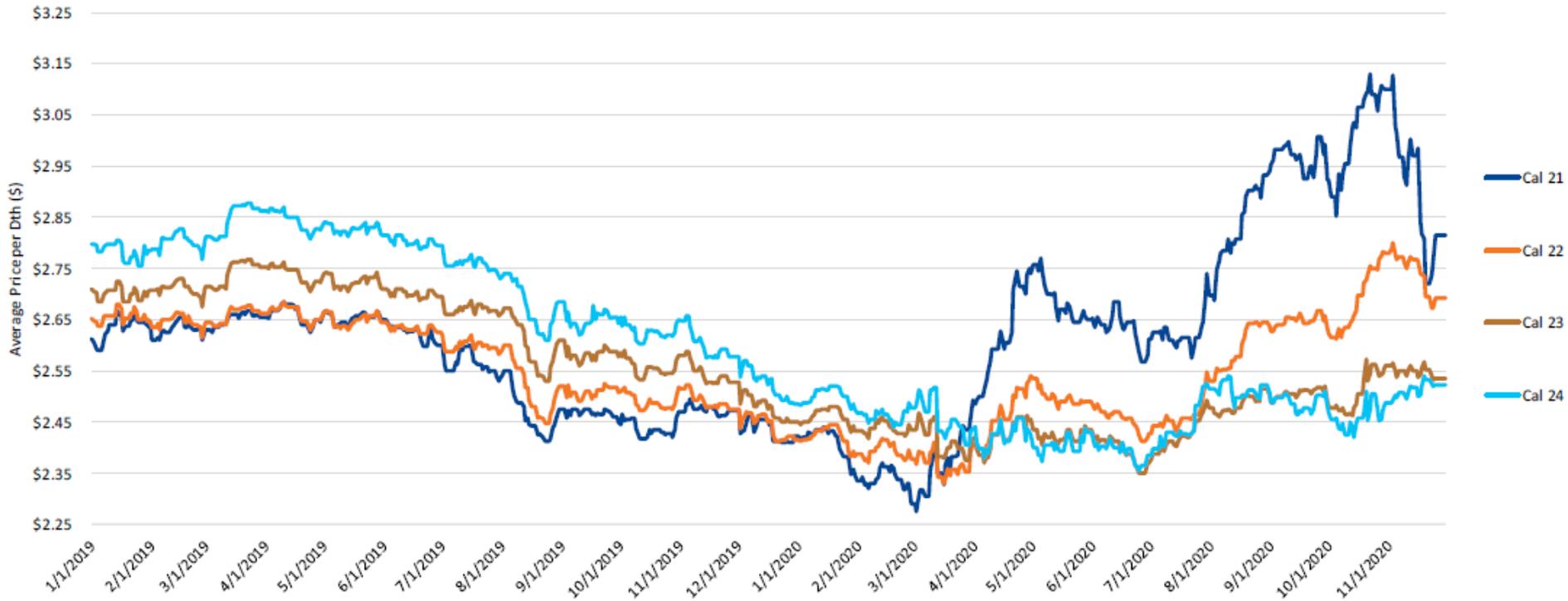


Winter Outlook



NYMEX Natural Gas Futures

NYMEX Average Wholesale Prices



Electricity Forwards

AEP Dayton Hub Annual Average Wholesale Prices



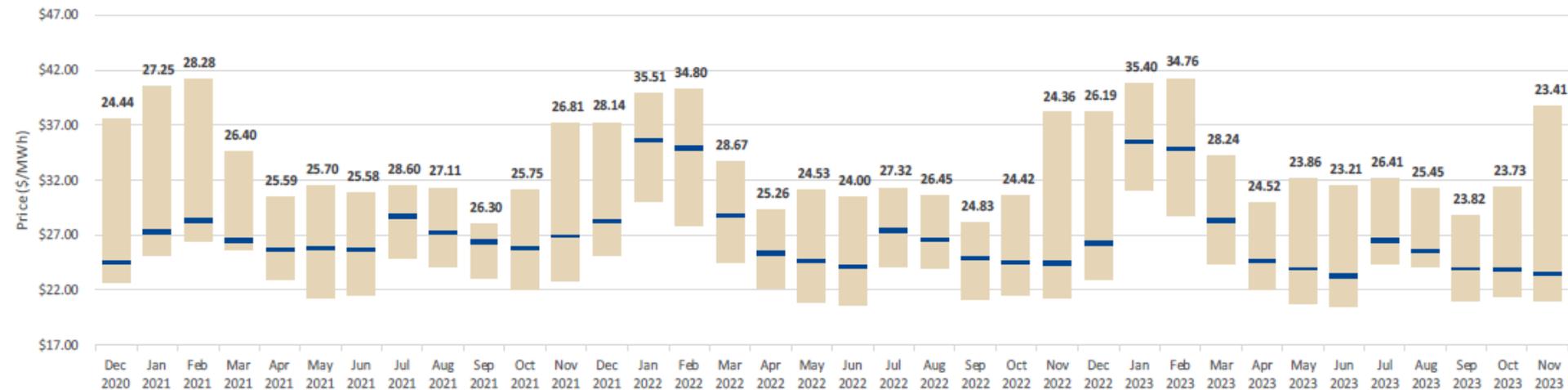
Electricity Forwards

Power RTC \$ / MWh on 11.30.20

From	1/1/2016	1/1/2017	1/1/2018	1/1/2019	1/1/2020
To	11/30/2020	11/30/2020	11/30/2020	11/30/2020	11/30/2020
Cal Year	2021	2022	2023	2024	2025
Current Price	\$ 26.79	\$ 27.20	\$ 26.50	\$ 26.89	\$ 28.12
