

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the 2018 Long-Term) Forecast Report of Ohio Power Company) and Related Matters.))	Case No. 18-501-EL-FOR
In the Matter of the Application of Ohio) Power Company for Approval to Enter) into Renewable Energy Purchase) Agreements for Inclusion in the) Renewable Generation Rider.))	Case No. 18-1392-EL-RDR
In the Matter of the Application of Ohio) Power Company for Approval to Amend) Its Tariffs.)	Case No. 18-1393-EL-ATA

**INITIAL BRIEF OF
MID-ATLANTIC RENEWABLE ENERGY COALITION**

Christine M.T. Pirik (0029759)
(Counsel of Record)
Terrence O'Donnell (0074213)
William V. Vorys (0093479)
Cristina N. Luse (0097785)
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, Ohio 43215
Phone: (614) 744-2583
Email: cpirik@dickinsonwright.com
todonnell@dickinsonwright.com
vvorys@dickinsonwright.com
cluse@dickinsonwright.com

*Attorneys for Mid-Atlantic Renewable Energy
Coalition*

TABLE OF CONTENTS

I. INTRODUCTION	3
II. DISCUSSION	4
A. The term “need” should encompass more than just PJM’s generating capacity as the ESP statute does not limit the factors the Commission may consider in making its determination.....	5
B. The direct and indirect economic benefits of renewable energy generation are significant and should be given adequate weight when determining need.....	6
C. AEP Ohio’s customers have expressed a clear desire for in-state renewables, and companies nationwide are increasingly seeking to utilize renewable energy sources to meet their internal sustainability goals.	8
D. A finding of need is consistent with state policy objectives.....	10
III. CONCLUSION	13

I. INTRODUCTION

On April 16, 2018, as corrected and supplemented on May 31, 2018, and June 26, 2018, Ohio Power Company (“AEP Ohio”)¹ filed its 2018 Long-Term Forecast Report (“LTFR”) with the Public Utilities Commission of Ohio (“Commission”), in accordance with Ohio Revised Code (“R.C.”) 4935.04(C).² Subsequently, on September 19, 2018, AEP Ohio filed an amendment to its LTFR (“LTFR Amendment”)³ to demonstrate the need for at least 900 megawatts (“MW”) of renewable energy generation projects in Ohio, consistent with the Commission’s decisions in AEP Ohio’s electric security plan (“ESP”) proceedings⁴ and purchase power agreement proceedings.⁵

On September 27, 2018, AEP Ohio filed applications seeking approval: of the inclusion of two solar energy facilities, totaling 400 MW of nameplate capacity, in AEP Ohio’s Renewable Generation Ride (“RGR”);⁶ and to establish a new Green Power Tariff under which customers may purchase renewable energy certificates (“RECs”)⁷ (jointly referred to as the “*Tariff Cases*”). On October 22, 2018, the attorney examiner granted AEP Ohio’s motion to consolidate these two cases with the *LTFR Case*. However, it was decided that the consolidated cases proceed in two phases: the first phase to consist of a hearing on the issue of need for the renewable projects, consistent with R.C. 4928.143(B)(2)(c); and the second phase, where a second hearing will be held, to consider the issues raised in the *Tariff Cases*.

¹ AEP Ohio Ex. 1.

² *In re Ohio Power Co.*, Case No. 18-501-EL-FOR (“*LTFR Case*”).

³ AEP Ohio Ex. 2.

⁴ *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al.

⁵ *In re Ohio Power Co.*, Case No. 14-1693-EL-RDR, et al. (“*PPA Rider Case*”).

⁶ *In re Ohio Power Co.*, Case No. 18-1392-EL-RDR.

⁷ *In re Ohio Power Co.*, Case No. 18-1393-EL-ATA.

On October 29, 2018, the Mid-Atlantic Renewable Energy Coalition (“MAREC”) – a nonprofit organization formed to help advance opportunities for renewable energy development primarily in the PJM Interconnection, LLC (“PJM”) territory – filed its motion to intervene in the above-captioned cases, which was granted on November 30, 2018.

The Commission then conducted a hearing on the first phase of the proceeding to determine whether a finding of need is appropriate with respect to AEP Ohio’s renewable energy commitment. The hearing commenced on January 15, 2019, and concluded on February 8, 2019. For the reasons set forth herein, MAREC submits that the record supports a finding by the Commission that, in accordance with R.C. 4928.143(B)(2)(c), there is, in fact, a need for at least 900 MW of renewable energy in Ohio.

