

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Long-Term Forecast)	
Report of Ohio Power Company and)	Case No. 10-501-EL-FOR
Related Matters.)	

In the Matter of the Long-Term Forecast)	
Report of Columbus Southern Power)	Case No. 10-502-EL-FOR
Company and Related Matters.)	

**REPLY BRIEF OF
OHIO POWER COMPANY**

Filed May 4, 2012

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I. Introduction

FirstEnergy Solutions (“FES”) and the Industrial Energy Users-Ohio (“IEU”) (collectively “Opposing Parties”) raise a number of arguments in an attempt to inflate this case into more than the simple focus of determining “need,” as provided for by Commission rules. Not surprisingly, a heavy dose of FES’ arguments are focused on its preoccupation with a non-bypassable surcharge, even though one is not sought in this case and the Examiner struck a significant portion of FES witness Lesser’s testimony dealing with the topic. IEU reiterates many of the same arguments and seeks to have the Commission postpone and hope the presently known need for additional solar resources in Ohio is alleviated on its own rather than taking action to address the concern.

The Ohio Power Company (“Company” or “AEP Ohio”) does not believe the Commission should wait until it is too late to put a large scale project online and too late to address the need that is known to exist. Now is the time to determine, based on what is known today, if there is a need for a solar facility like Turning Point. If so, the

Commission should make that point clear in these cases, and consider all of the associated costs and charges in a future prudency proceeding.

II. Reply Arguments

A. FES' Arguments

FES' arguments fall under four general topic areas, all without merit:

- 1) FES incorrectly argues that the Signatory Parties are combining unrelated statutes;
- 2) FES relies on a false premise, focusing on load only, in its argument that the record does not establish need based on "resource planning projections;"
- 3) FES incorrectly argues there is no evidence that AEP Ohio needs Turning Point to meet its individual benchmarks, or that other EDUs or providers need Turning Point to meet their individual benchmarks; and
- 4) FES' Procedural Complaints.

1. FES incorrectly argues that the Signatory Parties are combining unrelated statutes.¹

FES provides a results-oriented view of the Ohio Revised Code in order to limit the Commission's ability to oversee matters enumerated to the Commission by the General Assembly. To support its desire to avoid the chance that a non-bypassable charge could be approved at some later date, FES argues that R.C. 4928.143(B)(2)(c) is focused solely on generation capacity, as opposed to the resource planning language that is actually included in the statute. FES would have the Commission find that, despite the Commission's guidance in rules to determine need as part of the LTFR process, the Commission did not mean this type of need. FES' argument would also create a barrier

¹ FES Brief at 5-6 and 11-14.

denying renewable resources from ever being built in the state under the provision found in R.C. 4928.143(B)(2)(c). The statute lists no preference for one generation resource over another, but FES' application of this statute would eliminate any renewable project because it would also impact another statute. The General Assembly assuredly did not attempt to limit the options available under the statute.

It is FES' limited and self-serving view of the Commission's discretion and authority that is misplaced. FES adds extra language into the law that is not present and asserts its interpretation of the words as opposed to the simple language of the statute and the inherent authority of the Commission to manage its proceedings. The statute should not be used to eliminate a potential generation and resource plan asset just because building the plant would satisfy a renewable benchmark. FES' arguments are without merit and should be denied in favor of a finding of need in these cases.

2. FES relies on a false premise, focusing on load only, in its argument that the record does not establish need based on “resource planning projections”²

FES bases its entire argument on the false premise that resource planning is limited to peak load obligation planning. In Dr. Lesser's testimony he agrees that his understanding of the “resource planning projections” term in R.C. 4928.143(B)(2)(c) is tied to the need for generation.³ This view is not a complete view of resource planning under Ohio rules and law. FES cites to portions of the transcript that fit its witness' limited exposure to resource planning activities. However, it is only the experience of FES witness Lesser and his characterization of resource planning that improperly limits the term “resource planning” to raw generation or load obligations.

² FES Brief at 6-8 and 15-17.

