10 a.m. (EST)
Via Zoom

Energy Committee
May 27, 2021

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Meetings begin at 10 a.m.

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Our Meeting Sponsors:

OMA Energy Committee - May 2021

Name	Company	Location
Kevin Abke	Ohio CAT	Perrysburg, OH United States
Todd Altenburger	A E P Energy	Columbus, OH United States
Ryan R. Augsburger	The Ohio Manufacturers' Association	Columbus, OH United States
Bradley H. Belden	The Belden Brick Company	Canton, OH United States
Kimberly W. Bojko	Carpenter Lipps & Leland LLP	Columbus, OH United States
Dylan Borchers	Bricker & Eckler LLP	Columbus, OH United States
Daniel Bremer	Honda of America Manufacturing, Inc.	Marysville, OH United States
Mark Bresler	Cooper Tire & Rubber Company	Findlay, OH United States
Kyle Brun, Intern	The Ohio Manufacturers' Association	Columbus, OH United States
Rob Brundrett	The Ohio Manufacturers' Association	Columbus, OH United States
Susanne Buckley	Scioto Energy	Columbus, OH United States
Stephen Buehrer	Carpenter Lipps & Leland LLP	Columbus, OH United States
John M. Burke	O S C O Industries, Inc.	Portsmouth, OH United States
Rachael Carl	The Ohio Manufacturers' Association	Columbus, OH United States
Brent Chaney	Vistra Energy	Irving, TX United States
Songjiun Chong	Plaskolite	Columbus, OH United States
Mickey Croxton	Plaskolite	Columbus, OH United States
Rodney V. Cundiff	Cenovus	Lima, OH USA
Nicholas D'Angelo	Eaton	Cleveland, OH United States
Steve Dimon	AMG Vanadium LLC C/o 21 Consulting, LLC	Columbus, OH United States
Noah Dormady	The Ohio State University	Columbus, OH United States
Drew Felz	General Mills, Inc. - DC	Washington, DC United States
Chris Flaig	MCM CPAs & Adivsors	Cincinnati, OH United States
Ryan Foster	Premier Power Solutions LLC	Massillon, OH United States
Todd Frank	Vistra Energy	Cincinnati, OH United States
Scott Frens	Fort Recovery Industries Inc.	Fort Recovery, OH United States
Brent Goetz	Covestro LLC	Hebron, OH United States
Nicholas A. Goussetis	U S Steel	Pittsburgh, PA United States
David Grim	PPG	Pittsburgh, PA United States
Joseph Halter	Solmet Services, Inc.	Canton, OH United States
Joseph Hollabaugh, Jr	Shumaker, Loop & Kendrick, LLP	Columbus, OH United States
Tyrel Jacobsen	AMG Vanadium LLC	Cambridge, OH United States
Jeremy Johnston	Cleveland State University	Cleveland, OH United States
Matthew F. Johnston	Worthington Industries, Inc.	Columbus, OH United States
Darin King	Columbia Gas of Ohio	Toledo, OH United States
Stephen B. Kittredge	Owens Corning	Washington, DC United States
Matt Koppitch	Bricker & Eckler LLP	Columbus, OH United States
Mitesh Kothari	Worthington Industries	Worthington, OH United States
Ashley Lewis	Stellantis	Monroe, MI United States
Timothy Ling	Plaskolite	Columbus, OH United States
Sherri Loscko	Castings USA, Inc.	Dublin, OH United States
Richard Loth	McWane Ductile-Ohio, A Division Of McWane, Inc.	Coshocton, OH United States
Michael Lowe	Venture Products, Inc.	Orrville, OH United States
Kenneth D. Magyar	D T E Energy	Canonsburg, PA United States
V. David Mazzia	B A S F Corporation	Florham Park, NJ United States
John Meyer	Smithfield Foods	Cincinnati, OH United States
Erik Mikkelson	Covestro C/o Hicks Partners, LLC	Columbus, OH United States
Jane M. Neal	AMG Vanadium LLC	Cambridge, OH United States
Melville Nickerson	N R G Energy Inc.	Chicago, IL United States
Ian Nickey	Covestro	Columbus, OH United States
Mark Romanchuk	P R Machine Works, Inc.	Mansfield, OH United States
Brent Rosebrook	PRO-TEC Coating Company	Leipsic, OH United States
Ryan Schuessler	RunnerStone, LLC	Worthington, OH United States
Christine Schwartz	American Honda Motor Company	Marysville, OH United States
Nick J. Scolaro	Morrison Products Inc.	Cleveland, OH United States
Maxim Serezhin	Standard Power Group Ohio	New York, NY United States
John Seryak, PE	Go Sustainable Energy, LLC	Worthington, OH United States
Terri M. Sexton	Navistar, Inc.	Springfield, OH United States

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Name	Company	Location
Jack Shaner	EnviroScience Inc.	Stow, OH United States
Christopher N. Slagle	Bricker & Eckler LLP	Columbus, OH United States
Duane Steelman	Zaclon, LLC	Cleveland, OH United States
Samantha Summers	Whirlpool Corporation	Washington, DC United States
Andrew R. Thomas	Levin College of Urban Affairs, Cleveland State University	Cleveland, OH United States
Robert Thompson	Charter Steel	Saukville, WI United States
Ann Tumolo	PPG	Pittsburgh, PA United States
Justin Walder	Nutrien	Deerfield, IL United States
Steve Walker	The J.M. Smucker Company	Orrville, OH United States
Chad Wilson	Nationwide	Columbus, OH United States
Peter Worley	Go Sustainable Energy, LLC	Worthington, OH United States

Total Participants 69

Todd Snitchler

President & CEO

As the Electric Power Supply Association (EPSA)'s president and CEO, Todd Snitchler represents companies that own competitive power generation assets and advocates for policies that focus on achieving and maintaining well-functioning and properly regulated competitive wholesale electricity markets.

Prior to joining EPSA, Todd served as the Vice President of Market Development at the American Petroleum Institute where he worked with industry, government, and customer stakeholders to promote increased demand for and continued availability of our nation's abundant and clean natural gas resources.

Prior to that, Mr. Snitchler was a principal for Vorys Advisors, LLC in Ohio where he led the government affairs efforts in the energy and utility space where he represented competitive suppliers and independent power producers and developers. In that role he established strong relationships in Ohio and nationally with policy makers and industry participants supportive of competitive markets.

Mr. Snitchler previously served as chairman of both the Public Utilities Commission of Ohio and the Ohio Power Siting Board. He was elected twice to represent the 50th House District in Stark County, Ohio.

Mr. Snitchler has published on numerous topics including the benefits of competitive energy markets; cyber security issues; electricity deregulation difficulties; and the role of the federal Environmental Protection Agency. Mr. Snitchler received his J.D. from the University of Akron School of Law and his B.A. from Grove City College.

About Line 5

Energizing Michigan since 1953.

As it travels under the Straits of Mackinac, Line 5 diverges into two, 20-inch-diameter, parallel pipelines. This is why people sometimes call the pipeline system the “dual” or “twin” pipelines. They start underground onshore, taper deep underwater and cross the Straits for 4.5 miles.

Line 5 has operated without incident at the Straits of Mackinac for more than 65 years

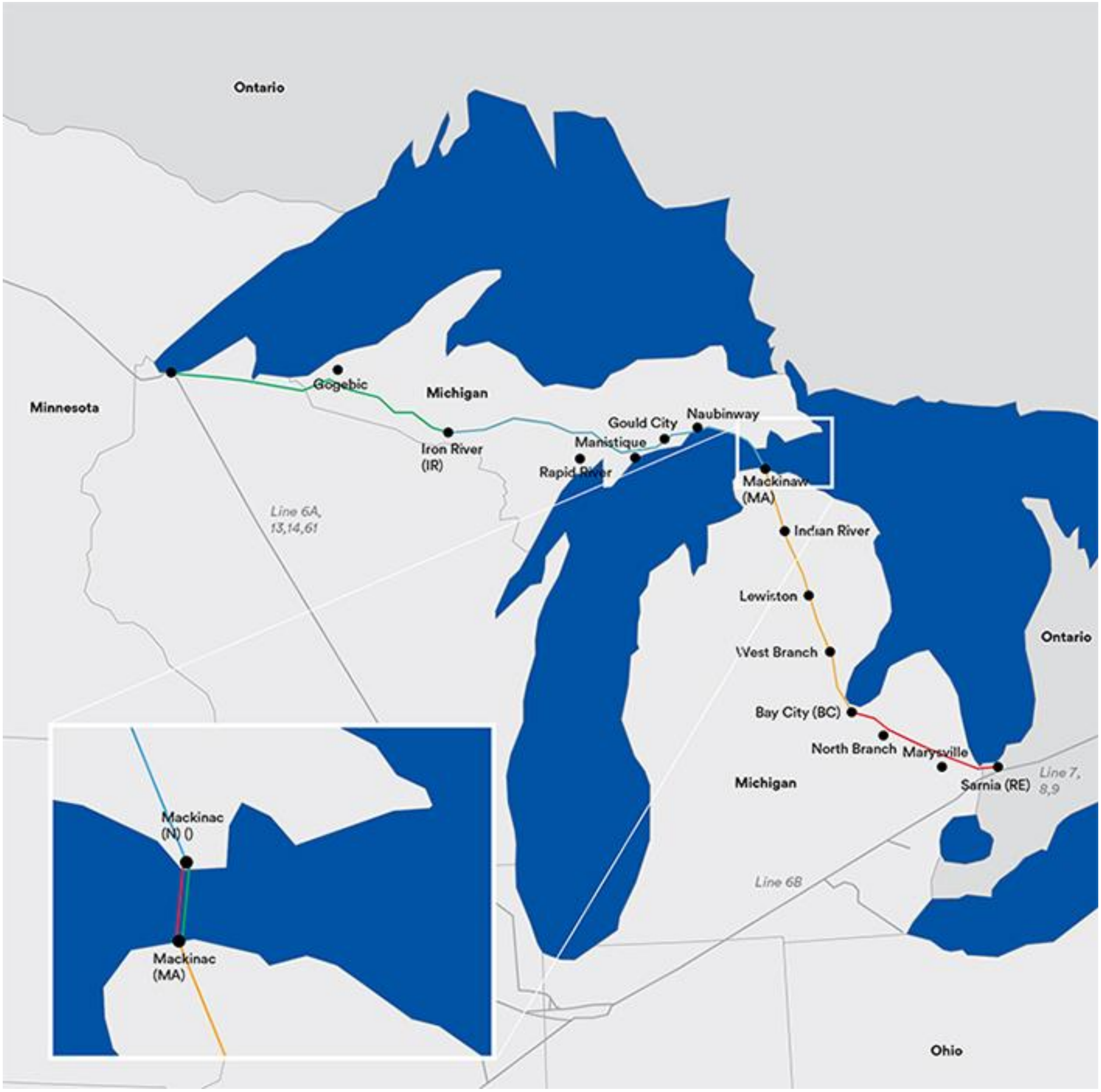
The products moved on Line 5 heat homes and businesses, fuel vehicles, and power industry in the state of Michigan.

Line 5 supplies 65% of propane demand in the Upper Peninsula, and 55% of Michigan's statewide propane needs. Overall, Line 5 transports up to 540,000 barrels per day (bpd) of light crude oil, light synthetic crude, and natural gas liquids (NGLs), which are refined into propane.

Line 5 delivers 65% of the propane that heats Upper Peninsula homes, and 55% of Michigan's propane needs.

Built in 1953 by the Bechtel Corporation to meet extraordinary design and construction standards, the Line 5 Straits of Mackinac crossing remains in excellent condition, and has never experienced a leak in more than 65 years of operation. The Line 5 crossing features an exceptional and incredibly durable enamel coating, and pipe walls that are three times as thick—a minimum of 0.812 inches—as those of a typical pipeline. What's more, the Bechtel Corporation—renowned for the iconic Hoover Dam—designed and built Line 5 in an area of the Straits that would minimize potential corrosion due to lack of oxygen and the cold water temperature. This setting contributes to preserving the integrity of Line 5, which has enabled it to serve the region safely and reliably for more than six decades.

We’re working hard to keep it that way. We monitor the Line 5 Straits crossing 24/7, using both specially trained staff and sophisticated computer monitoring systems. We also carry out regular inspections of the line, using inline tools, expert divers, and remote operating vehicles (ROVs), going above and beyond regulatory requirements.



Ontario
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Manistique
Rapid River
Mackinaw
(MA)
Indian River
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Bay City (BC)
North Branch
Marysville
Sarnia (RE)
Line 7,
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Line 6A,
13,14,61
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Ohio
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Gretchen Whitmer's Pipeline War

Michigan's Governor assaults Canada and the Midwest economy.

By
The Editorial Board
May 21, 2021 6:31 pm ET

The cyber attack on the Colonial Pipeline has led to surging gasoline prices on the East Coast. But that isn't stopping Michigan Gov. Gretchen Whitmer from trying to shut down another crucial pipeline, no matter the harm across the Midwest and Canada.

Enbridge Energy's Line 5 transports more than half a million barrels a day of oil and natural gas liquids through Canada and the Great Lakes region. Late last year Ms. Whitmer moved to revoke and terminate an easement that lets the pipeline operate for 4.5 miles across the Straits of Mackinac. She's seeking a state court injunction to force Enbridge to shut down Line 5 and "permanently decommission" the pipeline. Ms. Whitmer claims Enbridge has created an "unacceptable risk of a catastrophic oil spill in the Great Lakes that could devastate our economy and way of life." But the Pipeline and Hazardous Materials Safety Administration, the federal regulator that oversees Line 5, said in January that it is "presently aware of no unsafe or hazardous conditions that would warrant shutdown of Line 5."

No mode of moving energy is risk-free, but pipelines are much safer than rail. Enbridge says that over two decades Line 5 has seen five incidents that resulted in the release of 882 gallons of product. Compare that to the 2013 Lac-Mégantic disaster, where a train carrying oil derailed, spilling some 1.6 million gallons and causing an explosion that killed some 47 people.

Enbridge is seeking permits to build a new pipeline to replace Line 5, but the project is years from completion. Consumer Energy Alliance, an advocacy group, says a shutdown of Line 5 could cause propane shortages in Michigan's Upper Peninsula, and Midwestern farmers could face rising costs for diesel fuel and more. A report by the group found that, even by conservative estimates, Michigan, Ohio, Pennsylvania

and Indiana would lose more than 33,750 jobs and $265.7 million in annual state tax revenue from the pipeline's closure.
Refineries in Michigan, Ohio and Pennsylvania would lose much of their crude oil supply. United Steelworkers Local 912 President Justin Donley has warned that closing Line 5 would jeopardize the Toledo Refining Company, which isn't equipped to receive oil by truck. The result would be a "devastating loss of income" for nearly 350 union workers and "further economic collapse of the Northern Ohio/Southern Michigan economy," he said.

Ms. Whitmer is also causing a foreign policy flap. A 1977 treaty between the U.S. and Canada bars a "public authority in the territory of either" signatory nation from taking actions that would have the effect of "impeding, diverting, redirecting or interfering with in any way the transmission of hydrocarbon in transit" by pipeline between the two countries. The treaty makes exceptions for emergencies or natural disasters and temporary shutdowns for safety concerns, but not for gubernatorial whim.

The Canadian government raised these treaty concerns this month in an amicus brief filed in U.S. federal court. Refineries in Ontario depend on the pipeline, and so does the Toronto Pearson International Airport for jet fuel. "A Line 5 shutdown would severely disrupt the supply and increase the price consumers pay for fuel across Quebec and Ontario," the Canadians argued, adding that "in western Canada, the loss of Line 5 would have a devastating impact on the industry and economy."
Enbridge has kept the pipeline open and is counter-suing in federal court. But Ms. Whitmer's pipeline war is a reminder that for today's progressives, fossil fuels are enemy number one no matter the economic cost.

As Introduced

134th General Assembly
Regular Session
2021-2022

S. R. No. 41

Senators Yuko, Gavarone

A RESOLUTION

To urge the Governor of the State of Michigan and the Director of the Michigan Department of Natural Resources to make all efforts to keep Enbridge Line 5 operating.

BE IT RESOLVED BY THE SENATE OF THE STATE OF OHIO:

WHEREAS, Gretchen Whitmer is the Governor of Michigan, and Dan Eichinger is the Director of the Michigan Department of Natural Resources; and

WHEREAS, In 1953, the State of Michigan granted an easement to Lakehead Pipe Line Company, Inc., and its successors and assigns (hereinafter the 1953 Easement); and

WHEREAS, Enbridge is an energy delivery company, and successor to Lakehead Pipe Line Company, Inc.; and

WHEREAS, The 1953 Easement allowed the construction, operation, and maintenance of dual petroleum pipelines through the Straits of Mackinac; and

WHEREAS, Enbridge now maintains and operates the pipeline constructed pursuant to the 1953 Easement, known as the Enbridge Line 5 pipeline (hereinafter Line 5); and

WHEREAS, Line 5 supports Enbridge in providing the crude oil refined at PBF Energys Toledo Refining Co. plant and the BP-

Husky Toledo Refinery, both in Oregon, Ohio; and

WHEREAS, PBF Energys Toledo Refining Co. employs 585 people and the BP-Husky Toledo Refinery employs 625 people; and

WHEREAS, The United States has lost substantial oil refining capacity due to COVID-19 and the loss of demand it created; and

WHEREAS, Without service from Line 5, PBF Energys Toledo Refining Co. plant and the BP-Husky Toledo Refinery are likely to close permanently, leaving 1,210 hard-working Ohioans unemployed; and

WHEREAS, PBF Energy's Toledo Refining Co. plant and the BP-Husky Toledo Refinery engage contractors who employ hundreds more blue-collar workers for ongoing construction, safety upgrades, and maintenance upgrades; and

WHEREAS, The loss of additional oil refining capacity will leave the United State more dependent on foreign sources of refined oil products; and

WHEREAS, Enbridge has committed to a $500 million project to replace the current pipelines that run through the Straights of Mackinac with a new tunnel and line buried four hundred feet beneath the Straights; and

WHEREAS, Enbridge has committed to use steel made in the United States, pipe fabricated in the United States, and union labor for construction on the replacement project; now therefore be it

RESOLVED, That the Senate of the 134th General Assembly of the State of Ohio respectfully urges Governor Whitmer and Director Eichinger to work with Enbridge and other interested parties to keep Line 5 safely operating, to protect jobs, the economy, and national security; and be it further

RESOLVED, That the Clerk of the Senate of the 134th General Assembly of the State of Ohio transmit duly authenticated copies of this resolution to the Governor of the State of Michigan, the Director of the Michigan Department of Natural Resources, and the news media of Ohio and Michigan.

XPLAINER: Why the Colonial Pipeline hack matters
By FRANK BAJAK AND CATHY BUSSEWITZMay 10, 2021

NEW YORK (AP) — A cyberattack on a critical U.S. pipeline is sending ripple effects across the economy, highlighting cybersecurity vulnerabilities in the nation's aging energy infrastructure. The Colonial Pipeline, which delivers about 45% of the fuel used along the Eastern Seaboard, shut down Friday after a ransomware attack by gang of criminal hackers that calls itself DarkSide. Depending on how long the shutdown lasts, the incident could impact millions of consumers.

WHAT HAPPENED TO THE COLONIAL PIPELINE?

Colonial Pipeline, the owner, halted all pipeline operations over the weekend, forcing what the company called a precautionary shutdown. U.S. officials said Monday that the "ransomware" malware used in the attack didn't spread to the critical systems that control the pipeline's operation. But the mere fact that it could have done so alarmed outside security experts.

WILL THERE BE GASOLINE SHORTAGES?

It depends on how long the shutdown lasts. Colonial said it's likely to restore service on the majority of its pipeline by Friday.

There's no imminent shortfall, and thus no need to panic buy gasoline, said Richard Joswick, head of global oil analytics at S&P Global Platts. If the pipeline is restored by Friday, there won't be much of an issue. "If it does drag on for two weeks, it's a problem," Joswick added. "You'd wind up with price spikes and probably some service stations getting low on supply. And panic buying just makes it worse."

SO WHAT'S HAPPENING WITH GASOLINE PRICES?

The average gasoline price jumped six cents to $2.96 over the past week, and it's expected to continue climbing because of the pipeline closure, according to AAA. Mississippi, Tennessee and the East Coast from Georgia to Delaware are the most likely to experience limited fuel availability and higher prices, and if the national average rises by three more cents, these would be the highest prices since November 2014, according to AAA.

WHAT'S RANSOMWARE AGAIN?

Ransomware scrambles data that can only be decoded with a software key after the victim pays off the criminal perpetrators. An epidemic of ransomware attacks has gotten so bad that Biden administration officials recently deemed them a national security threat. Hospitals, schools, police departments and state and local governments are regularly hit. Ransomware attacks are difficult to stop in part because they're usually launched by criminal syndicates that enjoy safe harbor abroad, mostly in former Soviet states.

WHO IS BEHIND THE ATTACK AND WHAT MOTIVATES THEM?

The hackers are Russian speakers from DarkSide, one of dozens of ransomware gangs that specialize in double extortion, in which the criminals steal an organization's data before encrypting it. They then threaten to dump that data online if the victim doesn't pay up, creating a second disincentive to trying to recover without paying.

Ransomware gangs say they are motivated only by profit. Colonial has not said how much ransom s.

WHY WASN'T COLONIAL ABLE TO PREVENT OR CONTAIN THE ATTACK?

Neither Colonial nor federal officials have explained how the attackers breached the company's network and went undetected. Cybersecurity experts believe that Colonial may not have employed state-of-the-art defenses, in which software agents actively monitor networks for anomalies and are programmed to detect known threats such as DarkSide's infiltration tools.

WHAT DOES COLONIAL NEED TO RESTORE ITS NETWORK AND HOW LONG WILL THAT TAKE?

That depends on how extensively Colonial was infected, whether it paid the ransom and, if it did, when it got the software decryption key. The decryption process could take several days at least, experts say. Colonial has not responded to questions on these issues, although it said only its IT network was affected.

DO PIPELINES FACE A GREATER RISK OF RANSOMWARE ATTACKS?

They're not necessarily at greater risk, but they do pose unique challenges. The Colonial Pipeline structure is a vast piece of critical infrastructure that provides fuel supply to states along the East Coast. Such a large network is bound to have different control systems along its path where it connects with distributors or customers.

"Every single time you connect something, you run the risk that you're going to infect something," said Kevin Book, managing director at Clearview Energy Partners. That variability can also make it harder for hackers to know where to find vulnerabilities, he said.

Over time, as pipelines expand, companies can end up with a mix of technology — some parts built within the company and others brought in from outside, said Peter McNally, global sector lead at Third Bridge. Many large energy companies have been under pressure from investors to limit reinvestment in such assets, which can be decades old, he added. That can be a problem when dealing with modern criminals.

The Federal Energy Regulatory Commission has established and enforced mandatory cybersecurity standards for the bulk electric system, but there are no comparable standards for the nearly 3 million miles of natural gas, oil and hazardous liquid pipelines that traverse the United States. “Simply encouraging pipelines to voluntarily adopt best practices is an inadequate response to the ever-increasing number and sophistication of malevolent cyber actors,” said Richard Glick, chairman of the Federal Energy Regulatory Commission, and Democratic Commissioner Allison Clements, in a joint statement. They called for the U.S. to establish mandatory pipeline security standards.

WHAT CAN BE DONE TO HALT RANSOMWARE ATTACKS?

Previous attempts to put ransomware operators out of business by attacking their online infrastructure have amounted to internet whack-a-mole. The U.S. Cyber Command, Microsoft and cross-Atlantic police efforts with European partners have only been able to put a temporary dent in the problem.

Last month, a public-private task force including Microsoft, Amazon the FBI and the Secret Service gave the White House an 81-page urgent action plan that said considerable progress could be possible in a year if a concerted effort is mounted with U.S. allies, who are also under withering attack.

Some experts advocate banning ransom payments. The FBI discourages payment, but the task force said a ban would be a mistake as long as many potential targets remain “woefully unprepared,” apt to go bankrupt if they can’t pay. Neuberger said Monday that sometimes companies have no real choice but to pay a ransom.

The task force said ransomware actors need to be named and shamed and the governments that harbor them punished. It calls for mandatory disclosure of ransom payments and the creation of a federal “response fund” to provide financial assistance to victims in hopes that, in many cases, it will prevent them from paying ransoms.

PJM proposes to end FERC MOPR policy that raised prices for state-subsidized resources

Published April 29, 2021

Catherine Morehouse

PJM Interconnection

Dive Brief:

The PJM Interconnection is proposing to eliminate a controversial rule that effectively raises the price for state-subsidized resources, such as renewables and nuclear, bidding into its wholesale capacity market.

The grid operator on Wednesday laid out its proposal in an hours-long call with stakeholders, explaining that under its plan, the minimum offer price rule (MOPR) — expanded through a 2019 Federal Energy Regulatory Commission ruling that attempted to combat price suppression in the capacity market— would no longer apply to state-subsidized resources. Clean energy advocates praised the move as a win for state decarbonization goals.

PJM's proposal is in response to a series of FERC technical conferences focused on the future of wholesale power markets. Some competitive generators, including Calpine — which led the initial complaint that prompted the expanded MOPR — on Tuesday argued in comments before FERC that the ruling remained appropriate and should not be revised.

Dive Insight:

Just over a year after the MOPR expansion rule was issued, and without it yet applying to a capacity auction, PJM is officially proposing to end the policy.

"Repricing proposals and those that heavily rely on the MOPR create inconsistencies between prices and actual conditions," PJM said in its presentation to stakeholders Wednesday. "PJM believes this leads to unclear market signals."

The grid operator's new proposal would remove the application of the MOPR from any resources that are subsidized by the state, as was laid out in the December 2019 FERC rule, and instead assume all state policies are in "good faith." However, if a generator or other market participant has a complaint about tariffs, it may still file with FERC through a Section 206 filing. Though PJM lays out some scenarios under which it believes an entity could or should file such a complaint, the grid operator also emphasizes that a response to such a filing would come from FERC — not PJM or the independent market monitor.

"PJM will not apply the MOPR to a resource that is the subject of state support unless FERC grants the aforementioned complaint," the grid operator said. Two scenarios PJM specifies that could be the subject of a complaint include if a state policy effectively replaces the wholesale rate for capacity, ancillary services, or some other FERC-jurisdictional matter; or if a payment or level of payment is contingent on clearing the capacity market.

That caveat could continue to create some market uncertainty, said Casey Roberts, senior attorney with the Sierra Club's Environmental Law Program, but is an "inevitable" stipulation the grid operator has to put forward, given there is always the possibility that some participant is unhappy with market rules and files a complaint at FERC.

Broadly, though, PJM "appears to understand that when you ignore the capacity contribution of resources supported by state policy, that results in capacity prices that send the wrong signal to the market," said Roberts. For example, it might "signal that you still need new investment, when in fact you may not. But I think that the fact that PJM has come around to that view — which is, in my mind, the correct view — is very, very encouraging."

Other clean energy advocates also credited the grid operator with evolving in its approach to the energy transition and state clean energy goals.

"PJM has new leadership — Manu Asthana — and he has been clear he sees a big part of his mission as shepherding PJM through the energy transformation," said Tom Rutigliano, a senior advocate with the Sustainable FERC Project at the Natural Resources Defense Council. "And this is a very concrete sign of that shift."

The MOPR expansion was originally intended to address what some competitive generators refer to as "market-distorting effects" of state clean energy policies. As zero-carbon resources such as wind, solar and nuclear power began to receive credits or other subsidies from states, that in turn suppressed overall capacity market prices, making it more difficult for resources such as new gas plants to compete in the market, the original complaint that led to the expanded MOPR alleged. Some competitive suppliers argue the 2019 rule is still appropriate.

"It is not clear that anything has changed since the June 2018 and December 2019 orders to impact or negate the Commission's findings that the Expanded MOPR is needed to protect the capacity market from price suppression," Calpine wrote in comments filed Tuesday with FERC. "State subsidies have only increased since those orders were issued and will ultimately lead to more price suppression."

Broadly, competitive suppliers believe that if a repeal of the MOPR is deemed necessary, it should include a replacement market design. Vistra Energy in its comments suggested the commission replace the MOPR with something similar to the New England Independent System Operator's Competitive Auctions with Sponsored Policy Resources rule, and NRG Energy suggested it examine a Forward Clean Energy Market.

"MOPR revisions cannot be considered in a vacuum," said Todd Snitchler, CEO of competitive power supplier trade group the Electric Power Supply Association, in an emailed statement. "These markets are interrelated and changes must be considered holistically. We believe PJM should consider what market design changes, in addition to MOPR, must be addressed to maintain reliability at affordable rates. Any solution must be sustainable for all market participants."

PJM is aiming to file its proposal with FERC by July in an effort to have a replacement in place by the December auction for 2023/2024 capacity. FERC Chair Richard Glick has indicated that if the grid operator does not have a proposal finalized on that timeline, he would be in favor of the commission taking action unilaterally.

To: OMA Energy Committee
From: Rob Brundrett
Re: Energy Public Policy Report
Date: May 27, 2021

Overview

Energy legislation continues to be a hot ticket in the 134th General Assembly. Since the beginning of the year we have seen numerous pieces of legislation introduced covering a wide range of topics. Repeal of the anti-customer provisions of House Bill 6 remains a priority. OVEC remains as the last large piece of repeal for the scandal laden bill.

Other bills such as electric security plan repeal, refunds, and wind and solar siting continue to be debated in both the House and Senate.

Bob Peterson has stepped down as chairman of the senate energy and public utilities committee. He was replaced by Rob McColley from northwest Ohio.

Governor DeWine appointed former judge Jenifer French to the PUCO replacing former chairman Sam Randazzo who resigned after being raided by the FBI in conjunction with the House Bill 6 scandal.

General Assembly News and Legislation

Bribery and Corruption at the Statehouse Update

The legal fallout of House Bill 6 continues. Since the press conference on July 21, and the initial five arrests including then Speaker Larry Householder, Ohio has seen guilty pleas from two individuals and one guilty plea from Generation Now a dark money group funded by the Ohio utilities.

Leadership at FirstEnergy has been terminated, the Ohio PUCO Chairman Sam Randazzo resigned his position when he was tied to the investigation and the Ohio Attorney General Dave Yost aggressively pursued litigation against FirstEnergy to stop portions of House Bill 6.

Most recently FirstEnergy has notified the press that the company is in the process of negotiating a potential deferred prosecution settlement. There still has not been an appointed replacement for former U.S. Prosecutor David DeVillers who submitted his resignation with the change in administrations.

House Bill 10 – Repeal House Bill 6

The bill sponsored by Democrat David Leland is loosely modeled on House Bill 772 from the previous General Assembly. The bill would repeal the majority of provisions from House Bill 6 including, the nuclear subsidies, decoupling, and OVEC. It would replace the efficiency rider programs with optional market-based approaches details to be determined. The bill has had one hearing but did generate some buzz when it was first introduced.

Senate Bill 10 – Repeal Decoupling and SEET

The Ohio Senate unanimously passed Senate Bill 10 — the OMA-supported bill introduced by Sen. Mark Romanchuk (R-Mansfield) to repeal House Bill 6's decoupling provision, which allowed FirstEnergy to lock in annual guaranteed revenue at record-setting 2018 levels ($978 million).

SB 10 also repealed the “significantly excessive earnings” provision authorized in the last state budget (HB 166). That change to the so-called SEET test had allowed FirstEnergy to combine profits across its three companies, offsetting “significantly excessive” Ohio Edison gains with those from less profitable companies, thereby avoiding related customer refunds.

Under SB 10, revenue collected under these provisions would be refunded. Anticipated decoupling costs for customers were estimated at $17 million for 2020 and more than $101 million for 2021 for all customer classes. SEET refund amounts are yet to be determined. SB 10’s provisions were passed as part of HB 128 which repealed portions of HB 6.

<u>House Bill 18 – Straight Repeal of House Bill 6</u>
Rep. Lanese reintroduced her straight repeal bill she also sponsored in the fall of 2020. The straightforward bill repeals all of House Bill 6 in its entirety. It would have the effect of setting Ohio’s energy law landscape back to how it was prior to House Bill 6. The bill has had sponsor testimony in the House.

