

To: The Ohio Manufacturers' Association

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## HB15 Ends OVEC Power Plant Subsidies, Saving Ratepayers an Estimated \$414 Million Dollars Through 2030

### Key Points

- HB15 eliminates the Legacy Generation Rider (LGR), ending cost recovery for OVEC's non-competitive coal plants from Ohio customers.
- In all, Ohio ratepayers subsidized more than \$683 million dollars in losses for OVEC's operations.
- By eliminating the LGR rider, we estimate the Ohio general assembly prevented \$414 million in additional losses subsidized by Ohio ratepayers.

### Summary

The Ohio General Assembly passed House Bill 6 (HB6) in July 2019. HB6 is the subject of what is called Ohio's "largest bribery, money laundering scheme ever perpetrated against the people of the state of Ohio."<sup>1</sup> The fallout has included an electric utility admitting to bribing public officials for favorable acts and a jury finding Former Ohio House Speaker Larry Householder and lobbyist Matt Borges guilty of racketeering conspiracy.<sup>2</sup> The former Chair of the Public Utilities Commission of Ohio was also indicted<sup>3</sup>. Related investigations are still ongoing.<sup>4</sup>

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<sup>1</sup> "Ohio bribery case: Larry Householder, others charged by fed prosecutors", July 21, 2020.

<https://www.cincinnati.com/story/news/2020/07/21/ohio-bribery-case-state-official-charged-federal-prosecutors/5477862002/>

<sup>2</sup> "Jury convicts former Ohio House Speaker, former chair of Ohio Republican Party of participating in racketeering conspiracy", March 9, 2023.

<https://www.justice.gov/usao-sdoh/pr/jury-convicts-former-ohio-house-speaker-former-chair-ohio-republican-party>

<sup>3</sup> <https://www.ohioattorneygeneral.gov/Media/News-Releases/February-2024/Former-PUCO-Chairman-Former-FirstEnergy-Executives>

<sup>4</sup> "Request of the United States Attorney, Southern District of Ohio, to stay all discovery in these proceedings for a period of six months", In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of First Energy, Case No. 20-1629-EL-RDR.

Since Mr. Householder's arrest, the Ohio General Assembly has repealed several costly components of HB6, including a subsidy to Ohio's nuclear plants<sup>5</sup> and a difficult to understand "decoupling" policy that would've cost Ohioans hundreds of millions of dollars.<sup>6</sup> These provisions provided unearned benefits to FirstEnergy and its affiliates at the time. FirstEnergy has admitted to bribing public officials for its benefit,<sup>7</sup> which included donating to Generation Now, a "dark money" 501(c)4 political action committee controlled by Mr. Householder, in exchange for official action on legislation.<sup>8</sup> Generation Now has also plead guilty to racketeering conspiracy.<sup>9</sup>

While FirstEnergy's involvement with Generation Now has received the most attention, electric utility AEP and coal companies also donated to Mr. Householder's PAC<sup>10</sup> and received favorable legislative outcomes in HB6. Here's how:

- HB6 created a "legacy generation rider" which offset an AEP subsidiary's (AEP Ohio) financial losses from its ownership stake in the Ohio Valley Electric Corporation (OVEC) coal-fired power plants. The rider also offset losses for AES Ohio and Duke Energy Ohio.
- After ratepayers paid for OVEC's net operating expenses, AEP and other utilities stood to book more than a billion dollars in additional profit due to HB6.
- Moreover, until recently, OVEC bought high-priced coal from Resource Fuels, an affiliate of coal donors of Generation Now,<sup>11</sup> resulting in millions of dollars of higher coal costs. OVEC did not pay these high prices to another coal supplier that sold the exact same coal mined from the exact same coal seam.<sup>12</sup> Higher coal costs are ultimately recovered through subsidies from Ohio's electric ratepayers.

