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Via E-MAIL

March 6, 2019

Public Utilities Commission of Ohio
PUCO Docketing
180 E. Broad Street, 10th Floor
Columbus, Ohio 43215

In re: Case Nos. 18-0501-EL-FOR, 18-1392-EL-RDR and 18-1393-EL-ATA

Dear Counsel:

Please find attached the POST-HEARING BRIEF OF THE OHIO ENERGY GROUP e-filed today in the above-referenced matter.

Copies have been served on all parties on the attached certificate of service.

Respectfully yours,

Michael L. Kurtz /s/
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MLKkew
Encl.
Cc: Certificate of Service

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Long-Term Forecast Report of Ohio Power Company and Related Matters.	**)** **)**	**Case No. 18-501-EL-FOR**
In the Matter of the Application Seeking Approval of Ohio Power Company's Proposal 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 to Amend its Tariffs.	**)** **)**	**Case No. 18-1393-EL-ATA**

POST-HEARING BRIEF OF THE THE OHIO ENERGY GROUP

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POST-HEARING BRIEF OF THE THE OHIO ENERGY GROUP

The Ohio Energy Group ("OEG") submits this Brief in support of its recommendations to the Public Utilities Commission of Ohio ("Commission") in this proceeding. OEG's recommendations are set forth below.

INTRODUCTION AND SUMMARY

Phase I of this proceeding addresses the threshold legal issue of whether Ohio Power Company ("AEP Ohio" or "Company") has made a showing that there is a *"need"* for 900 MW of generic renewable generation in Ohio consistent with R.C. 4928.143(B)(2)(c). Because the term "*need"* as set forth in that statute is not expressly defined, the Commission must interpret that term in a manner that will give the statute meaning consistent with the General Assembly's intent.

As discussed in detail below, the correct approach to examining *"need"* under R.C. 4928.143(B)(2)(c) involves a comprehensive inquiry under which the Commission examines whether a proposed resource would further the state policy objectives set forth under R.C. 4928.02 and R.C. 4928.143, including the directives aimed at promoting reasonably priced retail electric service, rate stability, fuel diversity, and economic development in Ohio. The Commission should conduct this inquiry *"based on resource planning projections"* as directed by R.C. 4928.143(B)(2)(c).

Under this standard, AEP Ohio has demonstrated a "*need"* for 900 MW of generic renewable resources. The generic resources would lower energy prices in the AEP zone, facilitating the General Assembly's statutory directive under R.C. 4928.02(A) that the Commission should *"ensure the availability to consumers of ... reasonably priced retail electric service."* Those resources would also enhance rate stability, serving as a twenty-year fixed cost hedge against potentially volatile market prices, in furtherance of the statutory objectives set forth in R.C. 4928.143(B)(2)(d). Facilitating the construction of 900 MW of renewable energy in Ohio would contribute to fuel diversity, consistent with the policies outlined in R.C. 4928.02(C) of *"ensur[ing] diversity of electricity supplies and suppliers"* and in R.C. 4928.02(J) of *"provid[ing] coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates."* Finally, constructing 900 MW of renewable energy resources in Ohio would *"facilitate the state's effectiveness in the global economy"* as directed by R.C. 4928.02(N) by creating new jobs and tax revenues in an otherwise depressed portion of the State.

Embracing the comprehensive *"need"* inquiry envisioned by R.C. 4928.143(B)(2)(c) does not represent a retreat from retail competition in Ohio. A Commission finding of "*need"* for a resource that would further state-specific interests would not inhibit retail customers from shopping for all of their physical energy and capacity requirements, nor would it inhibit retail standard service offer auctions in any way. Rather, it would represent the State getting the *"best of both worlds,"* as intended. Through Senate Bill 221, the General Assembly created a statutory tool that allows the Commission to partially assert its traditional state authority over certain aspects of generation resource planning to further state-specific interests while still relying on the PJM markets for the generation supply to meet retail load requirements.

A finding of "*need*" under state law would in no way intrude on federal law. To the contrary, a recent decision from the U.S. Supreme Court, as well as two federal Court of Appeals decisions, make clear that states are free to promote state-specific interests regarding electric generation supply while still enjoying the benefits of the federally-regulated wholesale markets. The Federal Energy Regulatory Commission ("FERC") and PJM both recognize and support this state right.