<u>Senate Bill 32 – Electric Car Charging Station Grant Rebate</u>
The bill sponsored by Senator Rulli requires that the Ohio Department of Transportation creates an electric car charging station grant and rebate. The bill has had one hearing in the Senate.

<u>Senate Bill 44 – Repeal Portions of House Bill 6</u>
Senate Bill 44 is the vehicle the Senate choose to repeal the nuclear credit portions of House Bill 6. While a good first step in righting some of the wrongs over the past two years the bill still fell woefully short of providing comprehensive protections for customers. The OMA provided interested party testimony and pointed out the shortcomings of the bill and encouraged the Ohio Senate to push harder to repeal OVEC and the entire Clean Air Fund. The bill passed out of Senate unanimously. The House included portions of this bill in HB 128 the partial repeal bill vehicle.

<u>House Bill 47 – Electric Car Charging Station Grant Rebate</u>
House Bill 47 requires the Ohio Department of Transportation to create an electric car charging station grant and rebate. It is a companion bill to Senate Bill 32. The bill has had two hearings.

<u>Senate Bill 52 – Wind and Solar Referendum</u>
This controversial bill and its House companion as originally drafted would have allowed local referendums on wind and solar projects at the local level. It would have allowed the local populations to override Ohio’s Power Siting Board which right now has the authority of siting energy generation projects.

The OMA and numerous business groups have opposed the bill in both the House and Senate committees.

A sub bill was proposed this week that would remove the referendum but add more hoops for developers to jump through to get a project approved. County commissioners would have the authority to stop projects on the front end and townships would be able to appeal to prove projects that are at the Power Siting Board are more detrimental than not.

<u>Senate Bill 89 – Renewable Energy</u>
Sen. Matt Dolan (R-Chagrin Falls) introduced Senate Bill 89 to make an 8.5% renewable portfolio standard (RPS) permanent. Dolan told the media that the bill represents a compromise

necessitated by the passage of House Bill 6, which lowers Ohio's renewable energy benchmarks from 12.5% to 8.5% by 2026 and terminates the RPS in 2027.

An 8.5% RPS would not be affected by FERC's Minimum Offer Price Ruling (MOPR). Any RPS exceeding 8.5% would be subject to the MOPR (due to state subsidies), impairing new renewable projects' ability to compete for PJM capacity revenue. In contrast, the growing market of private corporate renewable energy purchases will not be subject to the MOPR ruling.

The bill has an uphill battle with his fellow Republicans but portions of the bill may find a way through the legislature. The bill did have a first hearing this month.

<u>Senate Bill 117 – OVEC Repeal</u>
Brad Belden, president of The Belden Brick Company and chair of the OMA Energy Committee, testified on behalf of the OMA in support of Senate Bill 117 — legislation to repeal House Bill 6's $700 million ratepayer-funded subsidy for two Ohio Valley Electric Corporation (OVEC) coal plants, one of which is in Indiana. The bill would also refund customers the charges borne since HB 6 took effect.

The OMA has been on the frontlines advocating for the repeal of anti-customer provisions included in HB 6 including, the nuclear subsidies and decoupling provision. The OVEC subsidies are one of the last pieces of HB 6's anti-market policy that remains in law. Customers will be on the hook for these subsidies through 2030 without action by state lawmakers.

The OMA continues to build pressure for the legislature to repeal this final piece of anti-customer HB 6.

<u>Senate Bill 118 – Solar Subsidy Repeal</u>
Sen. Romanchuk introduced SB 118 to rollback $20 million a year in payments to five solar projects – another subsidy folded into the corrupt HB 6. Originally HB 128 eliminated the subsidy. The House reinserted the subsidy as part of the committee process.

<u>House Bill 118 – Wind and Solar Referendum</u>
This is the House companion to Senate Bill 52. The bill has had four hearings. The OMA provided opponent testimony on the bill. A new sub bill is pending. The Senate has taken the lead on the issue. The Senate is expected to act before the end of session this summer with the House to follow its lead.

<u>Senate Bill 127 – Natural Gas Bans</u>
The bill's intent is to prevent local governments from blocking or limiting the use of natural gas from citizens and businesses. The bill is a companion to HB 201. The OMA has notified the sponsors that as drafted there may be unintended consequences. The OMA has engaged with the House and is working the sponsors to improve the bill.

<u>House Bill 128 – Repeal Portions of House Bill 6</u>
Gov. Mike DeWine signed HB 128, which cancels out the nuclear subsidy provisions of HB 6 (133rd General Assembly), originally targeted to support the Davis-Besse and Perry nuclear plants to the tune of up to $150M/year.

HB 128 also removed the costly HB 6 "decoupling" provision, which tied FirstEnergy future profits to record year 2018 regardless of the amount of power sold, about $978M annually. The new law also revoked a change made to the Significantly Excessive Earnings Test, which benefited only FirstEnergy by allowing the company to combine profits across three of its companies to avoid customer refunds from its overly profitable company.

The new bill retains HB 6's subsidies for utility-scale solar projects and for two coal plants (one in Ohio, one in Indiana), leaving the door open for more corrective action that could cancel these subsidies that work against ratepayers.

The bill was voted unanimously in the Senate 33-0, 86-7 in the House originally, but then the House unanimously (89-0) concurred with the Senate amendments. HB 128 was sponsored by Reps. James Hoops (R-Napoleon) and Dick Stein (R-Norwalk)

<u>House Bill 192 – Prohibit Energy Generation</u>
The bill prohibits counties, townships, and municipal corporations from prohibiting energy generation from fossil fuels and gas pipelines. The House has had three hearings on this bill.

<u>House Bill 201 – Natural Gas Bans</u>
The House passed House Bill 201, legislation designed to prohibit local governments from banning or blocking consumers from obtaining natural gas hookups. The OMA worked with the bill sponsor and other interested parties to ensure the intent of the bill matched its language.

The bill has had two hearings in the Senate. The OMA became a bill supporter after successfully securing several changes in the House to clarify the bill's intent and protect customers.

<u>House Bill 260 – Electric Charge Refunds</u>
The bill would require the refund of improper and illegal electric charges. The OMA is a strong proponent of the bill. Since 2009 utilities have wrongfully collected over $1.5 billion from ratepayers. This bill will require refunds to customers within a year of being deemed improper.

<u>House Bill 271 – Natural Gas Infrastructure</u>
This month the House had sponsor testimony on House Bill 271, legislation that would establish a grant and loan program to coordinate and expand access to natural gas. The program would be funded by excess revenue in the Oil and Gas Well Fund and/or future appropriations made by the General Assembly. Businesses, non-profits, and local governments would be eligible to apply for funding.

<u>House Bill 317 – Electric Security Plan Repeal</u>
Earlier this month Rep. Shane Wilkin (R-Hillsboro) introduced House Bill 317. At the macro level, HB 317 would eliminate electric security plans (ESPs).

The ESP process was originally established to ensure electricity prices would not increase too much as utilities continued the transition to a mature de-regulated market. Since its creation, however, the ESP process has turned into a mechanism that regulated utilities use to increase costs through numerous above-market charges added to customers' bills. The proposal would eliminate ESPs and require utilities to provide standard service offers under a competitive market-rate offer. The bill would also allow utilities to implement economic development and job-retention programs under the market-rate offer, while allowing utilities to apply to the PUCO to recover non-bypassable costs of those unlimited programs.

The OMA is engaged on the bill and is preparing to meet with House leaders on the bill. There is concern that the bill might allow for unintentional alternatives for utility riders.

PUCO News

Senate Confirms French as PUCO Chair

This month, the Ohio Senate voted 31-0 to confirm Jenifer French as the new chair of the Public Utilities Commission of Ohio (PUCO). In a recent interview with Gongwer News Service, French says she aims to restore the public's trust in the PUCO after former chair Sam Randazzo's resignation last November. French said that among the PUCO's priorities are four ongoing investigations into to FirstEnergy's operations in relation to the passage of HB 6.

News and Notes

FirstEnergy Reverses – Will Refund Controversial Decoupling Charges

FirstEnergy announced it will return $26M in decoupling charges collected from customers under the 2019 HB 6 law. The company voluntarily halted collections earlier this year under a settlement with Attorney General Dave Yost. The OMA Energy Group has been an active voice in legal proceedings, partnering with the Attorney General and Office of Consumers' Counsel, consistently advocating for refund of decoupling dollars.

FirstEnergy originally indicated it would not refund the $30M it collected under the authority of HB 6. Noting that the company is not refunding all ill-gotten gains, Ohio's Consumers' Counsel Bruce Weston said that Ohio should not allow FirstEnergy to walk away from HB 6 with even a penny of consumers' money.

AG Yost Announces Decoupling Deal With FirstEnergy

On Feb. 1, Attorney General Dave Yost announced a "long-term settlement" with FirstEnergy, which has agreed to stop using a House Bill 6-authorized decoupling rider that would cost customers an extra $102 million this year.

In a recent radio interview, Yost said FirstEnergy would ask the Public Utilities Commission of Ohio (PUCO) to zero out the decoupling rider. Shortly after, the PUCO announced that the decoupling rates for FirstEnergy's Ohio distribution utilities had indeed been set to zero. (This tracker shows FirstEnergy has already collected $27 million from the rider over the past year.)

This legal development comes after the OMA for nearly two years led efforts to oppose HB 6 — including its decoupling mechanism, which had guaranteed FirstEnergy and its subsidiary, Energy Harbor, profits of at least $978 million in gross annual revenues.

It's also the second recent HB 6-related setback for FirstEnergy. In late December, a Franklin County judge ordered that $170 million per year in HB 6's customer-funded subsidies could not be collected from customer bills. The OMA helped lead legal efforts to stop the collection of the new subsidies.

Substantial Increase Hitting Natural Gas Bills

Last summer, Columbia Gas Transmission — also known as TCO — filed a rate case proposal with the Federal Energy Regulatory Commission (FERC) to recoup roughly $3 billion in transmission-related expenses. As filed, the proposal could increase transmission charges by as much as 78%.

Direct shippers and customers of natural gas-distribution utilities served by TCO are already seeing the increase in their bills. (Increased charges are subject to refund based on final terms.) For gas-intensive manufacturers, this added cost may be quite significant.

The OMA Energy Group (OMAEG) has intervened in this case to protect manufacturers' interests, specifically to reduce the proposed rate increase and eliminate any new penalties or operating restrictions. Only parties that intervened last year have legal standing to influence the outcome. Contact OMA staff to learn how you can support the OMA's litigation efforts.
The OMA Energy Group has joined an industrial coalition to pushback on proposals to hike natural gas shipping costs.

Study: Line 5 Shutdown Would Cost Ohio $13.7B
If Michigan Gov. Gretchen Whitmer (D) succeeds in shutting down Enbridge Energy's Line 5 — the continental Canadian pipeline that transports more than half million barrels of light crude oil and natural gas liquids a day — it would have a much greater impact on Ohio's economy than those of surrounding states, a new study finds.

The report, conducted by the Consumer Energy Alliance, finds that Ohio could lose up to $13.7 billion in economic activity, $147.9 million in state revenue, and more than 20,000 jobs from the shutdown. The economic losses would be four times those suffered by Michigan, the study says, and more than six times the impact on Indiana or Pennsylvania.

Chairman of the Board
JANE M. NEAL
Senior Vice President, AMG Vanadium, LLC

President
RYAN AUGSBURGER

March 23, 2021

The Honorable Bob Peterson
Chairman
Energy and Public Utilities Committee
Ohio Senate
1 Capitol Square
1st Floor South, Rm. 138
Columbus, Ohio 43215

RE: Senate Bill 52 – Written Opponent Testimony

Dear Chairman Peterson:

The Ohio Manufacturers' Association (OMA) appreciates the opportunity to provide written opponent testimony on Senate Bill 52 (SB 52). SB 52 creates a referendum process that would allow townships impacted by large scale solar or wind power projects to either approve or reject such projects approved by the Ohio Power Siting Board.

The development of both solar and wind power in Ohio – as in other states -- has continued to increase over the past decade as companies and citizens demand sustainable and cleaner options for their electricity generation. Ohio's statewide approval process, managed by the Ohio Power Siting Board, has been an effective mechanism to site such projects, weighing the pros and cons for the state and its citizens. For clarity, uniformity of policy, and economy of process, the OMA urges a statewide approach for such projects and decisions.

There are already multiple avenues during the review process for interested parties to either provide input to -- or formally intervene in and participate in -- cases to ensure their positions are considered by the Board. Pancaking approvals and bogging processes with multiple layers of decision making is costly and inefficient. As drafted, SB 52 is not the optimum solution if the desired goal is to maximize local input.

Thank you very much for the opportunity to submit this written testimony. I'd be pleased to try to answer any questions that you might have; please contact me at rbrundrett@ohiomfg.com or (614) 629-6814.

Sincerely,

Rob Brundrett
Managing Director, Public Policy Services

33 N. High St., FL 6
Columbus, Ohio 43215-3076

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BEFORE THE SENATE ENERGY AND PUBLIC UTILITIES COMMITTEE
SENATOR BOB PETERSON, CHAIRMAN
TESTIMONY
OF
BRAD BELDEN
PRESIDENT, THE BELDEN BRICK COMPANY

MAY 12, 2021

Mr. Chairman and members of the Senate Energy and Public Utilities Committee, thank you for the opportunity to present proponent testimony for Senate Bill 117 (SB 117).

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

I am testifying today on behalf of my company but also on behalf of The Ohio Manufacturers' Association (OMA). Our company is an active member of the OMA and I serve as the chairman of the OMA's Energy Committee, and I am a director on the OMA board as well.

The OMA represents approximately 1,300 manufacturing members – of all sizes, in all manufacturing segments, and in all parts of Ohio.

It is impossible to competitively operate a modern manufacturing facility without economical and reliable power. Our membership includes many of the largest, most sophisticated energy users in the state. Some of our members consume the same amount of electricity as a medium-sized city. In short, energy is very important to Ohio's manufacturing competitiveness.

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

Also critical to Ohio manufacturers are energy policies that support energy markets, free from market manipulation, that allow consumers to access the cost and innovation benefits of competition.

The OMA was an ardent opponent of House Bill 6 (HB 6). OMA and its members testified numerous times in opposition to the anti-consumer and anti-competitive provisions of the bill now tied to the pending bribery investigation by the Southern District of Ohio's U.S. Prosecutor's Office.

Our organization has come before this committee multiple times this year to testify in support of legislation that would repeal the harmful provisions of HB 6. We are once again before you to request this body eliminate one of the last remaining anti-consumer pieces of that scandal ridden bill.

SB 117 is a straightforward bill that does several things. The bill ends the subsidies included in HB 6 for the Ohio Valley Electric Corporation (OVEC) and the two 1950's era coal plants it owns, Kyger Creek in Ohio and Clifty Creek in Indiana, and it will refund the charges Ohio ratepayers have borne since the OVEC provisions from HB 6 went into effect.

Also the bill would prevent the revival of any OVEC charges that existed prior to HB 6. Several riders had been approved by the PUCO that were set to expire in the coming years. HB 6 extended the expiration of those charges, expanded the number of customers charged, and modified how the charges are applied.

Our estimate of the subsidies for the two OVEC coal plants for the entire term of the subsidy created by House Bill 6 is approximately $700 million. This cost comes with no benefit to customers. In fact, the subsidies are not even helping OVEC improve. OVEC's energy output is down 40% since 2010, its employment is down 20%, its emissions are still high, and its financial losses could continue for another 19 years.

At the time of HB 6's passage some proponents testified that the OVEC charges were merely codifying Ohio case law. That was not accurate then, or now.

While it is true the Supreme Court of Ohio in 2018 upheld a PUCO ruling allowing AEP to collect OVEC subsidies from AEP customers, that case was in the context of the PUCO approving an Electric Security Plan or ESP and was limited to the term of the ESP. As such, those customer charges were scheduled to drop off when the ESP term concludes on May 31, 2024. HB 6 enabled the owners of OVEC to impose ongoing new charges June 1, 2024 and thereafter.

Some have argued that HB 6 is acceptable because of cost caps imposed in the bill for certain customers, but the owners of OVEC are allowed to defer any uncollected charges that exceed the caps, plus interest. Moreover, this deferral of uncollected costs will be due in 2030 and will be a significant ratepayer cost that will have to be paid at that time in full, plus interest. Additionally, small and medium manufacturers and commercial customers did not receive such a comparable cost cap. In fact, Ohio ratepayer subsidies to OVEC have *increased* since the passage of HB 6. This is because as OVEC's financial performance continues to worsen, ratepayer subsidies increase to pick up the costs.

HB 6 also expanded who pays for the OVEC subsidies. For the first time, FirstEnergy customers are now on the hook to subsidize the two aging plants which includes the aforementioned Indiana plant. In short, the OVEC charges contained in HB 6 legalized another new and unnecessary energy tax on Ohio businesses and families.

The cost of the OVEC subsidies for Belden Brick this year will be about $26,000. Our company, like many manufacturers, has expanded over time and has multiple electric meters. Because of this, our company is paying more for OVEC than other companies many times our size whose operation is under a single meter. Because HB 6 did nothing to reduce OVEC subsidies; for each business that had their OVEC costs capped by HB 6, another had their costs increased. Why create losers and winners amongst electric customers, when the OVEC subsidy can be eliminated entirely?

This body has moved in the right direction since the beginning of the year by eliminating the Significantly Excessive Earnings Test modifications made in the previous budget, eliminating the decoupling changes made by HB 6, and eliminating the nuclear subsidies in HB 6. SB 117 provides an opportunity to continue to do the right thing by eliminating the onerous and expanded OVEC subsidies that were included in the HB 6 scheme.

I have attached to my testimony a memo done by OMA consultant RunnerStone regarding OVEC. I would highly encourage all the members to take some time and read through the memo.

I am pleased also to be joined by Kim Bojko of the Carpenter Lipps & Leland law firm. Kim serves as the OMA's chief energy counsel, representing industry positions before the state and federal regulatory commissions and John Seryak the CEO of RunnerStone, LLC who provides energy and engineering consulting for the OMA. Kim and John are able to help me respond to any questions you may have.

Chairman, members of the committee, again thank you for the time today, this concludes my prepared remarks.

MEMORANDUM

Date: November 12, 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 support that could span

Expensive Subsidies, Poor Performance

- OVEC sells power for less than it costs it to generate – 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.
- PUCO audit ineffectual; OVEC ignores audit findings, running at a financial loss and forgoing market revenue, while continuing to receive cost recovery and profit.

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]

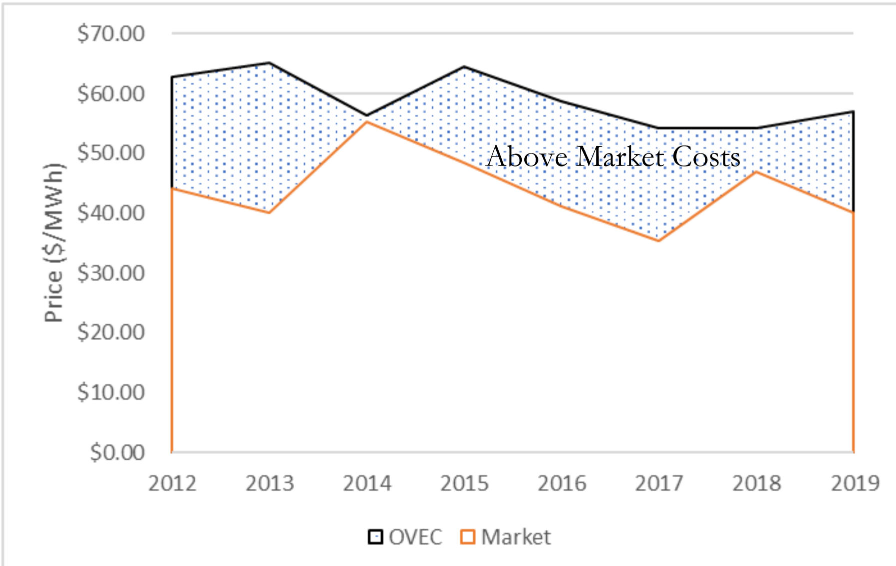

Figure 1. OVEC Price of Electricity vs. PJM Wholesale Market Price of Electricity

[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	OVEC Price ($/MWh)	PJM Wholesale Market Price ($/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.

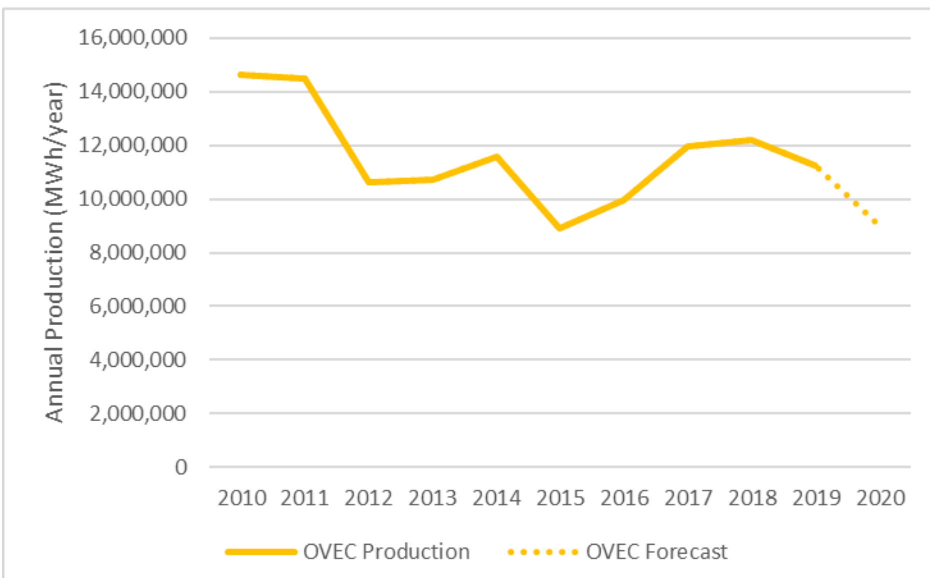

Figure 2. OVEC Electricity Production

[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 CO_2/year; Davis Besse and Perry nuclear plant average generation of 12,798,134 MWh/year x 0.73 tons CO_2/MWh (PJM marginal off-peak emissions rate) = 12,798,134 tons CO_2/year

[10] From PJM Reports, using Table 2 - Marginal Off-Peak Emissions
https://www.pjm.com/~/media/library/reports-notices/special-reports/20160318-2015-emissions-report.ashx
https://www.pjm.com/-/media/library/reports-notices/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)

BEFORE THE HOUSE PUBLIC UTILITIES COMMITTEE
REPRESENTATIVE JIM HOOPS, CHAIRMAN

TESTIMONY
OF
KIM BOJKO
PARTNER, CARPENTER LIPPS & LELAND
OMA ENERGY COUNSEL

FEBRUARY 23, 2021

Mr. Chairman and members of the House Public Utilities Committee, my name is Kim Bojko. I am a partner with the law firm Carpenter, Lipps, and Leland, where I specialize in energy and public utility law. I also serve as energy counsel to both The Ohio Manufacturers' Association (OMA) and the OMA Energy Group. I appreciate the opportunity to present proponent testimony on House Bill 128 (HB 128).

The OMA represents the manufacturing sector of Ohio. We boast approximately 1,300 members – of all sizes. It is impossible to competitively operate a modern manufacturing facility without affordable and reliable power. Our membership includes many of the largest, most sophisticated energy users in the state. Some of our members consume the same amount of electricity as a medium-sized city. In short, energy is very important to Ohio's manufacturing competitiveness.

The OMA was an opponent of House Bill 6 (HB 6). OMA and its members testified numerous times in opposition to the anti-consumer and anti-competitive provisions of the bill now tied to the pending bribery investigation by the Southern District of Ohio's U.S. Prosecutor's Office.

Harmful provisions of HB 6 included the following:

A. Clean Air Fund/Subsidies for Nuclear Plants: HB 6's "crown jewel" was a $150 million-a-year subsidy for the owner of Ohio's two nuclear power plants. This subsidy, financed by Ohio's electric consumers, could not be justified – especially since publicly available financial data and the owner's proposed $800 million stock buyback demonstrated that the subsidy was and is not needed. An additional $20 million subsidy for select solar plants brought this subsidy total to $170 million annually.

B. Decoupling (Profit Guarantees): The bill's decoupling mechanism provided the FirstEnergy utilities with 2018 revenue levels (plus at least an additional $66 million each year), regardless of the amount of electricity sold. The data and analyses demonstrate how HB 6 authorized the FirstEnergy utilities to 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.")

C. OVEC Subsidies: HB 6 provided additional subsidies for the utility owners of the Ohio Valley Electric Corporation (OVEC) coal plants – subsidies estimated to be worth $700 million through 2030. One of the two plants is in Indiana.

During the waning days of the 133rd General Assembly, the OMA testified on several different pieces of legislation that addressed the repeal of HB 6. Last year, the OMA supported then Representative Romanchuk's House Bill 772 as the most comprehensive approach to address the problems presented by HB 6. We still believe that would be the best approach to protect Ohio's business and residential customers.

Nonetheless, while not addressing all of the issues that we raised about HB 6 over the past two years, HB 128 begins the process of rebalancing Ohio's utility laws between customers and utilities.

HB 128 eliminates the Clean Air Fund subsidies for Ohio's two nuclear plants and select solar projects in the state. Since mid-2019, the OMA has provided members of the General Assembly information regarding the Federal Energy Regulatory Commission's long awaited Minimum Offer Price Rule (MOPR). At that time, we cautioned of the obstacle posed by MOPR, stating that the nuclear plants would not be able to participate in the capacity auctions with a state subsidy in the law. More specifically, in June of 2019, OMA explained: "This is a real, probable, and possibly unintended consequence of H.B. 6 – that Ohio's nuclear power plants will be ineligible to compete in wholesale capacity auctions and will likely be further impaired financially by this loss in revenue."[1] We are pleased to see that others now agree with our initial analysis regarding the rule.

The bill also repeals the FirstEnergy utilities' decoupling provisions and removes the modification to the Significantly Excessive Earnings Test included in House Bill 166, last General Assembly's operating budget bill. Finally, the bill also provides for a transmission study.

While these are necessary provisions, we would urge this committee to continue the repeal of other utility friendly provisions contained in HB 6, most notably the subsidies for OVEC. HB 6 codified and extended the subsidy for OVEC through 2030. OVEC owns two legacy, uneconomical power plants, Clifty Creek in Indiana and Kyger Creek in Ohio. The OVEC subsidy currently collects tens of millions of dollars each year from customers of AEP Ohio, Duke, and DP&L. FirstEnergy customers are now receiving new charges for the first time to subsidize OVEC, due to provisions in HB 6.

HB 128 is a positive step in the right direction, repealing many of the bad provisions of HB 6. OMA supports the bill, however, as stated above, we would highly encourage this body to take the next step and repeal the OVEC subsidies in HB 6 as well.

Thank you. I would be happy to answer any questions.

[1] See https://www.ohiomfg.com/wp-content/uploads/HB-6-Memo-on-Nuclear-Plant-Revenue-7.16.19-JS-rev.pdf

An Analysis of Ohio Nuclear Plant Profitability Under House Bill 6

The Ohio House of Representatives recently passed House Bill 6 (H.B. 6), a major rework of Ohio's electricity policy. H.B. 6 would significantly affect customer costs and how electricity markets function in Ohio. Energy counsel for The Ohio Manufacturers' Association (OMA), Kim Bojko of Carpenter Lipps & Leland, has separately provided a legal analysis on what H.B. 6 does and how it works.

In summary, H.B. 6 creates excessive profit for Ohio's nuclear plants of up to $330 million per year over the six-year term of the Clean Air Program. In this memo we examine the nuclear plants' profitability, multiple compensation mechanisms for nuclear power plants in H.B. 6, how the bill would trigger special treatment of the nuclear plants' capacity revenue, and forthcoming changes in wholesale electricity markets that create additional revenue for nuclear plants.

Ohio's Nuclear Plants' Excessive Profit Under House Bill 6

- Currently plants may not need financial support.
  - Dr. Paul Sotkiewicz estimates $72 million annual profit presently.
- H.B. 6 may contribute to excessive profits of an estimated $330 million a year.
  - Of that, $150 million a year from Clean Air Credits.
- H.B.6 triggers changes in capacity auctions.
  - Plants removed from capacity auction - $82 million a year.
  - Possible $157 million a year in State of Ohio capacity revenue envisioned by FES.
- Other changes to PJM electricity market include energy market rule changes - $33 million a year.

Nuclear Plant Profitability

H.B. 6 was passed with the purported intent to keep Ohio's two nuclear power plants, Davis-Besse and Perry, up and running. The owner of these two nuclear plants, FirstEnergy Solutions (FES), is currently going through bankruptcy proceedings. However, FES is expected to emerge from bankruptcy financially solvent. And the financial well-being of FES is not necessarily reflective of the financial viability of its nuclear power plants. Thus, questions remain:

- How financially viable are the nuclear power plants presently?
- And will the nuclear power plants emerge from bankruptcy in a better financial position?

Two authoritative sources have addressed the nuclear power plants' profitability. PJM's Independent Market Monitor releases an annual "State of the Market" report, which includes financial surplus or shortfall of PJM's 18 nuclear power plants.

We have reproduced the Independent Market Monitor's estimates in the table below. The Monitor estimates that three of PJM's 18 nuclear plants are losing money, while the other 15 are profitable.

Table 7-42 Nuclear unit forward annual surplus (shortfall) ($ in millions)[56]

	Surplus (Shortfall) ($ in millions)		
	2019	2020	2021
Beaver Valley	$134.3	$93.5	$84.7
Braidwood	$106.4	$80.3	$51.7
Byron	$104.3	$78.6	$50.6
Calvert Cliffs	$131.0	$99.0	$89.3
Cook	$95.8	$48.4	$41.9
Davis Besse	($26.9)	($47.8)	($45.6)
Dresden	$97.3	$76.4	$53.8
Hope Creek	$57.9	$52.0	$43.3
LaSalle	$103.5	$78.0	$50.2
Limerick	$112.2	$100.5	$83.8
North Anna	$138.6	$99.3	$90.0
Peach Bottom	$113.4	$101.5	$84.1
Perry	($22.6)	($49.6)	($47.8)
Quad Cities	$61.3	$42.2	$20.9
Salem	$114.6	$102.8	$85.5
Surry	$120.5	$85.6	$77.6
Susquehanna	$77.7	$37.4	$28.2
Three Mile Island	($56.9)	($69.6)	($72.3)

Table 1: Independent Market Monitor Estimates of Nuclear Power Plant Annual Financial Surplus or Shortfall.

There are several insights to glean from this analysis. First, Ohio participates in the regional PJM electricity market, and most nuclear power resources in this market will continue to operate and be profitable. In other words, Ohio's access to low-carbon nuclear power is not significantly at risk.

Another insight is that FES's two Ohio nuclear plants are estimated to lose $93 million in 2021. While this is a significant loss, it is substantially less than the $165 million annual payment expected from the Clean Air Program created under H.B. 6.

Estimates of Nuclear Power Plant Annual Financial Surplus or Shortfall

The Independent Market Monitor cannot disclose specific power plant financial data, and so Table 1 presents estimates. Thus, the Monitor relies on average operating costs data from the Nuclear Energy Institute to estimate operating costs, as well as public data on energy production and wholesale electricity market prices to estimate revenue. The estimated operating costs reflect typical single unit nuclear plant costs. If FES's nuclear plants are losing more money than this estimate, it would demonstrate that they are not operating their plants as efficiently as the industry average. This means the Clean Air Program would be compensating for below-average operating performance, not just the benefits of nuclear power.

Another separate financial analysis was completed by Dr. Paul Sotkiewicz, former chief economist for PJM. Dr. Sotkiewicz's financial analysis shows that post-bankruptcy, the Davis-Besse and Perry nuclear plants will likely turn an annual profit. Dr. Sotkiewicz estimates the annual profit to be $28 million for Davis Besse and $44 million for Perry, for a combined profit of $72 million annually[1].