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<sup>5</sup> "Amended Substitute House Bill 6 and the Nuclear and Renewable Generation Funds - Impact to Manufacturers", <https://www.ohiomfg.com/wp-content/uploads/Am-Sub-HB-6-Impact-to-Manufacturers-8.19.19-1.pdf>

<sup>6</sup> "H.B. 6 Decoupling Provision - \$355 Million for FirstEnergy through 2024, Possibly Millions More", August 17th, 2020. <https://www.ohiomfg.com/wp-content/uploads/HB-6-Decoupling-8.17.20.pdf>

<sup>7</sup> Deferred Prosecution Agreement, At the United States District Court, Southern District of Ohio, Western Division, Case No. 1:21-cr-86, [https://www.scribd.com/document/516865597/FirstEnergy-Deferred-Prosecution-Agreement#from\\_embed](https://www.scribd.com/document/516865597/FirstEnergy-Deferred-Prosecution-Agreement#from_embed)

<sup>8</sup> "FirstEnergy charged federally, agrees to terms of deferred prosecution settlement." July 22, 2021

<https://www.justice.gov/usao-sdoh/pr/firstenergy-charged-federally-agrees-terms-deferred-prosecution-settlement>

<sup>9</sup> "Purported 501(c)(4) admits to being used to conceal corrupt payments related to passage of legislation." February 19, 2021

<https://www.justice.gov/usao-sdoh/pr/purported-501c4-admits-being-used-conceal-corrupt-payments-related-passage-legislation>

<sup>10</sup> "Columbus utility giant AEP funded dark money spending in HB 6 campaign", July 25, 2020,

<https://www.dispatch.com/story/news/politics/state/2020/07/25/columbus-utility-giant-aep-funded-dark-money-spending-in-hb-6-campaign/41843419/>; see also "Householder case: 'Company C' CEO Wayne Boich gave cash to HB 6 'dark money' groups", August 5, 2020

<https://www.dispatch.com/story/news/politics/state/2020/08/05/householder-case-quotecompany-csquo-ceo-wayne-boich-gave-cash-to-hb-6-quotardark-moneysquo-groups/112806486/>

<sup>11</sup> Resource Fuels corporate reinstatement with Florida Secretary of State:

<https://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2008%5C1106%5C40703224.tif&documentNumber=M05000001011>

<sup>12</sup> Direct Testimony of John A. Seryak on Behalf of The Ohio Manufacturers' Association Energy Group, In the Matter of the Review of the Power Purchase Agreement Rider of Ohio Power Company for 2018, Case No. 18-1004-EL-RDR.

To be clear, these companies have not been charged with a crime in the bribery scheme.

Facing a forecast of low electricity prices, substantial debt, and looming environmental compliance costs of its OVEC sponsorship and ownership, AEP Ohio, AES, and Duke had escaped the discipline of their choice to operate OVEC in competitive markets by foisting financial losses on to their own customers.

All of these factors likely supported the passage and signature of HB15 by Ohio's 136th General Assembly, which removes the Legacy Generation Rider (LGR) from customer billing as of August 14, 2025.<sup>13</sup> This marks the long-pursued repeal of losses from OVEC coal plants being recovered from Ohio electric consumers.

### **A Costly Reminder: Ohioans Have Paid ~\$683 million in OVEC Subsidies**

The OVEC power plants do not typically make enough profit to cover the costs of their debt payments. As a result, OVEC charges its electric utility sponsors - including AEP Ohio, AES Ohio, and Duke Energy Ohio - for the remaining costs. OVEC's losses would otherwise directly eat into the profits of the electric utilities. So, to protect their profits, the Ohio electric utilities have repeatedly requested subsidies from their own customers to cover the losses, first at the Public Utilities Commission of Ohio, and then as part of the corrupt HB6. Recent utility filings show that OVEC is forecasted to lose about \$20.9 million in the second half of 2025, as shown in Table 1.