Opponents urge the Commission to adopt a definition of *"need"* that would improperly restrict the Commission's ability to employ an important statutory tool created by Senate Bill 221 and would effectively render

R.C. 4928.143(B)(2)(c) meaningless. If the Commission restricted its *"need"* inquiry to whether the PJM reserve margin is projected to be adequate, then an affirmative finding could never be made. Because there is no limit on PJM's authority to raise rates to attract generation, there is no basis to conclude that PJM will ever be capacity deficient. Restricting the *"need"* inquiry to whether a resource is necessary to satisfy Ohio's renewable portfolio standard ("RPS") would also be improper. R.C. 4928.143(B)(2)(c) applies to all generation types, not just renewable energy resources. The RPS statute (R.C. 4928.64) and the *"need"* statute (R.C. 4928.143(B)(2)(c)) are independent. Even if Ohio's entire RPS program was eliminated by a future legislature, the Commission's authority to approve new generation under R.C. 4928.143(B)(2)(c) would remain.

Accordingly, given that AEP Ohio has met its burden to demonstrate *"need"* consistent with R.C. 4928.143(B)(2)(c), the Commission should allow this proceeding to continue to Phase II.

ARGUMENT

I. The Commission Should Interpret *"Need"* Under R.C. 4928.143(B)(2)(c) Broadly In Order To Preserve An Important Statutory Tool Created To Protect and Promote Ohio's State-Specific Interests.

A. *Consistent with Ohio's rules of statutory construction, the "need" inquiry requires an examination of whether a proposed resource will help further Ohio's state-specific interests.*

Consistent with the statutory canons set forth in the first chapter of the Revised Code, the Commission must reject any interpretation of *"need"* R.C. 4928.143(B)(2)(c) that would effectively render R.C. 4928.143(B)(2)(c) meaningless. R.C. 1.47 provides *"[i]n enacting a statute, it is presumed that: (B) the entire statute is intended to be effective…[and] (D)a result feasible of execution is intended."* As discussed in detail below, if the Commission were to base its *"need"* inquiry entirely on PJM's current and projected reserve margin, the Commission would never be able to employ R.C. 4928.143(B)(2)(c) to further state-specific interests since PJM's market design protects against capacity shortages. Moreover, focusing the *"need"* inquiry solely on the ability of a resource to help with RPS compliance would render the Commission's statutory authority under R.C. 4928.143(B)(2)(c) meaningless with respect to non-renewable resources, such as natural gas, coal, and nuclear generation. Accordingly, the Commission should avoid adopting an interpretation of the *"need"* inquiry that essentially nullifies the statutory authority expressly granted to it by the General Assembly.

Additionally, R.C. 1.49 provides *"[i]f a statute is ambiguous, the court, in determining the intention of the legislature, may consider other matters: (a) the object sought to be attained; (b) the circumstances under which the statute was enacted; (c) the legislative history ... (e) the consequences of a particular construction; [and] (f) the administrative construction of the statute."* Here, the term *"need"* as used under R.C. 4928.143(B)(2)(c) is ambiguous. Accordingly, to determine legislative intent, the Commission should look to the circumstances under which Senate Bill 221 was enacted and the objects sought to be attained by the General Assembly.

Through Senate Bill 221, the General Assembly granted the Commission important generation-related authority that could be used to further state-specific interests, including Ohio's interest in protecting customers from the volatility of market pricing (which was a central concern at the time of its passage given dramatic market price spikes). Such authority included two statutes expressly providing for cost recovery for electric generating facilities (R.C. 4928.143(B)(2)(b) and R.C. 4928.143(B)(2)(c)), as well as statutes allowing the Commission to approve rate mechanisms that would promote rate stability (R.C. 4928.143(B)(2)(d)) and economic development (R.C. 4928.143(B)(2)(i)) in the State. The General Assembly would not have granted the Commission such authority if the only outcome it envisioned was one in which Ohio was wholly subject to federal generation pricing. Rather, the flexible regulatory scheme created by Senate Bill 221 was designed to allow Ohio to enjoy the benefits of federally-regulated market pricing while still protecting its own state-specific generation interests, thereby getting the *"best of both worlds*."