³ FES Ex. 1 at 6; Tr. at 174-175.

Dr. Lesser is not the appropriate expert witness for the Commission to rely upon to determine the definition of “resource planning.” Dr. Lesser admits that he has never prepared a resource plan under Ohio rules.⁴ A review of his prefiled testimony shows his lack of familiarity with complete resource planning concepts, instead showing his focus narrowed to load forecasting.⁵ He testifies that he started out developing load forecasts, then he moved to the part of the resource planning group at Green Mountain that prepared peak and energy load forecasts and evaluated resources to meet those forecasted loads.⁶ Dr. Lesser also worked with EPRI to develop new methodologies to forecast loads.⁷ He also testified that he prepares load forecasts as an economic consultant and has published articles on new, theoretical methodologies.⁸ Again the focus of each of Dr. Lesser’s professional stops has been on the load forecast front and he has not prepared a holistic resource plan that takes other factors besides load into account. He even admits that at Green Mountain he was part of the Resource Planning group, “which prepared peak and energy load forecasts” but did not state that this part of the overall team looked into renewable requirements and factors beyond load. Therefore, it is understandable that Dr. Lesser’s perspective is limited to load forecasting.

The Commission should not accept this limited view of resource planning that leads to FES’ reliance on the false premise that need is also limited to a generation need. Dr. Lesser’s approach is rooted in his declaration of the goals of resource planning that “involves first forecasting future energy and peak loads as accurately as possible, and

⁴ Tr. at 177.

⁵ FES Ex. 1 at 6-7.

⁶ Id.

⁷ Id.

⁸ Id.

then ensuring those loads can be met at the lowest expected cost with a portfolio of resources” to base his definition of need.⁹ Based on this stated goal, Dr. Lesser asserts that “need” for new resource planning purposes traditionally related to an electric utility having enough electricity to keep the lights on for customers.¹⁰ Dr. Lesser’s simplified approach ignores the complex and multiple realities facing utilities.

Interestingly, Dr. Lesser does quote the AEP East 2010 Integrated Resource Plan, a plan that was filed in Ohio pursuant to the Commission’s rules, and discusses a goal of resource planning. The quote on page 8 of Dr. Lesser’s pre-filed testimony states:

The goal of resource planning for a largely regulated utility such as AEP is to cost-effectively match its energy supply needs with projected customer demand. As such the plan lays out the amount, timing and type of resources that achieve this goal at the lowest reasonable cost, considering all the various constraints-reserve margins, emission limitations, renewable and energy efficiency requirements-that are currently mandated or projected to be mandated.

So while FES witness Lesser is focused on one aspect, a deeper explanation by an entity that actually files resource plans in Ohio, as included in the testimony of FES witness Lesser, shows that renewable requirements and other factors beyond load are parts of resource planning. In fact, in AEP Exhibit 1, Exhibit WAC-2, the Supplemental LTFR with Resource Plan attached to the testimony of Company witness Castle, includes items beyond load expectations and incorporates the need for renewable generation resources due to benchmark requirements. The Commission does not need to accept the limited view presented by a witness with a long history of only one particular part of resource

⁹ FES Ex. 1 at 7.

¹⁰ Id.

planning when the entirety of the term, as shown by those that have applied it in Ohio, in actuality goes beyond that one component.

Once it is clear that resource planning is more than just load forecasting, the only record evidence is the testimony of Staff witness Bellamy and Company witness Castle stating that there is a need for increased solar generation resources in Ohio.¹¹

Resource planning is far more than only load forecasting and the Commission should deny FES' argument and make a finding of need in these cases.