**Table 1: Utility Forecast of OVEC Losses in 2025, July through December<sup>14</sup>**

<b>Projected OVEC NET COSTS (6 Months)</b>	
<b>FE</b>	N/A
<b>Duke</b>	(640,749)
<b>DPL</b>	3,077,805
<b>AEP</b>	18,477,736
<b>Total</b>	<b>\$ 20,914,791</b>

While OVEC is projected to lose \$20.9 million in the second half of 2025, the rates they have submitted for this period total \$58.6 million dollars. The reason for this is that the utilities forecasted costs they will bill to ratepayers need to be increased to account for the actual losses that occurred during previous periods. Our understanding is that any difference in actual costs, above or below the forecast, is recovered the following year during the same biannual period. In this case, the inaccuracy of utility forecasts for July to December of 2024 amounted to \$37.6

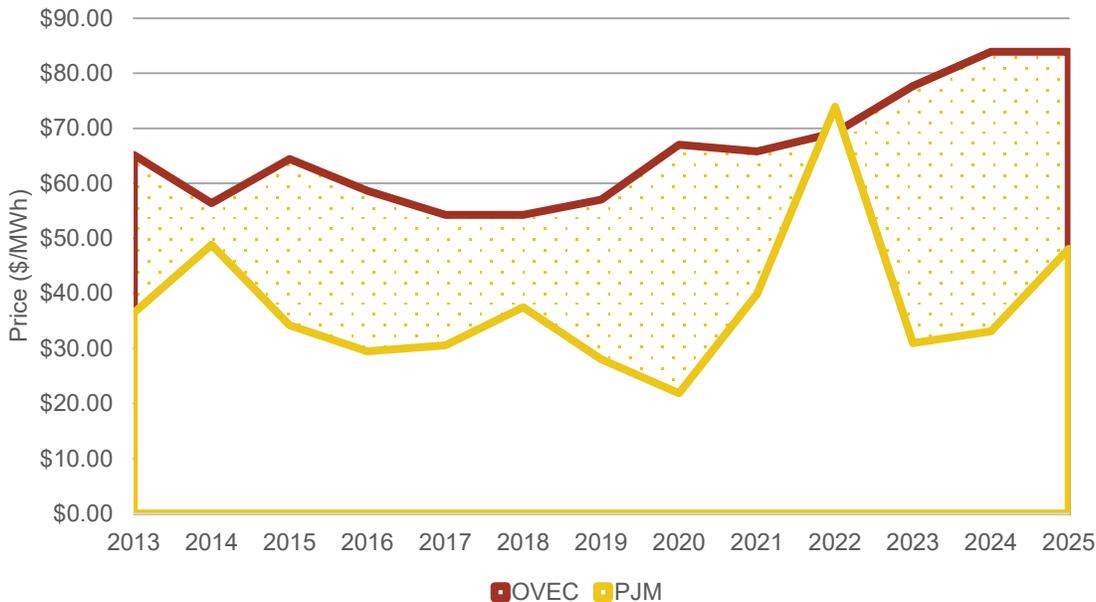
<sup>13</sup><https://www.ohiohouse.gov/legislation/136/hb15>

<sup>14</sup> In the Matter of the Application of the Ohio Power Company Updated Legacy Generation Rider, PUCO Tariff No. 20, Case No. 20-1118-EL-RDR.

million dollars below what was required. The forecasts at that time were only 60% of the eventual amount they needed to recover.

Given the elimination of the rider taking place during the current 6-month period, it is expected that only 24% of this forecasted recovery will occur through August 14. The cost compilations presented in this memo summarize the expected amount customers will pay to the LGR rider through that date. This does not include any eventual final reconciliation settlement that may occur for this rider.

OVEC's average weighted price of generating electricity ranges between \$55 - \$84 /MWh based upon their annual reports. At these prices, OVEC is typically a market loser, resulting in financial losses. Figure 1 shows OVEC's price of electricity versus the market price of electricity, demonstrating that 2022 was an anomaly.<sup>15</sup> The OVEC prices for 2025 are estimated due to lack of available information for these periods at the time of this report.