Rather than moving Ohio farther toward mandatory reliance on the federally-regulated wholesale markets, Senate Bill 221 gave the Commission discretion to opt back into some of the traditional features of state generation regulation. For example, under R.C. 4928.143(B)(2)(b), the Commission is authorized to grant an electric distribution utility recovery of a reasonable allowance for construction work-in-progress for the cost of constructing an electric generating facility or for an environmental expenditure for any electric generating facility. And under R.C. 4928.143(B)(2)(c), the statute at issue in this case, the Commission can establish a nonbypassable surcharge through which an electric distribution utility can recover costs associated with certain electric generating facilities dedicated to Ohio customers. The Commission specifically cited its authority under R.C. 4928.143(B)(2)(c) when

it declined to enshrine a policy that could prevent it from approving physical generation resources under that statute.[1] This state statutory authority over generation-related pricing continues despite the fact that Ohio utilities chose to divest their generation assets. And this authority represents an important statutory tool through which the Commission can further Ohio's generation-related policy interests – a tool which the Commission has already invoked at least once before when it found a *"need"* under R.C. 4928.143(B)(2) for solar resources proposed by the Dayton Power & Light Company.[2]

To give full effect to the statutory scheme outlined in Senate Bill 221, the Commission's *"need"* inquiry under 4928.143(B)(2)(c) should examine whether a proposed resource would help further the state policies directives expressly delineated under R.C. 4928.02. The Commission has previously explained that it *"believes that the state policy codified by the General Assembly in Chapter 4928, Revised Code, sets forth important objectives which the Commission must keep in mind when considering all cases filed pursuant to that chapter of the code. Therefore ... we use these policies as a guide in our implementation of Section 4928.143, Revised Code."*[3] Additionally, the Supreme Court of Ohio has explained the importance adhering to the policies set forth under R.C. 4928.02, stating that those policy statements are *"'guideline[s] for the commission to weigh' in evaluating utility proposals to further state policy goals…."*[4] In a separate case, the Court treated the policies as mandates and reversed a Commission order solely on the basis that it violated the policy set forth under R.C. 4928.02(G).[5] Accordingly, the Commission should give considerable weight to statutorily-expressed state policies when considering whether a given resource satisfies a *"need"* of Ohioans under R.C. 4928.143(B)(2)(c).

The Commission can conduct such an inquiry *"based on resource planning projections"* consistent with the language of 4928.143(B)(2)(c). The integrated resource planning regulations set forth under Ohio Adm. Code 4901:5-5-06 require utilities to produce a broad swath of information. Utilities must address their existing generating system, the *"need for additional electricity resource options"* by providing a detailed discussion of *"all*

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[1] Finding and Order, Case No. 12-3151-EL-COI (March 26, 2014) at 15.
[2] Opinion and Order, Case 10-505-EL-FOR (April 19, 2011).
[3] Opinion and Order, Case No. 08-935-EL-SSO (December 19, 2008) at 12.
[4] *In re Application Seeking Approval of Ohio Power Company's Proposal to Enter into an Affiliate Power Purchase Agreement*, 2018-Ohio-4698 at ⁋ 49 (citing *In re Application of Columbus S. Power Co.*, 128 Ohio St.3d 512, 2011-Ohio-1788, 947 N.E.2d 655, ⁋ 62, quoting *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261, ¶ 39-40).
[5] *Elyria Foundry Co. v. PUC*, 114 Ohio St. 3d 305, 321 at ⁋ 79.

major factors," their integrated resource plan, other strategic considerations, and the impacts of the plan over time, among other requirements. The information provided by utilities pursuant to Ohio Adm. Code 4901:5-5-06 can therefore form the basis for a Commission finding that a particular resource furthers Ohio's state-specific interests.