Maximum Price	\$ 30.22	\$ 30.22	\$ 30.87	\$ 29.22	\$ 28.50
Minimum Price	\$ 25.51	\$ 24.69	\$ 24.54	\$ 24.75	\$ 26.70
Date of Maximum	3/14/2019	12/28/2017	3/25/2018	5/20/2019	10/26/2020
Date of Minimum	7/3/2019	7/8/2019	7/8/2019	7/8/2019	3/23/2020
Compared to Low	5.0%	10.2%	8.0%	8.6%	5.3%

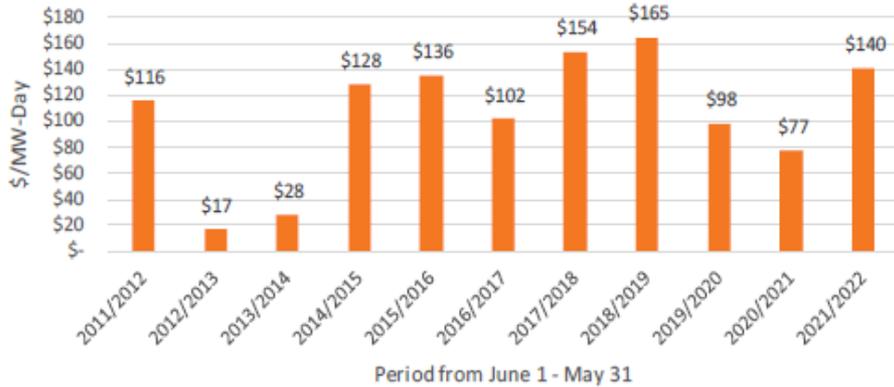
Electricity Forwards

Electric Monthly Price Trend Analysis: Current Prices
Data Range: 11.30.17 - 11.30.20

