

**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
)	

**MEMORANDUM OF THE OHIO COAL ASSOCIATION
IN OPPOSITION TO AEP OHIO'S MOTION TO STRIKE
OR DEFER INTERVENOR TESTIMONY**

I. INTRODUCTION

AEP Ohio has filed a motion to strike or defer admission of certain portions of the Direct Testimony of Emily S. Medine and the Direct Testimony of Richard E. Brown, Ph.D., P.E. and his accompanying Expert Report, witnesses offered by Intervenor Ohio Coal Association ("OCA"). AEP Ohio does not contend the evidence is irrelevant to these consolidated proceedings but rather asserts the evidence should be deferred to the next phase of these proceedings—and not be admitted in evidence during the first “need” phase of these cases.

Contrary to AEP Ohio's claims, the evidence challenged directly rebuts the assertions made, and evidence offered, by AEP Ohio regarding not only the issue of "need" under

R.C. 4928.143(B)(2)(c), but also directly rebuts AEP Ohio's claims and proffered testimony regarding the purported "economic cost benefit", erroneously asserted by AEP Ohio to be relevant to the statutorily-required determination of need. AEP Ohio's assertion of the relevance of purported "economic benefit" is wrong, but if the Commission is going to permit AEP Ohio to introduce its proffered testimony on those issues, then the testimony of OCA witnesses Brown and Medine is equally admissible to rebut AEP Ohio's fallacious analyses.

AEP Ohio has unequivocally conceded that it cannot establish "need" for these facilities under R.C. 4928.143(B)(2)(c) pursuant to this Commission's precedent, *i.e.*, that, based on resource planning projections, generation needs cannot otherwise be met through the competitive market. See *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer*, Nos. 11-346-EL-SSO, *et al.*, slip op. at 39 (Dec. 14, 2011); *In re Long Term Forecast Report of Ohio Power Co.*, Nos. 10-501-EL-FOR & 10-502-EL-FOR (Jan. 9, 2013). Indeed, in its Amendment, AEP Ohio readily acknowledges that "that *PJM wholesale markets are adequately supplying capacity and energy to the AEP Ohio load zone. * * * Nor is the Company proposing through this filing that it has a traditional integrated resource planning (IRP) need for generation.*" Amendment at 3 (emphasis added).

The Commission's Staff has independently confirmed that there is no capacity or energy "need" for 900 MW of renewable energy projects. (Direct Test. Siegfried, p. 4). Since there is no "need" for the projects based on resource planning projections, the standard that defines "need" under R.C. 4928.143(B)(2)(c), AEP Ohio cannot satisfy the predicate requirement under R.C. 4928.143(B)(2)(c) and no nonbypassable surcharge is merited. The case should be summarily concluded and the relief sought by AEP Ohio denied.

The OCC, the OMAEG, Kroger, Interstate Gas Supply and the OCA have filed a Motion In Limine to exclude evidence proffered by AEP Ohio to show need based on so called "economic benefit". This motion in limine seeks exclusion of any evidence that customers "want" or "desire" renewable energy and job creation and claimed "economic development benefits". These claimed "economic benefits" are irrelevant to the issue of "need" or any other issue under R.C. 4928.143(B)(2)(c). See In the Matter of the Long-Term Forecast of Ohio Power and Related Matters, Case No. 10-501-EL-FOR et seq., Opinion and Order at 25-27 (Jan. 9, 2013).

Notwithstanding the express provisions of R.C. 4928.143(B)(2)(c) and established Commission precedent, AEP Ohio has attempted to define (or redefine) "need" in its Amendment in terms of the relative costs of renewable energy projects, and in doing so, relies exclusively on assertions regarding "generic" solar and wind projects to demonstrate "economic benefit," which is wholly irrelevant to the mandatory conditions of R.C. 4928.143(B)(2)(c). For example, AEP Ohio states that "the RGR will provide a necessary and *valuable price advantage for customers* (as compared to market prices) over the lives of the renewable facilities approved for inclusion in the RGR. Amendment at 5 (emphasis added). Indeed, AEP Ohio expressly noted that it would "ask the Commission to consider both cases together and *include all of the favorable economic benefits accruing to AEP Ohio customers together to further bolster the threshold need finding.*" Amendment at 6 (emphasis added). And, AEP Ohio stated in its Amendment that its witnesses' testimony related to costs would "substantiate" the need for the facilities:

