



Ohio Environmental Council  
[ Action Fund ]

## Interested Party Testimony - House Bill 646

Ohio Senate Energy Committee

June 9, 2026

Good morning, Chair Chavez, Vice Chair Landis, Ranking Member Smith, and members of the Senate Energy Committee.

My name is Nolan Rutschilling, and I serve as Managing Director of Energy Policy for the Ohio Environmental Council Action Fund, which works toward a clean, healthy Ohio where our democracy empowers all communities to thrive in harmony with the environment. We're submitting interested-party testimony on House Bill 646 as the vehicle for a broader package of data center policy. The purpose of our testimony is to lay out the protections we believe any data center package needs to be worth passing. I'll group them under energy, water, and community.

### Energy

First, the legislature should **direct the PUCO to create a large load tariff** that is uniform across Ohio's four electric distribution utilities, with real customer protections: a minimum billing demand of at least 85% of contracted capacity, contract terms of no less than 12 years, provisions that prevent cost shifting, and exit and decommissioning fees. Today, AEP Ohio's tariff is the only one the PUCO has approved that protects customers from cost shifting. First Energy's utilities have been directed to create one, and other utilities have expressed interest. Without legislative direction, Ohio will end up with four different tariff designs and four different levels of protection. No Ohioan should face higher bills simply because of the service territory they happen to live in.

Second, we urge you to **address PJM's backstop reliability auction**, through this bill or standalone legislation. PJM has moved that auction, which procures generation specifically for data centers and other large loads, up to September 2026 from March 2027. PJM has told states directly that if they have not set up frameworks to allocate those costs to new data center load, it is unclear which customers will be charged.<sup>1</sup> We recommend directing the PUCO to begin developing statewide cost-allocation rules now.

Third, users of **behind-the-meter generation must stay on the hook for transmission and infrastructure costs**. As data centers are encouraged to bring their own generation, it's worth making it clear that they won't operate independently of the grid. They'll rely on the grid when their onsite system fails, goes down for maintenance, or can't keep up with

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<sup>1</sup> PJM Interconnection, communication to stakeholders on the Backstop reliability procurement.

demand. Utilities will still build transmission to serve them, and the PUCO needs rules so those costs aren't shifted onto everyone else.

## Water

We oppose Ohio EPA's proposed fast-tracked, statewide general permit that would let data centers discharge directly into our lakes, rivers, and streams. Each permit should be evaluated for the watershed it affects. There is no responsible one-size-fits-all approach across Ohio's watersheds. Hyperscale data centers use one to five million gallons of water a day, comparable to the annual use of tens of thousands of households, or adding a city the size of Mansfield every time one comes online. **Water withdrawals should be weighed in siting, reported regularly, and carry off-ramps** if a community's drinking water is threatened. The total demand has to be counted honestly: even a "closed loop" system uses significant water, and so does the energy generation that powers these facilities.

This legislation should require monthly water consumption disclosures, pre-permit public estimates for water use, and consistent PFAS testing for any discharged water from data centers.

## Community

The data center sales tax exemption was created in 2011, but its scale has gotten away from us. The Ohio Department of Taxation projected the exemption would cost \$140 million in FY2025; the actual figure was closer to \$1.6 billion. With more than 70 hyperscale projects in Ohio's pipeline, we are subsidizing the same industry that is driving up ratepayer bills. The legislature has already voted once to end this exemption. The Governor has put a brief and temporary pause on new sales tax exemptions while the joint committee does its work. This package is the chance to **close that tax exemption**.

Communities are being asked to approve massive, permanent industrial facilities on the strength of a press release and a promised job count. Requiring **community benefit agreements** replaces voluntary promises with enforceable standards and puts the risk of over-promising back on the developer, where it belongs.

On transparency, we ask you to **bar public officials from signing NDAs with data center developers**. When officials can't share basic information, communities can't evaluate whether a facility fits their water supply or infrastructure, and the risk of that decision shifts from the developer onto the public.

The legislature should **require a state-approved decommissioning plan** and bond for hyperscale data centers. Ohio communities have watched announced projects scale back or disappear with no cleanup obligation. Financial assurance is the same tool the legislature already endorsed for grid infrastructure, and it would keep companies responsible for their own cleanup even if the technology or the economy changes.

Finally, we urge you **not to fold HB 392**, the "right to compute," **into this package**. It would bar localities from restricting any "computational resource" unless they prove a "compelling

governmental interest” in court, a standard that pointedly does not name protecting a local water supply, and it trades away local control to some of the largest new water users Ohio has ever seen.

We appreciate that the legislature is taking data center growth seriously, and we want to be a resource as this package comes together. Thank you for your time, and I’m happy to answer any questions.

**Nolan Rutschilling**

Managing Director of Energy Policy

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