3. FES incorrectly argues there is no evidence that AEP Ohio needs Turning Point to meet its individual benchmarks, or that other EDUs or providers need Turning Point to meet their individual benchmarks.¹²

FES argues both that AEP Ohio has not shown a need individually for Turning Point and likewise that there is no evidence that other providers will need the solar project. As discussed above, both Staff witness Bellamy and Company witness Castle establish the need for the facility in Ohio.¹³

FES asserts that forecasts are needed when predicting the availability of solar resources to determine the present day need considerations. Staff witness Bellamy considered the potential for some growth in the solar market but still found a need to add Turning Point.¹⁴ Despite the representations that a large number of projects would be added every year, Staff witness Bellamy removed the large non-recurring projects like Wyandot and capped the numerous small projects cited by FES at 8 megawatts as a

¹¹ Staff Ex. 1 at 3-4; AEP Ex. 1 at 6-11; Cross-Examination of Staff witness Bellamy-Tr. at 116, 119, 137 and 139.

¹² FES Brief at 8-10 and 17-30

¹³ Staff Ex. 1 at 3-4; AEP Ex. 1 at 6-11; Cross-Examination of Staff witness Bellamy-Tr. at 116, 119, 137 and 139.

¹⁴ Staff Exhibit 1 at 9.

representative number.¹⁵ Even with Staff’s assumption of continued growth, there is still a need for additional solar resources due to the escalating alternative energy benchmarks. This factor also ignores Company witness Castle’s testimony during cross-examination that in-state resources can also be used in other states.¹⁶ In other words, even the presence of just enough resources would not actually guarantee the market had sufficient resources because, as discussed by Company witness Castle, some sRECs can be sold to meet benchmarks in other states or can be banked, and therefore may be unavailable to meet in-state demand in a given year.¹⁷ In fact, it would seem a logical conclusion that any effective market would need more supply than demand to ensure supply could satisfy the demand at a reasonable cost to customers.

FES does not want a finding of need in case a market may develop. FES’ “wait and see” approach to business should disturb the Commission. As pointed out by Staff witness Bellamy, “you can’t meet the mandates on what might be built.”¹⁸ FES points out the ability to be exempted from compliance or to avoid the compliance if compliance becomes too expensive.¹⁹ The policy FES appears to be promoting is a prevention of renewable revenues so that compliance cannot be met. AEP Ohio is seeking to comply with the law, not seeking options to not comply.

The Commission oversight of the industry is not based on hoping a third party will self-determine a need large enough to address all of Ohio’s needs. The policy cannot be to determine need only when it is too late to do anything about it. The Commission

¹⁵ Staff Ex. 1 at 4-8; Tr. at 116-119.

¹⁶ Tr. at 43.

¹⁷ Id.

¹⁸ Tr. at 139.

¹⁹ FES Brief at 13.

cannot rely on FES' plan to wait and see if it all works out. The Commission should find the need for the Turning Point project.

4. FES' Procedural Complaints.

FES resurrects its argument that the Commission's discretion is limited and it can only make findings under R.C. 4928.143(B)(2)(c) in an ESP proceeding.²⁰ This argument is the same argument made in the previous motion to dismiss part of the Stipulation. However, as discussed in the previous memorandum filed in this case, the Commission's rules contemplate a finding of need in a LTFR proceeding as part of the R.C. 4928.143(B)(2) process, and the Commission's Opinion and Order in the AEP Ohio ESP II case also verified this finding as a step in the process of review.²¹ The Commission has the right to define its process and orderly dispatch of its duties. The ability to make its findings and recognize those findings in whatever proceeding it deems appropriate is a matter under the Commission's authority.

As briefed previously to the Commission in AEP Ohio's reply²² to the opposition to its attempt to establish a procedural schedule, this argument challenges the Commission's discretion to manage its own dockets. Opposing Parties argue that R.C. 4928.143(B)(2)(c) requires that the Commission make its need finding for new facilities "in the proceeding" that the surcharge sought is being approved. The Commission can make the finding in these dockets and reflect that finding in the docket approving any charge. Opposing Parties do not appear to recognize the Commission's authority to make

²⁰ FES Brief at 31-32.

²¹ *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, 11-346-EL-SSO et. al, December 14, 2011 Opinion and Order at 39-40.