Opponents seek to portray any exercise of the Commission's generation pricing authority under R.C. 4928.143(B)(2)(c) as a dangerous retreat from retail competition in Ohio. The Commission should reject these mischaracterizations. A Commission finding of "*need"* for a resource that would further state-specific interests would not inhibit retail customers from shopping for all of their physical generation supplies, nor would it change in any way retail standard service offer auctions in Ohio. Neither would it preclude CRES suppliers from developing their own renewable generation resources.[6]

B. *Federal law allows the Commission to protect and promote state-specific interests while still enjoying the benefits of the federally-regulated wholesale markets.*

The statutory roles of PJM and this Commission are independent and the benefits that can be provided by either are not mutually exclusive. Indeed, PJM recognizes that states may seek to further their own legitimate policy interests while also enjoying the benefits of participating in the PJM market, proposing two market designs to accommodate such circumstances.[7] PJM's Annual report emphasizes that *"[i]t is vital for the regional market design to respect individual state interests while protecting consumers in other states from potential cost shifts."*[8]

Similarly, FERC is currently exploring a third alternative market design aimed at facilitating state generation policymaking while protecting the wholesale market.[9] FERC notes that under its alternative design, *"[s]tates may continue to support their preferred types of resources in pursuit of state policy goals. At the same*

[6] Tr. Vol. I (January 15, 2019) at 181:6-12.
[7] Capacity Repricing or in the Alternative MOPR-Ex Proposal: Tariff Revision to Address Impacts of State Public Policies on the PJM Capacity Market, FERC Docket No. ER18-1314 (April 9, 2018) at 4 (*"Thus, the question raised by PJM's filing in this case is not* ***whether*** *states have the right to act but instead* ***how*** *the wholesale market should* ***respond*** *to such actions so that the goal of ensuring just and reasonable rates is not frustrated by an individual state's action.").*
[8] 2017 PJM Annual Report, *available at https://www.pjm.com/-/media/about-pjm/newsroom/annual-reports/2017-annual-report.ashx?la=en.*
[9] Order Rejecting Proposed Tariff Revisions, Granting in Part and Denying in Part Complaint, and Instituting Proceeding Under Section 206 of the Federal Power Act, Docket Nos. EL18-187 *et al.*, (June 29, 2018).

time, [FERC] ha[s] exclusive jurisdiction over the wholesale rates of both subsidized and unsubsidized resources, and a statutory obligation to ensure they are just and reasonable."[10]

Moreover, the U.S. Supreme Court specifically opened the door for states seeking to adopt new resources that would further their specific interests, particularly clean generation interests, in *Hughes v. Talen Energy Mktg, LLC, 136 S. Ct 1288 (2016)*, explaining:

> *We therefore need not and do not address the permissibility of various other measures States might employ to encourage development of new or clean generation, including tax incentives, land grants, direct subsidies, construction of state-owned generation facilities, or re-regulation of the energy sector. Nothing in this opinion should be read to foreclose Maryland and other States from encouraging production of new or clean generation through measures 'untethered to a generator's wholesale market participation'… So long as a State does not condition payment of funds on capacity clearing the auction, the State's program would not suffer from the fatal defect that renders Maryland's program unacceptable.*[11]

In this case, because payment of funds associated with AEP Ohio's proposed generic renewable energy resources would not be conditioned on the resources clearing in the PJM capacity auctions, those resources would not be *"tethered"* to wholesale capacity market participation, thus fitting squarely within the *"safe harbor"* created by the U.S. Supreme Court.

Other states have already received the approval of federal courts for supporting generation resources that further their specific policy interests. For example, last year, the U.S. Court of Appeals for the Seventh Circuit approved Illinois' Zero Emission Credits ("ZEC") legislation, explaining that *"[a] larger supply of electricity means a lower market-clearing price, holding demand constant. But because states retain authority over power generation, a state policy that affects price only by increasing the quantity of power available for sale is not preempted by federal law."*[12] The U.S. Court of Appeals for the Second Circuit found similarly with respect to New York's ZEC program, holding that *"'t*he *law places beyond FERC's power, and leaves to the States alone, the regulation of 'any other sale' – most notably, any retail sale – of electricity'… The states are thus authorized to regulate energy production, 16 U.S.C. § 824(b), and facilities used for the generation of electric energy."*[13] The

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[10] Id. at ⁋ 158.
[11] *Hughes v. Talen Energy Mktg., LLC,* 136 S. Ct. 1288, 1299.
[12] *Elec. Power Supply Ass'n v. Star, 904 F.3d 518, 524* (2018)
[13] *Coalition for Competitive Elec. v. Zibelman*, 906 F.3d 41, 50 (citing *FERC v. Elec. Power Supply Ass'n*, 136 S. Ct. 760, 766, 193 L. Ed. 2d 661 (2016) and 16 U.S.C. §824(b)).