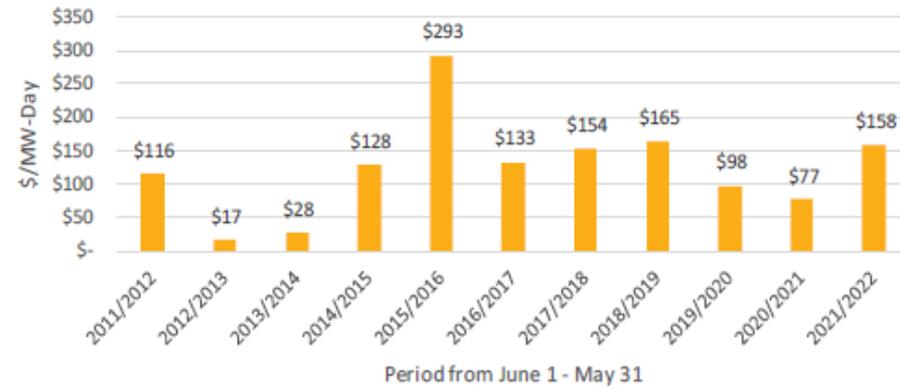


Electricity Forwards

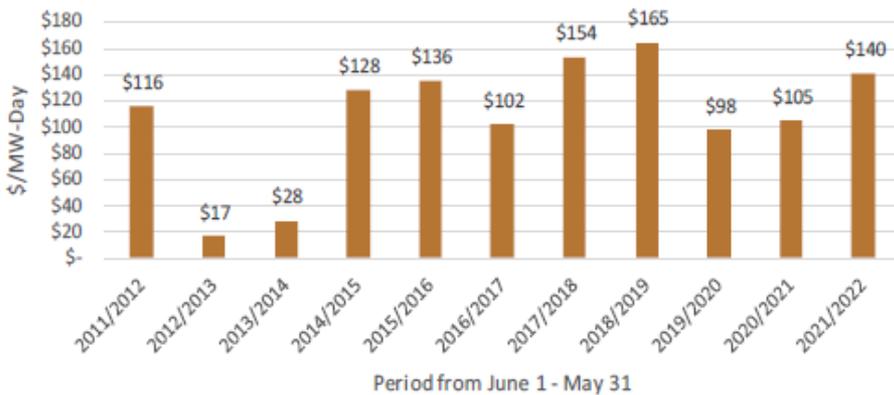
PJM AEP Zone Capacity Auction



PJM ATSI (First Energy) Zone Capacity Auction



PJM DEKO (Duke) Zone Capacity Auction



PJM Dayton Zone Capacity Auction

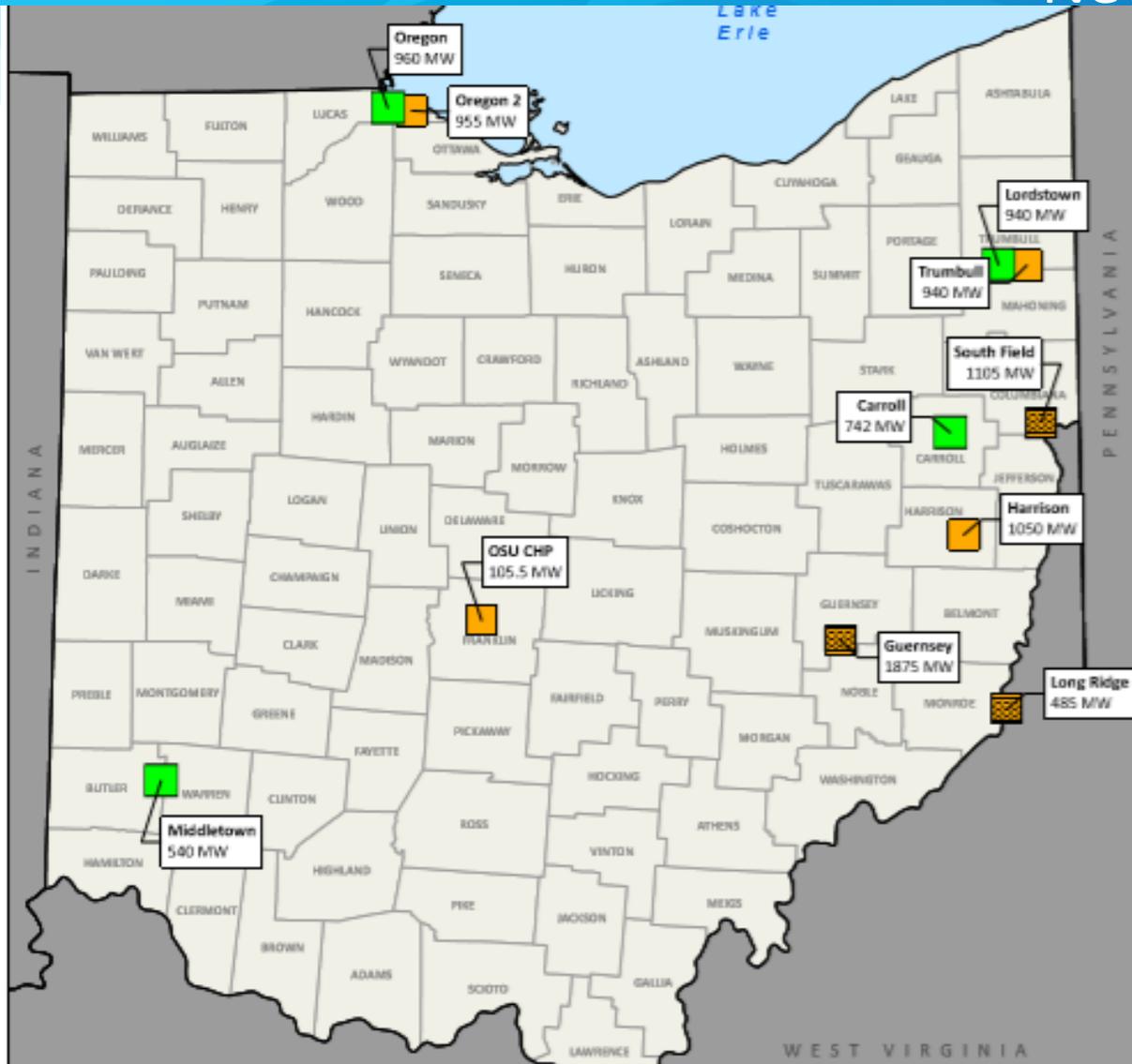


PJM Capacity Auction Schedule

Delivery Year	Original BRA schedule	Revised BRA Schedule	IAs cancelled	