A portion of customers' market-based generation charges will be offset by the RGR based upon the power generated from a specific renewable facility, rendering their generation charges either lower or higher depending on the then-current relationship to market prices. As Company witness [John] Torpey's

testimony discusses, renewable energy projects with characteristics similar to the generic projects modeled in the Company's IRP are projected to result in *lower costs to customers* relative to market prices over the project life cycles. *Thus, renewable projects priced similarly to those modeled in the IRP would help substantiate a resource planning need for AEP Ohio's customers.*

Amendment at 6 (emphasis added). See also Amendment at 7 ("The need for renewable energy projects in Ohio is also supported by the fact that developing at least 650 MW of wind and solar resources is expected to lower the locational marginal price (LMP) of energy in the AEP zone, and *reduce the total yearly cost of energy in the AEP zone, by several million dollars a year.*") (emphasis added); Amendment at 10 (Torpey's testimony will, *inter alia*, "present[] *the cost savings* associated with the addition of economically beneficial renewable resources.") (emphasis added).

None of AEP Ohio's proposed evidence is relevant to the issue of "need" under R.C. 4928.143(B)(2)(c). Should the Commission, however, permit AEP-Ohio to pursue in the "need" phase any issue beyond the narrow issue of "need" based on integrated resource planning projections, the Commission must also allow rebuttal evidence from intervenors. AEP Ohio should not be permitted to open the door to irrelevant issues and then preclude responsive evidence. AEP Ohio's motion in limine is without merit and must be denied.

II. PROCEDURAL BACKGROUND

On April 16, 2018, AEP Ohio filed its 2018 Long Term Forecast Report in Case No. 18-501-EL-FOR. On September 19, 2018, AEP Ohio filed an Amendment to the Long-Term Forecast Report. The purpose of the Amendment was to demonstrate a claimed generic "need" for at least 900 MW of renewable energy projects in Ohio - 500 MW nameplate capacity of wind energy projects and 400 MW nameplate capacity for solar projects in Ohio. AEP Ohio acknowledged that these projects were subject to PUCO approval pursuant to

R.C. 4928.143(B)(2)(c) and cost recovery through a PPA Rider. AEP Ohio expressly acknowledged in the Amendment that a statutory predicate for a nonbypassable surcharge for the life of the facility under R.C. 4928.143(B)(2)(c) is that the Commission “first determines in the proceeding that there is a need for the facility based on resource planning projections submitted by the electric distribution utility.” Amendment at 2 (quoting R.C. 4928.143(B)(2)(c); citing Ohio Adm. Code 4901:1-35-03(C)(9)(b)(i)).

On April 25, 2018, in PUCO Case No. 16-1852-EL-SSO, *et al.*, the Commission approved the creation of a placeholder Renewable Generation Rider (RGR) to recover costs associated with new renewable generation projects. Again, AEP Ohio acknowledged that it must make EL-RDR filings under the RGR to obtain Commission approval for specific renewable projects and must demonstrate that those projects meet the criteria in R.C. 4928.143(B)(2)(c).

On September 27, 2018, AEP Ohio filed an Application (PUCO Case No. 18-1392-EL-RDR and 18-1393-EL-ATA) seeking PUCO approval of a proposal to enter into two Renewable Energy Purchase Agreements for inclusion in the RGR - a proposed 300 MW solar facility (Highland Solar or "Hecate") and a proposed 100 MW solar facility (Willowbrook). AEP Ohio seeks a Commission order finding these REPAs are reasonable and prudent and seeks recovery through the RGR of a nonbypassable charge under R.C. 4928.143(B)(2)(c) (inclusive of REPA costs and debt equivalency costs) for the life of the facilities.

The PUCO Staff filed a Motion For Hearing in Case No. 18-501-EL-FOR. Staff asserted the question of "need" under R.C. 4928.143(B)(2)(c) was “relatively novel, complex, and is likely to attract considerable public interest. Such facilities would potentially have very significant consequences, financial and environmental, for decades.” Staff Motion for a Hearing at 2.

AEP Ohio opposed Staff's motion but alternatively argued for consolidation of Case No. 18-501-EL-FOR with Case No. 18-1392-EL-RDR and 18-1393-EL-ATA. Indeed, AEP Ohio argued for consolidation of these cases contending that "the Commission should interpret the applicable statutes and rules together in a manner that promotes efficiency and expediency - in order to provide a fair and timely opportunity for the Company to pursue this legislatively - created option." Memorandum Contra Motion For Hearing, p. 3.