Second Circuit added that *"even though the ZEC program exerts downward pressure on wholesale electricity rates, that incidental effect is insufficient to state a claim for field preemption under the FPA."*[14] Further, the Court noted that *"FERC itself has sanctioned state programs that increase capacity or affect wholesale market prices, so long as the states regulate matters within their jurisdiction,"* and that *"[s]tates may 'require retirement of existing generators' or construction of 'environmentally-friendly units, or… take any other action in their role as regulators of generation," even though it may 'affect[] the market clearing price.'"*[15]

Accordingly, nothing in federal law prohibits the Commission's exercise of its authority under R.C. 4928.143(B)(2)(c) to protect and promote Ohio's specific generation-related interests while still enjoying the benefits of the federally-regulated wholesale markets.

C. *Given Ohio's regulatory construct, "need" should not be determined solely by examining the PJM reserve margin.*

Relying solely upon the amount of capacity available in the PJM market as the measure for whether a *"need"* demonstration would render the statute meaningless and would be inconsistent with the objectives of the Senate Bill 221.

There is no credible scenario under which PJM would not have an adequate capacity reserve. Should the market not provide an adequate price signal to attract capacity resources, PJM has a *"backstop"* option under which it could provide cost-based payments necessary to procure sufficient capacity.[16] Because there is no limit on PJM's authority to raise rates to attract generation, there is no basis to conclude that PJM will ever be capacity deficient (at least so long as money continues to influence human behavior). Therefore, relying solely upon PJM's reserve margin as the basis for determining *"need"* under would essentially eliminate the Commission's ability to protect Ohio's specific generation-related interests using R.C. 4928.143(B)(2)(c). It would render the statute meaningless, contrary to the legislative intent and contrary to Ohio's rules of statutory construction, including R.C. 1.47.

[14] Id at 54.
[15] Id. at 56 (citing *Conn. Dep't of Pub. Util. Control v. FERC*, 569 F.3d 477, 481, 386 U.S. App. D.C. 320 (D.C. Cir. 2009); *see also New England States Comm. on Elec. v. ISO New England Inc.,* 142 FERC ¶ 61,108, at 61,490 (2013)).
[16] Tr. Vol. I (January 15, 2019) at 70:8-14.

Nor is it this Commission's job to ensure that the entire PJM region has an adequate reserve margin. This Commission's role is to protect the specific interests of Ohio customers, not to guarantee sufficient capacity for the entire 13-state (plus D.C.) PJM region. AEP Ohio witness Allen addressed this point in the following exchange at the hearing:

> *Q: You would agree that it's not the job of this Commission to ensure reliability of the 13-state PJM region?*
>
> *A: It's not this Commission's responsibility to look at reliability for that 13-state region, I would agree.*
>
> *Q: So why would the PJM reserve margin be relevant at all to your application, whether it's deficient or surplus?*
>
> *A: In this filing, and we made it clear in my testimony, we're not addressing a capacity need. What we are looking for here is ways to find economically-beneficial power for our customers.*
>
> *Q: So, again, what difference does it make whether the PJM reserve margin was surplus or deficit.*
>
> *A: It wouldn't change this filing, I would agree.* [17]

Accordingly, whether the PJM reserve margin is surplus or deficient is irrelevant for purposes of this proceeding.

As much as opponents urge the Commission to believe otherwise, Ohio is not entirely dependent upon federal generation pricing decisions, nor should it be. Rather, Ohio has evolved over time from a traditionally-regulated jurisdiction into a jurisdiction that incorporates elements of both state/cost-based generation pricing and federal/market-based generation pricing. This structure was intended to provide the Commission the flexibility to protect the state-specific interests of Ohio customers.

D. *Neither can "need" hinge on whether a resource is necessary to satisfy Ohio's RPS.*

Because the scope of *"need"* under R.C. 4928.143(B)(2)(c) could extend to resources other than renewable resources, it would be improper to make the question of whether a potential resource will help satisfy Ohio's RPS a critical factor in meeting the statutory requirement. R.C. 4928.143(B)(2)(c) provides the Commission with the authority to approve all types of generating facilities, including natural gas, coal, or nuclear facilities that would be

[17] Tr. Vol. I (January 15, 2019) at 70:24-71:16.

unable to satisfy the RPS. While the extent to which a proposed generic renewable facility may help with RPS compliance can be a relevant factor in the *"need"* inquiry, it does not have to be a central component of that inquiry.