2022/2023	May	2019	May 2021	1 st and 2 nd
2023/2024		2020	December 2021	1 st and 2 nd
2024/2025		2021	June 2022	1 st
2025/2026		2022	January 2023	
2026/2027		2023	July 2023	
2027/2028		2024	 May 2024	

 Indicates auction is back on schedule

New Nat Gas Generation



Project Status

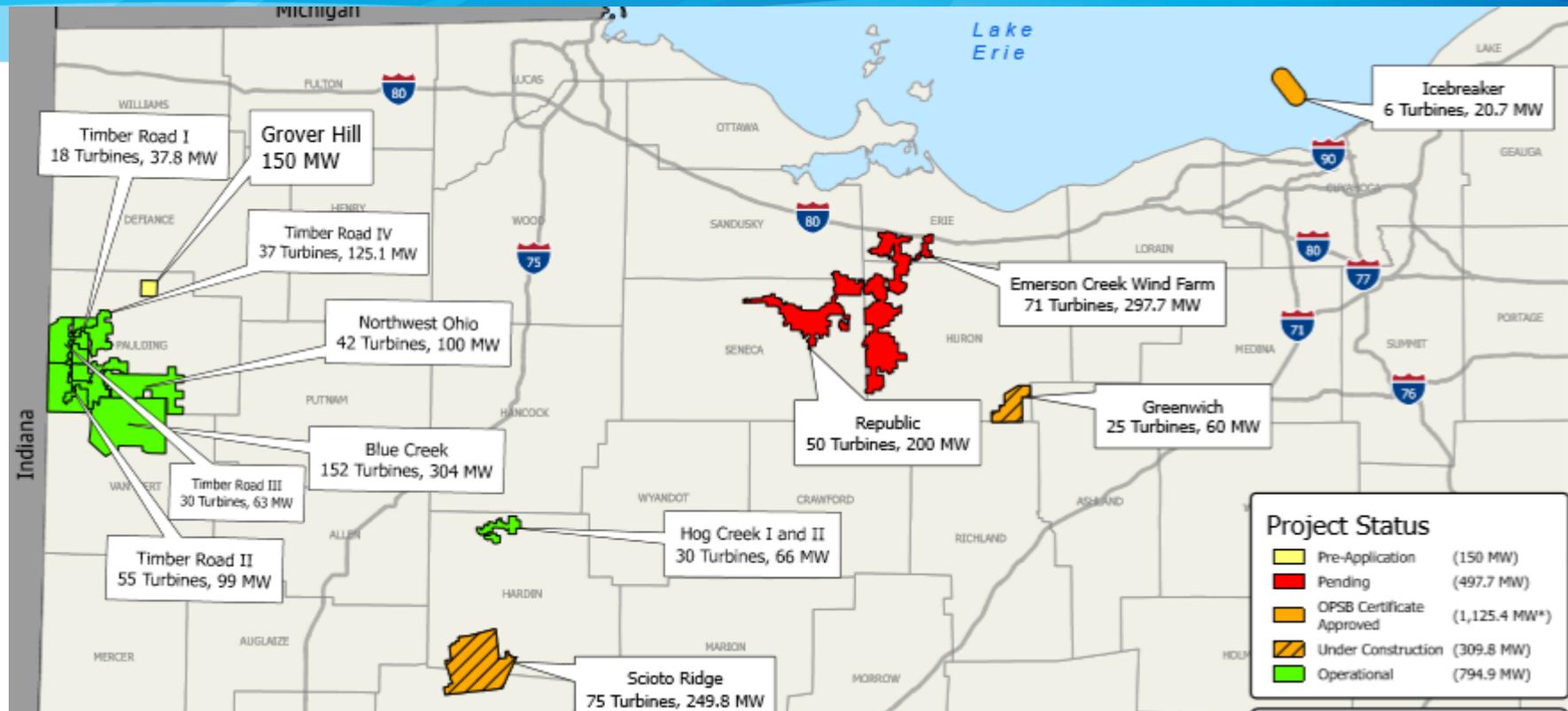
-  OPSCB Certificate Approved (9,697.5 MW*)
-  Under Construction (3,465 MW)
-  Operational (3,182 MW)