Dr. Sotkiewicz's estimates differ from the Independent Market Monitor's for two main reasons. First, Dr. Sotkiewicz accounts for the nuclear plants' financial situation post-bankruptcy. Second, Dr. Sotkiewicz relies on specific financial filings of these nuclear power plants.

These financial estimates call into question the following:

- Do the Davis-Besse and Perry nuclear power plants need financial assistance?
- Does the Clean Air Program over-compensate the nuclear power plants?
- Is the Clean Air Program compensating poor business decisions, in addition to the environmental benefits of nuclear power?

H.B. 6 Revenue Streams for Nuclear Plants

H.B. 6 creates a Clean Air Program, financed by charges applied to each customer of an Ohio investor-owned utility (AEP Ohio, DP&L, Duke, and the FirstEnergy companies). Each year the Clean Air Program will pay $9 for each MWh of electricity produced by nuclear power plants. According to the U.S. Energy Information Administration (EIA), over the past three years, Davis-Besse produced 7,216,607 MWh on average, and Perry generated 10,390,121 MWh on average. However, HB 6 provides for total compensation to the nuclear plants at $150 million per year.

Therefore, it is estimated that under the Clean Air Program, the nuclear plants would be compensated as follows:

7,216,607 MWh (Davis-Besse) + 10,390,121 MWh (Perry) = 17,606,728 MWh

17,606,728 MWh x $9 /MWh (Clean Air Credit) = $158,460,552/year

Annual compensation = $150,000,000 /year

Nuclear power plant output will vary from year to year, depending on the plants' refueling schedule and up-time.

[1] "The Market and Financial Position of Nuclear Resources in Ohio", Dr. Paul Sotkiewicz, E-Cubed Policy Associations, LLC. Table 12

H.B. 6 Triggered Capacity Auction Changes

H.B. 6 not only sets into sequence a series of reactions in the wholesale electricity market, which will affect Ohio's electricity prices, but also how the nuclear power plants are compensated for electricity, and the level of that compensation. At the heart of this set of reactions are forthcoming changes to PJM's electric capacity auction. The capacity auction is the mechanism by which PJM assures enough electricity resources are available for the grid system at times of peak demand. Please note that capacity payments are an important part of overall economic viability for a power plant.

However, PJM is also charged with ensuring a fair and level playing field for power plants competing for capacity payments. This is especially true now, as PJM is consistently exceeding its reliability goal and there is an abundance of power plants on the grid, with even more new entrants waiting.

With this abundance of generation, uneconomic power plants may be unable to compete and receive a capacity payment. As a result, some uneconomic power plants are seeking subsidies from their respective states to remain viable. This undermines the integrity of the market. And the Federal Energy Regulatory Commission (FERC) has thus deemed PJM's capacity auction as unjust and unreasonable. FERC has issued guidelines, with time for comment, that essentially will wall-off generating plants that receive materially significant state subsidies from participating the PJM's capacity auction.

In simple terms, if H.B. 6 passes, Ohio's nuclear power plants would be removed from PJM's capacity auction, and they would lose the ability to earn this revenue. We estimate this lost revenue potential at around $82 million a year, as shown in the calculation below:

894 MW (Davis-Besse) + 1,256 MW (Perry) = 2,150 MW (combined capacity)

2,150 MW x $105 /MW-day (3-year average capacity price) x 365 days/year = $82 million/year

This is a real, probable, and possibly unintended consequence of H.B. 6 – that Ohio's nuclear power plants will be ineligible to compete in wholesale capacity auctions and will likely be further impaired financially by this loss in revenue. This is probably an untenable financial position for the nuclear plants.

Fortunately, there is no need for speculation. FirstEnergy Solutions has already provided comment on these rules, including advice on how Ohio can make up for this unexpected loss of revenue. Specifically, FES states that credits for zero emissions for nuclear plants are "not intended to provide resources with sufficient revenue, in the absence of a capacity payment, to make continued operation viable"[2].

This is to say, FES intends to ask for capacity payments in addition to Clean Air Credit payments. Because PJM will not provide these capacity payments, the state of Ohio would need to do so, and Ohio ratepayers would need to cover this cost. FES has provided an example of around $200 /MW-day compensation for capacity. At this rate, Ohio would need to create the following additional revenue for the nuclear power plants:

[2] FERC Docket EL18-178, Initial Comments of FirstEnergy Solutions Corp., Page 10

2,150 MW x $200 /MW-day (3-year average capacity price) x 365 days/year = $157 million/year

Note: H.B. 6 does not create a mechanism for Ohio to set capacity prices, collect the costs from ratepayers, or pay the payment to generators.

Other Changes in PJM's Electricity Market

While the nuclear plants will not be eligible for capacity payments from PJM, they will still participate in PJM's energy markets, which compensate generators for the electricity they produce, as opposed to the peak capacity. The energy markets, too, are undergoing rule changes that are expected to create increased revenue for nuclear power plants – specifically, changes to the Operating Reserve Demand Curve included in PJM's Price Formation Filing.

According to the Independent Market Monitor, nuclear power plants will receive an additional $15,344 /MW-year[3] due to changes in the Operating Reserve Demand Curve. This would create an additional $33 million/year for Ohio's nuclear power plants:

2,150 MW x $15,344 /MW-year = $33 million/year

PJM is also investigating carbon pricing for its market. While it is too early to say if a rule would pass, how it would work, and what revenue it would create for Ohio's nuclear plants, one can assume there is the possibility of future payments for carbon-free generation.

Excessive Profits Potential

H.B. 6 thus sets up significant excessive profit potential for Ohio's nuclear plants. For example, should the nuclear power plants be profitable post-bankruptcy, and should Ohio create a capacity payment to replace PJM's for the nuclear plant, Ohio's nuclear plants would have the following annual profits:

$72 million/year (post-bankruptcy profit) + $150 million/year (Clean Air Program revenue) - $82 million/year (capacity auction lost revenue) + $157 million/year (Ohio set capacity revenue) + $33 million/year (PJM price formation changes) = $330 million/year

If we use the Independent Market Monitor's estimates of the two nuclear plants' financial losses – and we assume that Ohio does not create a capacity price and payment mechanism for the plants – the net annual profits of the nuclear plants under H.B. 6 are still $16.5 million.

Conclusions and Findings

Based on the above data, Ohio policymakers should take into consideration the following questions:

- Do the nuclear plants truly need financial support, post-bankruptcy?

[3] Monitoring Analytics, "ORDC Simulation Results: Version 2", Table 20.

- Does H.B. 6 create excessive profits for the nuclear power plants?
- Can Ohio's payments to the nuclear power plants be lowered if the plants start receiving additional revenue from energy markets?
- Will Ohio be asked, or required, to create a capacity payment mechanism for the nuclear power plants to replace the probable loss of PJM capacity payments to the nuclear power plants?

BEFORE THE HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE
REPRESENTATIVE JASON STEPHENS, CHAIRMAN

TESTIMONY
OF
ROB BRUNDRETT
MANAGING DIRECTOR, PUBLIC POLICY SERVICES

APRIL 15, 2021

Mr. Chairman and members of the House Energy and Natural Resources Committee, my name is Rob Brundrett, and I am the Managing Director, Public Policy Services for The Ohio Manufacturers' Association (OMA).

The OMA represents Ohio's robust manufacturing sector. We boast approximately 1,300 members – of all sizes. As you well know, affordable and reliable energy is integral to the productivity of these manufacturers. OMA's membership includes many of the largest, most sophisticated energy users in the state. Some of our members consume the same amount of electricity as a medium-sized city. In short, energy is of paramount importance to Ohio's manufacturing competitiveness; therefore, Ohio's energy policy is of great significance to us.

The OMA appreciates the opportunity to provide testimony on House Bill 201 (HB 201). HB 201 provides that every person has the right to obtain available natural gas and prohibits local governments from enacting laws, rules, or codes that limit the use of, prohibit, or prevent residential, commercial, or industrial consumers from obtaining distribution service or retail natural gas service that would otherwise be available to a person under Ohio's public utility law and regulations.

The OMA is supportive of the intent of the legislation to ensure that its members' manufacturing facilities have access to affordable and reliable natural gas service to operate. It is imperative that manufacturers across the state continue to have access to natural gas supplies. Our members, however, have some concern with how broadly the legislation is written and the potential costs that may be unintentionally created through the legislation.

We have appreciated the opportunity to engage with you, Mr. Chairman, as the sponsor of the bill, and with other interested parties to make any potential technical changes and on ways to ensure the bill does not have any unintended consequences such as imposing costs on manufacturers for unnecessary facilities.

Energy policy can either enhance or hinder Ohio's ability to attract business investment, stimulate economic growth, and spur job creation – especially in manufacturing. We feel that the intent of HB 201 helps ensure Ohio's manufacturers will continue to have access to reliable and economical energy sources. We will continue to work with the committee to consider making minor changes to clarify the intent of the bill. Thank you and I would be pleased to try and answer any questions.

Chairman of the Board
JANE M. NEAL
Senior Vice President, AMG Vanadium, LLC

President
RYAN AUGSBURGER

The Ohio Manufacturers' ASSOCIATION

May 25, 2021

The Honorable Rob McColley
Chairman
Senate Energy and Public Utilities
Ohio Senate
1 Capitol Square
2nd Floor N., Rm. 222
Columbus, Ohio 43215

RE: House Bill 201 – Written Proponent Testimony

Dear Chairman McColley:

The Ohio Manufacturers' Association (OMA) represents Ohio's robust manufacturing sector. We boast approximately 1,300 members – of all sizes. As you well know, affordable and reliable energy is integral to the productivity of these manufacturers. OMA's membership includes many of the largest, most sophisticated energy users in the state. Some of our members consume the same amount of electricity as a medium-sized city. In short, energy is of paramount importance to Ohio's manufacturing competitiveness; therefore, Ohio's energy policy is of great significance to us.

The OMA appreciates the opportunity to provide testimony on House Bill 201 (HB 201). In general terms HB 201 provides that every person has the right to obtain available natural gas and prohibits local governments from enacting laws, rules, or codes that limit the use of, prohibit, or prevent residential, commercial, or industrial consumers from obtaining distribution service or retail natural gas service that would otherwise be available to a person under Ohio's public utility law and regulations.

The OMA is supportive of the legislation and its intent to ensure that manufacturing facilities have access to affordable and reliable natural gas service. It is imperative that Ohio manufacturers continue to have access to natural gas supplies. Our organization has worked closely with the bill sponsor and other proponents of the legislation to ensure that the language matches the intent. We initially had some concern about potential unintended consequences given the original language. These concerns were mostly addressed during the House committee process.

Energy policy is critical to Ohio's ability to attract business investment, stimulate economic growth, and spur job creation – especially in manufacturing. We believe that the current version of HB 201 helps ensure Ohio's manufacturers will continue to have access to reliable and economical energy sources.

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Thank you very much for the opportunity to submit this written testimony. I'd be pleased to try to answer any questions that you might have; please contact me at rbrundrett@ohiomfg.com or (614) 629-6814.

Sincerely,

Robert A Brundrett

Rob Brundrett
Managing Director, Public Policy Services

May 26, 2021

The Honorable Jim Hoops
Chairman
Energy and Public Utilities Committee
77 S. High St., 11th Floor
Columbus, Ohio 43215

RE: House Bill 260 – Written Proponent Testimony

Dear Chairman Hoops:

The Ohio Manufacturers' Association (OMA) appreciates the opportunity to provide written proponent testimony on House Bill 260 (HB 260). HB 260 requires the refund of electric utility charges that have been found to be improper by the Supreme Court of Ohio or any other relevant authority. These refunds shall take place within one year of the final determination.

HB 260 offers a solution to put illegitimately collected money back in the pockets of customers. The amount of above-market charges that have been collected from customers, then later deemed to be unlawful by the Supreme Court of Ohio, is significant. The Office of the Ohio Consumers' Counsel has identified more than $1.5 billion in wrongful charges since 2009.

If Ohio utilities are authorized to collect charges that are later deemed to be unlawful by the Court, HB 260 requires the money to be refunded to customers, not retained by utilities as a windfall. While OMA believes that the PUCO already has the authority to protect consumers by ordering refunds through the utilities' tariffs; HB 260, if enacted, will codify the PUCO's authority to order refunds and will place the utilities on notice that charges will be collected from customers subject to refund if the charges are later found to be unlawful.

Thank you very much for the opportunity to submit this written testimony. I'd be pleased to try to answer any questions that you might have; please contact me at rbrundrett@ohiomfg.com or (614) 629-6814.

Sincerely,

Robert A Brundrett

Rob Brundrett
Managing Director, Public Policy Services

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Committees
Chair: Government Oversight
Finance
Public Utilities
State and Local Government

Shane Wilkin
State Representative

House Bill 317 Sponsor

Chairman Hoops, Vice-Chair Ray, Ranking Member Smith and members of the House Public Utilities Committee. Thank you for the opportunity to give sponsor testimony on House Bill 317. This is a bill that will reduce customers' bills, keep Ohio competitive with other states, and decrease litigation.

Today, Ohio has a unique electric ratemaking structure that uses Electric Security Plans (ESP) and Significantly Excessive Earnings Test (SEET), which have historically enabled over-earnings relative to traditional rate cases. Further, the ESP provides electric distribution utilities (EDUs) a myriad of options to add riders to ratepayers' bills including the ability build and own electric generation, with PUCO approval, and charge their captive customers. Across all utilities we have a low of 11 and a high of 47 riders. In total, there are over 200 separate riders that ratepayers could be paying depending on the EDU service area and customer class.

So what is an Electric Security Plan? Perhaps the best way is to give you some background on this issue. In 2008, Governor Strickland signed into law Senate Bill 221 to revise the PUCO's regulatory structure and require each electric distribution utility to shed its power generation operations. SB 221 required utilities to offer a Standard Service Offer (SSO) for customers who do not actively choose a retail supplier.

Currently, the EDU has a choice between submitting an SSO as an ESP or a market rate offer (MRO). If a utility filed an ESP and it didn't like PUCO's conditions, it can reject them and file a new one. If the utility chose the MRO route, it cannot file an ESP in the future or modify it. So far, all utilities have operated under multiple ESP terms.

The PUCO is required to approve, or modify and approve, if the ESP is more favorable in the aggregate as compared to the expected results that would otherwise apply under an MRO. This can be very subjective. Further, EDUs that opt to provide service under an ESP must undergo an annual earnings test called the SEET.

Now, back to the bill. While seeming complex, this modification is simple in nature. Under House Bill 317, once an EDU's ESP terminates, the utility cannot extend the ESP or apply for a new ESP. Instead, the EDU would be required to file and operate under a MRO. An MRO is a more market-based pricing system versus an ESP which uses a traditional rate plan structure. An important point I want to make here is that most of the ESPs expire in 2024/2025, except for AES Ohio, which is operating under an ESP that has no end date.

Under an MRO, only statutorily approved riders will be allowed. This includes ones for economic development, advanced metering, and alternative energy (RPS). One thing to note, the bill does eliminate the ability for the PUCO to potentially approve a voluntary energy efficiency program. While I am not opposed to the idea, it is my understanding that Rep. Seitz is working with parties on crafting such a program. This bill can potentially accommodate those suggestions.

An additional benefit of the bill is it would resolve the issue of riders being collected from ratepayers under an ESP for years and then are later overturned by the Supreme Court of Ohio. It is estimated since 2009, Ohioans have been billed $1.5 billion in unlawful charges that have no ability to be refunded.

Finally, litigation costs should be reduced. These ESP cases sometimes take years to resolve and much of it is billed to the ratepayer. Under a traditional rate case, there are statutory deadlines on when a case must completed. During a rate case the EDU must open its books to be scrutinized and a cost-benefit analysis will be conducted on behalf of ratepayers.

Thirteen years have passed since the passage of SB 221. Now is the time to examine whether ESPs have outlived their purpose. With the EDUs locked into ESPs for the next few years we have a unique opportunity to do that. MROs could reduce ratepayers' bills and increase utilities transparency to their ratepayers, the citizens and businesses located here in Ohio.

Thank you again for allowing me the opportunity to present HB 317 to you today. I would be happy to answer questions.

OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 317
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Wilkin

Kathleen A. Luikart, Research Analyst

SUMMARY

- Repeals electric security plans (ESPs) under which an electric distribution utility (EDU) provides customers in its certified territory a standard service offer (SSO) of retail electric services.
- Requires EDUs to offer SSOs under a market rate offer (MRO) as generally provided in current law.
- Permits EDUs to implement economic development and job retention programs under an MRO and to apply to the Public Utilities Commission to recover nonbypassable prudently incurred costs of those programs and allocate the costs across all customers of the EDU and EDUs in the same holding company system.
- Allows ESPs in effect on the bill's effective date to continue in accordance with applicable PUCO orders and rules and any law that existed prior to the bill's effective date until (1) the ESPs' specified termination dates or (2) for ESPs without a specified termination date, not later than January 1, 2024.
- Prohibits EDUs from extending an ESP or applying for a new ESP after it terminates.
- Changes provisions of ongoing law to reflect the repeal of ESPs by removing references to ESPs or, for certain provisions, applying the ESP law to these provisions as they existed before the bill's effective date.

DETAILED ANALYSIS

Repeal of electric security plans (ESPs)

The bill repeals electric security plans (ESPs), one of the options in the competitive electric service law under which an electric distribution utility (EDU) provides customers a standard service offer (SSO). And, the bill amends the law to require, rather than permit, EDUs to offer SSOs under market rate offers (MROs). EDUs currently may provide an SSO through an

ESP or an MRO. However, no EDUs currently are operating under an MRO. The ESP repeal means that, under the bill, an MRO is an EDU's only option for offering an SSO to customers.

An SSO is an offer of competitive retail electric services necessary to maintain essential electric service that EDUs are required to provide consumers. The bill retains that description but removes the word "competitive."

Under ongoing law, an EDU is required to provide an SSO to customers within its certified territory. The customers are those who have not (1) shopped for an electric generation supplier or (2) obtained a new supplier after the customers' supplier defaulted.[1]

Status of existing ESPs

Although the bill repeals the ESP law, the bill does not terminate ESPs that are in effect on the bill's effective date. Under the bill, an EDU with an existing ESP may continue the plan as follows:

- Until the plan's termination date, if the ESP has a specified termination date;
- Until not later than January 1, 2024, if the ESP does not have a specified termination date.[2]

The ESPs that continue must operate in accordance with all applicable Public Utilities Commission (PUCO) orders and rules and any law that existed and applied to the ESP prior to the bill's effective date. The bill prohibits an EDU from extending an ESP after its termination, and prohibits the EDU from applying for a new ESP.[3]

Changes to reflect ESP repeal

Because it eliminates ESPs, the bill repeals the provisions of ESP law, including those regarding the PUCO application and approval process for ESPs; application requirements; the supply and pricing of electric generation services; and extensive cost recovery provisions allowed under ESPs, including, for example, recovery of prudently incurred costs and allowances for construction work in progress.[4]

Under the bill, cross references to the ESP law are removed from several sections of ongoing law, including provisions of the corporate separation law; governmental aggregation of retail electric loads by townships, counties, and municipal corporations; the securitization of certain phase-in costs of an EDU and the issuance of phase-in-recovery bonds under a PUCO-issued financing order; and the requirements for winning bids under the competitive

[1] R.C. 4928.141, 4928.142(A), and 4928.143; R.C. 4928.03, not in the bill.

[2] Section 3(A)(1).

[3] Section 3(A)(2).

[4] R.C. 4928.141 and 4928.143.

procurement process for electric service for percentage of income payment plan program customers.[5]

Possible clarity issues

The bill removes, from an exception clause in the corporate separation law, the cross references to Revised Code sections 4928.31 to 4928.40, the sections pertaining to the transition to competitive retail electric service. Although the transition to competitive service has already taken place, these sections are nominally in effect. Removing the cross reference to them from Revised Code Section 4928.17 may cause confusion in the section's statutory construction.[6]

The bill does not remove or amend all references to ESPs in the governmental aggregation law – specifically the provision allowing a legislative authority under an aggregation to elect not to receive any standby service under an ESP. Because two references to ESPs remain unchanged in the bill, it is unclear how standby service would be affected.[7]

Transitional provisions for existing ESPs

SSO as default service

The bill specifies that, if a customer's chosen electric supplier fails to supply that electric service within an EDU's certified territory, the customer's service will default to the SSO service offered by the EDU either under an MRO or the ESP *as* that *ESP* existed prior to the bill's effective date and that is still in effect. Although not expressly stated by the bill, once an ESP that is in effect prior to the bill's effective date terminates, the default SSO service will be the SSO service offered under an MRO, since the bill specifies that ESPs may not continue after they terminate.

Under the competitive retail electric service law, a retail electric customer in Ohio may select a provider to supply the customer's electric generation service. If the provider fails to provide that service to customers within an EDU's certified territory, then the provider's customers will default to the EDU's SSO until the customers choose an alternate provider to supply electric generation service. Under ongoing law a supplier is deemed to have failed to provide electric service if any of four specified conditions are met, one of which is that the supplier's certification as a competitive electric supplier has been suspended, conditionally rescinded, or rescinded.[8]

[5] R.C. 4928.17, 4928.20, 4928.23, 4928.231, 4928.232, and 4928.542.

[6] R.C. 4928.17(A).

[7] R.C. 4928.20(J).

[8] R.C. 4928.14 and Section 3(A)(2); R.C. 4928.03, not in the bill.

Phase-in of EDU price or rate

Current law allows PUCO to authorize any just and reasonable phase-in of an EDU rate or price as PUCO determines is necessary to ensure rate or price stability for consumers. Under the bill, such an order applies to ESP rates or prices under the ESP law as it existed prior to the bill's effective date. Ongoing law, unchanged by the bill, permits PUCO, for rate or price stability, to establish a phase-in of an EDU rate or price under an MRO as necessary.[9]

Legacy generation resource

The bill retains the prohibition against an EDU using the output from a legacy generation resource in supplying its SSO under an ESP, but specifies that the prohibition applies to ESPs under the ESP law as it existed prior to the effective date of the bill's ESP repeal.

Ongoing law (1) authorizes PUCO to establish a nonbypassable rate mechanism for a legacy generation resource (including Ohio Valley Electric Corporation (OVEC) facilities), and (2) requires that an EDU bid the output from a legacy generation resource into the wholesale market. The bill retains the prohibition against an EDU using the output of a legacy generation resource in supplying an SSO under an MRO.[10]

Electric securitization and financing orders

Under the law governing the securitization of certain phase-in costs of an EDU and the issuance of phase-in-recovery bonds under a PUCO-issued financing order, "phase-in costs" include costs authorized by PUCO to be securitized or deferred as regulatory assets under ratemaking proceedings and proceedings for MROs and ESPs. The bill modifies "phase-in costs" to (1) include costs securitized or deferred as regulatory assets under MRO, and ESP proceedings as the law existed prior to the effective date of the bill and (2) exclude certain other costs authorized under an ESP and the ESP law as it existed prior to the effective date of the bill or certain electric generating facility costs approved for recovery according to the SSO, MRO, and ESP law as it existed prior to the effective date of the bill.

The bill specifies that financing order application information required by PUCO and restated or incorporated by reference that an EDU filed with PUCO under the law governing SSOs, MROs, and ESPs may include filings made under the law as it existed prior to the effective date of the bill.

Under the electric securitization law, parties that participated in proceedings before PUCO in which phase-in costs were approved under MROs, and ESPs, have standing to participate in proceedings for financing orders. The bill amends this provision to include proceedings for phase-in cost approvals under the law governing SSOs, MROs, and ESPs as they existed prior to the bill's effective date.[11]

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[9] R.C. 4928.144.

[10] R.C. 4928.148(B).

[11] R.C. 4928.23(J), 4928.231(C), and 4928.232(A).

Percentage of income payment plan program

The percentage of income payment plan program law specifies that winning bids selected during the process to procure the competitive retail electric service supply for low-income customers must reduce the cost of the program relative to the otherwise applicable SSO under an MRO and ESP. The bill changes the provision to apply to an MRO or an otherwise applicable ESP under the ESP law as it existed prior to the effective date of the bill.[12]

Changes affecting the market rate offer (MRO)

The bill generally retains the MRO process under current law, which provides for (1) the EDU to file an application with PUCO that meets requirements regarding access to the transmission grid, a market monitoring function, and a published source of pricing information prior to initiating a competitive bidding process for the MRO, (2) the MRO to be competitively bid in accordance with certain requirements under continuing law, (3) PUCO to determine within 90 days of the application's filing date whether the EDU and its MRO meet the above requirements, (4) the EDU to initiate its competitive bidding process if the PUCO determines all those requirements are met, and (5) PUCO to select the EDU's MRO from the least-cost bid winner or winners.[13]

Economic and job retention programs

In a provision newly applied to an MRO under the bill, an EDU is permitted to implement economic development and job retention programs under an SSO offered through an MRO. This provision currently applies to ESPs. The bill also allows the EDU to apply to PUCO to recover nonbypassable prudently incurred costs of these programs and allocate the program costs across all classes of customers of the utility and those of EDUs in the same holding company system.[14]

Eliminated MRO provisions

The bill eliminates the following provisions from the MRO requirements under current law:

- The 150-day competitive bidding process delay imposed because of the following circumstances:
  - The EDU remedied a deficiency in its MRO application and competitive bidding process that the PUCO has approved;
  - An ESP application was filed simultaneously with the MRO application.
- The blended price requirements for EDUs that directly owned operating generating facilities that were used and useful as of July 31, 2008.

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[12] R.C. 4928.542(B).

[13] R.C. 4928.142(A) to (C).

[14] R.C. 4928.143.

- The restriction that an EDU may not ever file or be required to file an ESP application if its initial MRO application is approved.[15]

PUCO rules

The bill permits PUCO to amend its rules to meet the requirements of continuing an existing ESP until its termination, to repeal ESPs, and to meet the changes made by the bill.[16]

HISTORY

Action	Date
Introduced	05-18-21

H0317-I-134/ts

[15] R.C. 4928.142(B)(3) and (D) to (F).

[16] Section 3(B).

Governor DeWine Selects Jenifer French Next Chairwoman of the Public Utilities Commission of Ohio

March 19, 2021

(COLUMBUS, Ohio)—Ohio Governor Mike DeWine today announced that he has named Jenifer French, of Westerville, to serve on the Public Utilities Commission of Ohio (PUCO). Governor DeWine intends to name French Chairwoman of the PUCO when her term commences.

French will serve the unexpired term ending on April 10, 2024, left open by Samuel Randazzo. This appointment is subject to confirmation by the Ohio Senate.

“As a judge, Jenifer French was known for studying all of the complex facts, and sorting through them to come to a just conclusion,” said Governor DeWine. “Her experience will be valuable as she leads the PUCO.”

French served as a judge on the Franklin County Common Pleas Court for six years, and presided over civil, criminal felony and administrative cases.

French has additional experience in the private sector, where she worked as a civil litigator for 14 years. She represented clients in business and insurance litigation, as well as represented both plaintiffs and defendants in complex civil litigation.

French holds a Juris Doctorate from Thomas Jefferson School of Law. She earned a Bachelor of Arts in Criminal Justice from The Ohio State University.

French previously served on the Westerville City Council, which included service as Vice Mayor.

French will start as Chairwoman when her term commences.

Jenifer French

March 28, 2021 | About Us

Jenifer French. Chair

Term ends: April 10, 2024

Jenifer French was appointed to the commission and named chair by Governor Mike DeWine in 2021.

Prior to joining the PUCO, French served as a Franklin County Court of Common Pleas judge from 2015 through 2021, presiding over civil, criminal felony, and administrative matters. While on the court, she was a member of the Court's Criminal Law and Rules committees and served as a Judicial Board Member for the Franklin County Community Based Correctional Facility. French was named "Highly Recommended" in 2020 by the Columbus Bar Association.

French served as a member of Westerville City Council from 2011-2015. During this time, she served on the Westerville Planning Commission, and as vice mayor from 2013-2015. While serving at city council French worked collaboratively with citizens and stakeholders on important policy issues involving municipal utilities, zoning, planning and economic growth.

French earned her bachelor's degree in criminal justice from The Ohio State University, and her law degree from Thomas Jefferson School of Law.

Energy Engineering Report

OMA ENERGY COMMITTEE – MAY 2021

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INFORMATION IS POWER

Energy Management, Efficiency+

- Phone a friend
  - Our technical team will take your calls
  - Contact rschuessler@gosustainableenergy or jseryak@gosustainableenergy.com

- Expected soon
  - State energy office - Energy Efficiency Program for Manufacturers
  - 100% rebate for energy studies, up to $22,500, focus on energy efficiency
  - Contact John if you're interested, jseryak@gosustainableeenergy.com

Wins in HB 128

RUNNERSTONE
INFORMATION IS POWER

- Decoupling
  - Would have been over $100 million in 2021
  - Conservatively, $355 million through 2024
  - ~$750 million through 2030
  - $1 billion tag is reasonable
  - FE CEO - "recession-proof"
  - Some manufacturers would pay tens of thousands extra per year

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**

- Nuclear generation fund
  - Up to $150 million/year
  - Seven years
  - Would have amounted to ~$1.05 billion

Ohio's Costly and Worsening OVEC Situation

RUNNERSTONE
INFORMATION IS POWER

- ❑ Update! OVEC is still losing your money!
  - ❑ 2020 OVEC energy output was down and sold for a lower price than before
- ❑ OVEC sometimes chooses to run at a loss
- ❑ Meanwhile, two Ohio coal plants announced closure (Zimmer, Ft. Miami), while we were subsidizing an Indiana coal plant
- ❑ OVEC subsidies ~$700 million due to HB 6
- ❑ OVEC could recover $1.5 billion from Ohioans through 2040 if we continue subsidizing

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

HB6's Solar Generation Fund

- 5 large scale solar developments eligible for a $9 /MWh renewable energy credit (REC) from HB6
- Not all projects applied
- Nuance – Can't sell RECs to the state and a private, competitive party at the same time
  - HB6 REC triggers the MOPR, a private, competitive REC does not

nrel.gov

HB6's Solar Generation Fund

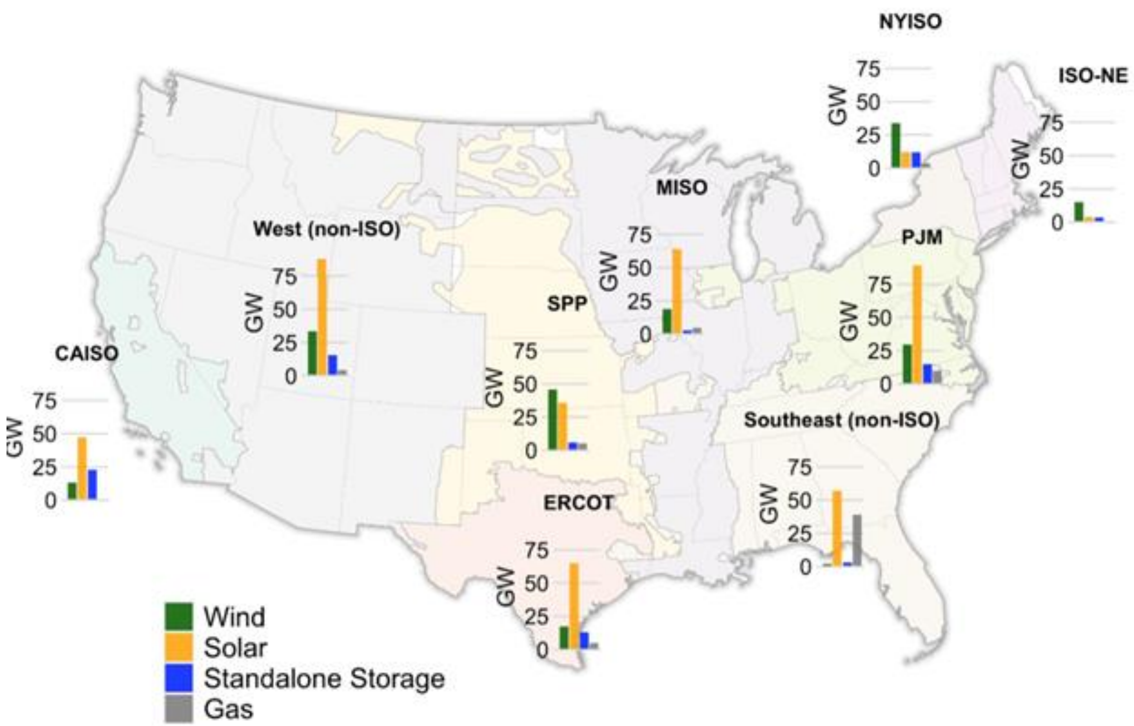
RUNNERSTONE
INFORMATION IS POWER

- 38 solar projects at the Ohio Power Siting Board greater than 50 MW
- Does solar need the HB6 subsidy?
- How was solar project eligibility determined in the HB6 process?