II. DISCUSSION

Ohio law permits a finding of “need” in this case as the evidence demonstrates the existence of a resource planning need for at least 900 MW of renewables statewide. Under Ohio’s ESP statute, the Commission may only authorize a nonbypassable surcharge for the life of an electric generating facility if it “first determines in the proceeding that there is *need* for the facility based on resource planning projections submitted by the electric distribution utility.” R.C. 4928.143(B)(2)(c) (emphasis added). Through the hearing and the stakeholder testimony submitted in this case, there has been significant discussion regarding what constitutes “need” under the statute and what factors the Commission should consider in its need determination. As described more fully below, in making its decision, the Commission should focus on factors such as long-term rate stability, environmental benefits, and direct and indirect economic benefits to the Ohio economy at large, all of which would be well-served by additional renewable energy generation. Considering all relevant issues, there is, in fact, a resource planning need for at least

900 MW of renewable generation resources in Ohio, and AEP Ohio's proposal can help meet this need.

- A. The term “need” should encompass more than just PJM’s generating capacity as the ESP statute does not limit the factors the Commission may consider in making its determination.**

As AEP Ohio states in its LTFR Amendment, a finding of “need” in this case “does not require a traditional analysis of integrated resource planning.”⁸ Rather, “need” encompasses more than just capacity and energy supplied to consumers—other important factors can (and should) be taken into consideration.

Parties to this case have argued that, since the PJM wholesale markets are adequately supplying capacity and energy to the AEP Ohio load zone, there is no need for AEP Ohio's renewable energy commitment.⁹ Indeed, AEP Ohio has also acknowledged that PJM adequately supplies capacity and energy to the AEP Ohio load zone.¹⁰ However, due to certain aspects of the PJM market design, renewable energy deployment in the PJM wholesale market has fallen short of the level that would optimally serve the economic interests of AEP Ohio's customers and continues to lag behind other regions.¹¹ This phenomenon is demonstrative of need considerations outside issues related to PJM's wholesale market supply. In other words, while PJM's generating capacity is certainly one factor to consider, several other issues are relevant in the Commission's “need” determination.

⁸ LTFR Amendment at 3-4.

⁹ OCC Ex. 18 at 6-7.

¹⁰ LTFR Amendment at 3.

¹¹ Sierra Club Ex. 1 at 4 and 8.

B. The direct and indirect economic benefits of renewable energy generation are significant and should be given adequate weight when determining need.

The direct and indirect local (and statewide) economic benefits of renewable energy projects (including commercial-scale solar development) are an important consideration in determining need. In Ohio, the abundance of natural gas generation is creating an increased exposure to natural gas supply cost escalation, and, as a result, ratepayers today face an increased risk of higher electricity bills, especially as natural gas costs continue to rise.¹² Renewable energy generation neutralizes this issue by allowing customers to receive stable, reliable, and often low-cost electricity.

For example, Solar Renewable Energy Purchase Agreements (“Solar REPA”) set a fixed price for the entire term of the contract, which is often 20+ years.¹³ Thus, AEP Ohio’s solar REPAs will result in long-term rate stability for its customers, providing a hedge to ratepayers against rising electricity costs.¹⁴ While carbon-intensive fuel sources, like coal and natural gas, have led to volatile and unpredictable fluctuations in the price of electricity, renewable energy (including solar) offers stable and predictable rates in all weather conditions.¹⁵ Hence, contrary to arguments submitted by various intervening parties that oppose a finding of need, renewable energy generation is highly economically beneficial to Ohio businesses and other consumers.

The record in this proceeding supports the risk-mitigating nature of renewable energy generation and how wind and solar projects can help reduce exposure to future fuel price volatility.¹⁶ This evidence shows that AEP Ohio is not entering into solar REPAs with merely a

¹² MAREC Ex. 1 at 6.

¹³ *Id.*

¹⁴ *Id.* at 6-7.

¹⁵ *Id.*

¹⁶ NRDC Ex. 1 at 11.

“hope” of procuring energy at below-market cost. Rather, solar REPAs ensure long-term rate stability for AEP Ohio’s customers, even as the PJM market prices continue to fluctuate (as projected) over the next couple decades.