New Nat Gas Generation

Operational Gas Generation and CHP Facilities			Approved and Pending Gas Generation and CHP Facilities		
Operational Megawatts (MW):		3,182	Potential Megawatts (MW):		6,515.5
Operational Gas Generation and CHP Facilities (50 MW or greater)					
Case Number	Related Cases	Project Name	Operational Date	County	MW
12-2959-EL-BGN	14-1396-EL-BGA 15-0297-EL-BGA 15-0853-EL-BGA 16-0518-EL-BGA 18-1466-EL-BGA	Oregon	7/1/17	Lucas	960
13-1752-EL-BGN	14-2085-EL-BGA 16-0841-EL-BGA 17-0925-EL-BGA	Carroll	1/10/18	Carroll	742
14-0534-EL-BGN	16-0062-EL-BGA 16-0076-EL-BGA	Middletown	5/18/18	Butler	540
14-2322-EL-BGN	16-0131-EL-BGA 16-0494-EL-BGA 16-0494-EL-BGA	Lordstown	9/30/18	Trumbull	940
				Total	3,182
Approved and Pending Gas Generation and CHP Facilities (50 MW or greater)					
Case Number	Related Cases	Project Name	Approval Date	County	MW
15-1716-EL-BGN	19-0638-EL-BGA	South Field ¹	9/22/16 5/16/19	Columbiana	1,105
16-2443-EL-BGN	18-0090-EL-BGA 20-0033-EL-BGA	Guernsey ¹	10/5/17 3/15/18 4/16/20	Guernsey	1,875
16-2444-EL-BGN	NA	Trumbull	10/5/17	Trumbull	940
17-0530-EL-BGN	17-2512-EL-BGA	Oregon 2	12/7/17 5/17/18	Lucas	955
17-1091-EL-BLN	NA	Long Ridge ¹	7/28/17	Monroe	485
17-1189-EL-BGN	NA	Harrison	6/21/18	Harrison	1,050
19-1641-EL-BGN	NA	OSU CHP	9/17/20	Franklin	105.5
				Total	6,515.5