Opponents may raise the Turning Point case, in which AEP Ohio based its argument for *"need"* on the ability of the proposed facility to help with RPS compliance.[18] Because the Commission found that the facility was not needed for RPS compliance, the Commission held that AEP Ohio had failed to satisfy the *"need"* inquiry.[19] But the facts of this case, and the rationale presented by the utility, are significantly different, warranting a more comprehensive Commission analysis of *"need*." Here, AEP Ohio readily concedes that the generic renewable resources would not be required for purposes of RPS compliance. But the Company has presented other important *"needs"* of Ohio that could be met by those resources. Further, the Commission's Turning Point Order specifically opened the door to the type of proposal involved in this case, stating that its finding *"does not preclude AEP-Ohio from pursuing the project through other appropriate means, such as a long-term purchase power agreement."*[20]

As evinced by Senate Bill 310, which was passed after the Turning Point decision, the requirements of Ohio's RPS can change significantly depending upon the composition of the General Assembly. In fact, Ohio's entire RPS program under R.C. 4928.64 may be revoked by a future legislature. But if that happened, R.C. 4928.143(B)(2)(c) would still be on the books and the Commission would still have the authority to find "*need*" on some basis other than RPS. Because the *"need"* statute and the RPS statute are independent, the outcome of this case, and the Commission's ongoing approach to *"need"* under R.C. 4928.143(B)(2)(c), should not hinge solely on whether a proposed resource could help satisfy the current RPS.

II. AEP Has Demonstrated a *"Need"* for Economically Beneficial Renewable Energy Projects *"Based on Resource Planning Projections"* Consistent with R.C. 4928.143(B)(2)(c).

A. *The generic renewable energy projects help address the need for reasonably priced retail electric service.*

Developing generic renewable energy resources in Ohio would lower energy prices in the AEP zone and result in savings to customers, facilitating the General Assembly's statutory directive under R.C. 4928.02(A) that

[18] Opinion and Order, Case Nos. 10-501-EL-FOR (January 9, 2013) at 14.
[19] Id. at 25-27.
[20] Id. at 27.

the Commission should *"ensure the availability to consumers of … reasonably priced retail electric service."* AEP Ohio witness Torpey testified that adding 650 MW of renewable energy resources in the State would result in a net present value ("NPV") benefit to AEP Ohio customers of $173 million.[21] $88 million of that NPV benefit would stem from adding 400 MW of generic solar (which is projected to provide an annual $0.73/MWh benefit to the system by 2040),[22] $54 million would stem from adding 250 MW of generic wind, and $31 million of that NPV benefit would stem from a $0.07/MWh reduction in PJM energy prices.[23] Addressing the potential benefits of developing a full 900 MW of renewable energy resources, witness Torpey added that *"[i]f the Company solicits and receives an additional 250 MW or more of project proposals that result in costs less than the break-even values … with similar performance characteristics to the generic renewable energy projects, those addition projects would likely also benefit AEP Ohio's customers."*[24]

Mr. Torpey's financial benefit analysis is based upon reasonable assumptions. His use of AEP Ohio witness Bletzacker's fundamental forecast to prepare his analysis is a valid approach since that forecast is used internally by AEP for budgeting, forecasting, etc. It is not a targeted analysis aimed solely at justifying AEP Ohio's proposal in this proceeding.[25] Moreover, AEP Ohio's assumption of a $15/ton carbon cost in 2028 escalating at 5% is not unreasonable. Rather, it is a common industry practice that has been adopted by many states.[26] Additionally, this carbon cost is *"less stringent and not intended to achieve the national mass-based emission targets similar to those in the Clean Power Plan.*[27] Neither is Mr. Torpey's reliance on Company witness Ali misplaced. On rebuttal, Mr. Ali addressed concerns regarding an additional interconnection not included in his initial analysis and confirmed his finding that adding 650 MW of generic renewable energy resources would lower PJM energy prices.[28] Moreover, the outcome of AEP Ohio's financial benefit analysis is sensible given that having AEP as a counterparty