On October 22, 2018, the Attorney Examiner issued her Entry granting the Staff's request for hearing and granting AEP-Ohio's motion to consolidate the cases. The Attorney Examiner concluded:

Consistent with prior precedent, the attorney examiner finds that consolidation of all three cases is reasonable and appropriate, in light of their common issues and the administrative efficiencies to be gained from consolidation.

Entry at 11, ¶32 (Oct. 22, 2018) (emphasis added). However, the Attorney Examiner directed the bifurcation of these cases into two phases - the "need" for the facility to be heard first as a distinct issue under R.C. 4928.143(B)(2)(c) with cost recovery through the nonbypassable surcharge under R.C. 4928.143(B)(2)(c) to be heard in a subsequent phase. The Attorney Examiner noted:

Ohio Adm. Code 4901:1-35-03(C)(9)(b)(i) provides that, when an electric utility in an ESP application seeks authority to impose a surcharge pursuant to R.C. 4928.143(B)(2)(c) for an electric generating facility owned or operated by the utility, the need for the proposed facility must have already been reviewed and determined by the Commission through an integrated resource planning process filed pursuant to Ohio Adm. Code 4901:5-5-05.

Entry at 11-12, ¶32 (Oct. 22, 2018) (emphasis added.)¹

¹ Ohio Adm. Code 4901:1-35-03(C)(9)(b)(i) states as follows:

(b) Divisions (B)(2)(b) and (B)(2)(c) of section 4928.143 of the Revised Code, authorize an electric utility to include unavoidable surcharges for construction, generation, or environmental expenditures for electric generation facilities owned or operated by the electric utility. Any plan

III. AEP OHIO'S CASE IN CHIEF

Significantly, as noted above, AEP Ohio admits that there is no need for supply of capacity and energy in the AEP Ohio load zone and disclaims that additional solar or wind generation resources are necessary to meet the benchmarks of R.C. 4928.64. Amendment at 3. Nor is AEP Ohio proposing that there is a traditional interpreted resource planning need (IRP) for this generation. *Id.*

AEP Ohio witness Allen acknowledges that OAC Rule 4901:5-06(B) requires that an LTFR filing include an integrated resource plan (IRP) if a company intends to file for a nonbypassable surcharge under R.C. 4928.143 (B)(2)(c). Inconsistently, Allen asserts that AEP Ohio is not requesting a finding of "need" under R.C. 4928.143 (B)(2)(c) for any specific renewable project - particularly the Hecate and Willowbrook projects. Allen Testimony at 3-4.

Instead, AEP Ohio contends there is a generic "need" for 900 MW of renewable energy projects. In Case No. 18-501-EL-FOR and in the September 19, 2018 Amendment, AEP Ohio focuses exclusively on generic renewable resources rather than on the specific solar generation projects at issue - Hecate and Willowbrook. AEP Ohio witness Allen suggests that the addition of "economically beneficial" renewable projects will lead to lower energy costs for consumers. Allen Testimony at 7-8. AEP Ohio relies principally on its witness Torpey to demonstrate generic renewable energy projects modeled in the IRP are projected to result in lower costs to

which seeks to impose surcharge under these provisions shall include the following sections, as appropriate:

- (i) The application must include a description of the projected costs of the proposed facility. The need for the proposed facility must have already been reviewed and determined by the commission through an integrated resource planning process filed pursuant to rule 4901:5-5-05 of the Administrative Code.

consumers relative to market prices over the project life cycles. Amendment at 5-6; Allen Testimony at 12-13.

Company Witness Torpey then sponsors the IRP and presents an analysis of the "levelized" costs of generic wind and solar facilities. Torpey relies, however, on the cost and production data received in AEP Ohio's recent 250 MW wind and 400 MW solar Request for Proposals in 2018. Torpey Testimony at 5. Accordingly, AEP Ohio put the solar RFPs directly at issue in this case.

Torpey then provides an analysis of Locational Marginal Price and other "economic benefits" to REPA costs to determine a "break even" analysis, again for generic, hypothetical solar and wind facilities without reference to the specific projects at issue. The forecast utilizes capacity values established through the PJM Base Residual Auction. Again, Torpey's fails to reconcile hypothetical, levelized costs for generic facilities with the actual REPA costs of the specific projects at issue. Torpey Testimony at 5-9.