Operational Solar		Approved Solar		Potential Solar (Pending and Pre-application)	
Approved MW:	150	Approved MW:	2,046.6	Potential MW:	4,451.9
Operational Solar Facilities (50 MW or greater)					
Case Number	Related Cases	Project Name	Operational Date	County	MW
17-0773-EL-BGN	NA	Hardin I	2/5/21	Hardin	150
				TOTALS:	150
Approved Solar Facilities (50 MW or greater)					
Case Number	Related Cases	Project Name	Approval Date	County	MW
17-0774-EL-BGN	NA	Vinton	9/20/18	Vinton	125
17-1152-EL-BGN 18-1267-EL-BGA		Hillcrest*	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 20-1321-EL-BGA		Hardin II*	5/16/19 1/21/21	Hardin	170
18-1546-EL-BGN	NA	Nestlewood	4/16/20	Brown, Clermont	80
19-1823-EL-BGN	NA	Madison	3/18/21	Madison	196
19-1880-EL-BGN	NA	Atlanta Farms	12/22/20	Pickaway	199.6
19-1881-EL-BGN	NA	Madison Fields	1/21/21	Madison	180
20-0972-EL-BGN	NA	Yellowbud	2/18/21	Pickaway, Ross	274
20-1288-EL-BGN	NA	New Market	3/18/21	Highland	65
20-0979-EL-BGN	NA	Arche	4/15/21	Fulton	107
*under construction				TOTALS:	2,046.6
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
20-1084-EL-BGN	Powell Creek		10/7/20	Putnam	150
20-0931-EL-BGN	Fox Squirrel		10/14/20	Madison	577
20-1362-EL-BGN	Clearview		12/18/20	Champaign	144
20-1380-EL-BGN	Ross County		10/30/20	Ross	120
20-1405-EL-BGN	Union County		12/24/20	Union	325
20-1529-EL-BGN	Wheatsborough		2/11/21	Erie	125
20-1605-EL-BGN	Birch		2/12/21	Allen, Auglaize	300
20-1612-EL-BGN	Mark Center		12/18/20	Defiance	110
20-1677-EL-BGN	Cadence		2/1/21	Union	275
20-1678-EL-BGN	Hardin III		2/11/21	Hardin	300
20-1679-EL-BGN	Pleasant Prairie		2/19/21	Franklin	250
20-1680-EL-BGN	Yellow Wood		2/24/21	Clinton	300
20-1757-EL-BGN	Union Ridge		3/26/20	Licking	108
20-1760-EL-BGN	Juliet		3/12/21	Wood	101
20-1762-EL-BGN	Sycamore Creek		2/12/21	Crawford	117
20-1814-EL-BGN	Dodson Creek		pre-application	Highland	117
21-0004-EL-BGN	Tymochtee		4/29/2021	Wyandot	120
21-0036-EL-BGN	Marion County		3/5/21	Marion	100
21-0041-EL-BGN	Palomino		pre-application	Highland	200
21-0117-EL-BGN	Kingwood		pre-application	Greene	175
21-0270-EL-BGN	Nottingham		pre-application	Harrison	100
21-0277-EL-BGN	Border Basin		pre-application	Hancock	120
21-0293-EL-BGN	Cepheus		pre-application	Defiance	68
				TOTALS:	4,451.9

Seems like a lot of solar…

- Study of interconnection requests in US
  - 462 GW solar
  - 209 GW wind
  - 74 GW of natural gas
  - 200 GW of storage
- However
  - From 2000-2015 only 24% of projects get built
  - Completion percentages declining, wait time on the rise

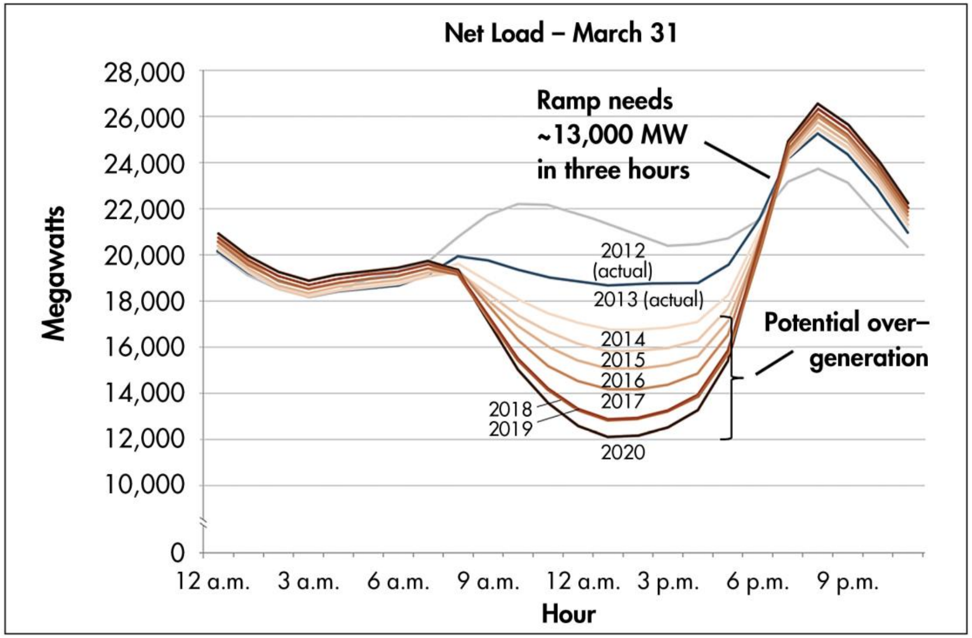


https://eta-publications.lbl.gov/sites/default/files/queued_up_may_2021.pdf

A mild sunny day in PJM

- ❑ About 90 GW of solar with PJM interconnection requests
- ❑ Mild sunny day in PJM, noon-time load of 110 GW
- ❑ Is the "duck curve" coming to PJM?
  - ❑ Significant implications to energy price, synchronous reserves
  - ❑ Reminder – 200 GW of storage with interconnection requests

Figure 1: Net load on the CAISO system



Source: CAISO

MOPR – A Brief History

- States join the PJM competitive interstate wholesale electric market, regulated by FERC
- States still have discretion over in-state generation mix, being subsidizing favored plants
- Dec. 2019 FERC ruling applying Minimum Offer Price Rule (MOPR) to state subsidized capacity resources; FERC can protect how price is competitively determined
- OMA expresses concerns with nuclear subsidies: 1. Markets over subsidies, 2. Do nuclear plants even need subsidies? 3. MOPR appears to be an issue for HB6 subsidies.

MOPR – A Brief History

- Ohio repeals nuclear subsidies in March 2021, reportedly at Energy Harbor’s request and citing MOPR as a reason.
  - Another reason – they didn’t need the subsidy.

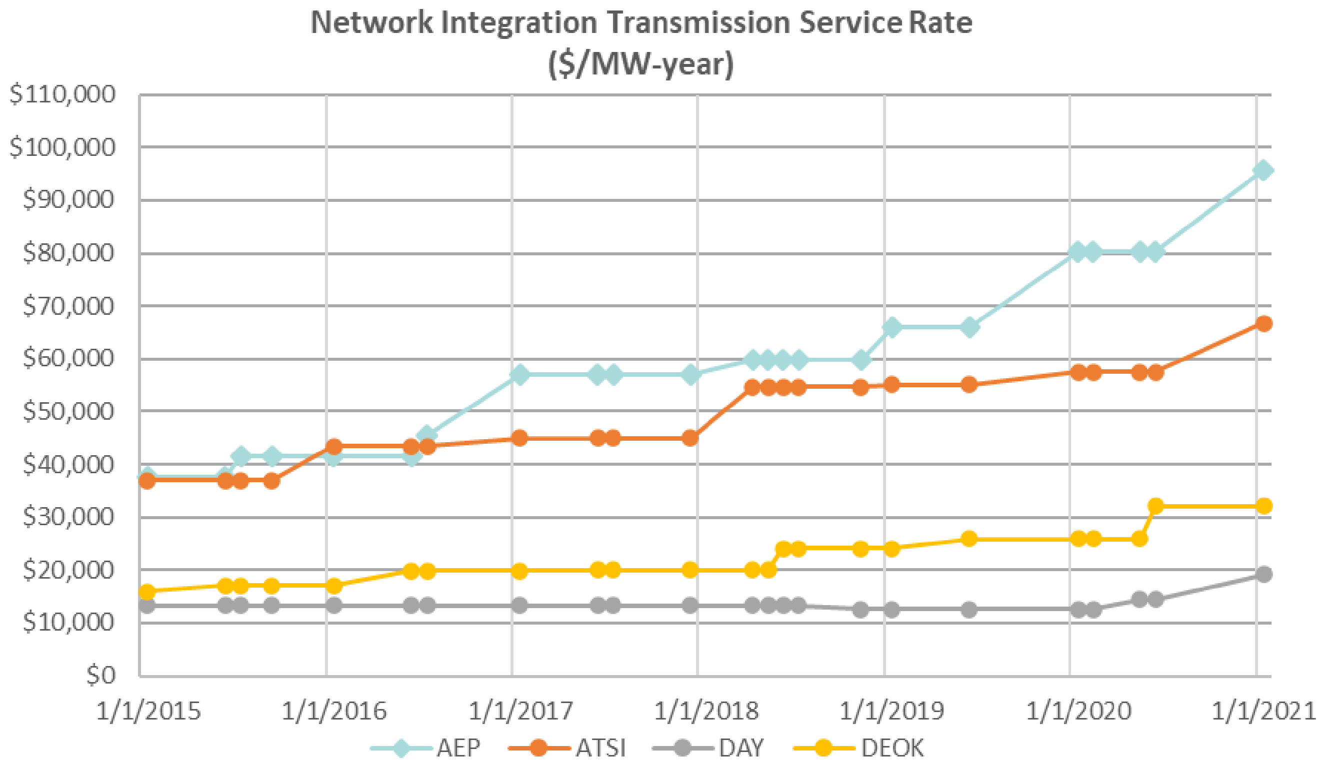
- A couple weeks later – PJM proposes to eliminate their application of MOPR, instead enforce MOPR through a complaint process
  - PJM claiming they and market monitor don’t have expertise – handing back to FERC
  - PJM on states: “Good Faith” presumption

- Last annual capacity auction – May 2018.
- Just completed – capacity auction for 2022/23 delivery year.
- PJM to file a new proposal with FERC in July for the December capacity auction for 2023/24 years

Transmission

- Yes, transmission rates are going up, especially for AEP Ohio customers

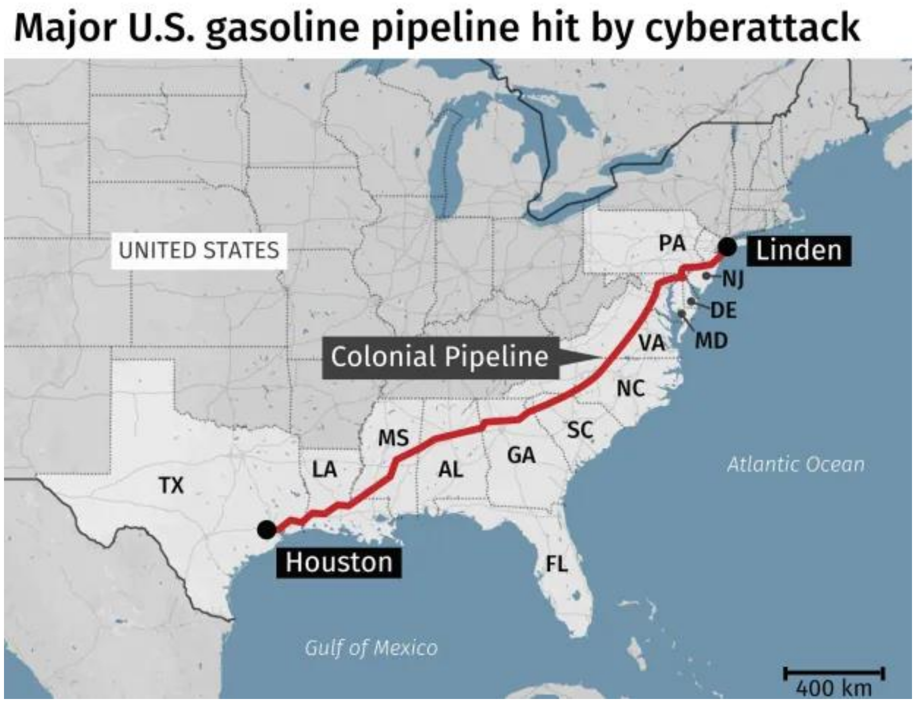
- More increases likely



The Mess that's ~~Texas~~ Colonial Pipeline

- ❑ Another legitimate energy crisis

- ❑ Could we have seen cybersecurity issues coming?
  - ❑ Dec. 2015 – Russia cyberattack disrupts Ukraine power grid
  - ❑ Aug. 2017 – Saudi refinery hacked and shutdown triggered, explosion possible
  - ❑ Lots of reports & warnings
  - ❑ Malicious cyber attacks from nation-states target utility and energy infrastructure and actors



Source: CBC.ca

CARPENTER LIPPS & LELAND LLP

ATTORNEYS AT LAW

280 PLAZA, SUITE 1300
280 NORTH HIGH STREET
COLUMBUS, OHIO 43215

MEMORANDUM

To: OMA Energy Committee
From: Kim Bojko, OMA Energy Counsel
Re: Energy Committee Report
Date: May 27, 2021

Active Administrative Actions in which OMAEG is Involved:

American Electric Power (AEP):

- **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 H.B. 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.
  - On December 18, 2020, OMAEG filed its objections to the Staff Report.
  - A settlement was filed on March 12, 2021, which AEP, OMAEG, PUCO Staff, and most customer groups joined.
  - An evidentiary hearing occurred in May 2021 where OMAEG cross-examined opponents to the settlement, including environmental groups and retail electric suppliers.

Confidential—Attorney-Client Privilege

- **Application to Initiate 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.
- **OVEC Rider Audit (Case Nos. 18-1004, et al.)**
    - OMAEG intervened in the audit of AEP's Ohio Valley Electric Corporation (OVEC) Rider to ensure that AEP only collects costs that were prudently incurred and in customers' best interests.
    - OMAEG interviewed the auditor of the OVEC Riders on the plants' disposition of energy and capacity, capital expenses, potential sale and retirement, and more.
- **AEP Submits Final Reconciliation Proposal for its EE/PDR Rider (Case No. 21-497-EL-RDR)**
    - AEP filed an application with the PUCO setting forth its proposal for the final reconciliation of its Energy Efficiency/Peak Demand Reduction Rider (EE/PDR). As of February 28, 2021, the balance of AEP's EE/PDR over-recovery is reportedly $18,213,860.
- **AEP Files Application for 2020 SEET (Case No. 21-541-EL-UNC)**
    - AEP requested a PUCO determination that its 2020 earnings under its current Electric Security Plan (ESP) pass the Significantly Excessive Earnings Test (SEET).

AEP reported a return on equity (ROE) of 10.74% and proposed that the PUCO use a safe harbor of 12.58% and SEET threshold of 14.64% in this case.

Duke Energy Ohio (Duke):

- **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.
  - Settlement discussions are in progress.
- **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.
  - Settlement discussions are in progress.
- **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 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.

- **The PUCO Removes Duke's EE Cost Cap and Reduces Shared Savings (Case No. 16-576-EL-POR)**
    - Based upon a recent decision from the Supreme Court of Ohio, the PUCO removed a cost cap of $38.6 million that it previously imposed on Duke's recovery from customers for 2018 and 2019 EE/PDR costs and shared savings. However, the PUCO reduced Duke's maximum allowable shared savings for 2017-2020 to $7.8 million (pre-tax) annually from $12.5 million. Lastly, the PUCO prohibited Duke (and other EDUs) from recovering lost distribution revenue after December 31, 2020, even if the lost distribution revenue is attributed to energy savings achieved in 2018, 2019, or 2020.
    - Duke requested reconsideration of the PUCO order, which OMAEG opposed explaining that Duke, and other EDUs, lack statutory authority to recover lost distribution revenue after the termination of their respective EE riders.
    - On January 13, 2021, the PUCO granted itself more time to evaluate Duke's request for rehearing.

- **OVEC Rider Audit (Case No. 20-167-EL-RDR)**
    - On January 11, 2021, OMAEG intervened in the audit of Duke's OVEC Rider to ensure that customers are assessed only costs that were prudently incurred and in customers' best interests.

- OMAEG submitted reply comments asserting that Duke failed to meet its burden of proof in demonstrating that the roughly $24 million in OVEC costs collected from customers in 2019 were prudently incurred.

- **Duke Submits Final Reconciliation Proposal for its EE Rider (Case No. 21-482-EL-RDR)**
  - Duke filed a proposal to reconcile the difference between revenue collected and the cost of compliance related to its prior EE programs through December 31, 2020. Specifically, Duke requested a revenue requirement of $17.77 million for non-residential customers and proposed new EE Rider rates, which are currently set to $0.

- **Duke Files 2020 SEET Application (Case No. 21-412-EL-RDR)**
  - Duke requested a PUCO determination that its 2020 earnings under its current ESP pass the SEET. Duke reported a ROE of 8.82% and stated that this figure is below the PUCO-approved rate of return of 9.84% for Duke's electric distribution services.

<u>FirstEnergy:</u>

- **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 H.B. 6. H.B. 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 December 30, 2020, the PUCO reinstated the requirement that FirstEnergy must file a rate case at the end of its current ESP (May 31, 2024). Per H.B. 6, the decoupling mechanism must terminate once new distribution rates become effective and accordingly, FirstEnergy's H.B. 6 decoupling mechanism can no longer last in perpetuity.
  - On February 1, 2021, the Attorney General announced that the State and FirstEnergy reached a settlement in which FirstEnergy would set its Decoupling Rider rates to zero for 2021 in exchange for the State staying all actions in its H.B. 6 civil lawsuit. The PUCO unanimously approved FirstEnergy's application on February 2, 2021.

- **H.B. 6 Decoupling Refund Case (21-484-EL-UNC)**
  - FirstEnergy requested approval from the PUCO to modify its H.B. 6 Decoupling Rider to return to customers the approximately $26 million collected through the rider, plus interest, over a 12- month period commencing June 1, 2021.

- On May 6, 2021, OMAEG intervened to advocate for a fair and transparent refund process.
- The PUCO has established comment and reply comment deadlines of June 7 and June 17, 2021.

- **Rider DSE Update (Case Nos. 14-1947-EL-RDR, et al.)**
  - The PUCO Staff filed annual reports on FirstEnergy's Demand Side Management and Energy Efficiency Riders for years 2014-2018.
  - On December 1, 2020, the PUCO Staff filed testimony recommending that FirstEnergy be required to recalculate its lost distribution revenue using a maximum of three years for program years 2014-2018. Staff further recommended that FirstEnergy be prohibited from recovering various out of period expenses that FirstEnergy sought to recover during the review years.
  - Not yet set for hearing.

- **Corporate Separation Case (Case No. 17-0974-EL-UNC)**
  - On November 4, 2020, the PUCO initiated an audit of the FirstEnergy Utilities' compliance with corporate separation laws and regulations. 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."
  - On January 27, 2021, the PUCO selected an auditor and stated that the audit report will be filed on or before June 21, 2021.
  - OMAEG was granted intervention on May 18, 2021.

- **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 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.
  - On January 27, 2021, Environmental Groups requested that the PUCO expand its review of FirstEnergy's involvement in the H.B. 6 scandal.

- The PUCO has set a comment and reply comment deadline of July 20, 2021 and August 3, 2021 and has stayed discovery until July 12, 2021.

- **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.
  - On January 12, 2021, the PUCO consolidated FirstEnergy's 2017-2019 SEET Cases with the Quadrennial Review of FirstEnergy's ESP.
  - Not yet set for hearing.

- **New Consumer Group Files PUCO H.B. 6 Complaint Against FirstEnergy (Case No. 20-1756-EL-CSS)**
  - The Citizens' Utility Board of Ohio, a consumer nonprofit, filed a H.B. 6-related complaint against FirstEnergy with the PUCO regarding FirstEnergy's decoupling mechanism, compliance with corporate separation laws, and potential impropriety with former PUCO Chair Randazzo.
  - FirstEnergy categorically denied all allegations in the complaint.

- **The PUCO Orders New DMR Audit (Case No. 17-2474-EL-RDR)**
  - In response to a request from the Office of the Ohio Consumers' Counsel (OCC), the PUCO opened a new audit of the FirstEnergy Utilities' distribution modernization rider (DMR) to determine whether any of the DMR charges already collected (that the Court stated could not be refunded to customers even though the rider was deemed unlawful) were used to improperly fund H.B. 6 efforts.
  - On May 18, 2021, OMAEG was granted intervention.

- **The PUCO Orders FirstEnergy to File New Rate Case by May 31, 2024 (Case No. 19-361-EL-RDR)**
  - On December 30, 2020, the PUCO denied a request from the Environmental Law & Policy Center (ELPC) to vacate the PUCO's order and conduct new proceedings in the DMR Extension Case. However, the PUCO, upon its own initiative, reinstated the requirement that the FirstEnergy Utilities must file a new rate case by the conclusion of ESP IV on May 31, 2024. This decision will have the effect of terminating the H.B. 6 decoupling mechanism when new rates go into effect per the rate case.

- **Rider DCR Audit (Case No. 20-1629-EL-RDR)**
  - The PUCO approved Staff's request to expand the scope of the 2020 audit of FirstEnergy's Delivery Capital Recovery Rider (Rider DCR) to ensure that customers were not charged for any improper transactions disclosed in a

FirstEnergy Corp. filing with the United States Securities and Exchange Commission.

  - OMAEG has intervened to protect members' interests.

- **FirstEnergy Global Settlement**
  - On March 31, 2021, FirstEnergy held a meeting with various stakeholders to discuss terms of a potential future settlement of a variety of issues. At the meeting, FirstEnergy did not offer many firm proposals but committed to returning amounts previously collected under the H.B. 6 Decoupling Rider and stated that it would maintain its litigation posture for the time being in the various H.B. 6-related audits at the PUCO.

- **FirstEnergy Files 2020 SEET Application (Case No. 21-586-EL-UNC)**
  - FirstEnergy requested a PUCO determination that its earnings in 2020 under its current ESP pass the SEET. FirstEnergy reported a ROE of 11.10% for Ohio Edison Company, 4.30% for The Cleveland Electric Illuminating Company, and 7.40% for The Toledo Edison Company and requested that the PUCO use a safe harbor of 13.30% and SEET threshold of 16.50% in this case.

<u>Dayton Power & Light (now d/b/a AES Ohio):</u>

- **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.
    - A hearing regarding the Joint Stipulation occurred on January 11, 2021.
    - On February 12, 2021, OMAEG submitted its post-hearing brief urging the PUCO to approve the global settlement.

- **Distribution Decoupling Costs (Case No. 20-140-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.
  - An evidentiary hearing occurred on May 4, 2021 where OMAEG and others cross-examined DP&L's witnesses regarding the utility's unlawful request to defer decoupling costs.
- **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.
  - A hearing regarding the Joint Stipulation occurred on 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.
  - A hearing regarding the Joint Stipulation occurred on 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
    - Awaiting the PUCO Staff to file its report, which will trigger a 30-day statutory deadline for OMAEG to file its objections.
- **OVEC Rider Audit (Case No. 20-167-EL-RDR)**
    - On January 5, 2021, OMAEG intervened in the 2019 audit of DP&L's Ohio Valley Electric Corporation (OVEC) Rider to ensure that customers are only assessed costs that were prudently incurred and in their best interests.
    - OMAEG submitted reply comments asserting that DP&L failed to meet its burden of proof in demonstrating that the roughly $11 million in OVEC costs collected from customers in 2019 were prudently incurred.
    - On February 1, 2021, OMAEG filed a pleading opposing DP&L's efforts to avoid attending a deposition.
- **DP&L Proposes an Increase to its TCRR-N Rates (Case No. 21-224-EL-RDR)**
    - DP&L filed an application requesting an increase of its Transmission Cost Recovery Rider-Nonbypassable (TCRR-N), which is designed to recover transmission-related costs imposed on or charged to DP&L by FERC or PJM. DP&L proposed that the rates increases become effective, on a bills rendered basis, June 1, 2021.
    - On April 20, 2021, OMAEG intervened and filed comments opposing the TCRR-N's proposed rate design and over-recovery likely to result.
    - In response to OMAEG's comments, DP&L filed revised tariffs reducing its proposed TCRR-N Rider from approximately $100.6 million to $88.1 million. OMAEG was the only stakeholder to intervene and submit comments opposing the application.
    - On May 19, 2021, the PUCO approved DP&L's revised application.
- **AES Ohio Submits Final Reconciliation Proposal for EE Rider (Case No. 21-560-EL-RDR)**
    - AES Ohio filed a proposal to reconcile the difference between revenue collected and the cost of compliance related to its prior EE programs through December 31, 2020, including carrying charges. Specifically, AES Ohio requested a revenue requirement for non-residential customers of roughly $11.47 million and that the PUCO approve new EE Rider rates, which are currently $0, on a bills rendered basis effective the first billing unit of September 2021.

- **AES Ohio Files 2020 SEET Application (Case No. 21-588-EL-UNC)**
  - AES Ohio requested a PUCO determination that its 2020 earnings under its current ESP pass the SEET. AES Ohio reported a ROE of 3.00%, and proposed that the PUCO use a safe harbor of 12.48% and SEET threshold of 15.72% to 19.80%.

Statewide:

- **Review of Interconnection Services Rules (Case No. 18-884-EL-ORD)**
  - The PUCO opened a proceeding to review the PUCO's rules governing interconnection services, 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.
- **H.B. 6 Implementation Issues**
  - 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 H.B. 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 H.B. 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 H.B. 6 is invalidated.

  - OMAEG challenged the decision, which was denied in January.
  - The PUCO will hire an independent auditor to review the nonbypassable LGR riders.

- **The PUCO Opens New Case to Implement the H.B. 128 Solar Generation Fund Rider (Case No. 21-447-EL-UNC)**
  - The PUCO opened a new case and the PUCO Staff provided comments and recommendations on the implementation of the H.B. 6 Solar Generation Fund Rider (Rider SGF), a nonbypassable mechanism that will collect $20 million annually from customers.
  - OMAEG submitted comments on the PUCO Staff's proposal, which advocated for the inclusion of refund language in Rider SGF's tariffs and for a PUCO order prohibiting collection of the subsidies for periods where no generation occurred and no credits were earned.
- **Stakeholder Input to Improve OPSB Siting Process**
  - The OPSB held three informal stakeholder discussions to learn how to improve public participation in the siting process, technical application requirements, and construction compliance efforts.
  - Next, OPSB will open a formal rulemaking docket 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.
  - OCC and NOPEC appealed the PUCO's decision to the Supreme Court of Ohio arguing that the PUCO unlawfully denied stakeholders' evidentiary and due process rights and incorrectly determined that FirstEnergy Advisors had the requisite capabilities to provide aggregation services.

- NOPEC asked the Court to take notice of FirstEnergy Corp.'s disclosures regarding a $4.3 million payment to an unnamed regulator acting at the request or benefit of the Company.

- **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 H.B. 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 H.B. 6 or holding government offices or engaging in political activities in Ohio for eight years
  - 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.
  - On December 21, 2020, Judge Brown of the Franklin County Court of Common Pleas issued several injunctions to prevent the H.B. 6 subsidy charges from becoming effective on January 1, 2021.
  - On January 13, 2021, Ohio Attorney General Dave Yost requested that the Franklin County Court of Common Pleas enjoin FirstEnergy from collecting approximately $102 million from customers in 2021 through the H.B. 6 Decoupling Rider.
  - On February 1, 2021, the Attorney General announced that the State reached a settlement with FirstEnergy regarding its H.B. 6 decoupling revenues. Shortly after, FirstEnergy filed a very simple application requesting that the PUCO set its Decoupling Rider rate to $0, without much explanation or detail. The effect of this application appears to prevent FirstEnergy from collecting $102 million in decoupled revenues from customers in 2021. However, the setting of the rider's rate to zero does not eliminate FirstEnergy's Decoupling Rider or prevent other utilities from applying for a decoupling mechanism under H.B. 6.
  - On February 2, 2021, the PUCO held a meeting and unanimously approved FirstEnergy's application. In exchange for FirstEnergy filing its application, the Attorney General agreed to stay discovery and other actions in the State's civil lawsuit against FirstEnergy until the federal criminal H.B. 6 investigation is complete.
  - The cities of Columbus and Cincinnati requested that the Franklin County Court of Common Pleas allow Dayton and Toledo to join the cities' related H.B. 6 civil suit against FirstEnergy Corp. and others (see 20- CV-007005).

- **Supreme Court Rules that the PUCO Improperly Excluded DMR Revenues from FirstEnergy 2017 SEET Calculation (Slip Opinion No. 2020-Ohio-5450)**
  - The Supreme Court of Ohio held that the PUCO improperly excluded DMR revenues from FirstEnergy's 2017 SEET calculation. Accordingly, the Court

ordered the PUCO to conduct a new SEET for 2017, which includes the DMR revenues in the calculation.

- **Supreme Court Rules that the PUCO Applied Incorrect Test in Submetering Case (*In re Complaint of Wingo v. Nationwide Energy Partners*, Slip Opinion No. 2020-Ohio-5583)**
  - The PUCO dismissed a complaint against Nationwide Energy Partners (NEP), a submetering company, finding that the PUCO lacked jurisdiction over businesses not acting as "public utilities." On appeal, the Court held that the PUCO improperly created its own test to determine whether the submeterer is a public utility and failed to examine the relevant statutes. Accordingly, the Court sent the case back to the PUCO and ordered the PUCO to apply the statutory test to determine whether it could hear the claims against NEP
  - The complainant has withdrawn the complaint without prejudice.
- **The PUCO to Hold Workshops on the Future of EE Programs (Case Nos. 16-574-ELPOR, et al.)**
  - The PUCO will hold a series of workshops on the scope and nature of future EE programs and how such programs fit into a competitive retail electric service market. The format and schedule for such workshops will be announced later.

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, H.B. 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.

- **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.
- During late April 2021 in a presentation to stakeholders, PJM proposed eliminating the MOPR's application to state-subsidized resources and implementing a presumption that state policies were made in "good faith" and not as an exercise of buyer-side market power. However, PJM stated that under its proposal, this presumption can be overcome via a successful complaint to FERC. Lastly, PJM indicated that it will file its proposal with FERC by July in order for it to take effect by the December auction for 2023/2024 capacity.

- **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-baiss 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.

  - 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.
  - On April 15, 2021, FERC filed a supplemental NOPR proposing to limit the duration of the transmission incentives to three years after a transmitting utility newly joins a Transmission Organization. The supplemental NOPR further proposed adopting a 50-basis-point ROE-adder, consistent with FERC precedent, rather than increasing it, and noted that most transmitting utilities have increased their base rates

considerably. Lastly, FERC will seek comments on whether utilities that are legally required to join Transmission Organizations should be eligible for the incentives.

- **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.
    - Settlement discussions are in progress.

<u>FirstEnergy/H.B. 6-Related Federal Proceedings:</u>

- **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 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 H.B. 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.
- On January 17, 2021, Energy Harbor and the law firm of Akin Gump Straus Hauer & Feld requested an emergency six-month delay in responding to racketeering-related interrogatories requested by the judge overseeing the Bankruptcy Proceeding. The following day a hearing on the request was held and the judge agreed to the six-month delay.