Renewable energy generation also provides other direct and indirect local (and statewide) economic benefits through the collection of tax revenue, the creation of hundreds of construction and ongoing operations and maintenance jobs, and an abundance of new landowner lease payments.¹⁷ For example, one solar project, which is located in Brown and Highland counties, is estimated to create between 1,075 to 2,061 direct and indirect jobs during construction, with corresponding payroll of \$53 to \$107 million, as well as 20 to 24 direct and indirect jobs during operation, with corresponding payroll of \$975,000 to \$1.1 million.¹⁸ Similarly, another solar project located in Highland County is estimated to create approximately 268 new construction-related jobs, plus 214 “secondary effect” jobs, with corresponding payroll of \$56 million.¹⁹ In addition to the many benefits brought to the communities through the construction and operation of these and other solar projects in Ohio, solar projects also bring tax revenue benefits to local schools, and the municipal and county governments through their payments in lieu of taxes under R.C. 5727.75. For example, local municipalities can expect to receive an estimated \$1.05 million each year during the life of the Willowbrook Solar facility.²⁰ Furthermore, solar projects in Ohio have the benefit of sourcing equipment within the state; for example, Willowbrook Solar specifically intends to use Ohio-based First Solar modules to develop its facility.²¹

¹⁷ MAREC Ex. 1 at 7-8.

¹⁸ *Id.* at 8.

¹⁹ *Id.*

²⁰ *Id.* (See *In re Willowbrook Solar I, LLC*, Case No. 18-1024-EL-BGN).

²¹ *Id.* (See *In re Hecate Energy Highland LLC*, Case No. 18-1334-EL-BGN).

Finally, the two solar projects referenced above will provide a much-needed economic boost to the Appalachian, Ohio region. For example, for the Highland Solar project, Hecate Energy has committed to providing this area of the state that is in urgent need for economic support with 150 permanent local manufacturing jobs.²² The projects represent a small example of the benefits that solar projects in Ohio would bring to the state of Ohio and how solar projects will significantly enhance regional economic development should be a key consideration in this case, as the Appalachian community is in dire need of economic revival.

C. AEP Ohio’s customers have expressed a clear desire for in-state renewables, and companies nationwide are increasingly seeking to utilize renewable energy sources to meet their internal sustainability goals.

AEP Ohio retained Navigant Consulting, Inc., (“Navigant”) as an independent consultant to analyze its customers’ attitudes toward, and their demand for, renewable energy generation.²³ The results of the study are consistent with a finding of need. The study demonstrates that a strong majority of residential non-percentage of income payment plan (“PIPP”) customers, residential PIPP customers, and small commercial and industrial customers believe it is important and necessary to increase AEP Ohio’s procurement of renewable energy and develop in-state renewable energy generation projects.²⁴ Significantly, the study also indicated that the majority of AEP Ohio’s non-PIPP residential customers and many small commercial and industrial customers are willing to pay extra for renewable energy.²⁵

As reflected in the Navigant study and supported in the record, “[a]s of 2016, 71 Fortune 100 companies and 215 Fortune 500 companies had committed to a sustainability target,

²² *Id.*

²³ AEP Ohio Ex. 2 at 7.

²⁴ AEP Ohio Ex. 6, Ex. TH-1 at 36 of 41; NRDC Ex. 1 at 20.

²⁵ AEP Ohio Ex. 6, Ex. TH-1 at 36 of 41; NRDC Ex. 1 at 20-21.

renewable energy target, or both.”²⁶ Of these companies, 39 are either headquartered in Ohio or are among Ohio’s 100 largest employers, and 34 of those 39 companies are AEP Ohio customers.²⁷

Moreover, customer interest in renewables has been increasing significantly throughout the country. Large commercial and industrial consumers seek to source their electricity supply from renewable energy to meet a variety of sustainability, financial, and branding goals.²⁸ These facts and the results of AEP Ohio’s Navigant study are consistent with the findings of a recent Pew Research Center survey, which indicated that two-thirds of Americans prioritize developing alternative energy sources over expanding fossil fuel generation.²⁹ Thus, publically available information confirms that customers do not merely “like” the idea of in-state renewable generation; rather, they have a need and desire for long-term renewable energy development in Ohio, which needs/desires, as reflected in the Pew Research Center survey, are not currently being met.