¹ under construction

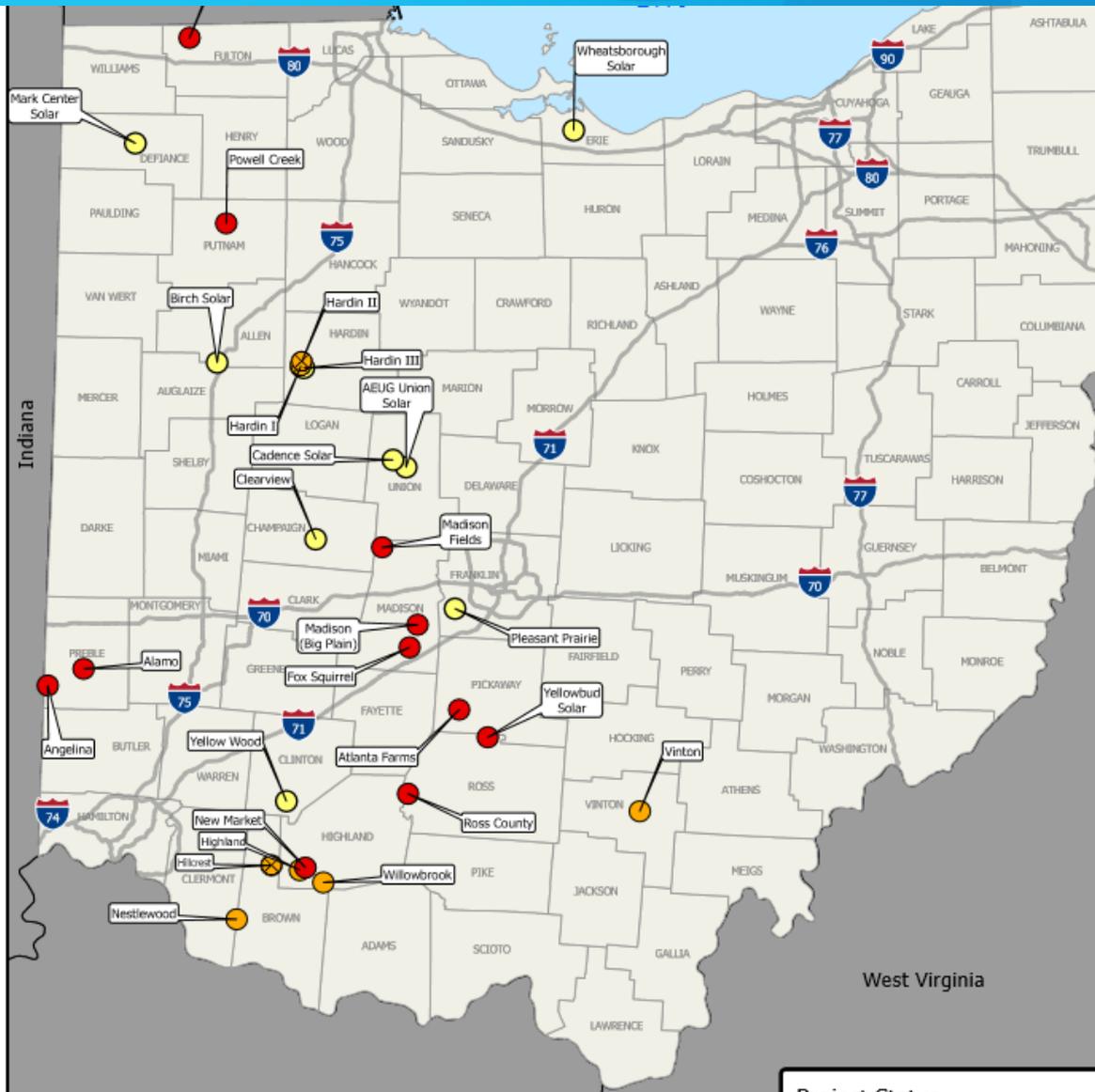
New Wind Generation



New Wind Generation

Operational Wind Facilities				Potential Wind Facilities (Approved, Pending, and Pre-application)		
Operational Megawatts (MW):		794.9		Potential Megawatts (MW):		978.2
Operational Turbines:		364		Potential Turbines:		227
Operational Wind Facilities						
Case Number	Related Cases	Project Name	Online Date	County	Turbines	MW
09-1086-EL-BGN	11-1995-EL-BGA 11-3844-EL-BGA	Blue Creek	6/14/12	Paulding, Van Wert	152	304
09-0980-EL-BGN	15-2031-EL-BGA	Timber Road I	12/8/16	Paulding	18	37.8
10-0389-EL-BGN	10-3128-EL-BGA	Timber Road II	7/19/11	Paulding	55	99
10-0389-EL-BGN	15-2030-EL-BGA	Timber Road III	12/8/16	Paulding	30	63
09-0277-EL-BGN	11-0757-EL-BGA 11-5542-EL-BGA 16-1422-EL-BGA	Hog Creek I	12/19/17	Hardin	30	66
10-0654-EL-BGN	11-5543-EL-BGA 16-1423-EL-BGA 17-0627-EL-BGA	Hog Creek II				
13-0197-EL-BGN	16-0343-EL-BGA 16-1887-EL-BGA 17-1099-EL-BGA	Northwest Ohio	9/10/18 withdrawn	Paulding	42	100
18-0091-EL-BGN		Timber Road IV	3/27/20			
TOTALS:					364	794.9
Approved Wind Facilities						
Case Number	Related Cases	Project Name	Approval Date	County	Turbines	MW
13-0990-EL-BGN	15-1821-EL-BGA	Greenwich ¹	8/25/14 5/19/16	Huron	25	60
13-1177-EL-BGN	14-1557-EL-BGA 16-0725-EL-BGA 16-1717-EL-BGA 17-0759-EL-BGA 17-2108-EL-BGA 18-1473-EL-BGA	Scioto Ridge ¹	3/17/14 11/12/15 5/19/16 10/25/16 7/6/17 3/15/18 withdrawn	Hardin, Logan	75	249.8
16-1871-EL-BGN		Icebreaker	5/21/20	Cuyahoga (Lake Erie)	6	20.7
TOTALS:					106	330.5
¹ Under construction						
Pending and Pre-application Wind Facilities						
Case Number	Project Name	Filing Date	County	Turbines	MW	
17-2296-EL-BGN	Republic	2/2/18	Seneca, Sandusky	50	200	
18-1607-EL-BGN	Emerson Creek	1/31/19	Erie, Huron	71	297.7	
20-0417-EL-BGN	Grover Hill	pre-application	Paulding	unknown	150	
TOTALS:				121	647.7	