²² Rather than restate all the arguments in that filing AEP Ohio will incorporate its arguments previously made in that August 15, 2011 filing.

findings in the most efficient manner. The Supreme Court of Ohio previously recognized the broad discretion of the Commission in managing its dockets to avoid undue delay and duplication of effort:

R.C. 4901.13 provides that the "commission may adopt and publish rules to govern its proceedings and to *regulate the mode and manner of all * * * hearings relating to parties before it.*" "Under R.C. 4901.13 the commission has *broad discretion in the conduct of its hearings.*" *Duff v. Pub. Util. Comm.* (1978), 56 Ohio St. 2d 367, 379, 10 Ohio Op. 3d 493, 500 N.E.2d 264, 273. "It is well-settled that pursuant to R.C. 4901.13, the commission has the *discretion* to decide how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, *avoid undue delay and eliminate unnecessary duplication of effort.*" (Footnote omitted.) *Toledo Coalition for Safe Energy v. Pub. Util. Comm.* (1982), 69 Ohio St. 2d 559, 560, 23 Ohio Op. 3d 474, 475, 433 N.E.2d 212, 214.

Weiss v. Pub. Util. Comm. (2000), 90 Ohio St. 3d 15, 2000 Ohio 5, 734 N.E.2d 775.

(emphasis added). The Commission has the discretion pursuant to statute to organize its dockets. The Commission rules call for the consideration of need in the resource plan filing under a LTFR. The Commission determined that is the most efficient means and the Companies indicated notice of this in its ESP II filing. FES' argument is without merit and should be denied.

FES asserts incorrectly that the Company did not comply with a number of the administrative code rules.²³ The fact that FES was not satisfied with the elements of AEP Ohio's resource plan does not make it deficient. The Company included the known information at the time of generating the report. Items that are unknown are incorporated to the extent appropriate, but items like the final costs of the Turning Point Solar project are premature when a future proceeding is planned to provide a deeper view into the

²³ FES Brief at 32-34.

dollars and cents behind the project. The information known for the items known were included and the report is complete.

FES also claims, incorrectly, that the Company filed its request in the wrong year. FES argues that the current ESP was filed in March of 2012 so the 2010 LTFR proceeding cannot be used to establish the need. FES fails to consider that the request for the non-bypassable surcharge was first requested in the ESP II case in 2011. That case is still open, albeit on a modified plan, but still ongoing from where it was first requested. Likewise, the ESP II stipulation in the case was rejected in this calendar year and the case modified (not withdrawn) in the same year. FES' logic would make the condition it seeks to enforce an impossibility with which to comply in the unique circumstances of this case.

Alternatively, the Commission understands that it has received the pricing information and other requested information in other dockets tied closer to approval of a recovery mechanism, if the Commission agrees that the management of its docket is making this process of considering the different parts of this issue an efficient exercise, it can use that as good cause to waive any rule provision it finds necessary.

FES also seeks to challenge the Examiner's striking of large portions of Dr. Lesser's testimony at the hearing.²⁴ FES raises a number of issues already raised at the hearing seeking to explain the context of Dr. Lesser's stricken testimony. The fact is the Examiner already looked closely at the prefiled motion to strike and granted some requests and denied others. The common theme of the testimony stricken was testimony dealing with the establishment of a surcharge. Again this proceeding is very focused on

²⁴ FES Brief at 35-38.

need, and any attempts by FES to expand that at this time should not be entertained by the Commission. The prudence of the costs and whether the Commission wants to allow the project to move forward will have a process for review in a future case. Testimony or arguments pertaining to that future proceeding should be saved for that appropriate filing date. The Examiner properly struck portions of FES' testimony.

FES also seeks to use the Examiner's ruling on the motion to strike denied in the February 29, 2012 Entry to argue it received unfair treatment concerning Dr. Lesser's testimony.²⁵ At the root of the Examiners proper action is the fact that FES is confusing the "need" part of this case with the establishment of a surcharge set for a future proceeding. Dr. Lesser's testimony could not be refuting the establishment of a non-bypassable surcharge because need is the only issue in this case. Therefore, the Examiner was justified in striking all the irrelevant portions of the testimony.