- **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.
  - On February 5, 2021, Generation Now, the dark money group that Representative Larry Householder allegedly controlled, filed a guilty plea in the U.S. District Court for the Southern District of Ohio. Generation Now is the third party to have pled guilty in the federal criminal H.B. 6 proceeding along with lobbyist Juan Cespedes and political consultant Jeff Longstreth. In a new regulatory filing, FirstEnergy Corp. disclosed that it is participating in settlement discussions with the U.S. Department of Justice.

Electricity Market Update

May 24, 2021

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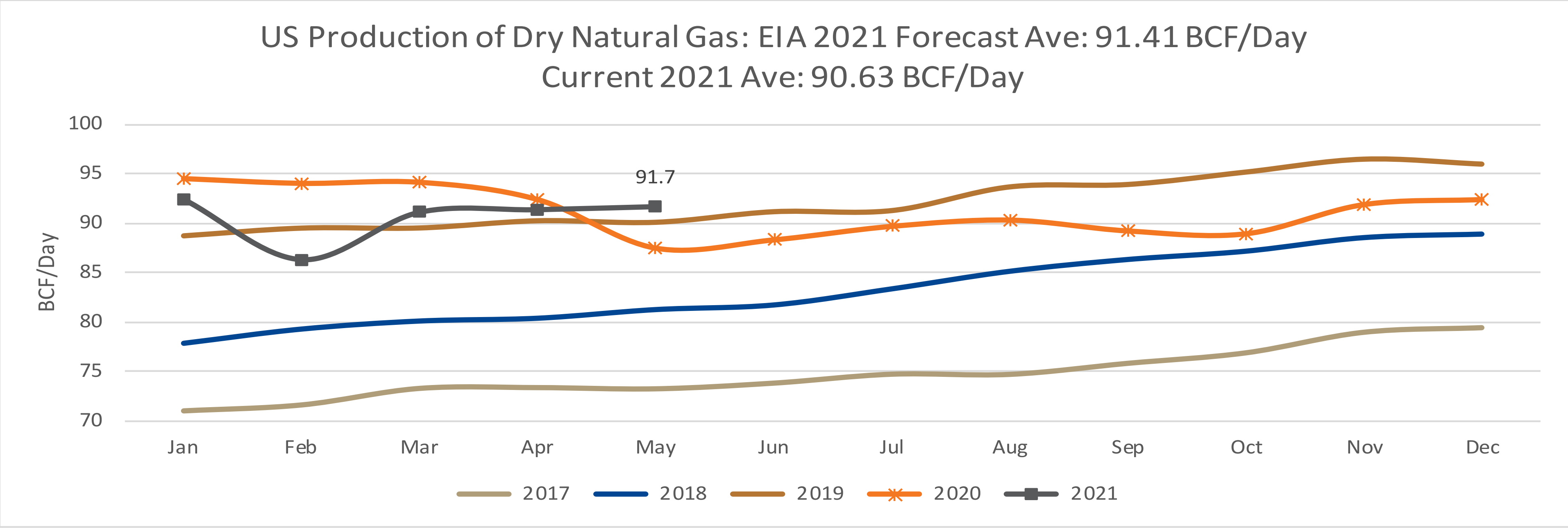
Natural Gas Production



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Dry Natural Gas Production

<u>03.01.21 Production Analysis</u>

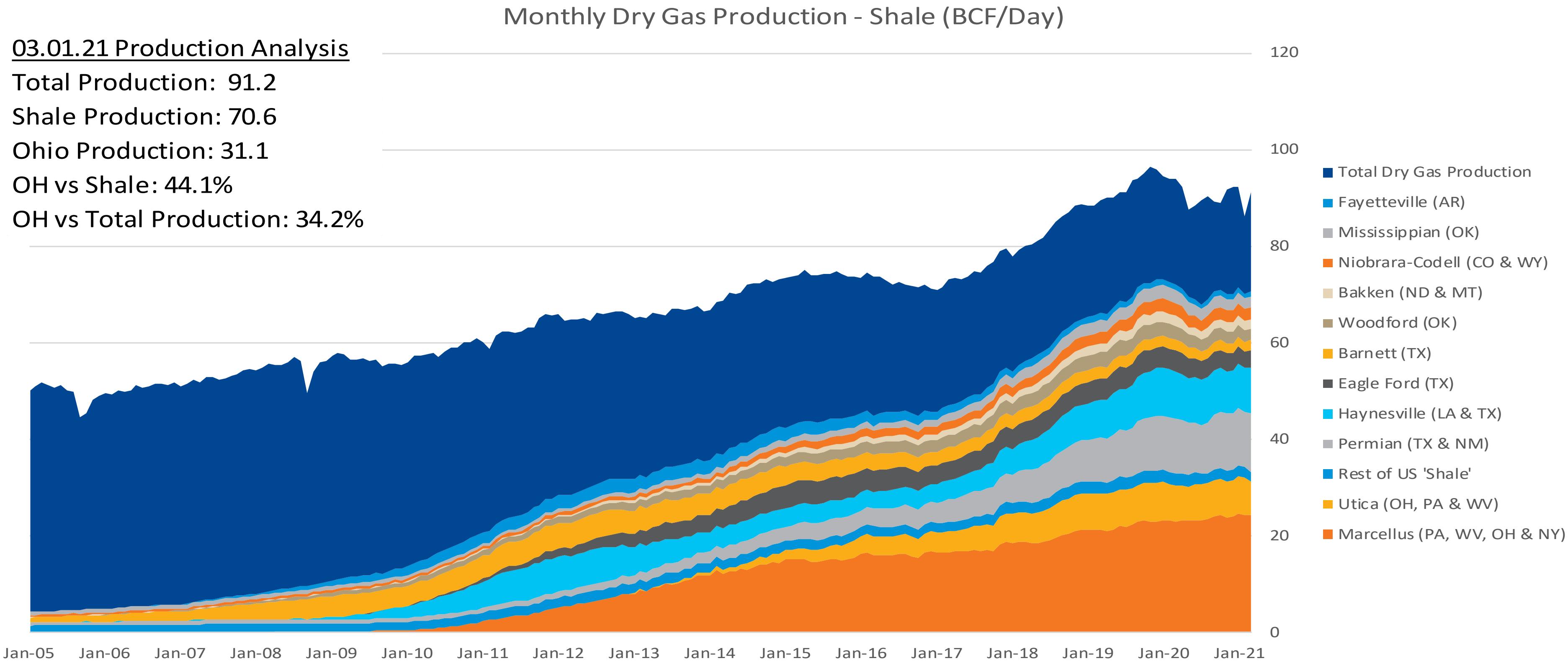
Total Production: 91.2

Shale Production: 70.6

Ohio Production: 31.1

OH vs Shale: 44.1%

OH vs Total Production: 34.2%



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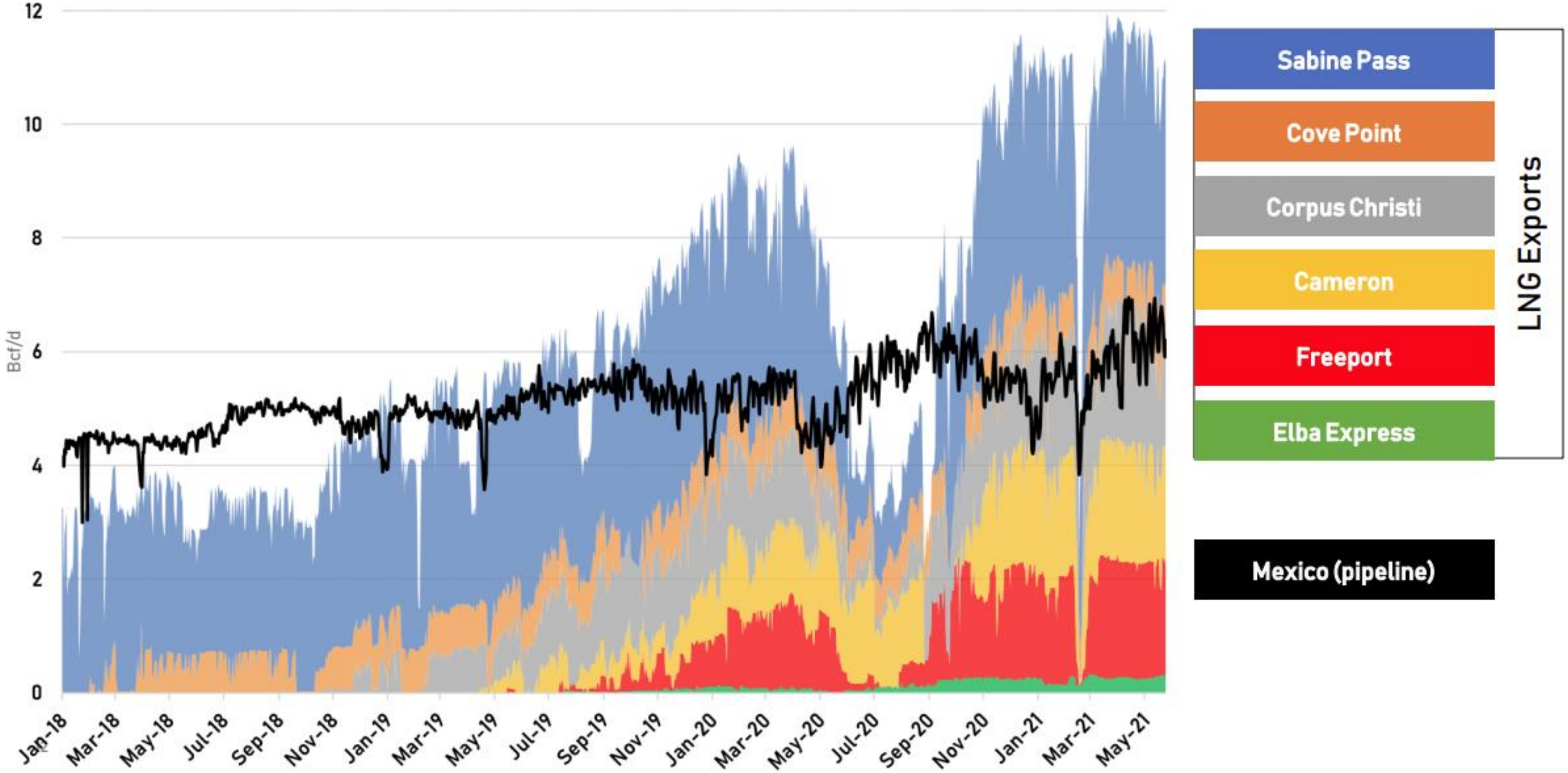
LNG Projected Exports



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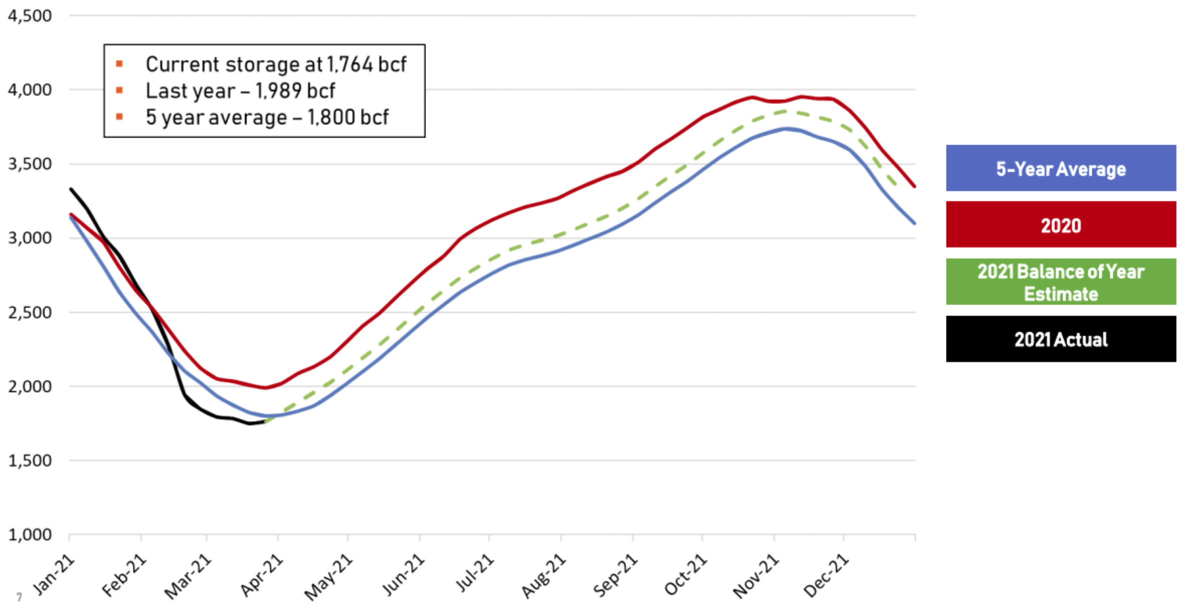
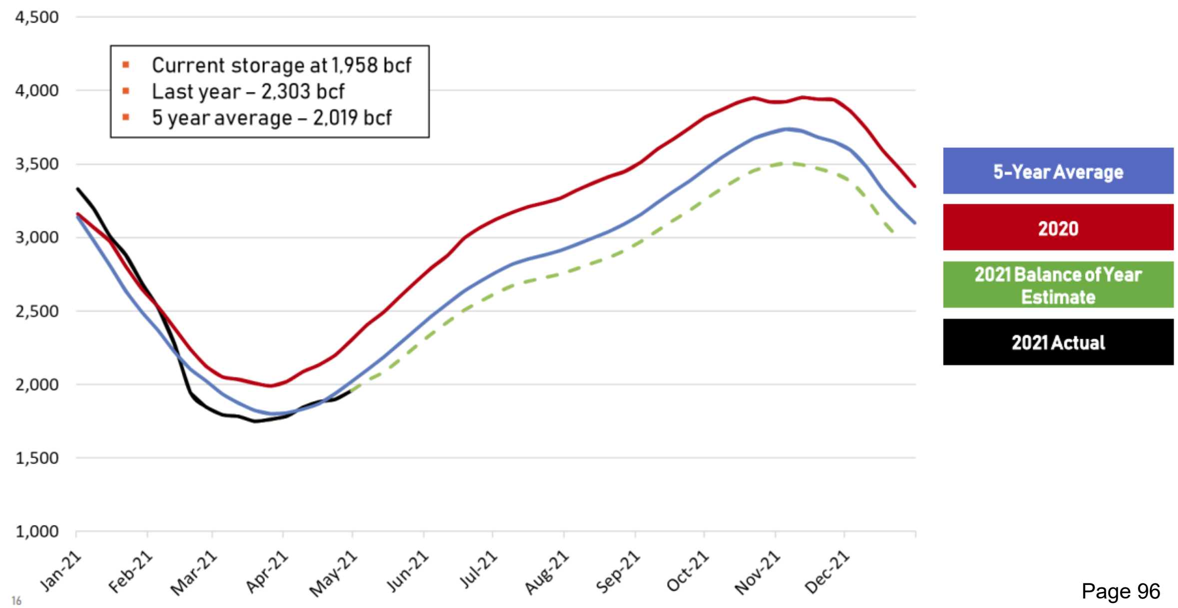
Storage Expectation



Early April
Prediction

Early May
Prediction



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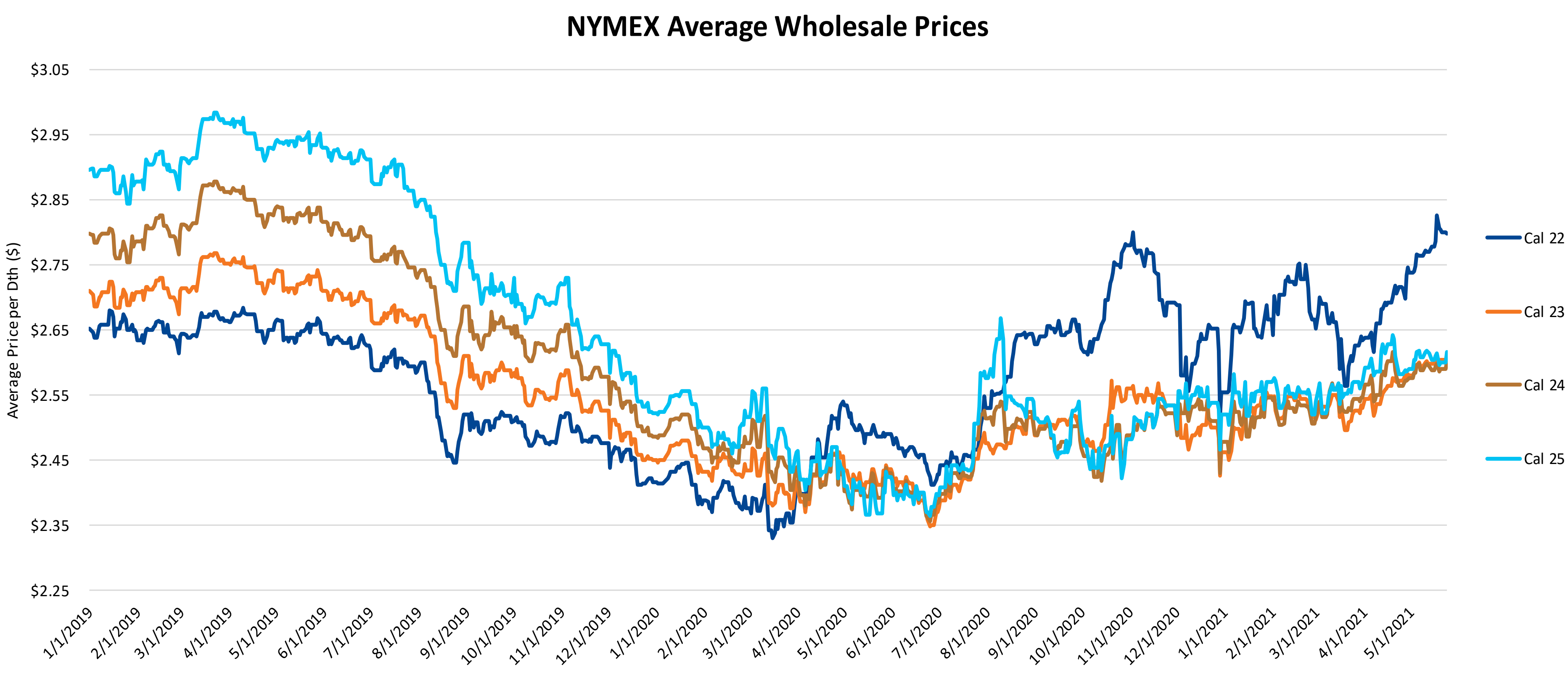
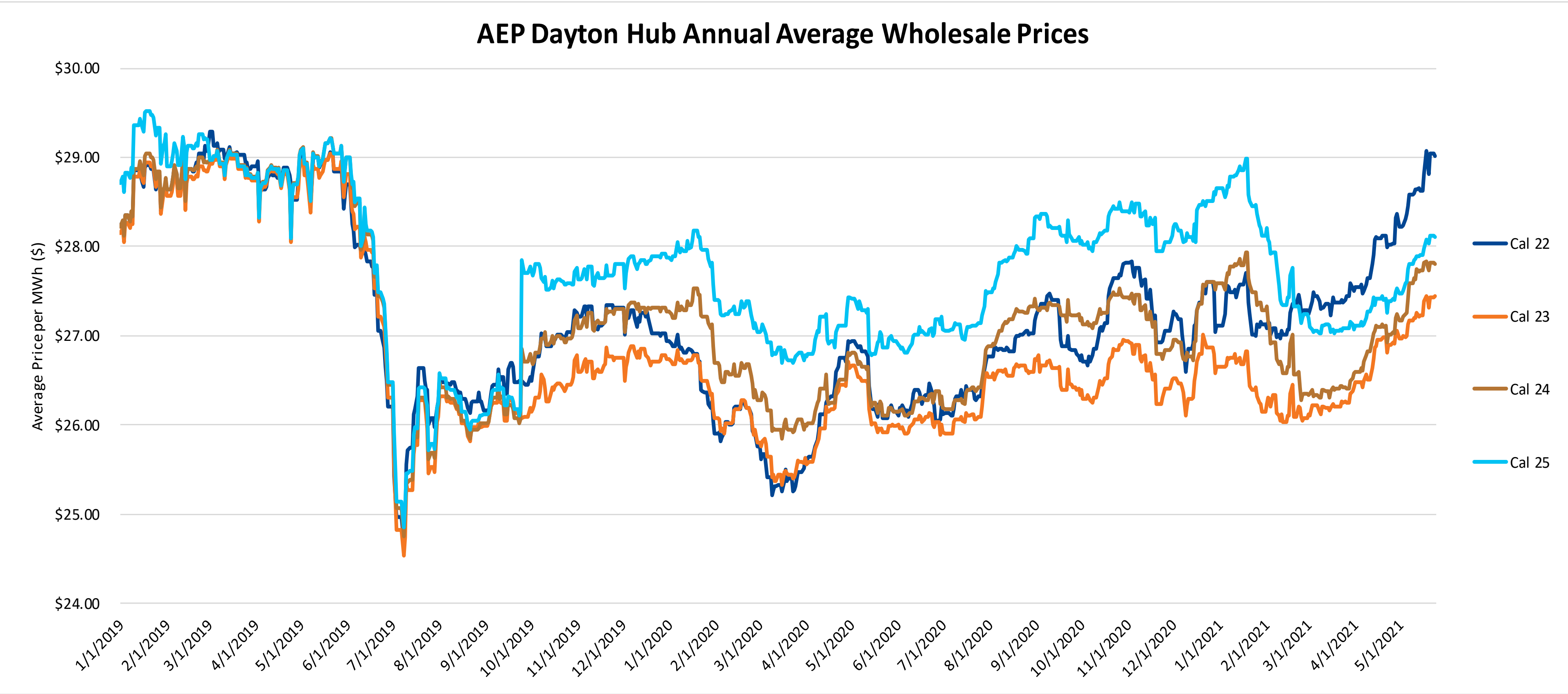
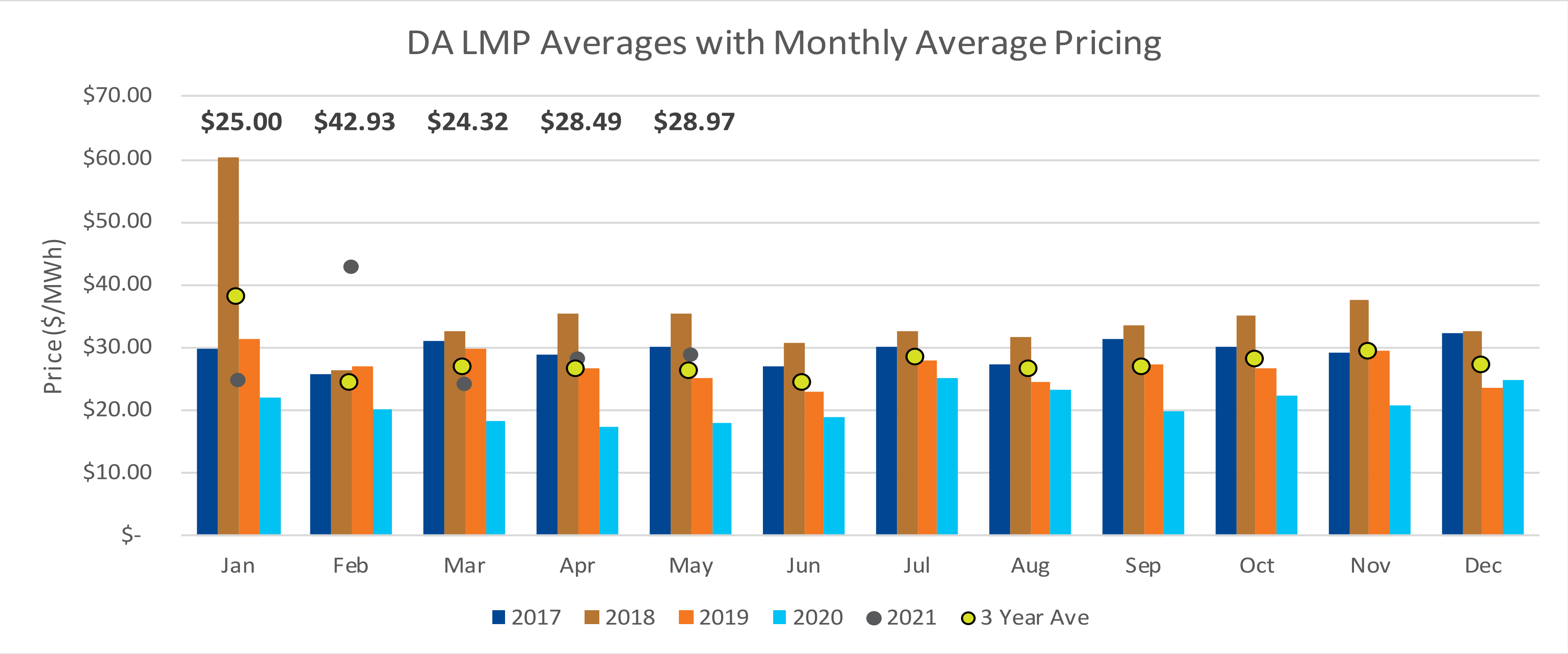
NYMEX Natural Gas Forwards



PJM AD Hub Electricity Forwards



PJM AD Hub Day Ahead LMP's



*Pricing listed is for 2021 averages

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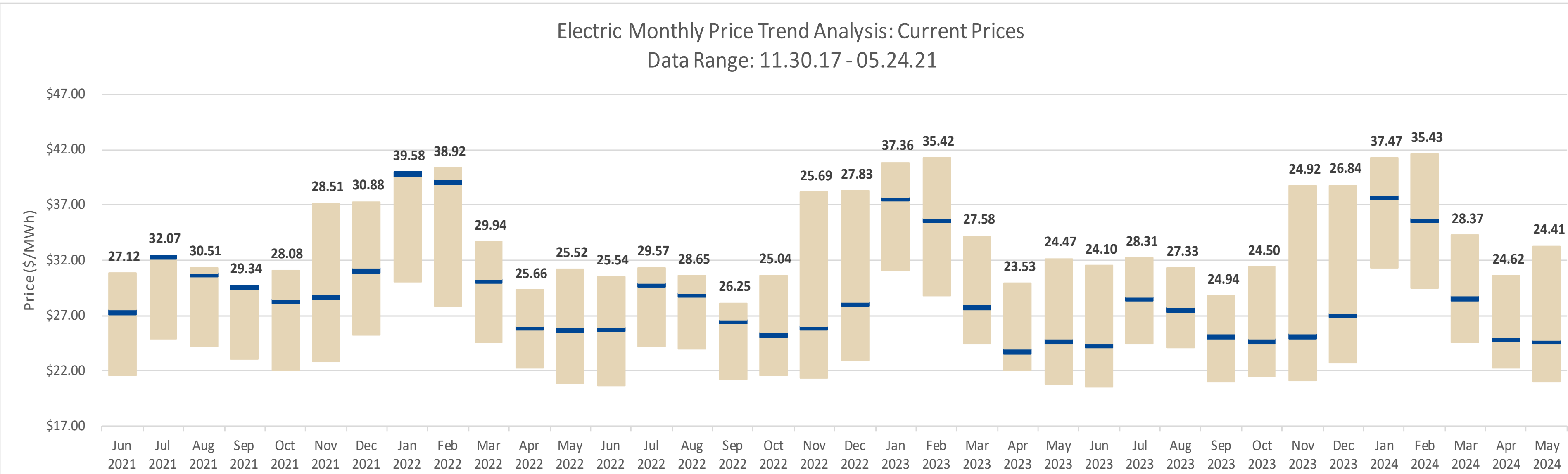
PJM AD Hub Electricity Forwards



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Coincident Peak Hours

PJM RTO
5CP Capacity Program

Rank	Date & Start Hour	Load MW
1	07.20.20 16:00	144,266
2	07.27.20 16:00	143,552
3	07.09.20 17:00	143,207
4	07.06.20 14:00	141,210
5	07.29.20 17:00	140,782

Historic AEP Zone
1CP Transmission Program

Season	Load	Date	Hour
Summer	21,615	7/9/2020	16:00
Winter	22,497	1/31/2019	7:00
Winter	22,739	1/3/2018	7:00
Summer	21,647	7/19/2017	16:00
Summer	22,472	8/11/2016	14:00
Winter	24,725	2/20/2015	7:00

Current Period 1CP: 19,973 MW
2/4/21 7:00 am

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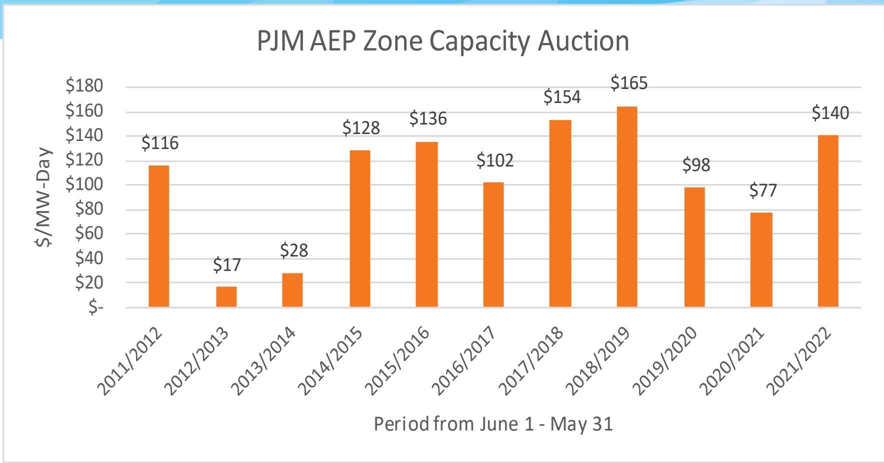
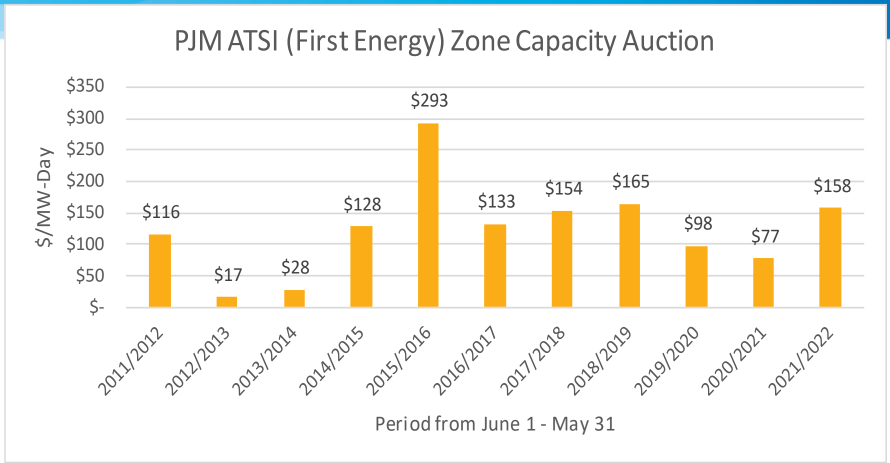
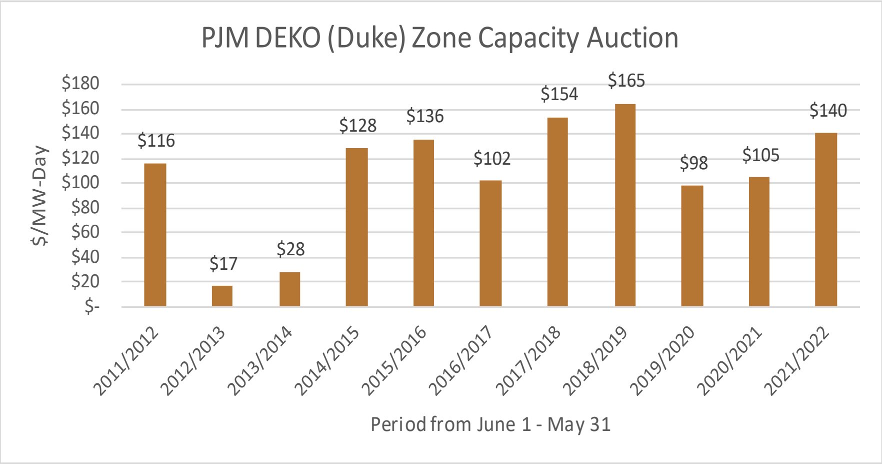
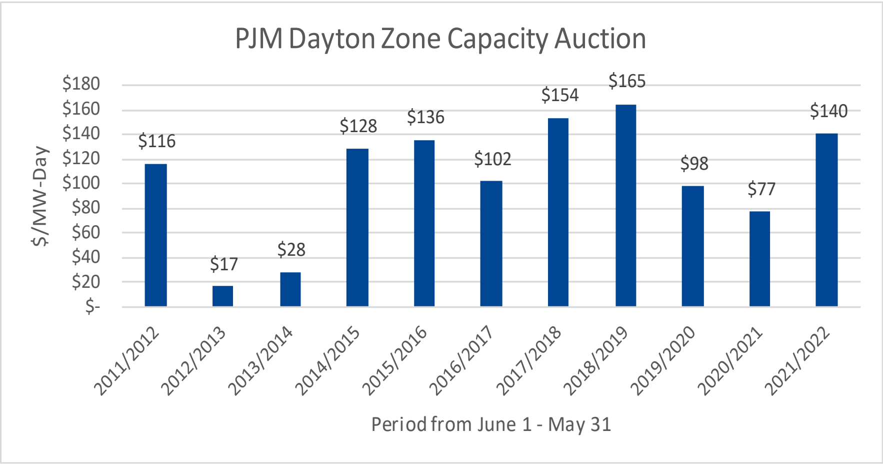
Capacity Auction Rates









