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VIA HAND DELIVERY

Renee J. Jenkins  
Secretary  
The Public Utilities Commission of  
Ohio  
180 E. Broad Street  
Columbus, OH 43215

RE: In the Matter of the Adoption of Rules for Alternative and Renewable  
Energy Technologies and Resources, and Emission Control  
Reporting Requirements, and Amendment of Chapters 4901:5-1,  
4901:5-3, 4901:5-7 of the Ohio Administrative Code, to Implement  
Senate Bill No. 221; Public Utilities Commission of Ohio, Case No.  
08-888-EL-ORD

Dear Ms. Jenkins:

Enclosed is an original and (7) copies of the Application of the Solid Waste  
Authority of Central Ohio for Rehearing, filed in connection with the above-  
referenced matter.

Thank you for your assistance. If you have any questions, please do not  
hesitate to call.

Sincerely,

*Dennis D. Hirsch /ek.*

Dennis D. Hirsch

Enclosures

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Adoption of Rules for	)	
Alternative and Renewable Energy Technologies	)	
and Resources, and Emission Control Reporting	)	
Requirements, and Amendment of Chapters	)	Case No. 08-888-EL-ORD
4901:5-1, 4901:5-3, 4901:5-7 of the Ohio	)	
Administrative Code, to Implement Senate	)	
Bill No. 221	)	

**APPLICATION FOR REHEARING  
OF THE SOLID WASTE AUTHORITY OF CENTRAL OHIO**

Pursuant to Rev. Code Section 4903.10 and the Ohio Admin. Code 4901-1-35, the Solid Waste Authority of Central Ohio (SWACO) hereby seeks rehearing of the Commission's April 15, 2009 Opinion and Order in this matter (the "Order"). The Order is unlawful, unreasonable and an abuse of discretion for the following reason:

The Order improperly and unreasonably defines "distributed generation" as encompassing only on-site energy production that is "capable of supplying energy to the utility distribution system." Such a definition improperly excludes on-site energy production that is connected to the utility distribution system but is not "capable of supplying energy" to it.

A Memorandum in Support of this Application is supplied herewith.

Respectfully submitted,

THE SOLID WASTE AUTHORITY OF  
CENTRAL OHIO

By: Dennis Hirsch /ek.  
Dennis Hirsch (0076126)

Porter Wright Morris & Arthur  
41 S. High Street  
Columbus, OH 43215  
(614) 227-2064

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Adoption of Rules for	)	
Alternative and Renewable Energy Technologies	)	
and Resources, and Emission Control Reporting	)	
Requirements, and Amendment of Chapters	)	Case No. 08-888-EL-ORD
4901:5-1, 4901:5-3, 4901:5-7 of the Ohio	)	
Administrative Code, to Implement Senate	)	
Bill No. 221	)	

**MEMORANDUM IN SUPPORT OF  
APPLICATION FOR REHEARING**

The Solid Waste Authority of Central Ohio (SWACO) hereby submits this Memorandum in support of its Application for Rehearing of the Commission's Opinion and Order dated April 15, 2009 ("Order"). SWACO is one of the 52 solid waste districts created by the Ohio General Assembly in 1989. SWACO serves Franklin County and Central Ohio by providing waste reduction, recycling and landfill services.

SWACO's Green Energy Center has implemented an innovative system for employing landfill gas to generate renewable electricity. SWACO currently uses this renewable electricity to power its own buildings and operations. This decreases the amount of fossil fuel-based electricity that SWACO would otherwise have to purchase from the utility distribution system.

The Green Energy Center provides many of the environmental benefits that the Ohio Legislature sought to achieve through its passage of Senate Bill 221 and its creation of the Alternative Energy Portfolio Standard program. However, the above-referenced rules would not clearly include this project in the definition of "distributed generation," and so would make it unclear as to whether the project would produce "renewable energy credits." The Commission has previously held that an application for rehearing is the appropriate place to "seek further understanding of the intent and effect of a Commission order."<sup>1</sup>

The rules define "distributed generation" as "electricity production that is on-site or close to the load center and is capable of supplying energy to the utility distribution system." 4901:1-40-01(L). The apparent intent of this definition is to exclude entities that produce electricity on-site and are entirely cut off from the utility distribution system. Such electricity production would not reduce the demand for utility-generated, fossil fuel-based electricity, and so would not achieve the environmental benefits that the General Assembly intended.

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<sup>1</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of Tariffs to Recover, Through an Automatic Adjustment Clause, Costs Associated with the Establishment of an Infrastructure Replacement Program and for Approval of Certain Accounting Treatment*, Case No. 07-478-GA-UNC (Entry on Rehearing, ¶ 13) (September 12, 2007), citing *In the Matter of the Review of Chapters 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 06-685-AU-ORD (Finding and Order, ¶ 59 (December 6, 2006)).

The same cannot be said for on-site electricity production at facilities that *are* connected to the utility generation system, even if they are not "capable of supplying energy" to that system. Facilities of this type, such as SWACO's operation, use the renewable energy that they produce in order to reduce their purchase of electricity from the utility system. This achieves the environmental benefits that the General Assembly seeks to recognize through the awarding of renewable energy credits (RECs). Yet the PUCO rules would appear to deny REC's to such facilities solely because they are not "capable of supplying" energy to the utility distribution system. This makes no environmental sense and runs counter to the General Assembly's purpose.

SWACO accordingly requests that the PUCO change the definition of "distributed generation" to read as follows: "Distributed generation" means electricity production that is on-site or close to the load center *and connected to* the utility distribution system." Such a definition will allow renewable energy produced at facilities such as SWACO's, that are connected to the utility system but are not capable of supplying energy to that system, to qualify for REC's. This will serve the environmental goals of the statute.

Respectfully submitted,

THE SOLID WASTE AUTHORITY OF  
CENTRAL OHIO

By: Dennis Hirsch/ek  
Dennis Hirsch (0076126)

Porter Wright Morris & Arthur  
41 S. High Street  
Columbus, OH 43215  
(614) 227-2064

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing filed on behalf of The Solid Waste Authority of Central Ohio was served by first-class, postage prepaid, U.S. mail and where indicated, electronic mail, upon the individuals listed on this 15<sup>th</sup> day of May, 2009.

By: Dennis Hirsch/ek.  
Dennis Hirsch (0076126)

SERVICE LIST  
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