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 INTERVENOR OHIO COAL ASSOCIATION IN OPPOSITION TO THE MOTION OF OHIO POWER COMPANY TO TEMPORARILY HOLD THE MERIT DECISION IN ABEYANCE AND REQUEST FOR EXPEDITED RULING

On April 16, 2018, AEP Ohio filed its 2018 Long Term Forecast Report ("LTFR") in Case No. 18-501-EL-FOR. On September 19, 2018, AEP Ohio filed an Amendment to the LTFR. The purpose of the Amendment was to demonstrate a claimed "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 of solar projects. These projects were subject to Commission 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 p. 2 (quoting 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 Commission 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 facility.

On October 22, 2018, the Attorney Examiner issued an Entry granting the Staff's request for hearing and granting AEP-Ohio's motion to consolidate the cases. Entry at 11, ¶32 (Oct. 22, 2018) However, the Attorney Examiner directed the bifurcation of these cases into two phases - the "need" for the facility 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. Entry at 11-12, ¶32 (Oct. 22, 2018)

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. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Officer*, PUCO Case Nos. 11-346-EL-SSO), et al., p. 39 (Dec. 14, 2011); *In re Long Term Forecast Report of Ohio Power Co.*, PUCO Case Nos. 10-501-EL-FOR and 10-502-EL-FOR (Jan. 9, 2013). Indeed, in its Amendment, AEP Ohio readily acknowledges 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).

Hearings in these consolidated cases occurred in January and February, 2019, the parties filed briefs and the case was submitted for determination by the Commission. On September 19, 2019, the Commission published its agenda for September 26, 2019 which included consideration of an opinion and order in these cases and directed to the first phase merits - consideration of the issues of "need" under R.C. 4928.143(B)(2)(c).

On September 20, 2019, AEP Ohio filed the subject motion seeking a sixty (60) day abeyance for the Commission's merit decision - irrespective of whether the Commission issues a positive or negative decision on the merits on the issue of "need" under R.C. 4928.143(B)(2)(c). AEP Ohio essentially contends that H B 6 conveyed certain "potential benefits" to the solar projects at issue and AEP Ohio will be filing a supplemental filing to somehow reflect these "potential benefits". AEP Ohio, however, does not elaborate on what these "potential benefits" might entail or what new "supplemented" filing would be made. Instead, AEP Ohio asserts the details are "confidential" and cannot be discussed at this time. (AEP Ohio, Memorandum in Support, p. 1).

There is no basis to hold in abeyance the Commission's decision in these consolidated cases. The first phase of the case is limited to the issue of "need" under R.C. 4928.143(B)(2)(c). H B 6 did not amend R.C. 4928.143(B)(2)(c) and does not impact the predicate issue of "need" under the statute. Accordingly, there has been no change in the substantive law under R.C. 4928.143(B)(2)(c). Should the Commission determine there is no "need" for the facilities under R.C. 4928.143(B)(2)(c), the case is over and the applications would be dismissed. If the

Commission finds there is a "need" under R.C. 4928.143(B)(2)(c), these consolidated cases would proceed to the next phase - the rate implications - and AEP Ohio may address in the subsequent phase any "potential benefits" of H B 6.

AEP Ohio has not established any support for holding in abeyance the merits decision in the first phase of these cases. AEP Ohio provides no elaboration of what "potential benefits" under H B 6 might entail or what new supplemental filing would be made because the information purports to be "confidential". AEP Ohio has clearly not established any change in the governing law that would justify any abeyance of a decision of the merits under R.C. 4928.143(B)(2)(c).

Further, AEP Ohio has not justified any expedited ruling under OAC Rule 4901-1-12(C). AEP Ohio has not contacted the remaining parties or sought a waiver of any objection to the request.

AEP Ohio's motion should be denied.

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 foregoing Memorandum In Opposition on counsel for all other parties of record in this case by e-mail, on this 24th day of September, 2019.

/s/ John Stock
John Stock

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Summary: Memorandum OF INTERVENOR OHIO COAL ASSOCIATION
IN OPPOSITION TO THE MOTION OF OHIO POWER COMPANY TO TEMPORARILY HOLD
THE MERIT DECISION IN ABEYANCE AND REQUEST FOR EXPEDITED RULING
electronically filed by John F Stock on behalf of Ohio Coal Association