[21] Company Ex. 14 (Direct Testimony of John F. Torpey on Behalf of Ohio Power Company) at 6:6-8.
[22] Tr. Vol. I (January 15, 2019) at 64:11-15.
[23] Id. at 6:6-8.
[24] Id. at 13:3-7.
[25] Company Ex.11 (Direct Testimony of Karl R. Bletzacker on Behalf of Ohio Power Company) at 3:14-4:13.
[26] Tr. Vol III (January 17, 2019) at 782:24-783:2.
[27] Company Ex.11 at 9:5-9.
[28] Company Ex. 26 (Rebuttal Testimony of Kamran Ali) at 6:9-15.

facilitating the development of the proposed resources allows the resource developers to receive lower cost financing and operate with a more leveraged capital structure, thus resulting in lower pricing to customers.[29]

Consequently, AEP Ohio has presented sufficient evidence that generic renewable resources will help satisfy a *"need"* for *"reasonably priced retail electric service"* consistent with the state policy directives set forth under R.C. 4928.02(A). While the impact of debt equivalency costs associated with specific renewable energy resources may alter the economics presented by AEP Ohio in this first phase of this proceeding, that is an issue that can and should be considered in Phase II.

B. *The generic renewable energy projects help address the need for fuel diversity.*

Facilitating the construction of 900 MW of renewable energy in Ohio would contribute to fuel diversity, consistent with the policies outlined in R.C. 4928.02(C) of *"ensur[ing] diversity of electricity supplies and suppliers"* and in R.C. 4928.02(J) of *"provid[ing] coherent, transparent means of giving appropriate incentives to technologies that can adapt successfully to potential environmental mandates."* The Commission has expressed support for fuel diversity in the past, specifically with respect to AEP Ohio's proposed 900 MW of renewable energy resources. In the Purchased Power Agreement Rider case that formed the genesis for AEP Ohio's proposal in this case, Case No. 14-1693-EL-RDR, the Commission expounded on the value of encouraging the development of renewable energy resources in Ohio. The Commission explained that *"[w]ith respect to the provision related to the procurement of additional renewable energy resources in Ohio, the Commission notes that renewable energy plays an integral role in promoting a reliable and cost-effective grid."*[30] Going further, the Commission noted the importance of encouraging the development of solar resources specifically, stating:

> *The Commission supports the construction of new renewables in this state. The state has previously seen a number of wind-related projects approved for siting through the Board, many of which have yet to be constructed. However, solar projects are not as prevalent. Solar projects would enhance the diversity of available generation options. The Commission first encourages that bilateral contracting opportunities be explored to provide support for the construction of renewables. To the extent that bilateral opportunities are not available, the Commission will entertain and review a cost recovery filing, first focusing on enhancing solar opportunities. We also direct AEP Ohio to*

[29] Tr. Vol. I (January 15, 2019) at 67:19-68:2.
[30] Opinion and Order, Case Nos. 14-1693-EL-RDR at 82.

demonstrate that bilateral opportunities were explored and that a competitive process was utilized to source and determine ownership of any project to be built.[31]

Further, it is undeniable that many Ohioans believe that renewable power is the wave of the future. The desires of the populace for additional green power should not be a determinative factor in the Commission's *"need"* inquiry, but it may still factor into that analysis.

It should also be noted that utility-scale renewable energy resources and small-scale roof-top solar are not mutually exclusive. Both can exist in harmony. They may even be synergistic. The 4,000 construction workers needed for the large-scale utility projects will represent a skilled workforce that can be used for smaller projects once the big projects are completed.

While opponents argue that the development of renewable energy resources should be left to the market, they ignore current facts on the ground. AEP Ohio witness Allen testified that *"there is an undersupply of renewable power to meet the needs of AEP Ohio customers,"* noting *"very slow growth"* of Ohio solar resources in particular over the last 10 years.[32] And PJM does not seek to prioritize the development of renewable energy, and certainly not renewable energy in Ohio.[33] PJM is fuel agnostic. PJM is only concerned with cost and reliability, no matter the source and no matter the location. Ohio, however, like all other PJM states, is free to develop a generation policy that serves its own specific interests. Moreover, as discussed below, the type of large-scale renewable projects proposed by AEP Ohio in this proceeding are unattainable for many of the Company's customers.[34] AEP Ohio's proposal would thus represent a significant step forward in furthering the fuel diversity state policy objectives set forth under R.C. 4928.02(C) and R.C. 4928.02(J).

