

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the matter of the alternative energy resources report for calendar year 2009 for Constellation New Energy, Inc)	Case No. 10-495-EL-ACP
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In the Matter of The Alternative Energy Resources Report For Calendar Year 2009 From Gexa Energy Ohio, LLC)	Case No. 10-496-EL-ACP
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)	
In the Matter of The Alternative Energy Resources Report For Calendar Year 2009 From Direct Energy Business, LLC)	Case No. 10-497-EL-ACP
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In the Matter of The Alternative Energy Resources Report For Calendar Year 2009 From Direct Energy Services, LLC)	Case No. 10-498-EL-ACP
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)	
In the Matter of The Alternative Energy Resources Report For Calendar Year 2009 From Integrys Energy Services, Inc.)	Case No 10-507-EL-ACP
)	

**AMENDED COMMENTS
BY
THE OHIO ENVIRONMENTAL COUNCIL**

On May 17, 2010, the Ohio Environmental Council (“OEC”) submitted Comments regarding the above-captioned filings. We now realize that the Commission has already granted a force majeure waiver of the 2009 solar renewable energy credit (“SREC”) purchase requirement for competitive retail electric service (“CRES”) providers.¹ The OEC’s uniform comments took issue with the lack of information or justification provided as part of the force majeure requests. After review of the April 28 Commission finding and Order in Case No. 10-428-EL-ACP, **it is clear that our**

¹ *In the Matter of the Application of the Retail Electric Supply Association for an Amendment to the 2009 Solar Energy Resource Benchmark Pursuant to Section 4928.64(C)(4), Revised Code.* Case No.10-428-EL-ACP, Commission Finding and Order, 4-28-10, at 2.

recommendation that the Commission deny any individual CRES provider's force majeure application was moot. However, we renew our objection to the Commission's approval of force majeure applications that do not fully explain specific grounds for such a determination.

The OEC recognizes that the solar market in Ohio is immature and that compliance with Senate Bill 221 ("S.B. 221") has been hampered by a variety of factors. However, we believe that it is also true that a force majeure determination should be made with gravity. A force majeure determination must be based on strong evidence of factors outside of the applicant's control. We disagree with the concept of a blanket finding unless the evidence is remarkably strong. In the future, the OEC requests that force majeure applications be considered and reviewed on an individual basis, so that the evidence of a particular regulated entity's efforts to comply with S.B. 221 requirements can be reviewed and a proper evidentiary determination can be made. As Ohio's solar production levels grow, future force majeure requests will not be cut and dry.

Respectfully Submitted,

/s/ Will Reisinger

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class and/or electronic mail this 18th day of May, 2010.

/s/ Will Reisinger

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Case No(s). 10-0495-EL-ACP, 10-0496-EL-ACP, 10-0497-EL-ACP, 10-0498-EL-ACP, 10-0507-EL-ACP

Summary: Comments Amended Comments by the Ohio Environmental Council electronically filed by Mr. Will Reisinger on behalf of Ohio Environmental Council