The Solar Surge



Project Status

- Pre-Application (2,129 MW) (20,975 Acres)
- Pending (1,876.5 MW) (18,435 Acres)
- OP SB Certificate Approved (1,175 MW*) (14,489 Acres*)
- X Under Construction (520 MW) (6,495 Acres)

There's 4,005 MW pending or planned, which will more than triple the 1,175 MW that's currently approved and under construction.

The Solar Surge

Operational Solar Facilities			Potential Solar Facilities (Approved, Pending, Pre-application)		
Operational Megawatts (MW):		NA	Potential Megawatts (MW):		5,180.5
Approved Solar Facilities (50 MW or greater)					
Case Number	Related Cases	Project Name	Approval Date	County	MW
17-0773-EL-BGN		Hardin ¹	2/15/18	Hardin	150
17-0774-EL-BGN	NA	Vinton	9/20/18	Vinton	125
17-1152-EL-BGN	18-1267-EL-BGA	Hillcrest ¹	2/15/18 2/21/19	Brown	200
18-1024-EL-BGN	NA	Willowbrook I	9/17/18	Brown, Highland	150
18-1334-EL-BGN	NA	Highland	5/16/19	Highland	300
18-1360-EL-BGN	NA	Hardin II ¹	5/16/19 <i>pending</i>	Hardin	170
18-1546-EL-BGN	NA	Nestlewood	4/16/20	Brown, Clermont	80
				TOTALS:	1,175
¹ Under construction					
Pending and Pre-application Solar Facilities (50 MW or greater)					
Case Number		Project Name	Filing Date	County	MW
18-1578-EL-BGN		Alamo	12/10/18	Preble	69.9
18-1579-EL-BGN		Angelina	12/3/18	Preble	80
19-1823-EL-BGN		Big Plain	4/27/20	Madison	196
19-1880-EL-BGN		Atlanta Farms	1/31/20	Pickaway	199.6
19-1881-EL-BGN		Madison Fields	7/17/20	Madison	180
20-0184-EL-BGN		Powell Creek	10/7/20	Putnam	150
20-0931-EL-BGN		Fox Squirrel	10/14/20	Madison	400
20-0972-EL-BGN		Yellowbud	7/21/20	Pickaway, Ross	274
20-0979-EL-BGN		Arche	7/30/20	Fulton	107
20-1288-EL-BGN		New Market	9/3/20	Highland	100
20-1362-EL-BGN		Clearview	pre-application	Champaign	144
20-1380-EL-BGN		Ross County	10/30/20	Ross	120
20-1405-EL-BGN		Union County	pre-application	Union	325
20-1529-EL-BGN		Wheatsborough	pre-application	Erie	125
20-1605-EL-BGN		Birch	pre-application	Allen, Auglaize	300
20-1612-EL-BGN		Mark Center	pre-application	Defiance	110
20-1677-EL-BGN		Cadence	pre-application	Union	275
20-1678-EL-BGN		Hardin III	pre-application	Hardin	300
20-1679-EL-BGN		Pleasant Prairie	pre-application	Franklin	250
20-1680-EL-BGN		Yellow Wood	pre-application	Clinton	300
				TOTALS:	4,005.5

Ohio Power Siting Board New Gen Cases

	Operational	Under Construction	Approved	Pending	Pre-Application
Nat Gas	3,182	3,465	9,697	-	
Wind	794	309	1,125	497	150
Solar	-	520	1,175	1,876	2,129
Total	3,976	4,294	11,997	2,373	2,279

Grand Total

24,919