In short, AEP Ohio's generic cost analysis provides no real-world economic cost/benefit analysis of the two specific solar projects at issue under R.C. 4928.143(B)(2)(c). Actual operational parameters, costs, cost recovery and rates must be addressed in reference to the specific REPAs at issue - for Hecate and Willowbrook. In the real-world, AEP Ohio must demonstrate that there is a "need" for these specific facilities which can be cost-justified and economic in the competitive PJM market.

Significantly, AEP Ohio itself unilaterally imposes at least five (5) conditions to its proceeding with its own proposal for the two specific facilities at issue. These conditions are:

1. The PUCO must approve the REPAs as prudent in their entirety.
2. The PUCO must find the requisite "need" for these two specific solar facilities under R.C. 4928.143 (B)(2)(c).

3. The PUCO must approve the requested nonbypassable surcharge covering claimed "costs" for the 20 year life of the REPAs.

4. In approving the nonbypassable surcharge, the PUCO must allow recovery of the proposed debt equivalency charge - a cost of over \$100 million over the 20 year life of the REPAs.

5. The PUCO must allow the requested capacity performance assessment.

Absent Commission acceptance of these unilateral pre-conditions, AEP Ohio will not proceed with its own proposal and the REPAs will terminate. It is apparent that AEP Ohio conditions the "need" for these two solar projects on cost recovery acceptable to AEP Ohio.

IV. THE PREDICATE CONDITIONS OF "NEED" UNDER R.C. 4928.143(B)(2)(c)

R.C. 4928.143(B)(2)(c) is a narrow statute authorizing an electric distribution utility to recover the costs of a qualifying facility, specified in the application through a nonbypassable surcharge for the life of the facility but only if there is to a demonstrated "need" for the facility. The specific facility at issue must be owned or operated by the EDU and the source must be competitively bid. The statute presents a very narrow and restricted exception to the State scheme to deregulate utility generation resources to permit and implement generation resource competition. AEP Ohio's proposal in these cases would permit AEP Ohio to re-enter the regulated generation environment to contract for unneeded solar generation capacity and energy, at total costs in excess of the competitive market, replete with artificial tax credits and incentives to subsidize the facility and pass 100% of the costs on to both jurisdictional captive customers and shopping customers through the nonbypassable surcharge. This proposal, viewed in its entirety, violates R.C. 4928.143(B)(2)(c) and is inconsistent with the State's stated policy under R.C. 4928.02.

R.C. 4928.143(B)(2)(c) expressly provides for six (6) predicate conditions to satisfy the narrow exception of the statute. These predicate conditions are:

1. The specific generating facility at issue must be directly owned or operated by the EDU.
2. The specific facility must be newly used and useful on or after January 1, 2009 and must be sourced through a qualifying competitive bid process.
3. The EDU may establish a nonbypassable surcharge to cover costs of the utility specified in the application.
4. No surcharge shall be authorized unless the Commission first determines in the proceeding that there is a need for the facility proposed based on resource planning projections submitted by the EDU.
5. The EDU shall dedicate to Ohio consumers the capacity and energy and the rate associated with the cost of that specific facility.
6. Before authorizing the surcharge, the Commission may consider, as applicable, the effects of any decommissioning, deratings and retirements.

As noted above, the Commission has previously ascribed a narrow meaning of the word "need" as it is used R.C. 4928.143(B)(2)(c). The Commission has ruled that "need" is established only when, based on resource planning projections, generation needs cannot be met through the competitive market. Such approval should only be given by the Commission when it concludes that "generation needs cannot be met through the competitive market." *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company doe Authority to Establish a Standard Service Offer*, Nos. 11-346-EL-SSO, *et al.*, slip op. at 39 (Dec. 14, 2011) ("While Section 4928.143(b)(2), Revised Code, provides the Commission with authority to order construction of new generation facilities in Ohio, such new generation or capacity projects will only be authorized when generation needs cannot be met through the competitive market."). See also *In re Long Term Forecast Report of Ohio Power Co.*, Nos. 10-501-EL-FOR & 10-502-EL-FOR (Jan. 9, 2013) ("The Commission noted that it would first look

to the market to build needed capacity and that new generation or capacity projects would only be authorized under Section 4928.143(B)(2), Revised Code, when generation needs cannot be met through the competitive market.”).