Finally, FES argues that AEP should not be using the proceeding as a way to avoid Commission review of Turning Point.²⁶ The Company would remind FES that the Company has never hidden its intent to allow the Commission to be as through and efficient as it thought necessary in relation to the Turning Point project. The rejection of the stipulation in the ESP II case delayed matters, but that delay was not due to the actions of the Company. FES may not like the efficient processing of the case but that does not make the process sinister. Each component will have its day and the Commission will have the ultimate say over the project. FES' complaint is without merit and should be denied and the need found in these cases.

²⁵ FES Brief at 38-39.

²⁶ FES Brief at 39.

B. IEU's Arguments

In its brief, IEU argues many of the same issues asserted by FES. IEU, as FES did, argues that the Commission lacks authority to make a finding of need for a generating facility in a LTFR proceeding, and goes further by stating that doing so would violate Ohio Revised Code sections 4928.143 and 4928.64. Not only does this argument ignore the pertinent statutes, Commission rules and precedent to the contrary, it disregards the Examiner's February 29, 2012 Entry denying IEU's Motion to Strike, which was premised in large part on this very same argument. In the alternative, IEU argues that even if the Commission may consider the need for Turning Point in this proceeding, AEP Ohio has failed to demonstrate a need for the project. Both of IEU's arguments should be rejected. The Commission has authority to consider the need for a generating facility in a LTFR proceeding, and the record in this case supports the need for additional solar resources in Ohio and the approval of the Stipulation in its entirety.

1. IEU's Argument That The Commission Lacks Authority To Consider The Need For Additional Solar Generation In This Proceeding Misconstrues The Pertinent Statutes And Commission Rules And Ignores Commission Precedent

The statutory basis for the determination of need for a generating facility in a LTFR proceeding can be found in R.C. 4935.04. Section 4935.04(C) requires electric utilities owning generating facilities to submit a long-term forecast report to the Commission containing "[a] description of major utility facilities planned to be added or taken out of service in the next ten years" Moreover, if a hearing is held like in

these proceedings, section 4935.04(E)(2), Revised Code, provides a non-exhaustive list of matters that may be reviewed at such a hearing, including a utility’s “estimated installed capacity and supplies to meet the projected load requirements.” Lastly, after the hearing is concluded, section 4935.04(F) requires the Commission to determine whether the LTFR, among other things, “considers plans for expansion of the regional power grid and the planned facilities of other utilities in the state” As the Examiner properly concluded in the February 29, 2012 Entry in this docket, these code sections clearly provide a basis upon which to consider the addition of a generating facility in a LTFR proceeding.

Nothing in Revised Code section 4928.143 precludes the Commission from considering the need for additional solar resources in this case. IEU’s arguments to the contrary are premature and merely an attempt to divert the Commission’s focus from the sole issue in this proceeding—whether the Stipulation properly recognizes and addresses, through the proposed addition of the Turning Point project, the need for additional solar resources in Ohio. While section 4928.143(B)(2)(c), Revised Code, requires the Commission to determine the need for a facility before authorizing a surcharge, this case is not about the establishment of a surcharge. The Attorney Examiner recognized this fact by granting, in part, AEP Ohio’s and Staff’s Joint Motion to Strike certain portions of Dr. Lesser’s testimony addressing cost recovery, and by stating that “[i]t’s not the Commission’s intention to address cost recovery at this point.”²⁷ The assertion by IEU that the Commission cannot make the need finding requested “because Section 4928.143(B), Revised Code, provides that a non-bypassable surcharge cannot be applied

²⁷ Tr. at 168-172.

to recover the cost of compliance with alternative energy requirements” is an argument for a future case.²⁸