C. *The generic renewable energy projects help address the need for rate stability.*

The proposed generic renewable energy resources would provide rate stability to retail customers, serving as a twenty-year fixed cost hedge (comprising about 4.55% of AEP Ohio's total energy load) against potentially

[31] Opinion and Order, Case Nos. 14-1693-EL-RDR at 83.
[32] Tr. Vol. I (January 15, 2019) at 87:1-7 and 142:3-7.
[33] Company Ex. 3 (Direct Testimony of William A. Allen on Behalf of Ohio Power Company) at 9:3-7; IGS Ex. 1 (IGS-INT-2-004).
[34] Tr. Vol. I (January 15, 2019) at 87:15-21, 89:6-17 and 152:4-18.

volatile market prices, in furtherance of the statutory objectives set forth in R.C. 4928.143(B)(2)(d).[35] The plain language of R.C. 4928.143(B)(2)(d) reflects that rate stability is a statutory objective of the General Assembly.

AEP Ohio's resource planning projections demonstrate that 900 MW of generic renewable projects would result in greater rate stability for customers. The cost of the resources – a fixed price recovered over 20 years – would be incredibly stable. In fact, significantly more stable than the OVEC costs recently approved for recovery by the Ohio Supreme Court to enhance rate stability since the OVEC net costs or credits could fluctuate over time.[36] Moreover, the fuel diversity provided by the proposed generic renewable energy resources would help protect against overreliance on one particular fuel source as well as the potential for future carbon regulation.

This type of long-term fixed price hedge is not currently available to all customers in AEP Ohio's territory. Only moderate-to high-income residential customers can afford behind-the-meter solar facilities costing thousands of dollars.[37] And many business customers are either unable or reluctant to commit to 20-year contracts or projects that are not core to their business expertise.[38] Indeed, customers seeking out fixed price renewable contracts with CRES providers can only do so for a limited number of years and subject to "*regulatory out*" clauses that allow the CRES provider to change the price terms of that contract in the event of certain regulatory developments.[39] This occurred during the polar vortex of 2014, when many consumers found that fixed priced CRES contracts were not really fixed. Consequently, given that the type of highly stable renewable energy hedge proposed by AEP Ohio is a rate stability solution not readily available on the market, AEP Ohio has demonstrated a *"need"* for the proposed resources.

D. ***The generic renewable energy projects will help address the need for economic development in Ohio.***

Constructing 900 MW of renewable energy resources in Ohio would *"facilitate the state's effectiveness in the global economy"* as directed by R.C. 4928.02(N) by creating new jobs and tax revenues in an otherwise depressed portion of the State. Ohio's current role as a net electric importer *"results in energy dollars from Ohio*

[35] Tr. Vol. I (January 15, 2019) at 56:2-4.
[36] *In re Application of Ohio Power Co.*, Slip Opinion No. 2018-Ohio-4686.
[37] Tr. Vol. I (January 15, 2019) at 89:6-17 and 153:6-13.
[38] Id. at 88:7-23 and 152:4-18.
[39] OEC Exs. 1-3 and 6.

customers being exported to generators outside of Ohio and providing economic development benefits to residents and businesses in those other states."[40] But "*[w]hen Ohio's energy dollars are reinvested in the state through locally produced energy the multiplier effect of economic development is increased to the benefit of … customers and communities."*[41] The increased presence of renewable energy resources in Ohio also helps to attract businesses with sustainability goals, facilitating economic development in the State.[42] Moreover, generic renewable energy projects could produce economic development benefits for Ohio at a relatively small cost while also providing NPV benefits to customers. Given that economic development is an important objective for the state of Ohio, appearing multiple times through Chapter 49 of the Revised Code, including in R.C. 4928.143(B)(2)(i), that factor should be given due weight in the Commission's *"need"* analysis in this proceeding.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Commission should find that AEP Ohio's proposal satisfies the *"need"* requirement set forth in R.C. 4928.143(B)(2)(c) and that AEP Ohio should be permitted to proceed to Phase II of this proceeding.

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[40] Company Ex. 3 at 10:5-7.
[41] Id. at 10:13-15.
[42] Id. at 10:15-17.

CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail this 6th day of March, 2019 to the following:

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