The Commission also concluded that "need" under R.C. 4928.143(B)(2)(c) must be established for a specific generating facility at issue. *Id.* at 27 (finding no demonstration of "need" under R.C. 4928.143 (B)(2)(c) for the specific "Turning Point" project at issue). Job creation and socio-economic benefits are not relevant under R.C. 4928.143 (B)(2)(c). *Id.* at 25-27.

**V. OCA'S EVIDENCE IS RELEVANT TO THE
ISSUES BEFORE THE COMMISSION
AND IS DIRECTLY RESPONSIVE TO THE
ISSUES RAISED BY AEP OHIO IN THIS CASE.**

**A. The Lack of "Need" For The Specific Facilities
At Issue Under R.C. 4928.143(B)(2)(c).**

The predominate issue under R.C. 4928.143(B)(2)(c) is whether there is "need" for an otherwise qualifying, specific facility. Again, the Commission has previously determined that "need" for the facility must not be capable of being met in the competitive market. As addressed above, AEP Ohio, and its customers, do not "need" the Hecate and Willowbrook facilities because capacity and energy needs can be met in the PJM competitive market. Nor is the facility required to satisfy benchmarks under R.C. 4928.64. AEP Ohio, and its customers, certainly do not "need" a generation source that is not cost competitive or economically justified. AEP Ohio's exclusive focus on generic resources rather than the specific facilities at issue is both irrelevant and inconsistent with R.C. 4928.143(B)(2)(c).

The operation, design, output, costs, cost recovery, capacity factors and reliability of the specific sources at issue can only be determined by critical examination of the actual REPAs at

issue. AEP Ohio has raised these issues by claiming that generic renewable facilities are cost justified and provide an economic benefit. However, AEP Ohio wholly ignores the actual operation, output, costs, capacity factors and reliability of the specific projects at issue.

OCA Witness Brown addresses the "generic" project economics addressed by Torpey at pages 13-17 and 59-60 of his Expert Report. This evidence is not at issue. Mr. Brown then addresses the specific project economics for the Hecate and Willowbrook facilities at pages 18-23 of his Report and at conclusions 2-5 and 7 of his testimony. Ms. Medine addresses the specific REPA costs for the projects at issue at pages 13 and 32 of her testimony. AEP Ohio seeks to exclude this evidence from this phase and defer it to the next phase.

The subject evidence now sought to be excluded is responsive to AEP Ohio's proffered evidence of "economic benefit" as a basis for need - particularly as addressed in the Allen and Torpey testimony. AEP Ohio's view of the issue of "need" is erroneous, but if allowed, the testimony of OCA's witnesses should be allowed in rebuttal. AEP Ohio has attempted to justify "need" based on consideration of generic renewable energy costs while wholly ignoring the real-world evidence pertaining to the actual facilities it proposes.

B. "Own Or Operate" Element of R.C. 4928.143(B)(2)(c).

Another predicate issue under R.C. 4928.143 (B)(2)(c) is whether the EDU will "own or operate" the specific generating facility at issue. This issue was not addressed in the Attorney Examiner's Entry of October 22, 2018. The "own or operate" issue is not necessarily a "tariff" issue to be resolved in the next phase.

Ownership and operation of the two solar facilities is dictated by the REPA agreements which both require that Hecate or Willowbrook will own and operate the facility. OCA witness Richard E. Brown addresses this issue in his Report at pages 42-46 and in his Testimony at

Conclusion 2. See specifically Hecate REPA at Section 10.1 and Willowbrook REPA at Section 10.1. The evidence is obviously relevant to the issues under R.C. 4928.143(B)(2)(c). If the subject facilities are not "owned or operated" by the EDU, the facility is not a qualifying facility in the first place.

**C. The Competitive Bid Process Issue
and the RFP Under R.C. 4928.143(B)(2)(c).**

Another predicate issue under R.C. 4928.143(B)(2)(c) is whether the specific source is sourced through a competitive bid process subject to rules adopted by the Commission. A qualifying facility must be sourced in an appropriate competitive bid process. Again, this issue was not addressed in the Attorney Examiner's Entry of October 22, 2018. Again, the "competitive source" issue is not necessarily a "tariff" issue to be resolved in the next phase.

The RFP and competitive bid issue are addressed in the Direct Testimony of Medine at page 13. The competitive bid and RFP issues are relevant under R.C. 4928.143(B)(2)(c) and relate to whether the facility is a qualifying facility in the first place. Additionally, AEP Ohio Witness Torpey relies on the RFPs for cost and production data in his analysis. (Direct Test. Of Torpey, p. 5). AEP Ohio puts the solar RFPs directly at issue in this case. AEP Ohio cannot prove the specific projects at issue are "economically" beneficial until it addresses the RFPs that drive economically and competitively bid resources.