PJM TO POST RESULTS OF 2022/2023 AUCTION NEXT MONTH

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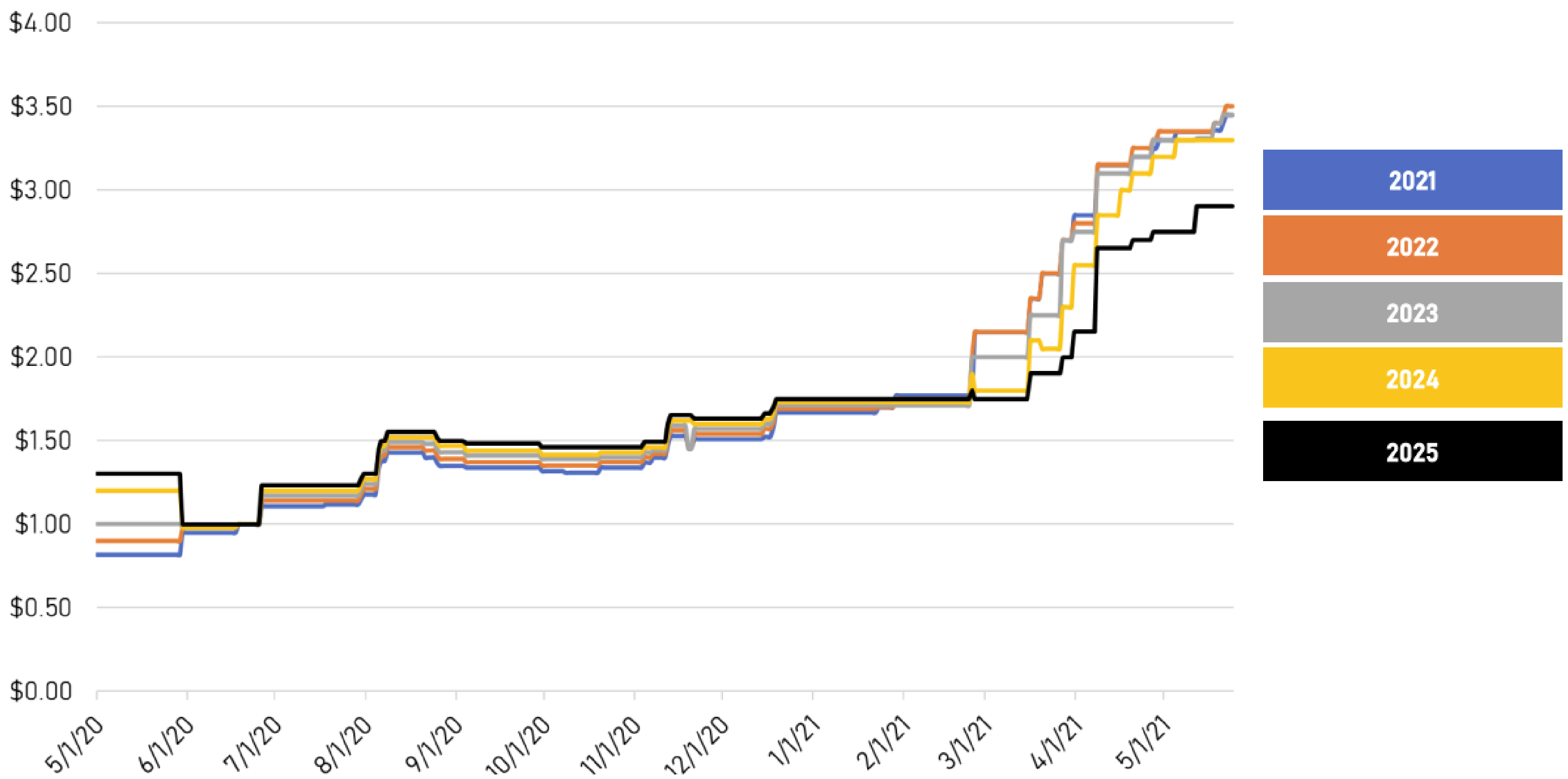
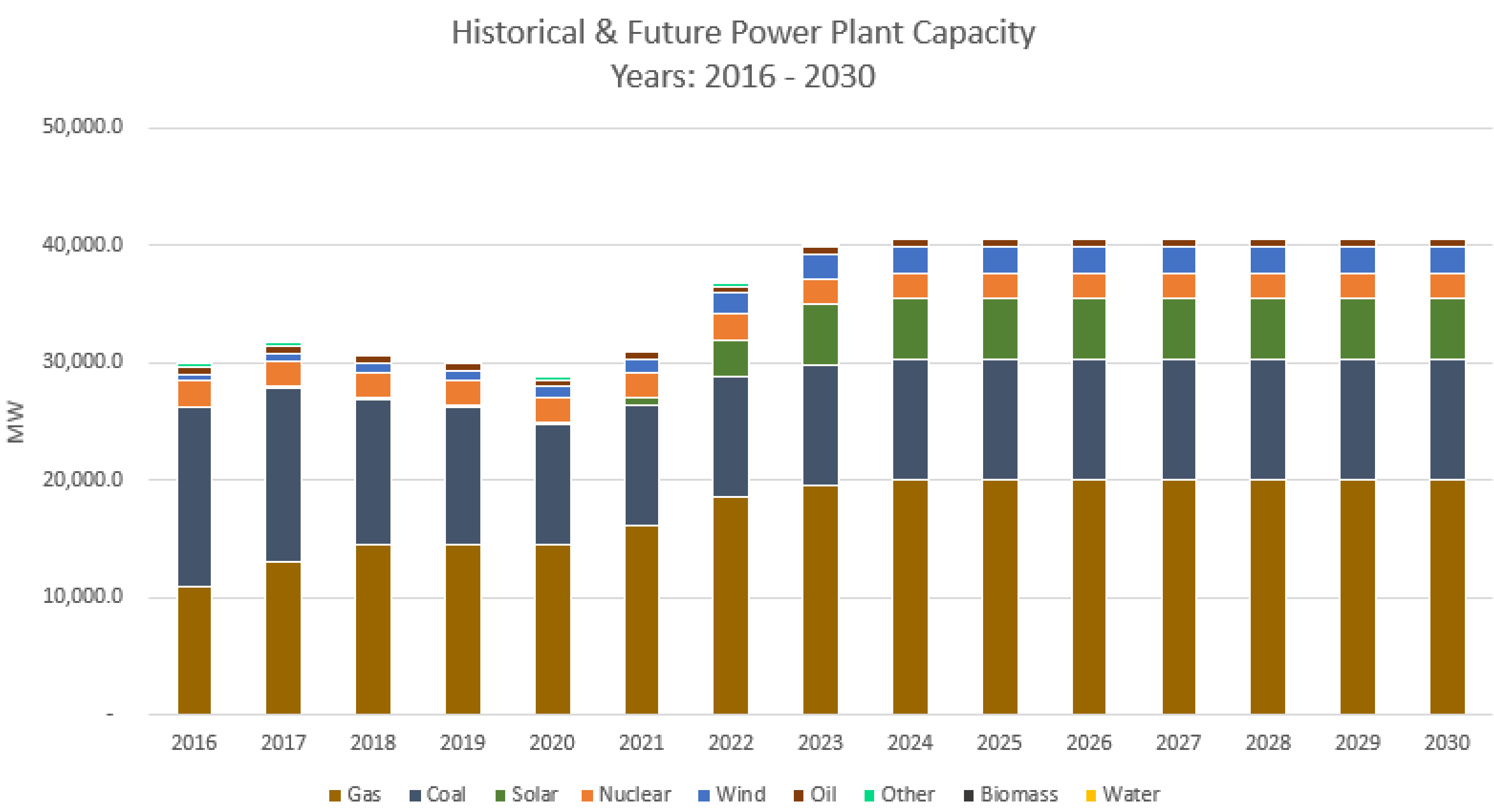
National Wind RECs



Ohio Generating Capacity Fuel Mix



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Natural Gas Update
OMA Energy Committee

Darin King
NiSource/Columbia Gas of Ohio

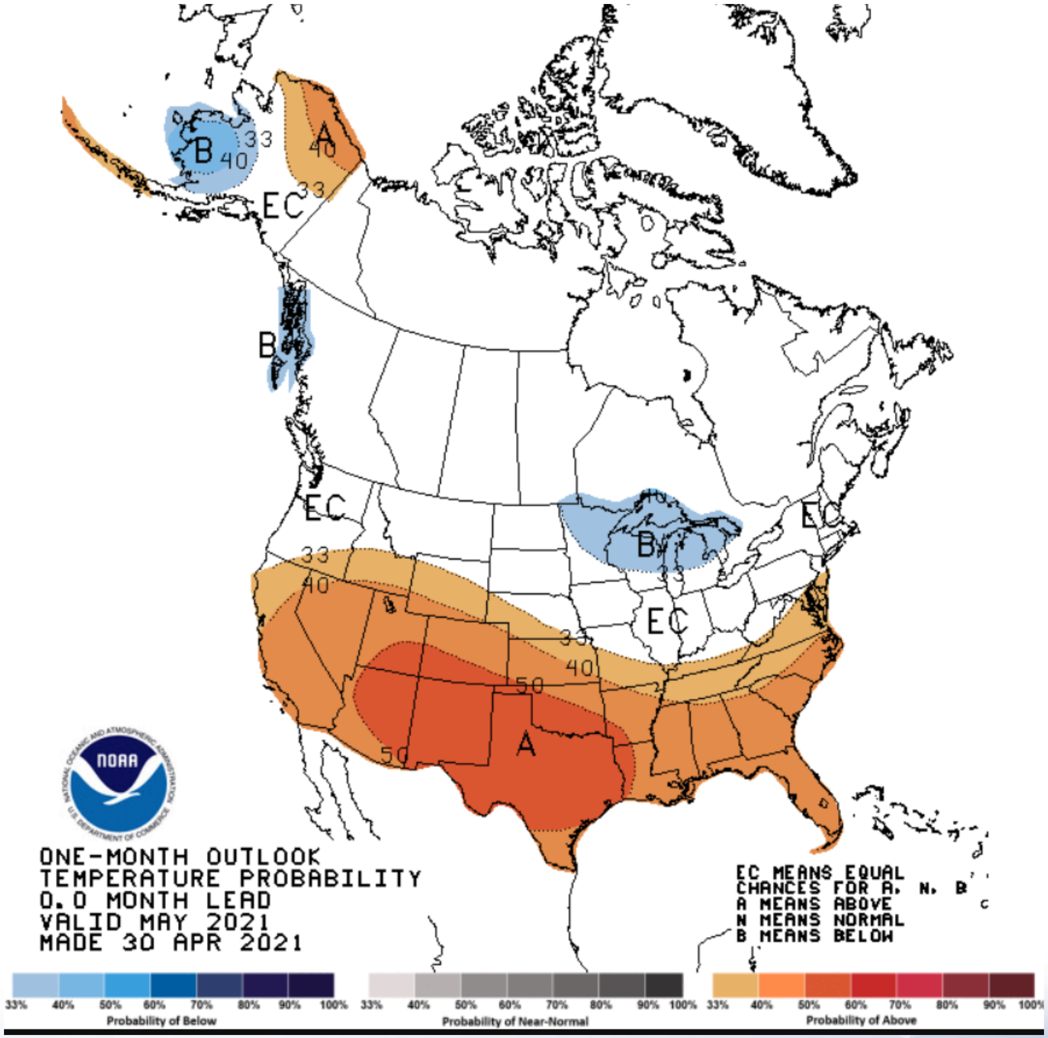
May 27, 2021

Columbia Gas of Ohio
A NiSource Company

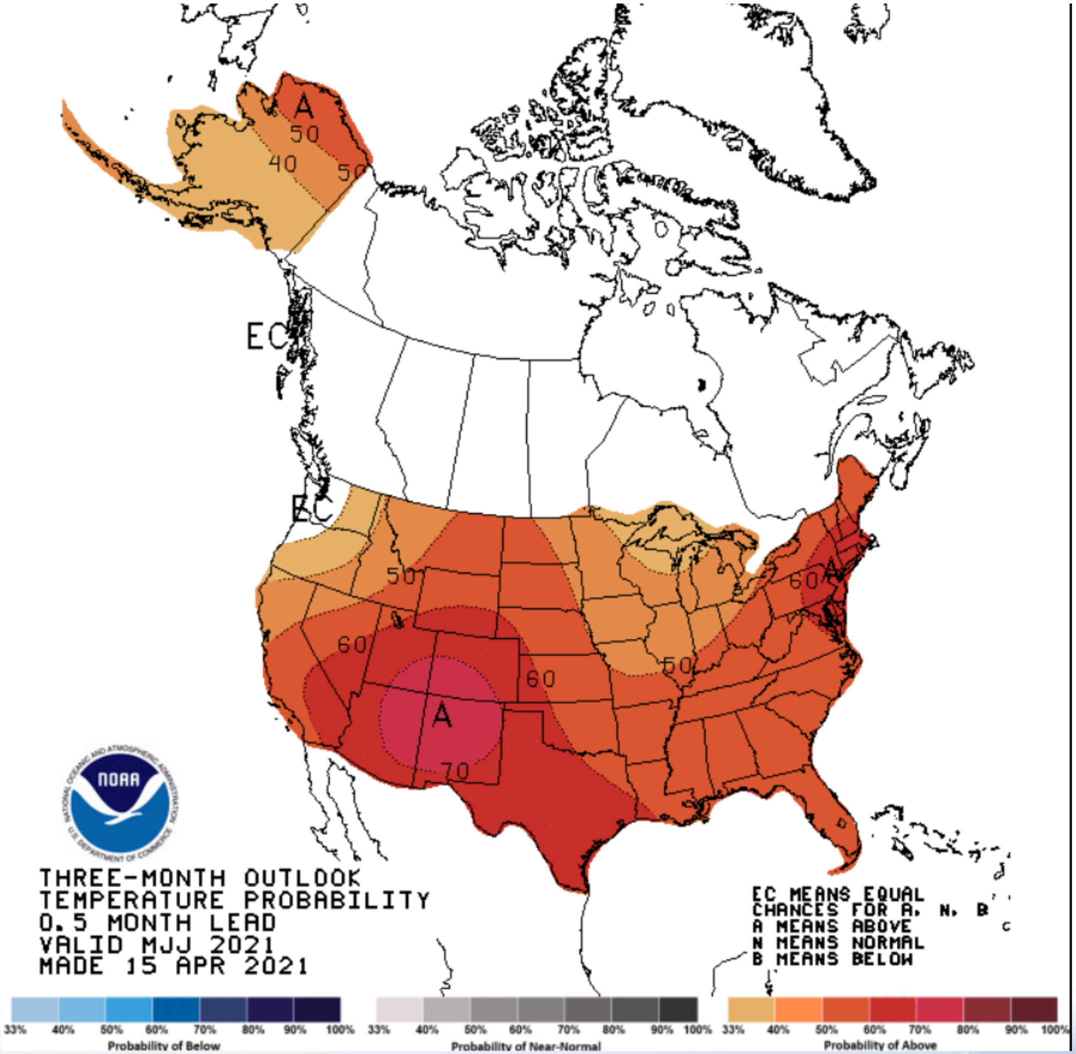
Weather & Outlook

Columbia Gas of Ohio
A NiSource Company

NOAA Temperature Outlook: May Forecast



NOAA Temperature Outlook: June-August



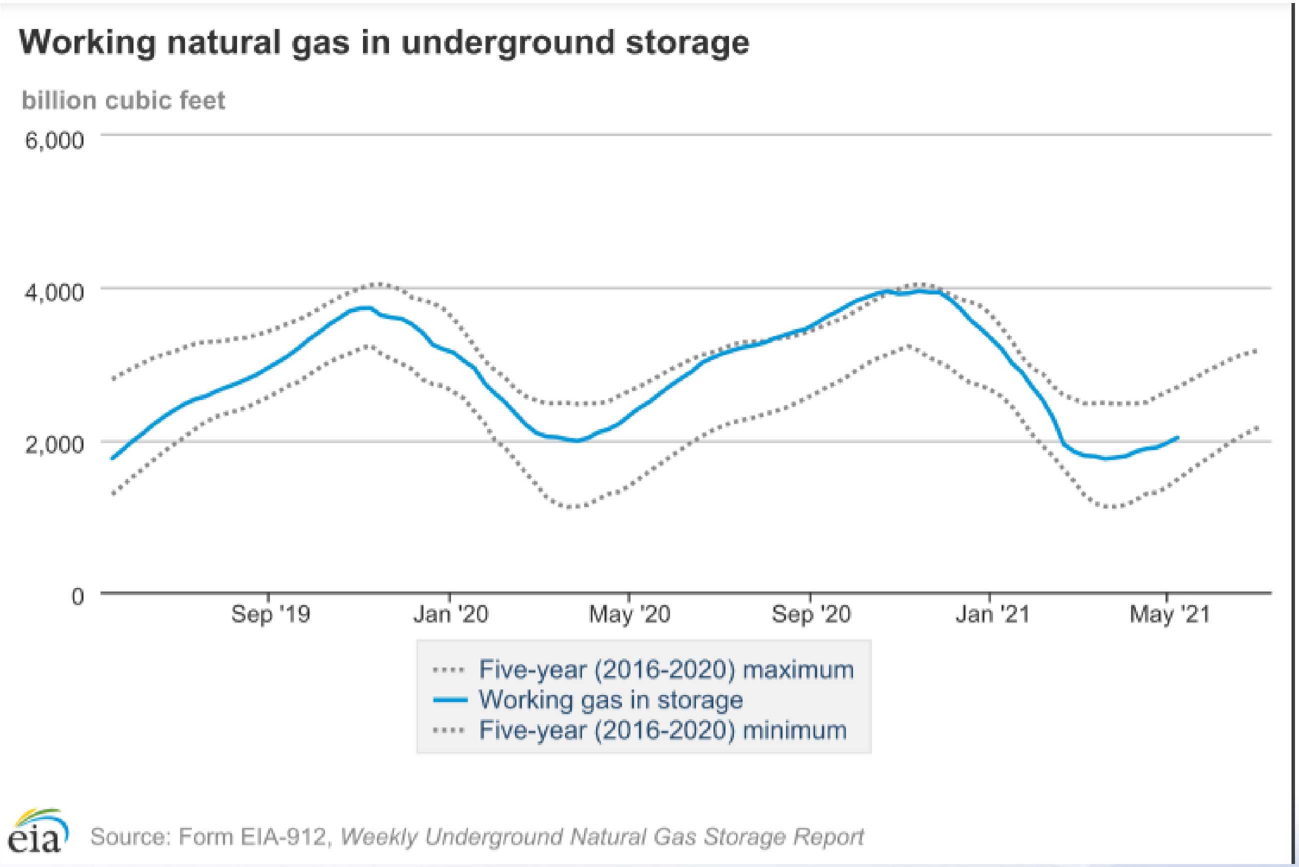
Columbia Gas of Ohio
A NiSource Company

Storage & Gas Pricing

Storage

Working gas in storage was 2,029 Bcf as of May 7th, according to EIA estimates.

Stocks were 378 Bcf lower than last year at this time, and 72 Bcf above the five-year average.



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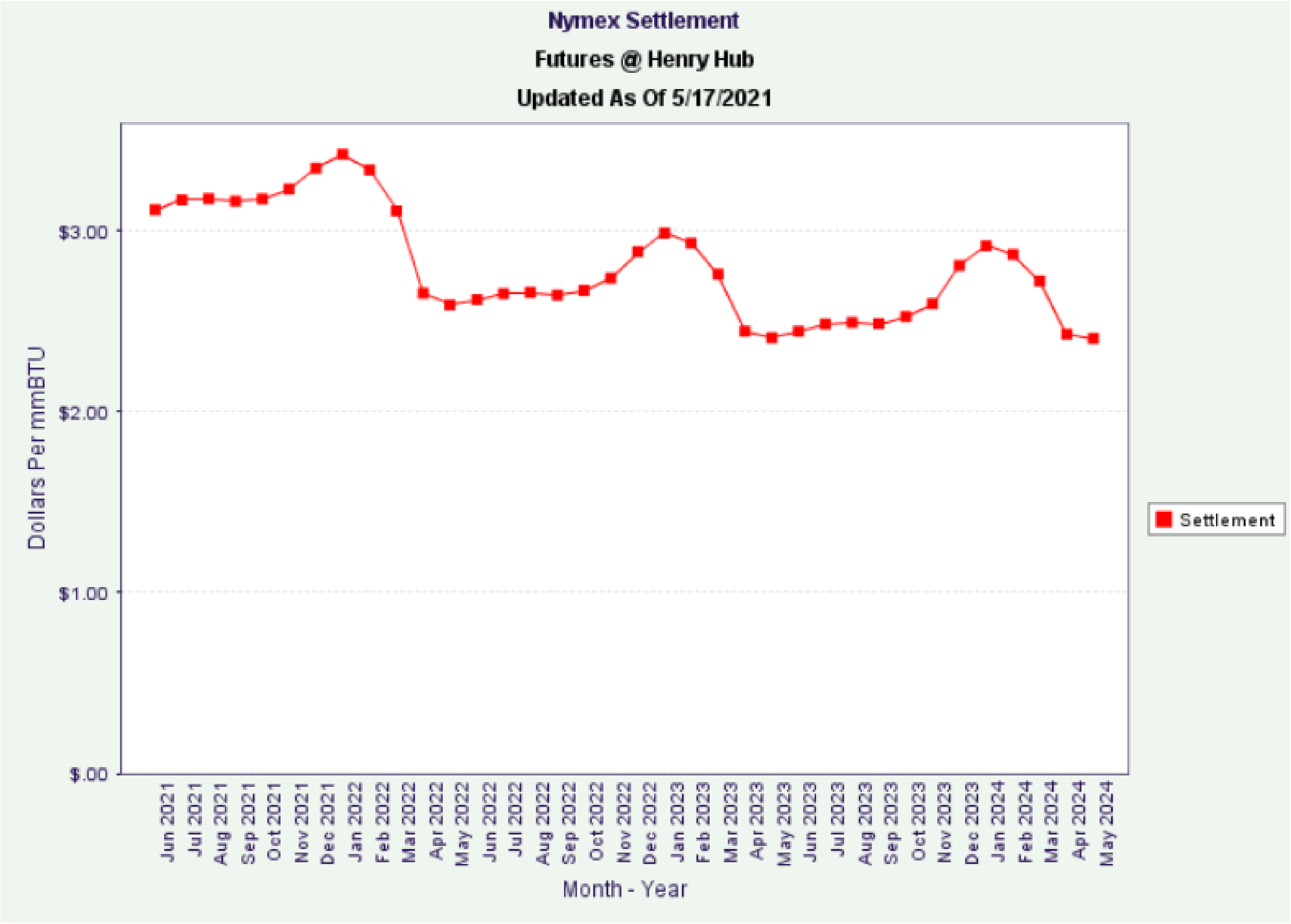
A NiSource Company

Futures Settlement

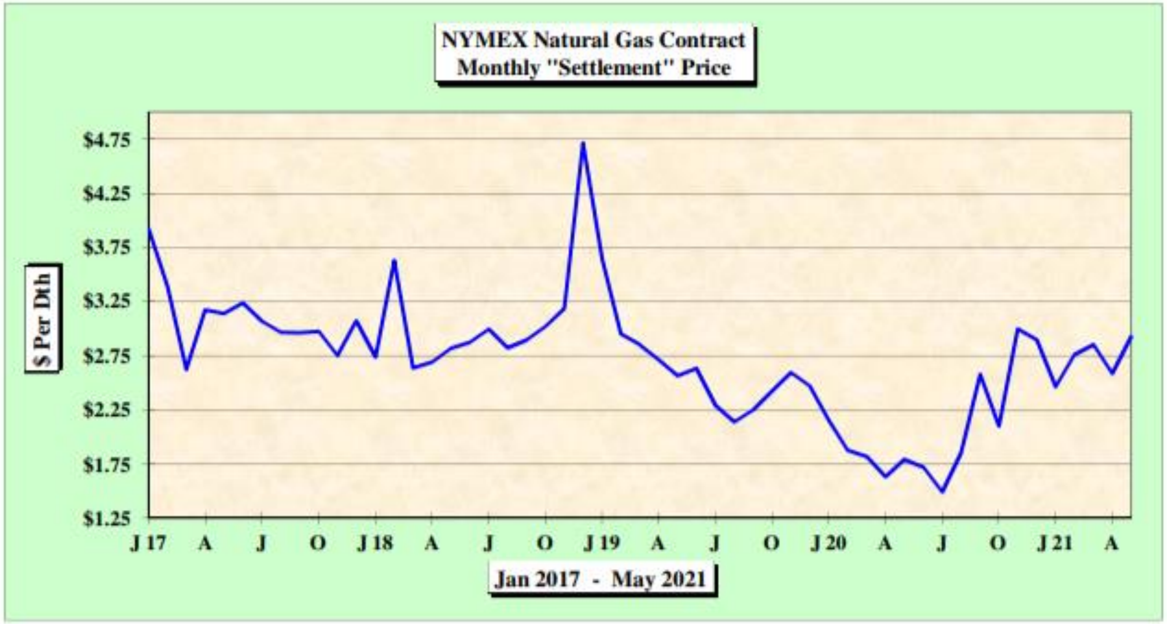


Columbia Gas of Ohio
A NiSource Company

NYMEX Prompt Month Settlement

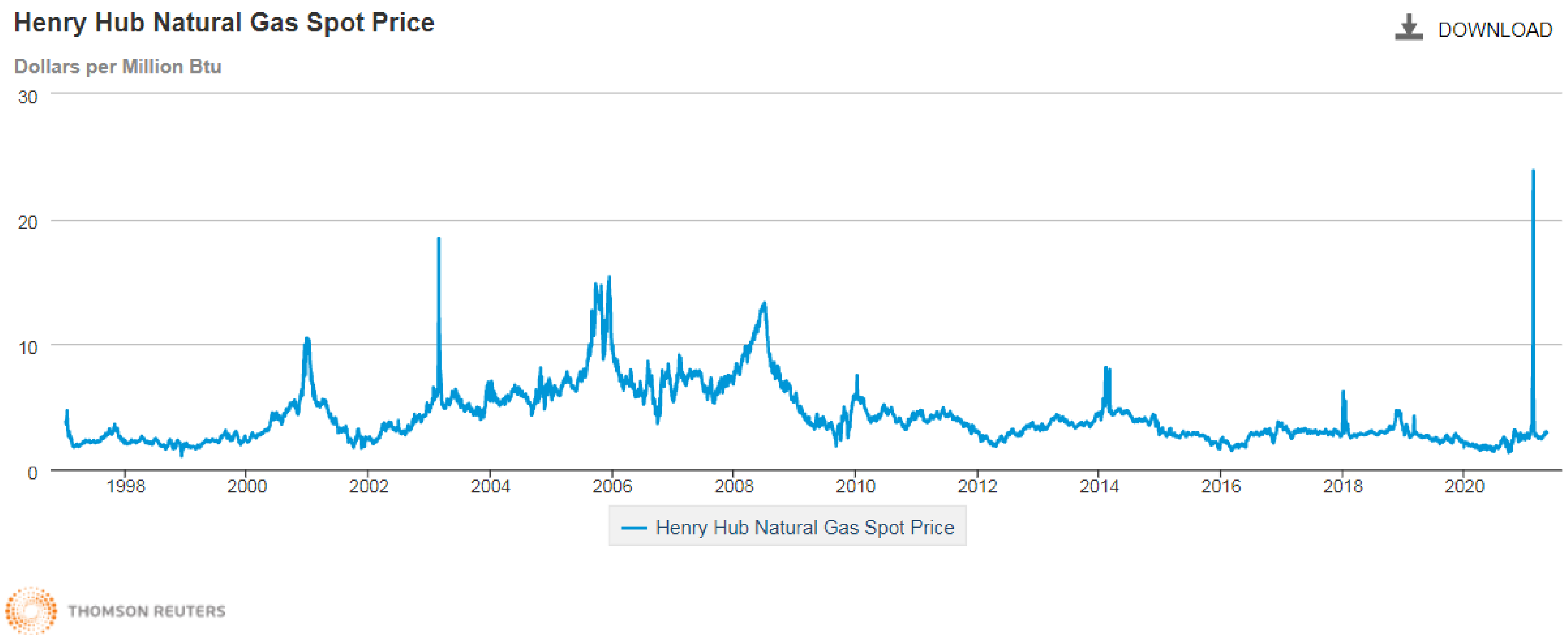
NYMEX - NATURAL GAS CONTRACT SETTLEMENT PRICE HISTORY

	Monthly Settlement Price												
YEAR	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YR AVG
2017	3.930	3.391	2.627	3.175	3.142	3.236	3.067	2.969	2.961	2.974	2.752	3.074	3.108
2018	2.738	3.631	2.639	2.691	2.821	2.875	2.996	2.822	2.895	3.021	3.185	4.715	3.086
2019	3.642	2.950	2.855	2.713	2.566	2.633	2.291	2.141	2.251	2.428	2.597	2.470	2.628
2020	2.158	1.877	1.821	1.634	1.794	1.722	1.495	1.854	2.579	2.101	2.996	2.896	2.077
2021	2.467	2.760	2.854	2.586	2.925								2.718