While parties to this case have argued that the aforementioned public opinion factors are not relevant to the meaning of “need” under Ohio law, the law certainly does not preclude consumer demand from being considered as part of the Commission’s “need” analysis. In fact, the findings of the Navigant study are directly applicable to this case because they demonstrate additional steps need to be taken to develop an adequate supply of renewable resources to meet the needs of AEP Ohio’s customers. AEP Ohio’s proposal will help fulfill the ongoing and robust consumer demand for clean energy sources.

²⁶ AEP Ohio Ex. 6, Ex. TH-1 at 12 of 41; MAREC Ex. 1 at 10-11.

²⁷ AEP Ohio Ex. 6, Ex. TH-1 at 12 of 41.

²⁸ *Id.*

²⁹ NRDC Ex. 1 at 21.

Consumer demand for renewables is also not limited to AEP Ohio's territory. Companies everywhere are increasingly emphasizing sustainability measures and investing in renewable energy initiatives. As of 2016, 82% of Fortune 500 companies published sustainability or corporate responsibility reports, and at least 22 Fortune 500 companies have committed to supplying 100% of their electricity needs from renewable energy resources.³⁰ These large scale energy consumers now need far more access to clean energy to power their operations. An uptick in renewable energy generation will help meet these needs, while simultaneously making the state of Ohio more attractive to the business community.

Thus, when determining what precisely constitutes "need," the Commission is not confined by a narrow definition that only considers capacity and energy supplied to consumers. Rather, the Commission can and should evaluate increased demand for clean energy and the need for long-term rate stability in the Ohio energy marketplace. Considering all relevant factors, the evidence in this case demonstrates there is a resource planning need for renewable generation resources in Ohio and that AEP Ohio's proposed influx of solar development can help meet this need.

D. A finding of need is consistent with state policy objectives.

A finding of need is also consistent with important policy objectives outlined by the General Assembly and codified in R.C. 4928.02. In determining whether there is a need for in-state renewable energy generation, the Commission should consider Ohio's energy policy and the obligations it imposes upon electric distribution utilities ("EDUs"), like AEP Ohio, in servicing their customers.

³⁰ MAREC Ex. 1 at 10.

As set forth under the Ohio Revised Code, it is the policy of the state of Ohio to “[e]nsure the availability to consumers of adequate, reliable, safe, efficient, nondiscriminatory, and reasonably priced retail electric service.” R.C. 4928.02(A). As an EDU, AEP Ohio is required to “provide consumers, on a comparable and nondiscriminatory basis within its certified territory, a standard service offer of all competitive retail electric services necessary to maintain essential electric service to consumers, including a firm supply of electric generation service.” R.C. 4928.141(A). Renewable generation can help AEP Ohio and other EDUs continue to satisfy this requirement and provide reliable and reasonably-priced retail electric services to customers. Moreover, as the Commission recognized in the *PPA Rider Case*, “renewable energy plays an integral role in promoting a reliable and cost-effective grid.”³¹

In addition, it is the policy of this state to “[e]nsure the availability of unbundled and comparable retail electric service that provides consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs.” R.C. 4928.02(B). It is important to acknowledge that consumers have expressed a need and desire for long-term renewable energy development in Ohio. As businesses continue to invest in renewable energy initiatives and set aggressive sustainability goals, the need for more rapid development of clean energy technology only increases.³² A finding of need in this case would well-position Ohio to meet customers’ demands and expectations for in-state renewable generation.³³

Further, it is the policy of the state to “[e]nsure diversity of electricity supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers and by encouraging the development of distributed and small generation facilities.”

³¹ *PPA Rider Case*, Order (Mar. 31, 2016) at 82.

³² MAREC Ex. 1 at 10-11.

R.C. 4928.02(C). The Commission has expressed its support for the construction of new renewable energy generation projects, which assist the state in achieving fuel supply diversity “to offset the price volatility impact that any single fuel source might have on electric rates.”³⁴ Currently, in-state wind and solar generation constitute less than 2% of energy generated in Ohio.³⁵ Thus, AEP Ohio’s solar projects will promote fuel diversity and act as a hedge against rising electricity costs, consistent with the policy objectives outlined under Ohio law.

Finally, it is the policy of the state to “[p]rovide coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates.” R.C. 4928.02(J). The Commission has previously acknowledged that investing in renewables (and providing greater fuel diversity) will afford the state flexibility in complying with potential future environmental requirements.³⁶

Moreover, renewable energy facilities generate electricity without combusting fuel or releasing pollutants into the atmosphere. The positive environmental benefits of renewable energy sources – such as cleaner and less toxic air/water – represent additional factors the Commission should consider when determining “need.” According to a tool developed by the U.S. Environmental Protection Agency, air pollution in Ohio would be significantly reduced by the addition of 900 MW of renewable generation: sulfur dioxide emissions would decrease by 956 tons per year; annual nitrogen oxides emissions would decrease by 796 tons; and particulate

³³ NRDC Ex. 1 at 22.