Both the rules promulgated by the Commission pertaining to LTFR proceedings and past Commission precedent support AEP Ohio’s position that this proceeding is the proper venue for considering the need for additional solar resources in Ohio. The basic requirements of a LTFR call for a utility’s forecast of loads and the resources to meet that load. More specifically, in the event a resource plan is required to be included as part of the LTFR, such was the case here, O.A.C. Rule 4901:5-5-06(A)(2) provides that the resource plan shall include an analysis of “[t]he availability and potential development of alternative energy resources pursuant to section 4928.64 of the Revised Code for generating electricity.” There is also Commission precedent for approving the need for a solar facility in a LTFR proceeding as part of a stipulation proposed by the parties. In the April 19, 2011 Opinion and Order in case number 10-505-EL-FOR, *In the Matter of the Long-term Forecast Report of Dayton Power and Light Company and Related Matters*, the Commission approved a settlement containing almost the exact same language as contained in paragraph 2 of the Stipulation in these proceedings.

Contrary to IEU’s arguments, neither Revised Code section 4935.04 nor section 4928.143 preclude the consideration of need in this case. AEP Ohio has followed the process established by the Commission’s rules and past precedent for LTFR proceedings in presenting the Commission with the Stipulation. It is proper for the Commission to approve the Stipulation in its entirety in this proceeding.

²⁸ IEU Brief at 14.

2. The Record Demonstrates That There Is a Need For Additional Solar Resources In Ohio.

As discussed above, the availability of in-state solar resources, and by association in-state sRECs, is essential to AEP Ohio's alternative energy benchmark obligations and the determination of need in this proceeding. IEU argues that because alternative energy compliance obligations are calculated based on a utility's kilowatt hour sales, consideration of statewide sRECS are not relevant. However, Mr. Castle indicated during cross examination that from AEP Ohio's perspective "[i]t's more instructive to know what is the total solar capacity in state at a given time. If there's enough capacity in the state, then we know that there will be perhaps a viable REC market, and if there isn't, there won't be."²⁹ Indeed, one of the findings the Commission is required to make under section 4935.04(F) following the conclusion of an LTFR hearing is whether a utilities' LTFR "considers plans for expansion of the regional power grid *and the planned facilities of other utilities in the state . . .*" (emphasis added).

Both Mr. Castle and Staff witness Bellamy looked at the certified in-state solar resources available to meet the in-state solar benchmarks and concluded that insufficient resources exist. After updating his analysis for 2012, Company witness Castle testified that while the need for additional in-state solar resources had shifted from 2012 to 2015, a need existed nonetheless.³⁰ Staff witness Bellamy testified that "[e]ven with the addition of 49.9 MW Turning Point solar facility, it is very likely that additional in-state and out-of-state solar capacity will need to be constructed."³¹ In addition, during cross

²⁹ Tr. at 49-50.

³⁰ AEP Exhibit 1 at 10.

³¹ Staff Exhibit 1 at 9.

examination, Mr. Bellamy came to a similar conclusion as Mr. Castle regarding when the available resources would be insufficient to meet in-state benchmarks: “[a]ll we know is what’s actually built right now. And based on what’s built right now we run out of compliance needs in just a couple of years.”³² As opposed to relying on proposed solar resource projects listed in the uncertain PJM queue or the unverifiable statements of proposed projects in newspaper clippings, Company witness Castle and Staff witness Bellamy base their analysis on actually built and certified in-state solar resources. As the alternative energy compliance benchmarks continue to accelerate, relying on proposed, uncertain projects pending in the PJM queue (which may remain pending for years) leaves a utility unprepared to meet its impending statutory obligations given the time needed to appropriately plan for the future.

In support of its argument that AEP Ohio has failed to demonstrate a need for additional in-state solar resources, IEU relies on Dr. Lesser’s determination “that [AEP Ohio’s] in-state SREC requirement would peak at 16,282 MW hours and not exceed 15,000 MW hours per year before 2020.”³³ IEU further argues that given that AEP Ohio’s Wyandot solar agreement produces approximately 15,000 MW hours, “the Wyandot solar facility alone will satisfy [AEP Ohio’s] SREC requirements through at least 2020.”³⁴ However, IEU’s reliance on the testimony of Dr. Lesser is inappropriate given that Dr. Lesser relies on a 79% shopping level that was projected to occur only if all shopping customers were to receive capacity at RPM rates. This scenario did not occur. Accordingly, the level of shopping used in Dr. Lesser’s analysis grossly overstates

³² Tr. at 119.