**Figure 1: OVEC Price Compared to Market**

As shown in Table 2, we estimate the total average annual cost to customers for OVEC based upon the average of the full history of LGR cost history. Biannual costs are captured in the LGR rider Part A, which were compiled using PUCO filings and information directly obtained from the PUCO. Ohio's utilities have charged Ohio electricity customers about \$92 million per year on average since 2020 to support OVEC's revenue for the period in which this occurred.

<sup>15</sup> The OVEC and PJM prices include Energy and Capacity. Energy price is the PJM Day-Ahead AEP Zone load-weighted LMP price. Capacity price is the PJM Final Zonal Net Load Capacity Price for the AEP Zone. We assume OVEC had all of its 2,350 MW clear the capacity auction. Prices do not include Ancillary Services because OVEC does not attempt to sell them into PJM currently.

**Table 2: Estimate of Future OVEC Losses<sup>14</sup>**

Future year cost/credit estimate	
Period	OVEC Subsidy
2020 1st and 2nd Quarter	\$33,301,097
2020 3rd and 4th Quarter	\$38,116,453
2021 1st and 2nd Quarter	\$76,748,128
2021 3rd and 4th Quarter	\$67,243,881
2022 1st and 2nd Quarter	\$35,317,425
2022 3rd and 4th Quarter	(\$7,077,155)
2023 1st and 2nd Quarter	(\$30,173,251)
2023 3rd and 4th Quarter	\$10,128,656
2024 1st and 2nd Quarter	\$97,113,199
2024 3rd and 4th Quarter	\$93,930,443
2025 1st and 2nd Quarter	\$80,668,047
2025 3rd and 4th Quarter	\$58,621,123
<b>LGR Part A Biannual Average (Jan 2020 - June 2025)</b>	<b>\$46,161,504</b>
<b>Estimated Annual OVEC Revenue (\$/Year)</b>	<b>\$92,323,008</b>

With the elimination of the LGR rider, the OVEC subsidy bill will total over \$683 million through August 14, 2025, as shown in Table 3. By repealing this rider, the assembly has prevented more than \$413 million in OVEC losses from being recovered from Ohio ratepayers through the LGR rider. It is unclear whether the affected utilities will pursue full reconciliation for this rider, which could adjust the cost impacts estimated in this memorandum.

**Table 3: Annual OVEC Subsidy Collection from Ohioans<sup>16</sup>**

Year	Subsidies to OVEC (\$)	Subsidy Granted By
2017	\$42,868,858	PUCO
2018	\$27,447,386	PUCO
2019	\$85,136,721	PUCO
2020	\$89,571,982	HB6
2021	\$143,992,009	HB6
2022	\$28,240,270	HB6
2023	(\$20,044,595)	HB6
2024	\$191,043,642	HB6
2025 to Aug 14	\$95,004,735	HB6
<b>Total To Date</b>	<b>\$683,261,008</b>	
Aug 15 to Dec 31	\$44,284,435	Avoided Through HB15
2026-2030	\$369,292,031	Avoided Through HB15
<b>Avoided through 2030</b>	<b>\$413,576,466</b>	

## Conclusion

With the passing of HB15, the Ohio legislature resoundingly approved the repeal of Legacy Generation Rider, whose sole purpose was to recover operational losses for OVEC’s coal plants from the ratepayers of Ohio’s investor-owned utilities. This step removes another legacy of the corrupt HB6 legislation and stops continued subsidization of uncompetitive power plants within PJM. The elimination of this rider should save Ohio ratepayers over \$400 million through 2030.

<sup>16</sup> "While HB 6's Remaining Provisions Are Debated, Subsidies to Ohio Utilities Double to \$150M Annually for Two Aged Coal Plants", <https://ohiomfg.informz.net/ohiomfg/data/images/OVEC%20Subsidies%20Double%20-%2009.28.21.pdf>