³⁴ *PPA Rider Case*, Order (Mar. 31, 2016) at 83.

³⁵ NRDC Ex. 1 at 23

³⁶ *PPA Rider Case*, Order (Mar. 31, 2016) at 84.

matter emissions would decrease by 168 tons.³⁷ Hence, in-state renewable energy generation will support carbon emissions reduction requirements and goals, both now and in the future.

AEP Ohio's proposed projects would help the state of Ohio achieve many of its important energy policy objectives. Therefore, a finding of need would not only be permitted under state law, but would also be consistent with state policy.

III. CONCLUSION

For the foregoing reasons, the Commission should find that the record supports a finding of need as required under R.C. 4928.143(B)(2)(c). As expressed herein, AEP Ohio's renewable energy commitment not only furthers the policies of the state of Ohio as mandated by the General Assembly under R.C. 4928.02, but it answers the needs of AEP Ohio's customers that seek renewable energy supply sources and reliable service, and supports economic development in the state.

Respectfully Submitted,

/s/ Christine M.T. Pirik
Christine M.T. Pirik (0029759)
(Counsel of Record)
Terrence O'Donnell (0074213)
William V. Vorys (0093479)
Cristina N. Luse (0097785)
Dickinson Wright PLLC
150 East Gay Street, Suite 2400
Columbus, Ohio 43215
Phone: (614) 744-2583
Email: cpirik@dickinsonwright.com
todonnell@dickinsonwright.com
wvorys@dickinsonwright.com
cluse@dickinsonwright.com

***Attorneys for Mid-Atlantic Renewable Energy
Coalition***

³⁷ Sierra Ex. 1 at 31.

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced in the service list of the docket card who have electronically subscribed to these cases. In addition, the undersigned certifies that a copy of the foregoing document is also being served upon the persons below this 6th day of March, 2019.

/s/ Christine M.T. Pirik

Christine M.T. Pirik (0029759)

Counsel:

bhughes@porterwright.com
Bojko@carpenterlipps.com
callwein@keglerbrown.com
christopher.healey@occ.ohio.gov
Christopher.miller@icemiller.com
cluse@dickinsonwright.com com
mblend@aep.com
cmooney@ohiopartners.org
cpirik@dickinsonwright.com
dborchers@bricker.com
dparram@bricker.com
Dressel@carpenterlipps.com
egallon@porterwright.com
fdarr@mwncmh.com
glover@whitt-sturtevant.com
glpetrucci@vorys.com
Jason.rafeld@icemiller.com
jdorth@kravitzllc.com
jkylercohn@BKLawfirm.com
joliker@igsenergy.com
jreggo@beneschlaw.com
jstock@beneschlaw.com
kboehm@BKLawfirm.com
ktreadway@oneenergylc.com
llee@beneschlaw.com
Maureen.willis@occ.ohio.gov

mdortch@kravitzllc.com
mjsettineri@vorys.com
mkurtz@BKLawfirm.com
mleppla@theoec.org
mmontgomery@beneschlaw.com
mnugent@igsenergy.com
mpritchard@mwncmh.com
msilberman@beneschlaw.com
ocollier@beneschlaw.com
paul@carpenterlipps.com
rdove@keglerbrown.com
rparsons@kravitzllc.com
rsahli@columbus.rr.com
stnourse@aep.com
thomas.mcnamee@ohioattorneygeneral.gov
todonnell@dickinsonwright.com
tony.mendoza@sierraclub.org
whitt@whitt-sturtevant.com
William.michael@occ.ohio.gov
wvorys@dickinsonwright.com

Administrative Law Judge:

greta.see@puco.ohio.gov
sarah.parrot@puco.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/6/2019 3:51:37 PM

in

Case No(s). 18-0501-EL-FOR, 18-1392-EL-RDR, 18-1393-EL-ATA

Summary: Brief of Mid-Atlantic Renewable Energy Coalition electronically filed by Christine M. T. Pirik on behalf of Mid-Atlantic Renewable Energy Coalition