³³ IEU Brief. at 15.

³⁴ Id.

the actual amount of shopping experienced by AEP Ohio--as of March 1, 2012, less than 40% of customers were shopping or had noticed their intent to shop. Because a utilities' sREC requirement is determined by the amount of kilowatt hours it sells to standard service offer customers, using an inflated level of shopping led Dr. Lesser to underestimate AEP Ohio's need for sRECS. An electric distribution utility also must stand by ready to serve as the provider of last resort for any customers who return to receiving electric services from the utility, meaning the utility is still at risk of having to supply all generation and the associated benchmarks despite customer shopping. Therefore, Dr. Lesser's calculations are incorrect and lend no support to IEU's argument that sufficient in-state solar resources exist.

The record clearly demonstrates that additional in-state solar generation is needed in the immediate future. IEU offers no evidence to the contrary; instead, it criticizes Company witness Castle and Staff witness Bellamy for not considering the availability of not-yet-certified, proposed future solar projects that are uncertain to be built. The Stipulation addresses the impending need for additional solar generating resources in Ohio and should be approved in its entirety.

3. IEU's Procedural Complaints

IEU itself raises 3 procedural issues with the proceeding. First, IEU takes issue with the denial of the motion to strike. As discussed above, the Examiner's ruling follows the rules and statutes. FES seeks to reargue its concern that a past settlement agreement is being used against a party; instead, the past precedent is being used in the context of indicating that paragraph 2 of the Stipulation does not violate any regulatory practices or principles. IEU also challenges the Examiner's ruling enforcing other

administrative code rules, such as the discovery cutoff. The cutoff of discovery is included in the rules for LTFR cases. Regardless, as the Examiner stated, the hearing was actually a year ago meaning discovery also ended long ago. Finally, IEU seeks to challenge the Examiners ruling on the irrelevant newspaper articles IEU attempted to put in the record. IEU failed to provide a witness to state its position and the Company and Staff witnesses were unable to testify to any knowledge of the articles. The Examiner properly ensured a valid record and ruled that the articles were not admissible.

III. Conclusion

The record supports approval of the Stipulation in this case. The Stipulating Parties have shown the need for solar resources in the State of Ohio. Opposing Parties' only interest in these cases is the prevention of a potential surcharge that will be applied, if at all, in a future case that will undergo Commission scrutiny. AEP Ohio respectfully requests the Commission accept the Stipulation as filed and all the provisions within the document.

Respectfully Submitted,

//ss// Matthew Satterwhite
Matthew J. Satterwhite
(Lead Counsel)
Yazen Alami
American Electric Power
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215-2373
Telephone: (614) 716-1608
Facsimile: (614) 716-2950
mjsatterwhite@aep.com
yalami@aep.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Ohio Power Company's Post-Hearing Brief has been served upon the below-named counsel via traditional and electronic mail this 4th day of May, 2012.

//ss// Matthew J. Satterwhite

Matthew J. Satterwhite

Thomas McNamee
Assistant Attorney General
180 East Broad Street
Columbus, OH 43215
Thomas.mcnamee@puc.state.oh.us

Joseph Olikier
Frank P. Darr
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215
joliker@mwncmh.com

Mark Hayden
FIRSTENERGY SERVICE COMPANY
76 South Main Street
Akron, OH 44308
haydenm@firstenergycorp.com

James F. Lang
Laura C. McBride
N. Trevor Alexander
CALFEE, HALRTER & GRISWOLD LLP
1400 KeyBank Center
Cleveland, OH 44114
jlang@calfee.com
lmcbride@calfee.com
talexander@calfee.com

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Summary: Reply of Ohio Power Company electronically filed by Mr. Matthew J Satterwhite on behalf of Ohio Power Company