**D. Debt Equivalency As An Element
Of Cost Of The Facilities At Issue.**

R.C. 4928.143(B)(2)(c) permits the imposition of a nonbypassable surcharge, but only for a qualifying facility where there is a demonstrated "need" for the specific facility. The nonbypassable surcharge shall cover the costs of the utility specified in the application. In these cases, AEP Ohio demands recovery of over \$100 million in debt equivalency charges over the 20

year term of the REPAs. This cost adds significantly to the "costs" of the facility resource - which costs AEP Ohio has put at issue in the "need" phase of the proceedings. But, AEP witness Torpey ignores debt equivalency charges in his generic analysis of hypothetical renewable facilities. The imposition of these charges would make the specific facility not cost-justified or economically beneficial. AEP Ohio addresses comparable costs and levelized costs of generic facilities to justify "need", but wholly ignores the cost structure of the facilities at issue. The "break even" analysis must be based on actual costs and cost recovery claimed by the Company.

Mr. Brown addresses the debt equivalency charge issue at pages 8-12 and at conclusion 7 of his Direct Testimony, which provides:

7. AEP's own publically disclosed financial analysis shows that Willowbrook and Hecate EPA costs are much higher than market solar rates in early years for all scenarios. Inclusion of debt equivalency cost recovery makes the cost to customers even higher: an additional \$7.05/MWH for Hecate and an additional \$6.69/MWH for Willowbrook.

Mr. Medine addresses debt equivalency recovery at Page 25 of her testimony—concluding that generic costs addressed by Torpey fail to account for claimed debt equivalency costs.

This evidence is relevant to rebut AEP Ohio's proffered evidence as to "economic benefit" to justify "need" for the facilities because the claimed comparable, levelized costs for solar projects do not reflect all costs claimed by AEP Ohio. Torpey's break-even analysis is incomplete and not supported and is fairly subject to rebuttal by OCA's witnesses.

F. State Public Policy Issues.

In its September 19, 2018 Amendment, AEP Ohio suggests its proposal furthers state energy policy. Amendment at 3-4. OCA Witness Brown refutes this assertion at pages 56-58 of

his Expert Report - albeit in the context of Company witness Williams' assertions. This testimony should not be excluded merely because of the reference to Mr. Williams' testimony. The testimony should stand on its own in rebuttal to the assertions made in the application that the proposal furthers state energy policy.

G. The "Green Tariff"

Ms. Medine addresses the requested "Green Tariff" at page 11 of her testimony. The evidence demonstrates that there are alternatives to the proposed projects that address any customer "desire" for renewable generation service without imposing a high cost, nonbypassable rider. On that basis, there is no "need" for the specific projects at issue. This issue was directly raised in the Amendment and in Allen's testimony.

VI. CONCLUSION

AEP Ohio's motion in limine is not well-made and must be denied. AEP Ohio itself concedes there is no capacity or energy "need" for the facilities. Instead AEP Ohio claims that the facilities are "needed" because of claimed "economic costs/benefits" which ignore the real-world costs of the specific facilities at issue as dictated by the specific REPAs also at issue. The evidence AEP Ohio seeks to exclude is relevant to rebut AEP Ohio's claimed "economic benefit" to justify "need" for the facilities. AEP Ohio's view of "need" is inconsistent with R.C. 4928.143(B)(2)(c), but if its evidence is allowed, so should that of OCA. Proper consideration of cost and cost-justification must be based on actual costs and terms and conditions of the specific REPA agreements for the specific facilities at issue - not generic, hypothetical facilities.

There is no lawful basis for the Commission to disregard evidence pertaining to the issue of "need" and relevant under R.C. 4928.143(B)(2)(c). AEP Ohio's requested exclusion of

relevant evidence germane to the issue of "need" unlawfully precludes the Commission's full and reasoned consideration of the issues under R.C. 4928.143(B)(2)(c).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the undersigned counsel served, or arranged for service of, a copy of the Memorandum Of The Ohio Coal Association In Opposition To AEP Ohio's Motion To Strike Or Defer Intervenor Testimony on counsel for AEP Ohio and counsel for all other parties of record in this case by E-mail, on the 9th day of January, 2019.

/s/ John F. Stock _____

John Stock

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