

In the Matter of the OVEC Generation )  
Purchase Rider Audits Required by R.C. )  
4928.148 for Duke Energy Ohio, Inc., the ) Case No. 21-477-EL-RDR  
Dayton Power and Light Company, and )  
AEP Ohio. )

This case concerns the coal plant subsidies that Ohioans are still paying under the corrupt H.B. 6.<sup>1</sup> The coal subsidies are a remnant of H.B. 6 that has not been repealed despite public outcry and despite stalled legislative efforts at repeal. Up until now, the utilities charging consumers for these subsidies have managed to keep secret details about the subsidies, including how much consumers are paying for the subsidies.

The PUCO recently ordered Ohio utilities<sup>2</sup> charging these coal subsidies to consumers to reassess whether certain information about the subsidies continues to be confidential, and not subject to public disclosure.<sup>3</sup> The PUCO must now decide whether the public has a right to know information about the H.B. 6 subsidies that relate back to a 2021 audit report issued by the PUCO-appointed auditor. The answer should be yes, the

<sup>1</sup> R.C. 4928.148. The statute allows the utilities to collect costs for two coal plants which the utilities indirectly own and which are operated by the Ohio Valley Electric Corporation (“coal plant subsidy costs”).

<sup>2</sup> Duke Energy Ohio (“Duke”), The Dayton Power and Light Company d/b/a AES Ohio (“DP&L”), and Ohio Power Company (“AEP”) (collectively, the “utilities”).

<sup>3</sup> *In the Matter of the OVEC Generation Purchase Rider Audits Required by R.C. 4928.148 for Duke Energy Ohio, Inc., the Dayton Power and Light Company, and AEP Ohio*, Case No. 21-477-EL-AIR, Entry (Dec. 22, 2023).

public has a right to know. The PUCO should lift the shroud of secrecy the utilities have insisted upon over the last two years.

Part of the information under review shows how much the utilities overcharged consumers for coal plant subsidy costs in 2020. The year 2020 was the first year for the legislatively authorized coal plant bailout.

After two years of secrecy, the utilities appear now to be willing to divulge the amount of subsidies Ohioans paid during 2020.<sup>4</sup> The long-awaited information shows that consumers were milked for over \$100 million for coal plant subsidies during 2020 as a result of tainted H.B. 6:

**Table: H.B. 6 coal plant subsidy overcharges in 2020**

<u>Utility</u>	<u>Amount of Overcharge</u>
Duke	\$29,974,510.91 <sup>5</sup>
DP&L	\$7,652,653.04 <sup>6</sup>
AEP	\$67,897,705.58 <sup>7</sup>
Total:	\$105,524,869.53

Who can forget that during that same year when the utilities were racking up coal subsidies to charge consumers, consumers were suffering the effects of the Covid pandemic? In other words, during the state of emergency declared by Governor DeWine,<sup>8</sup> the utilities were creating an emergency condition of their own making for consumers.

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<sup>4</sup> See Duke, DP&L and AEP Motions for Protective Orders (Jan. 4, 2024).

<sup>5</sup> Duke Audit Report (Jan. 4, 2024), Attachment 1 at p. 26, Figure 9, column K. See also Hearing Transcript, Vol. I (Nov. 14, 2023) at p. 77, l. 20 – p. 78, l. 17.

<sup>6</sup> AES Ohio Audit Report (Jan. 4, 2024), Ex. 1 at p. 25, Figure 9, column labeled “Rider Revenue LGR.” See also Hearing Transcript, Vol. I (Nov. 14, 2023) at p. 76, l. 25 – p. 77, l. 5.

<sup>7</sup> AEP Audit Report (Jan. 4, 2024), Attachment A at p. 28-29, Figure 9, column H. See also Hearing Transcript, Vol. I (Nov. 14, 2023) at p. 65, l. 11-21.

<sup>8</sup> *In the Matter of the Proper Procedures and Process for the Commission’s Operations and Proceedings During the Declared State of Emergency and Related Matters*, Case No. 20-591-AU-UNC, Entry at ¶ 5 (March 12, 2020).

Consumers faced the health and economic fights of their lifetimes in 2020. They didn't need the utilities to "pile on" this additional H.B. 6 subsidy requiring them to pay \$100 million in above-market-price coal plant costs.

It's clear to see why the utilities wanted to keep the H.B. 6 coal bailout overcharge amounts confidential. Public disclosure of the amounts Ohioans are paying for the tainted H.B. 6 coal subsidies is needed. We support such disclosure. It is long overdue. As Justice Brandeis noted, "sunlight is said to be the best of disinfectants."<sup>9</sup>

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<sup>9</sup> Justice Louis D. Brandeis, *What Publicity Can Do*, Harper's Weekly (Dec. 20, 1913).

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Memorandum Contra Duke, AES and AEP's Motions for Protective Orders has been served electronically upon those persons listed below this 8<sup>th</sup> day of January 2024.

*/s/ John Finnigan*

John Finnigan

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Memorandum Memorandum Contra Duke, AES and AEP's Motions for Protective Orders by Office of the Ohio Consumers' Counsel electronically filed by Alana M. Noward on behalf of Finnigan, John.