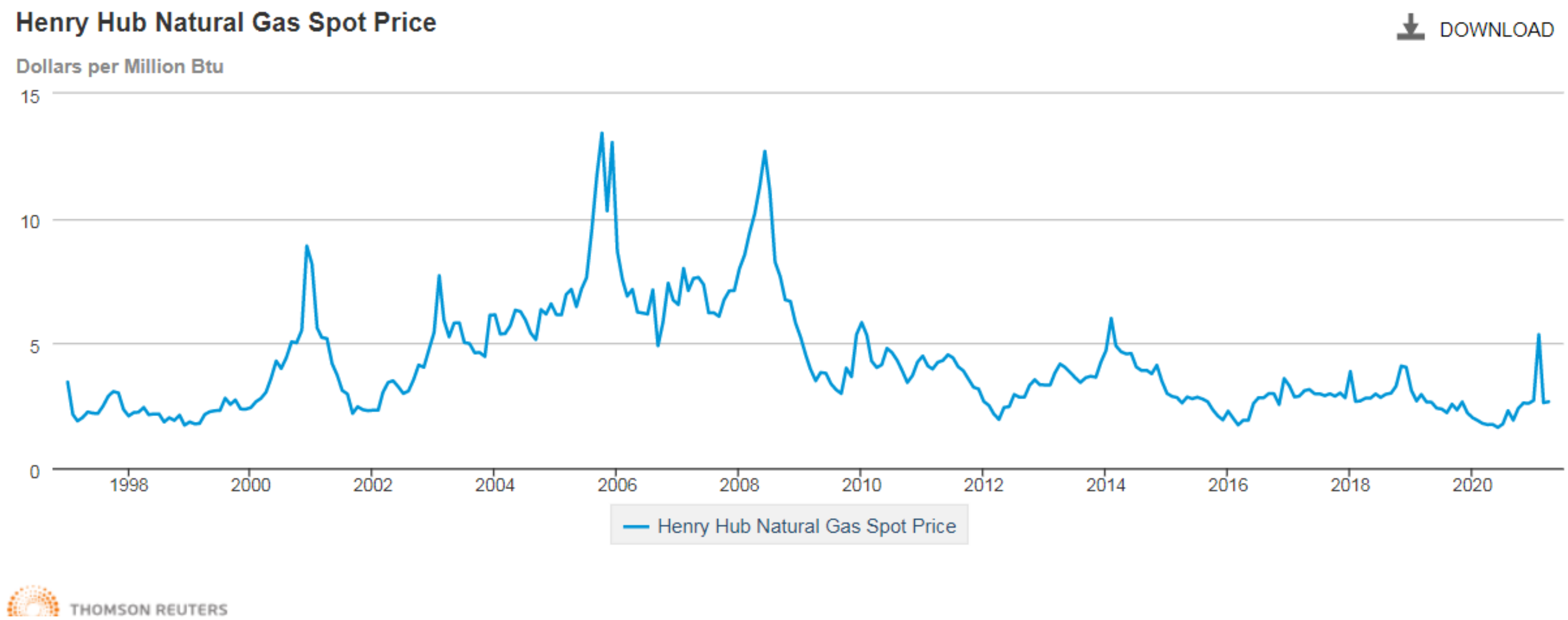


Columbia Gas of Ohio
A NiSource Company

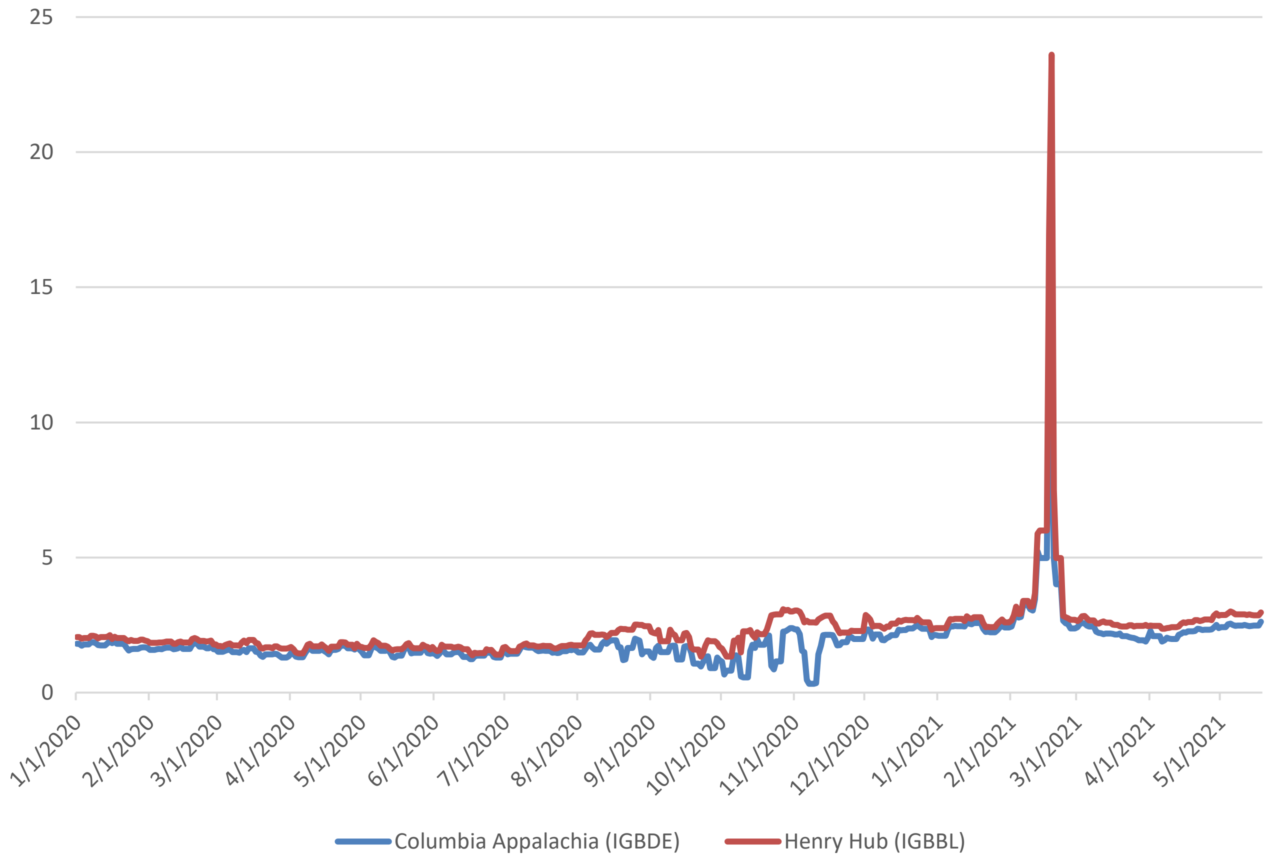
NYMEX Spot Price History
(Daily Prices)



NYMEX Spot Price History
(Monthly Prices)



NYMEX Spot Price Recent History



Columbia Gas of Ohio
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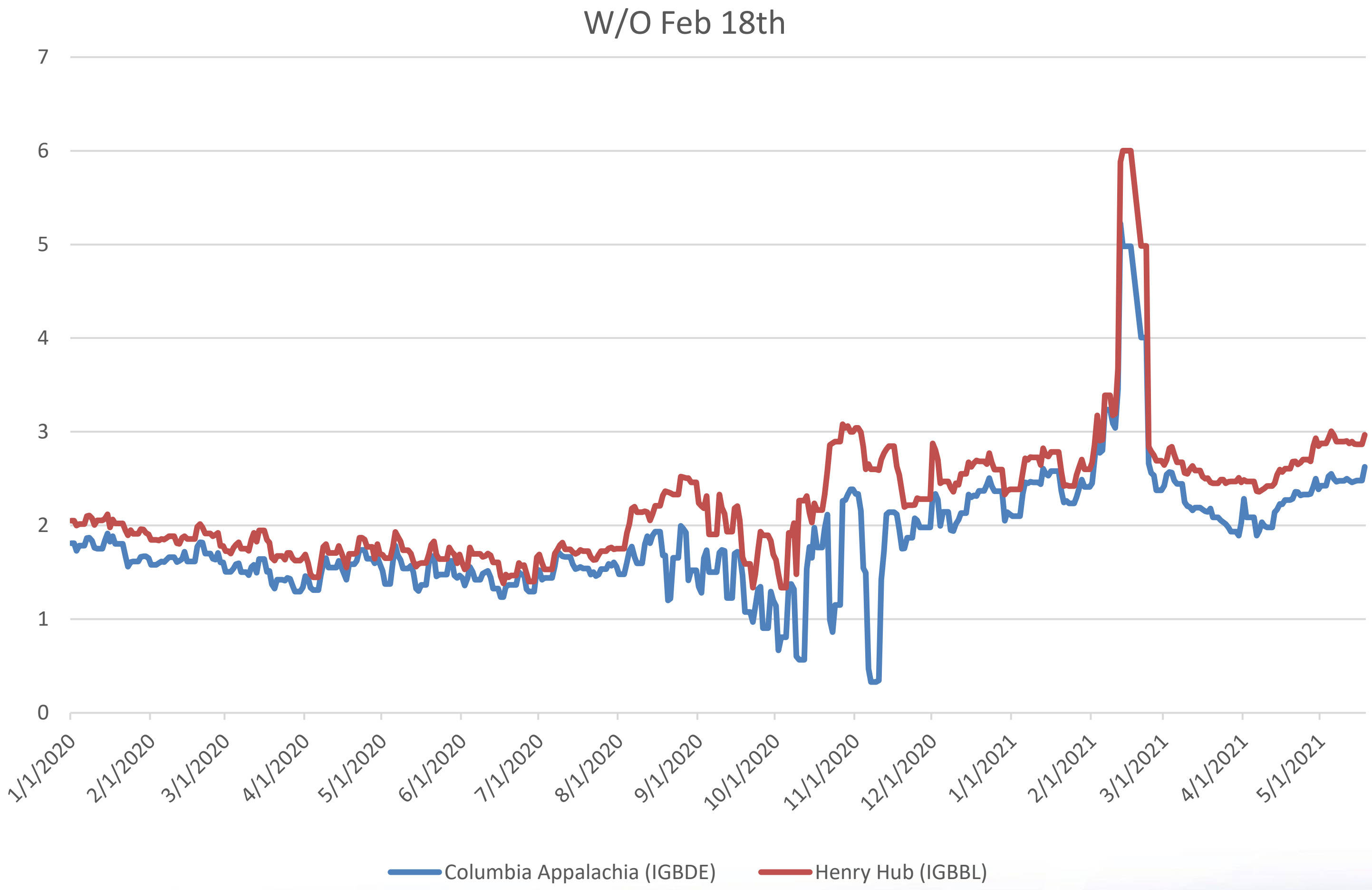
NYMEX Spot Price Recent History



Columbia Gas of Ohio
A NiSource Company

NYMEX Term Pricing

TERM	PRICE 2/9/21	PRICE 5/18/21
3 month	$3.08	$ 3.00 (-$0.08)
6 month	$3.08	$ 3.03 (-$0.05)
12 month	$3.14	$ 3.01 (-$0.13)
18 month	$2.97	$ 2.89 (-$0.08)

https://www.cmegroup.com/trading/energy/natural-gas/natural-gas_quotes_globex.html

Columbia Gas of Ohio
A NiSource Company

Select Hub Pricing

HUB LOCATION	2/23/21	5/18/21
Henry Hub	$2.84	$2.99 (+$0.15)
Houston Ship Channel	$2.51	$3.00 (+$0.49)
TCO Pool	$2.66	$2.62 (-$0.04)
Dominion South Point	$2.46	$2.33 (-$0.13)
TETCO M-2	$2.48	$2.38 (-$0.10)
TGP Zone 4	$2.83	$2.70 (-$0.12)

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

Columbia Gas of Ohio
A NiSource Company

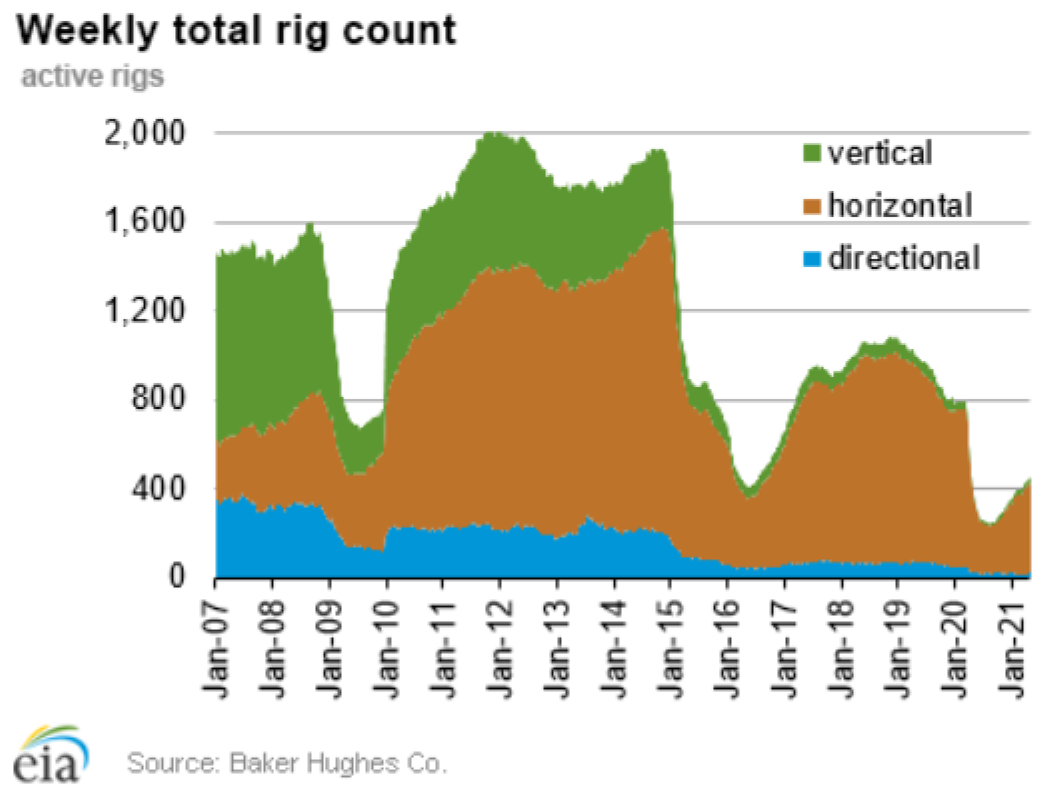
Petroleum Products Pricing

TERM	PRICE 2/2021	PRICE 5/2021
Crude	$ 60	$ 65
Gasoline	$ 2.45	$ 2.89
Fuel Oil	$ 1.70	$ 1.83
Jet Fuel	$ 1.63	$ 1.75

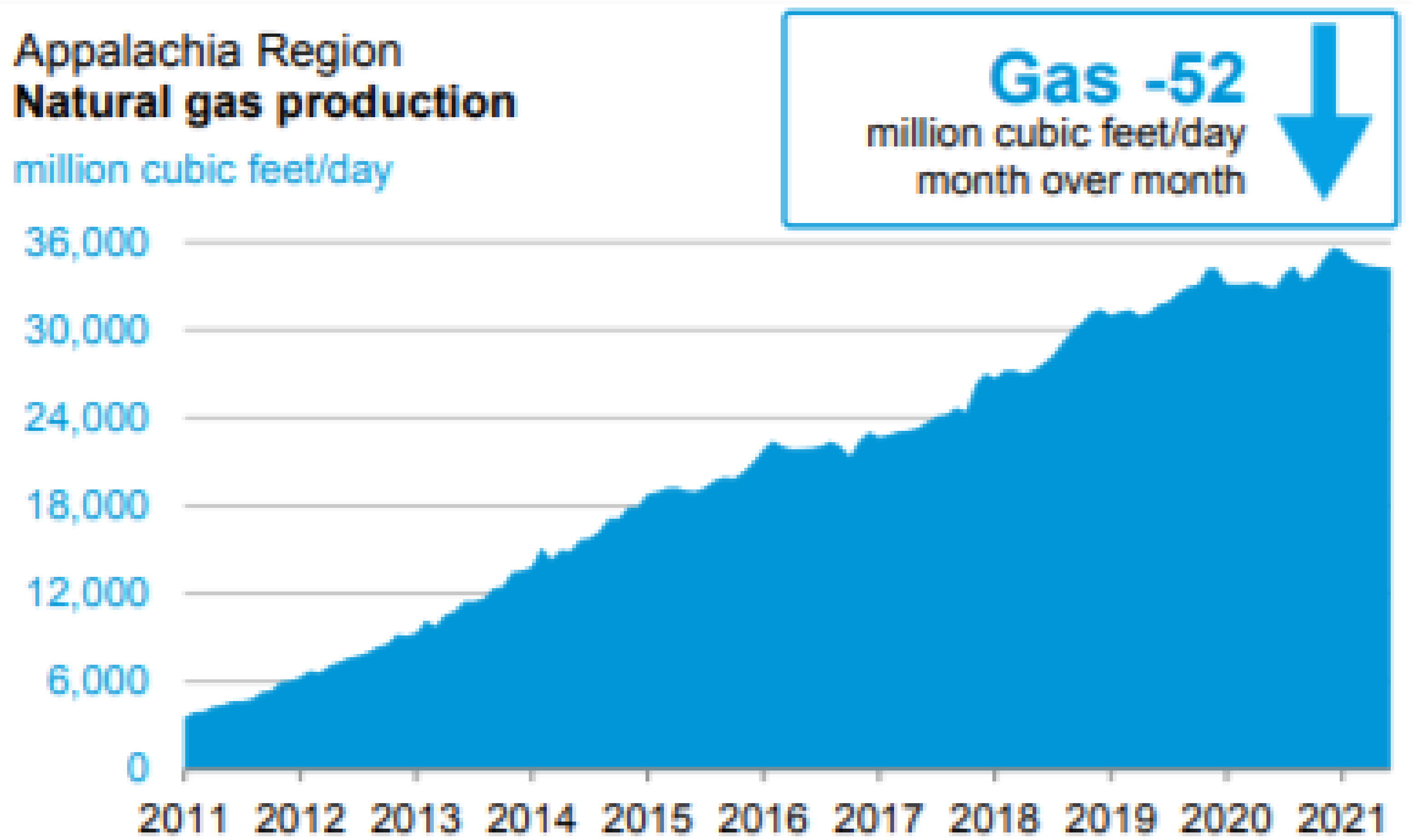
Production, Demand, & Rig Count

Columbia Gas of Ohio
A NiSource Company

Rig Count


Weekly total rig count
active rigs
2,000
1,600
1,200
800
400
0
vertical
horizontal
directional
Jan-07
Jan-08
Jan-09
Jan-10
Jan-11
Jan-12
Jan-13
Jan-14
Jan-15
Jan-16
Jan-17
Jan-18
Jan-19
Jan-20
Jan-21
eia
Source: Baker Hughes Co.

Production

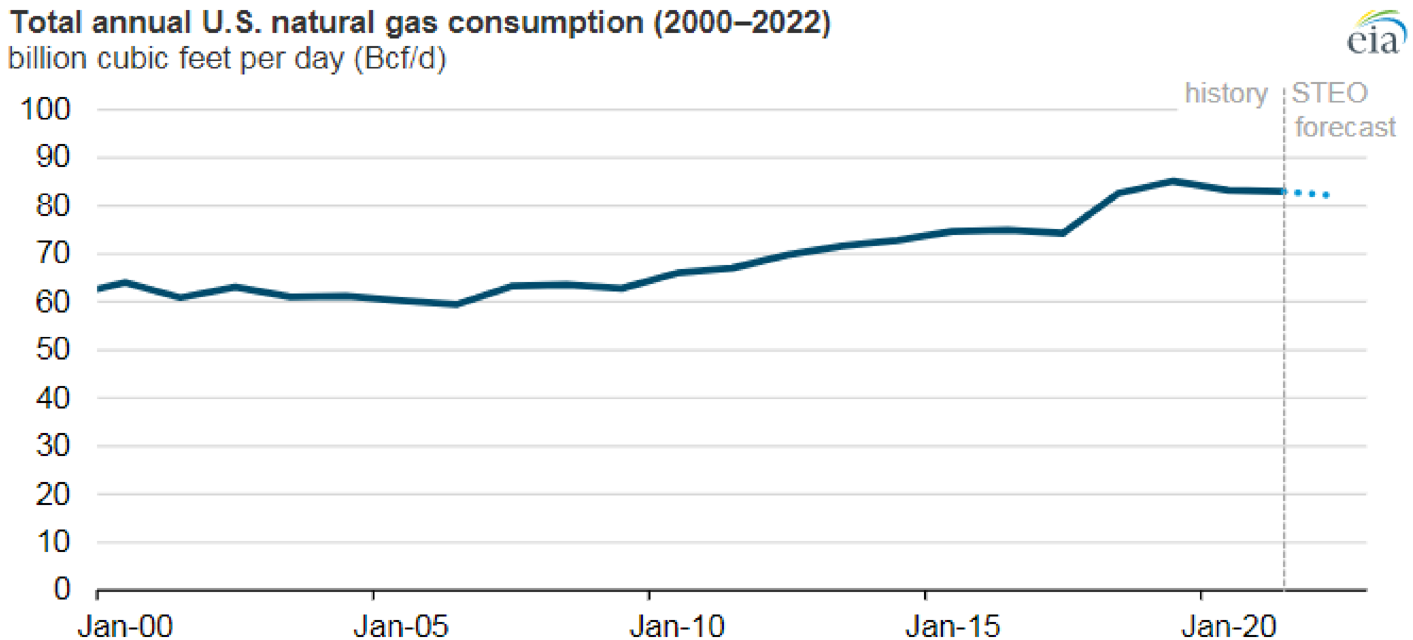


Columbia Gas of Ohio
A NiSource Company

Production

APRIL 20, 2021

EIA expects U.S. natural gas consumption to continue decreasing in 2021 and 2022



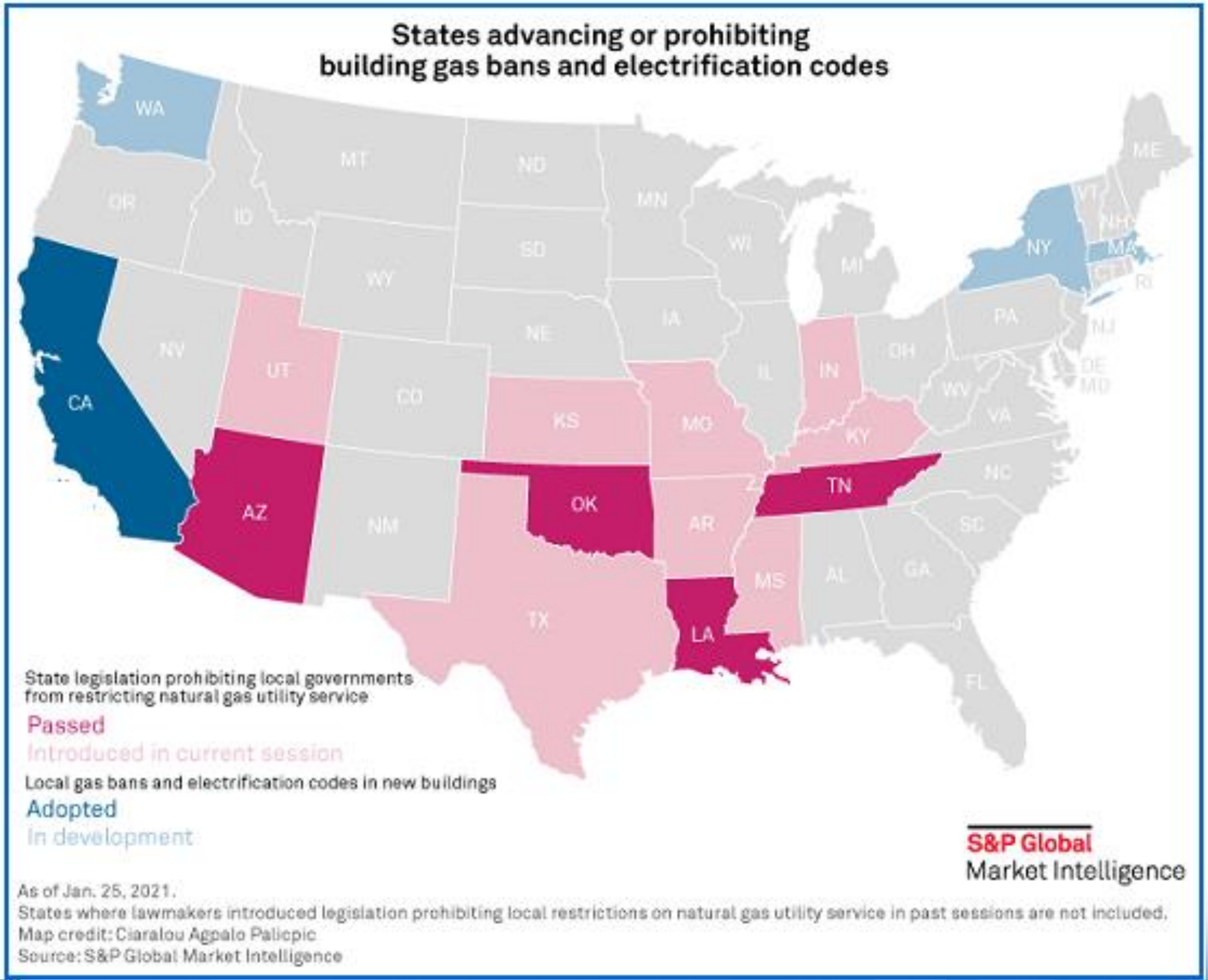
Source: U.S. Energy Information Administration, *Short-Term Energy Outlook* (STEO)

Columbia Gas of Ohio
A NiSource Company

Recent Developments

Columbia Gas of Ohio
A NiSource Company

US Natural Gas Ban Bans



Keystone XL

TC Energy Posts C$1 Billion Quarterly Loss on Keystone XL Suspension

By Reuters | May 7, 2021, at 7:45 a.m.

FILE PHOTO: A TC Energy pump station sits behind mounds of dirt from the Keystone XL crude oil pipeline as it lies idle near Oyen, Alberta, Canada February 1, 2021. REUTERS/Todd Korol REUTERS

Cyber Attack

Analysis - Cyberattack Exposes Lack of Required Defenses on U.S. Pipelines

By Reuters | May 12, 2021, at 6:05 a.m.

Political

Forbes

Apr 5, 2021, 12:49pm EDT | 40,242 views

Biden's 'Infrastructure' Bill Signals A Death Sentence For Natural Gas

David Blackmon Senior Contributor
Energy

US President Joe Biden speaks in Pittsburgh, Pennsylvania, on March 31, 2021. (Photo by JIM WATSON / ... [+] AFP VIA GETTY IMAGES

Political

Trending: Inflation Israel Infrastructure Biden's Border Crisis Byron York's Daily Memo

Washington Examiner

Monday, May 24, 2021

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OPINION

How natural gas can help the Biden administration meet new climate goals

by Karen Harbert & David Anderson | April 27, 2021 12:00 AM

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Energy

Leadership Change in Senate Energy Committee
May 21, 2021

Sen. **Rob McColley** (R-Napoleon) has been named the chair of the Ohio **Senate Energy & Public Utilities Committee**, replacing Sen. **Bob Peterson** (R-Washington Court House). The leadership change comes as Sen. Peterson is running for Ohio's 15th Congressional District. Sen. McColley takes the reins of the committee as the panel considers several high-profile bills, including **Senate Bill 117**, OMA-supported legislation to repeal House Bill 6's $700 million ratepayer-funded subsidy for OVEC-owned coal plants. *5/18/2021*

Senate Energy Committee Hears Wind and Solar Referendum Bill
May 21, 2021

In the Ohio Senate Energy and Public Utilities Committee this week, dozens of witnesses testified for and against **Senate Bill 52**, which addresses the siting of large-scale solar and wind projects. The **substitute bill** mirrors its House companion (**House Bill 118**) and allows township trustees to adopt a resolution that designates portions of a township as an "energy development district." These districts — if approved by voters — would be available for large wind and solar projects.

Opponents of the legislation say it would stifle renewable energy development in Ohio. The OMA provided **opponent testimony** on the original bill and is working with allies to find a solution to ensure local citizens have a meaningful opportunity to engage at the Ohio Power Siting Board. *5/20/2021*

House Introduces Electric Security Plan Elimination Bill
May 21, 2021

This week, Rep. **Shane Wilkin** (R-Hillsboro) introduced **House Bill 317**. At the macro level, HB 317 would eliminate electric security plans (ESPs).

The ESP process was originally established to ensure electricity prices would not increase too much as utilities continued the transition to a mature de-regulated market. Since its creation, however, the ESP process has turned into a mechanism that regulated utilities use to increase costs through numerous above-market charges added to customers' bills. The proposal would eliminate ESPs and require utilities to provide standard service offers under a competitive market-rate offer. The bill would also allow utilities to implement economic development and job-retention programs under the market-rate offer, while allowing utilities to apply to the PUCO to recover non-bypassable costs of those unlimited programs.

The OMA is researching and analyzing HB 317. At next week's OMA Energy Committee, we will take a deep dive on this and other energy bills pending in the legislature. **Register now!** *5/20/2021*

OMA Testifies to Eliminate OVEC Subsidies
May 14, 2021

This week, Brad Belden, president of **The Belden Brick Company** and chair of the OMA Energy Committee, **testified** on behalf of the OMA in support of **Senate Bill 117** — legislation to repeal House Bill 6's $700 million **ratepayer-funded subsidy** for two Ohio Valley Electric Corporation (OVEC) coal plants, one of which is in Indiana. The bill would also refund customers the charges borne since HB 6 took effect.

The OMA has been on the frontlines advocating for the repeal of anti-customer provisions included in HB 6 including, the nuclear subsidies and decoupling provision. The OVEC subsidies are one of the last pieces of HB 6's anti-market policy that remains in law. Customers will be on the hook for these subsidies through 2030 without action by state lawmakers. *5/13/2021*

Ohio Policymakers Return AEP Political Contributions
May 14, 2021

Records show Ohio lawmakers and Gov. Mike DeWine have recently returned around $50,000 to American Electric Power's (AEP) political action committee, according to a **report** by *Ohio Capital Journal*. AEP is a key beneficiary of House Bill 6's $700 million ratepayer-funded **subsidy** for two OVEC coal plants. The Public Utilities Commission of Ohio (PUCO) is currently **seeking an independent audit** of the OVEC plants. *5/12/2021*

Wind and Solar Referendum Bill Sees Major Changes in Committee
May 14, 2021

This week, the House Public Utilities Committee accepted a **substitute version** of **House Bill 118** (a companion to **Senate Bill 52**). As introduced, HB 118 would have allowed townships to hold referendums on Ohio Power Siting Board decisions regarding nearby large-scale solar and wind projects. The substitute version instead allows township trustees to adopt a resolution that designates portions of a township as an "energy development district." These districts — if approved by voters — would be available for large wind and solar projects.

The OMA is engaged and will be discussing this bill more at the **May 27 Energy Committee meeting**. *5/13/2021*

Senate Confirms French as PUCO Chair
May 14, 2021

This week, the Ohio Senate voted 31-0 to confirm Jenifer French as the new chair of the Public Utilities Commission of Ohio (PUCO). In a **recent interview** with Gongwer News Service, French says she aims to restore the public's trust in the PUCO after former chair Sam Randazzo's resignation **last November**. French said that among the PUCO's priorities are four ongoing investigations into to FirstEnergy's operations in relation to the passage of HB 6. *5/7/2021*

Study: Line 5 Shutdown Would Cost Ohio $13.7B
May 14, 2021

If Michigan Gov. Gretchen Whitmer (D) succeeds in shutting down Enbridge Energy's **Line 5** — the continental Canadian pipeline that transports more than half million barrels of light crude oil and natural gas liquids a day — it would have a much greater impact on Ohio's economy than those of surrounding states, a **new study finds**.

The report, conducted by the Consumer Energy Alliance, finds that Ohio could lose up to $13.7 billion in economic activity, $147.9 million in state revenue, and more than 20,000 jobs from the shutdown. The economic losses would be four times those suffered by Michigan, the study says, and more than six times the impact on Indiana or Pennsylvania. *5/11/2021*

This Map Shows Gasoline Prices Across the U.S.
May 14, 2021

Gasoline prices are up again this week with concerns about how the cyberattack on the Colonial Pipeline, the largest fuel pipeline in the nation, could impact Ohio. (The impact in the Midwest is expected to be minimal, experts say.) **This heat map** published by GasBuddy.com provides a look at average gasoline prices in every U.S. county. *5/12/2024*

Pressured by Customer Advocates, PUCO Orders Audit of OVEC Utilities
May 7, 2021

This week, the Public Utilities Commission of Ohio (PUCO) **ordered** an independent audit of American Electric Power (AEP) of Ohio, Duke Energy Ohio, and AES Ohio's (formerly DP&L) revenues and customer charge-offs for the Ohio Valley Electric Corporation (OVEC).

As reported by Hannah News Service, the PUCO audit was spurred by a request from the Office of Ohio Consumers' Counsel (OCC) to ensure more transparency in the OVEC subsidies authorized by House Bill 6. A final audit report is due by Friday, Dec. 17.

Meanwhile, the OMA continues to press for approval of **Senate Bill 117**, offered by Sens. **Mark Romanchuk** (R-Mansfield) and **Hercel Craig** (D-Columbus) to **permanently repeal** HB 6's OVEC subsidies and refund all charges collected since the bill became law. *5/6/2021*

Natural Gas Bills See House Action
May 7, 2021

At the Ohio House this week, sponsor testimony was heard on **House Bill 271**, legislation that would establish a grant and loan program to coordinate and expand access to natural gas. The program would be funded by excess revenue in the Oil and Gas Well Fund and/or future appropriations made by the General Assembly. Businesses, non-profits, and local governments would be eligible to apply for funding.

Also this week, the House passed **House Bill 201**, legislation designed to prohibit local governments from banning or blocking consumers from obtaining natural gas hookups. The OMA worked with the bill sponsor and other interested parties to ensure the intent of the bill matched its language.
The OMA will continue to follow both bills, which will be discussed at the OMA's May 27 Energy Committee meeting. **Register here.** *5/6/2021*

Report: Biden Administration Signals Support for Subsidizing Nuke Plants
May 7, 2021

Reuters **reports** that the Biden administration would support taxpayer subsidies for aging nuclear power plants to help obtain net-zero emissions goals. According to the news outlet, the federal credits for nuclear power would be similar those for wind and solar. *5/6/2021*

New Federal Bill Would Overhaul Clean Energy Incentives
May 7, 2021

Democrats in the U.S. Senate recently introduced the Clean Energy for America Act. The bill would consolidate current energy tax incentives into emissions-based provisions to encourage "clean electricity and transportation" as well as energy conservation. Read **this summary** by OMA Connections Partner RSM. *5/4/2021*

State, Local Challenges Could Hinder Biden's Renewable Energy Goals
April 30, 2021

President Joe Biden wants to reduce U.S. greenhouse gas emissions by half by the end of this decade. To achieve this, the country would not only need unprecedented growth in its renewable energy generation, but it would also need what some experts say is a "near-impossible" rapid buildout of our transmission network, according to a new **Associated Press report**.

In addition to financial and technological hurdles, expanding and modernizing the nation's electric grid would guarantee legal fights at the state and local levels — including from "NIMBY" (Not In My Back Yard) and "BANANA" (Build Absolutely Nothing Anywhere Near Anyone) groups.

Because of the state and local dynamic, the Biden climate change plan — as well as its challenges and opportunities — will be one of the key topics discussed at the OMA Energy Committee's next meeting, set for May 27. **Register here.** *4/29/2021*

House Moves Natural Gas Bill With OMA Additions
April 30, 2021

This week, the House Energy and Natural Resources Committee advanced legislation (**House Bill 201**) to prohibit local governments from banning or blocking consumers from obtaining natural gas hookups. The OMA worked with the bill sponsor and other interested parties to ensure that the intent of the bill matched its language. A full House vote is expected in the coming weeks. *4/29/2021*

PJM Holds Much of Nation's New Gas-Fired Generation
April 30, 2021

Here's another Ohio advantage: Roughly one-third of the nation's new, efficient natural gas-fired generating capacity built since 2010 is under the jurisdiction of **PJM Interconnection** — the grid operator whose service area includes the Buckeye State. This is due to the rapid development of the region's shale gas resources, **according** to the U.S. Energy Information Administration. *4/26/2021*

Substantial Increase Hitting Natural Gas Bills
April 23, 2021

Last summer, Columbia Gas Transmission — also known as TCO — filed a rate case proposal with the Federal Energy Regulatory Commission (FERC) to recoup roughly $3 billion in transmission-related expenses. As filed, the proposal could increase transmission charges by as much as 78%.

Direct shippers and customers of natural gas-distribution utilities **served by TCO** are already seeing the increase in their bills. (Increased charges are subject to refund based on final terms.) For gas-intensive manufacturers, this added cost may be quite significant.

The OMA Energy Group (OMAEG) has intervened in this case to protect manufacturers' interests, specifically to reduce the proposed rate increase and eliminate any new penalties or operating restrictions. Only parties that intervened last year have legal standing to influence the outcome. **Contact OMA staff** to learn how you can support the OMA's litigation efforts. *4/22/2021*

Manufacturers Significantly Reduce Fuel Use
April 23, 2021

U.S. manufacturing consumed 19.4 quadrillion British thermal units (Btu) of energy in 2018, the latest year available, **according** to Energy Information Administration (EIA). Fuel consumption accounted for about two-thirds of this consumption.

The EIA notes that between 1998 and 2018, U.S. manufacturing's gross output grew by 12% while the sector's fuel consumption decreased 16% and its fuel intensity fell by 25%, largely due to technological advancements and greater efficiency. *4/22/2021*

OMA Testifies on Natural Gas Access Bill
April 16, 2021

This week, the OMA **provided testimony** on **House Bill 201**, legislation intended to ensure that every Ohio resident and business has access to available natural gas, while prohibiting local governments from preventing access to this abundant energy source.
In its testimony, the OMA stated its support for the bill. The association is working to clarify HB 201's language to match its intent. More hearings are expected in the House over the next few weeks. *4/15/202*1

U.S. Energy-Related CO2 Emissions Declined by 11% in 2020
April 16, 2021

The U.S. Energy Information Administration **reports** that the nation's energy-related carbon dioxide (CO_2) emissions decreased by 11% in 2020 primarily due to the pandemic. Energy-related CO_2 emissions fell by 8% in the industrial sector. *4/13/2021*

AES Ohio Proposes Transmission Rate Increase
April 9, 2021

AES Ohio — formerly known as DP&L — has asked the Public Utilities Commission of Ohio (PUCO) to approve an increase of its Transmission Cost Recovery Rider-Non-bypassable (TCRR-N), which is designed to recover transmission-related costs charged to the utility by FERC or PJM. The OMA Energy Group will participate in this case. Energy-intensive manufacturers located in AES Ohio's 24-county service territory should consider supporting the **OMA Energy Group** to protect their costs. *4/8/2021*

U.S. Energy Consumption Fell 7% in 2020
April 9, 2021

U.S. energy consumption **fell a record 7%** last year, largely due to the pandemic lockdowns. It was the largest annual decline by percentage and in absolute terms since 1949, when the U.S. Energy Information Administration began recording consumption data. *4/5/2021*

Gov. DeWine Signs HB 128 to Partially Repeal HB 6
April 2, 2021

Gov. Mike DeWine this week signed HB 128, which cancels out the nuclear subsidy provisions of HB 6 (133rd General Assembly), originally targeted to support the Davis-Besse and Perry nuclear plants to the tune of up to $150M/year. Later, of course, it was learned how HB 6 was fatally flawed by scandal. Earlier this year, the **OMA testified** on HB 128.

HB 128 also removes the costly HB 6 "decoupling" provision, which tied FirstEnergy future profits to record year 2018 regardless of the amount of power sold, about $978M annually. The new law also revokes a change made to the Significantly Excessive Earnings Test, which benefited only FirstEnergy by allowing the company to combine profits across three of its companies to avoid customer refunds from its overly profitable company.

The new bill retains HB 6's subsidies for utility-scale solar projects and for two coal plants (one in Ohio, one in Indiana), leaving the door open for more corrective action that could cancel these subsidies that work against ratepayers.

The bill was voted unanimously in the Senate 33-0, 86-7 in the House originally, but then the House unanimously (89-0) concurred with the

Senate amendments. HB 128 was sponsored by Reps. James Hoops (R-Napoleon) and Dick Stein (R-Norwalk). *3/31/2021*

Bipartisan Senate Bill Would End Subsidies for OVEC Coal Power Plants
April 2, 2021

Sen. Romanchuk (R-Mansfield) and Sen. Hearcel Craig (D-Columbus) this week presented compelling **testimony on SB 117** to repeal the subsidies granted in 2019's HB 6 for two uneconomical coal plants owned by the Ohio Valley Electric Corp. (OVEC), one of which is in Indiana.
The owners of the plants are AEP, Duke and AES Ohio (formerly Dayton Power & Light). The proponents say that ratepayers should not be forced to pay for past poor business decisions.

Separately, Sen. Romanchuk also **testified in support of SB 118** to rollback $20 million a year in payments to five solar projects – another subsidy folded into the corrupt HB 6.
Both measures are supported by OMA to continue to get Ohio's energy policy back on track. More to come. *3/31/2021*

FirstEnergy Reverses – Will Refund Controversial Decoupling Charges
April 2, 2021

FirstEnergy **announced** it will return $26M in decoupling charges collected from customers under the 2019 HB 6 law. The company voluntarily halted collections earlier this year under a settlement with Attorney General Dave Yost. The **OMA Energy Group** has been an active voice in legal proceedings, partnering with the Attorney General and Office of Consumers' Counsel, consistently advocating for refund of decoupling dollars.

FirstEnergy originally indicated it would not refund the $30M it collected under the authority of HB 6. Noting that the company is not refunding all ill-gotten gains, Ohio's Consumers' Counsel **Bruce Weston said** that Ohio should not allow FirstEnergy to walk away from HB 6 with even a penny of consumers' money.

With this week's passage of HB 128, which removed the HB 6 decoupling provision from law, FirstEnergy apparently reconsidered its position. The decoupling provision would have guaranteed FirstEnergy's annual revenue at its 2018 record-setting level regardless of energy sold. *3/31/2021*

Could Texas Outages Happen Here?
April 2, 2021

Ohio's electric system is fundamentally different from the one in Texas, and Ohio has learned from prior experience.

Read a **short post** by the Public Utilities Commission of Ohio about how the two systems differ and how Ohio's grid is poised for weather events. 3*/30/2021*

Nuclear Subsidy Repeal Nears Finish Line
March 26, 2021

While the investigation continues into the $60 million racketeering scandal tied to House Bill 6, the legislation is being dismantled less than two years after its enactment. In a move that captured even **national press**, the Ohio Senate this week voted unanimously to approve House-passed legislation that will repeal HB 6's roughly $150 million in annual, customer-funded nuclear generation subsides. **House Bill 128**, which has the OMA's support, has been sent to Gov. Mike DeWine for his consideration.

Provisions of HB 128 are similar to earlier Senate-approved legislation: **Senate Bill 44** to repeal the nuke subsidies and **Senate Bill 10** to repeal HB 6's decoupling mechanism. In addition to ending the nuclear subsidies and reversing HB 6's decoupling changes, HB 128 will also repeal past budget language that modified the **"significantly excessive earnings test"** (SEET).

Gongwer News Service reports, "Although the nuclear debate appears close to its finish, debate over other components of HB 6 are likely to continue with legislation pending to examine other aspects of the law," including **OVEC subsidies**. The OMA has opposed HB 6 since its introduction in 2019 — and continues to advocate for the repeal of its subsidies, including for OVEC.

House Speaker Bob Cupp told reporters Thursday that Rep. **Jim Hoops** (R-Napoleon) has pledged to hold hearings on the remaining HB 6 issues, including OVEC. *3/25/2021*

AEP Transmission Rates Set to Increase Again
March 26, 2021

Electric transmission costs for AEP Ohio customers continue to go up. AEP Ohio filed its new rates for the Basic Transmission Cost Rider (BTCR), set to take effect next month. Primary service customers will see a 10% increase, while secondary customers an increase of 22% and sub-transmission and transmission customers will see a whopping 25% hike. (The BTCR is listed as the “transmission” line item on AEP Ohio electric customer bills.)

BTCR pilot tariff customers will see a 43% to 54% hike, but they have the ability to manage their peak transmission load to mitigate the increase. BTCR pilot rates could have been higher. For example, AEP Ohio had requested a 164% year-over-year increase on primary service customers. The **OMA Energy Group** (OMAEG) intervened to mitigate these cost increases.

Underlying the rate increase is AEP’s rising cost of transmission, now 254% of its 2015 cost — and five times higher than neighboring AES Ohio (formerly DP&L). The OMAEG has worked to protect manufacturers through the BTCR pilot, which allows manufacturers to manage their transmission costs through peak-load management strategies like on-site generation, load curtailment, and off-peak hour production. Contact the OMA’s **Rob Brundrett** to learn how the OMAEG works to protect manufacturers. *3/25/2021*

Natural Gas Access Bill Gets Second Hearing
March 26, 2021

This week, **House Bill 201** received its second hearing in the House Energy and Natural Resources Committee. As outlined by its sponsor, Rep. **Jason Stephens** (R-Kitts Hill), the bill would give customers the “right to choose the energy option that works best for them, while making sure every community in Ohio with natural gas maintains the ability for its citizens and its businesses to access this abundant source of Ohio energy.”
While the OMA has long agreed that local governments should not ban the access to natural gas, there is some concern HB 201, as currently drafted, could create new, increased distribution riders for customers. The OMA will be engaging with Rep. Stephens and committee members for clarification. *3/25/2021*

OMA Testifies on Large Scale Solar, Wind Bill
March 26, 2021

This week, the OMA submitted **opponent testimony** on **House Bill 118** and **Senate Bill 52**. The companion bills would allow local townships to hold referendums on large-scale solar and wind bills that have been approved by the Ohio Power Siting Board.

As the OMA stated in its testimony, the development of both solar and wind power in Ohio — as in other states — “has continued to increase over the past decade as companies and citizens demand sustainable and cleaner options for their electricity generation. Ohio’s statewide approval process, managed by the Ohio Power Siting Board, has been an effective mechanism to site such projects, weighing the pros and cons for the state and its citizens. For clarity, uniformity of policy, and economy of process, the OMA urges a statewide approach for such projects and decisions.” The OMA will remain engaged as the legislation moves through the process. *3/25/2021*

Columbia Gas Looks to Increase Transmission Costs
March 26, 2021

Last summer, Columbia Gas Transmission filed a rate case proposal with the Federal Energy Regulatory Commission (FERC) to recoup roughly $3 billion in capital and operational expenses associated with its transmission system. As filed, the proposal has the potential to increase transmission charges up to 78%.

The **OMA Energy Group** (OMAEG) intervened in the case to protect manufacturers’ interests, specifically to reduce the proposed rate increase and eliminate any new penalties or operating restrictions. The proposed increased rates have been implemented, subject to refund, but implementation of the new penalties and operating restrictions have been delayed pending ongoing settlement discussions.
A hearing is expected to commence in September. Members that are feeling the impacts of this case — or are concerned about its effects — can reach out to the OMA to learn

how they can participate in the proceedings by joining the OMAEG. Contact **Rob Brundrett**. *3/25/2021*

Jenifer French Picked to Lead PUCO
March 26, 2021

Gov. Mike DeWine has appointed **Jenifer French** as chair of the Public Utilities Commission of Ohio (PUCO). A former Franklin County Common Pleas Court judge, French is filling **the vacancy** left by Sam Randazzo, who resigned in November after an FBI search of his home related to the House Bill 6 investigation. *3/22/2021*

Pennsylvania Cracker Plant Will Boost Plastics Supply
March 26, 2021

Amid the current **plastics shortage**, there's some good news from across the state border as Shell Pennsylvania Chemicals' cracker plant in Beaver County, Pennsylvania will reportedly be **fully operational next year**. Thanks to the plentiful natural gas reserves of the Marcellus and Utica shale plays, this is the first U.S. cracker operation built outside of the Gulf Coast in more than two decades. *3/22/2021*

HB 6 Scandal Reverberates
March 19, 2021

This week, former U.S. Attorney **David DeVillers** addressed the governing board of the Office of the Ohio Consumers' Counsel (OCC). DeVillers said he expects to see many more charges stemming from the federal bribery investigation into the House Bill 6 scandal, according to **Cincinnati.com** (subscription). Also presenting at the OCC board meeting was John Seryak, the OMA's energy technical consultant, who provided his analysis on subsidies to coal power plants, including HB 6's **OVEC subsidies**, which constituted a third giveaway to utilities. The OMA continues to call for the repeal of the OVEC subsidies.
Also this week, longtime Statehouse lobbyist Neil Clark was **found dead** outside his Florida home. Clark was one of five people — including former House Speaker Larry Householder — charged last summer with racketeering by federal prosecutors. Meanwhile, billionaire financier Carl Icahn has **reached a deal** with FirstEnergy to ensure his firm has two seats on FirstEnergy's board. *3/18/2021*

Bill Would Prohibit Local Energy Bans
March 19, 2021

This week, Rep. **Al Cutrona** (R-Canfield) gave sponsor testimony on **House Bill 192**, which would prevent local governments from prohibiting or limiting:

- the use of fossil fuels for electricity generation; and
- the construction or use of a pipeline to transport oil or gas.

Rep. Cutrona **said** the bill is intended "to prevent possible rate increases for those throughout the state and the Mahoning Valley." *3/18/2021*

States Sue Biden for Revoking Keystone XL Permit
March 19, 2021

Ohio is part of a coalition of 21 states **suing the Biden administration** over its decision to stop construction of the Keystone XL oil pipeline. The **lawsuit** argues that revoking the cross-border permit is a regulation of interstate and international commerce that should be left to Congress, and that President Biden's decision was arbitrary and capricious. *3/18/2021*

Natural Gas Spot Prices Approached Record Highs in February
March 19, 2021

Last month, natural gas spot prices at several U.S. trading hubs approached record highs due to winter weather. **According** to the Energy Information Administration, at the benchmark Henry Hub, prices soared to $23.86 per million British thermal units (MMBtu), the highest real (inflation-adjusted) price since February 2003. Henry Hub prices averaged $5.49/MMBtu last month, the highest monthly average since February 2014. *3/15/2021*

House and Senate Have Now Approved Repeal of HB 6 Nuclear Subsidies, Decoupling
March 12, 2021

This week, the Ohio House voted 86-7 to approve OMA-supported **House Bill 128**, legislation to repeal up to $150 million a year in nuclear generation subsidies authorized by

House Bill 6. Also included in HB 128 are a repeal and refund of HB 6's **decoupling provisions** and the **"significantly excessive earnings"** language authorized in the last state budget (HB 166) – both changes that benefited FirstEnergy.

The bill now goes to the Senate, which last week passed a similar repeal (**Senate Bill 44**). According to ***Gongwer News Service***, Senate President **Matt Huffman** (R-Lima) has said he won't object if House leaders want HB 128 to be the lead vehicle for HB 6 subsidies repeal. "At this point, I think it's a matter of getting that issue behind us," he said.

Meanwhile, Sen. **Mark Romanchuk** (R-Mansfield) has introduced two more bills to address HB 6 policy. **Senate Bill 117** would repeal HB 6 subsidies for Ohio Valley Electric Corp. (OVEC) coal plants — including one in Indiana — and refund customers for those charges. **Senate Bill 118** would repeal the up to $20 million a year in subsidies for five utility-scale solar projects. *3/10/2021*

FirstEnergy Chooses Strah as CEO as PUCO Launches Another Review
March 12, 2021

FirstEnergy this week **named** Steven Strah as its new CEO, as the company continues to make changes amid the ongoing House Bill 6 scandal. Strah has been acting CEO since Chuck Jones was **terminated** last fall for his ties to HB 6. Meanwhile, the Public Utilities Commission of Ohio this week issued an order to update instructions to auditors who are reviewing FirstEnergy's Delivery Capital Recovery rider – making it **the fourth review** of the company stemming from the HB 6 scandal. *3/8/2021*

Senate Passes Repeal of HB 6 Nuclear Subsidies
March 5, 2021

On March 3, the Ohio Senate approved **Senate Bill 44**, legislation that **repeals** the nuclear generation subsidies authorized under House Bill 6. In its report, *Gongwer News* remarked: "The Senate's unanimous passage of SB 44 marks a sharp contrast to two years ago when lawmakers were told the up to $150 million a year in state support was needed to stave off closure of two Energy Harbor plants."

Meanwhile, the House continues work on its own plan to repeal the HB 6 nuke subsides via **House Bill 128**. Speaker **Bob Cupp** (R-Lima) has said that HB 128 could receive a committee and floor vote next week. The OMA supports both SB 44 and HB 128, but has called on lawmakers to senators to "finish the job" by also repealing costly customer-paid subsidies for coal power plants owned by **OVEC**. *3/4/2021*

Increased Scrutiny on FirstEnergy Payment to Former PUCO Chair
March 5, 2021

Andrew Tobias of Cleveland.com **has reported** on a previously unnoticed disclosure by FirstEnergy that sheds additional light on the company's $4.3 million payment to **Sam Randazzo**, the former chair of the Public Utilities Commission of Ohio (PUCO), shortly before he took the job as the state's top utility regulator.

In legal disclosures filed in November, FirstEnergy said the January 2019 payment led to "conduct corresponding to such payment" — and to that person "acting at the request or for the benefit of FirstEnergy as a consequence of receiving such payment."

According to Cleveland.com, FirstEnergy said the payment was a "non-compliance" event that violated its terms with the banks that lend it money, as was conduct by FirstEnergy officials "during the time period after such payment during which the individual was acting in any governmental or regulatory capacity." *3/4/2021*

Bill Would Retain Ohio's Renewable Energy Requirement
March 5, 2021

Sen. **Matt Dolan** (R-Chagrin Falls) has introduced **Senate Bill 89** to make an 8.5% renewable portfolio standard (RPS) permanent. Dolan has told the media that the bill represents a compromise necessitated by the passage of House Bill 6, which lowers Ohio's renewable energy benchmarks from 12.5% to 8.5% by 2026 and terminates the RPS in 2027.

An 8.5% RPS would not be affected by FERC's Minimum Offer Price Ruling (MOPR). Any RPS exceeding 8.5% would be subject to the MOPR (due to state subsidies), impairing new renewable projects' ability to compete for PJM capacity revenue. In contrast, the growing market of private corporate renewable energy purchases will not be subject to the MOPR ruling. *3/2/2021*

PUCO to Hold Energy Efficiency Workshops
March 5, 2021

The Public Utilities Commission of Ohio (PUCO) last week ended utilities' energy efficiency cost recovery riders — as required by House Bill 6 — but said it would pursue a series of stakeholder meetings to further discuss the matter. The schedule for the workshops will be announced at a later date. For more on this development, **read the story** by *Gongwer News Service*. *3/1/2021*

Honda Recognized for Energy Efficiency
March 5, 2021

OMA-member Honda has announced that its eight major U.S. plants — **including four of its Ohio facilities** — have earned the U.S. Environmental Protection Agency (EPA) ENERGY STAR Certificate for Outstanding Energy Efficiency, demonstrating the company's longstanding commitment to reducing CO2 emissions. *3/1/2021*

Senate to Vote on Repeal of HB 6 Nuclear Subsidies
February 26, 2021

On Feb. 23, the Ohio Senate Energy and Public Utilities Committee unanimously advanced **Senate Bill 44** to repeal the nuclear generation subsidies authorized under House Bill 6. The full Senate is expected to consider SB 44 next week. The bill leaves intact HB 6's $20 million in annual subsidies for select solar projects, but the repeal of the nuclear power subsidy would reduce customer charges by as much as **$150 million a year**.

Appearing before the Senate panel this week, OMA energy counsel Kim Bojko **presented mostly supportive testimony** of SB 44, but also urged senators to "finish the job" and repeal costly customer-paid subsidies for two aging coal power plants known as **OVEC**. (**Watch this video** of her testimony starting at the 6:00 mark.)

Meanwhile in the House, a similar variation of SB 44 received a second hearing this week. **OMA testimony** in support of **House Bill 128** called on representatives to expand the legislation to repeal OVEC subsidies. *2/25/2021*

Bill Takes Aim at New Wind, Solar Energy
February 26, 2021

A **pair of state senators** from Northwest Ohio have introduced legislation to empower local governments to reject the siting of new wind or solar generation. According to **analysis** from the non-partisan Legislative Services Commission, **Senate Bill 52** would allow township voters to hold a referendum to approve or reject new generation projects that have been approved by the Ohio Power Siting Board — the agency that has supervised the siting of power generation for decades. (An identical version of the bill **has been offered** in the House with **House Bill 118**.)

Supported by **groups** opposing renewable energy development, SB 52 and HB 118 would detcer development of new wind farms or solar arrays, which already faces heavy restrictions in Ohio. OMA Managing Director of Public Policy Services **Rob Brundrett** reported on the legislation at this week's OMA Energy Committee meeting, saying the bills may have a tough road ahead.

The OMA is monitoring the legislation with interest and will be advocating for professional siting policies that allow markets to work, including markets for renewable energy and other energy innovations. Read more about the **OMA's energy policy goals**. *2/25/2021*

HB10 **REPEAL HB6 - REVISE ELECTRIC UTILITY SERVICE LAW** (LELAND D) To repeal Section 5 of H.B. 6 of the 133rd General Assembly to make changes regarding electric utility service law, to allow the implementation of energy waste reduction programs, and to repeal certain provisions of H.B. 6 of the 133rd General Assembly.

Current Status: 2/17/2021 - House Public Utilities, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-10

HB18 **REPEAL HB6** (LANESE L) Repeal HB 6 of the 133rd GA

Current Status: 2/17/2021 - House Public Utilities, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-18

HB47 **ELECTRIC CAR CHARGING STATION GRANT REBATE** (LOYCHIK M) To require the Director of Transportation to establish an electric vehicle charging station grant rebate program and to make an appropriation.

Current Status: 5/11/2021 - House Transportation and Public Safety, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-47

HB87 **EXEMPT UTILITY SUPPLY CONTRACTS FROM 10-YEAR MAXIMUM** (STEPHENS J, JOHN M) To exempt county utility supply contracts entered into under a joint purchasing program from the 10-year maximum period for such contracts and to declare an emergency.

Current Status: 5/17/2021 - **SIGNED BY GOVERNOR**; eff. Immediately

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-87

HB118 **REVISE CERTAIN WIND FARM/SOLAR FACILITY LAWS** (RIEDEL C, STEIN D) 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 and solar facility certificates.

Current Status: 5/12/2021 - **SUBSTITUTE BILL ACCEPTED**, House Public Utilities, (Fourth Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-118

HB128 **REPEAL HB6** (HOOPS J, STEIN D) To make changes regarding electric utility service law, to repeal certain provisions of H.B. 6 of the 133rd General Assembly, and to provide refunds to retail electric customers in the state.

Current Status: 3/31/2021 - **SIGNED BY GOVERNOR**; eff. 90 days

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-128

HB152 **REVISE LAW GOVERNING UNIT OPERATION** (STEWART B, GINTER T) To revise the law governing unit operation.

Current Status: 4/15/2021 - House Energy and Natural Resources, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-152

HB192 **PROHIBIT LOCAL GOVERNMENTS FROM STOPPING CERTAIN ENERGY GENERATION** (CUTRONA A) To prohibit counties, townships, and municipal corporations from prohibiting energy generation from fossil fuels and gas pipelines.

Current Status: 5/6/2021 - House Energy and Natural Resources, (Third Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-192

HB201 **PREVENT LOCAL GOVERNMENTS FROM LIMITING NATURAL GAS USE** (STEPHENS J) To prevent local governments from limiting use of natural gas and propane.

Current Status: 5/25/2021 - Senate Energy and Public Utilities, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-201

HB260 **REQUIRE REFUNDS FOR IMPROPER UTILITY CHARGES** (LANESE L, TROY D) To require refunds to utility customers who have been improperly charged.

Current Status: 5/26/2021 - House Public Utilities, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-260

HB271 **ESTABLISH NATURAL GAS INFRASTRUCTURE PROGRAM** (EDWARDS J) To establish a natural gas infrastructure development program and fund to help meet Ohio's natural gas supply needs.

Current Status: 5/6/2021 - House Energy and Natural Resources, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-271

HB273 **CONSUMERS' COUNSEL OPERATING CALL CENTER** (O'BRIEN M) To amend Section 245.10 of H.B. 166 of the 133rd General Assembly to remove the prohibition on the Office of the Consumers' Counsel operating a call center and to make an appropriation.

Current Status: 5/4/2021 - Referred to Committee House Finance

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-273

HB299 **CONSUMER UTILITY BILLING TRANSPARENCY ACT** (SKINDELL M) To enact "The Consumer Utility Billing Transparency Act" requiring the itemization of all riders, charges, taxes, and other costs on certain utility bills.

Current Status: 5/19/2021 - House Public Utilities, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-299

HB300 **BAN OIL/NATURAL GAS EXTRACTION FROM LAKE ERIE BED** (SKINDELL M) To to ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

Current Status: 5/20/2021 - House Energy and Natural Resources, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-300

HB317 **REPEAL ELECTRIC SECURITY PLANS** (WILKIN S) To repeal electric security plans and make other changes to the law regarding competitive retail electric service.

Current Status: 5/26/2021 - House Public Utilities, (Second Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-HB-317

SB8 **BROADBAND-ELECTRIC COOPERATIVE EASEMENTS** (MCCOLLEY R) Regarding broadband expansion, including access to electric cooperative easements and facilities, and to make an appropriation.

Current Status: 2/17/2021 - Referred to Committee House Finance

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-8

SB10 **REFUNDS TO ELECTRIC CUSTOMERS** (ROMANCHUK M) To terminate any approved decoupling mechanism, to modify the significantly excessive earnings determination for an electric security plan, and to provide refunds to retail electric customers in the state.

Current Status: 2/24/2021 - Referred to Committee House Public Utilities

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-10

SB20 **COUNTY UTILITY SUPPLY CONTRACTS** (HACKETT R) To exempt county utility supply contracts entered into under a joint purchasing program from the 10-year maximum period for such contracts and to declare an emergency.

Current Status: 3/24/2021 - Referred to Committee House State and Local Government

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-20

SB29 **ELIMINATE AUTO ENROLLMENT-UTILITY AGGREGATION** (HOAGLAND F) To eliminate automatic enrollment in governmental electric and natural gas aggregation programs.

Current Status: 2/23/2021 - Senate Energy and Public Utilities, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-29

SB32 **ELECTRIC VEHICLE CHARGING STATION** (RULLI M) To require the Director of Transportation to establish an electric vehicle charging station grant rebate program and to make an appropriation.

Current Status: 2/17/2021 - Senate Transportation, (First Hearing)

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-32

SB44 **REVISE HB6 FROM 133RD G.A.** (RULLI M, CIRINO J) To repeal the nuclear resource credit payment provisions, and amend, and rename as solar resource, the renewable resource credit payment provisions of H.B. 6 of the 133rd General Assembly.

Current Status: 3/9/2021 - Referred to Committee House Public Utilities

State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-44

SB52 **WIND TURBINE SETBACKS** (REINEKE W, 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 and solar facility certificates.

Current Status: 5/25/2021 - Senate Energy and Public Utilities, (Fifth Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-52

SB89 **RENEWABLE ENERGY** (DOLAN M) To extend the renewable portfolio standard, increase solar energy benchmarks, and extend the property tax exemption for qualified energy projects that use renewable energy resources.
Current Status: 5/12/2021 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-89

SB95 **REGULATE UTILITY RESELLERS** (MAHARATH T) To require refunds to utility customers who have been improperly charged and to regulate certain resellers of utility service.
Current Status: 3/31/2021 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-95

SB117 **REPEAL LEGACY GENERATION PROVISIONS-HB6** (ROMANCHUK M, CRAIG H) To repeal the legacy generation resource provisions of H.B. 6 of the 133rd General Assembly and provide customers refunds.
Current Status: 5/12/2021 - Senate Energy and Public Utilities, (Second Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-117

SB118 **REPEAL RENEWABLE RESOURCE CREDITS-HB6** (ROMANCHUK M) To repeal the renewable resource credit payment provisions enacted under H.B. 6 of the 133rd General Assembly.
Current Status: 3/31/2021 - Senate Energy and Public Utilities, (First Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-118

SB127 **PREVENT LOCALITIES-LIMIT USE OF NATURAL GAS** (LANG G, RULLI M) To prevent local governments from limiting use of natural gas.
Current Status: 5/12/2021 - Senate Energy and Public Utilities, (Second Hearing)
State Bill Page: https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA134-SB-127