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In the Matter of The Application of R.E.)
 Burger Units 4 and 5 For Certification As) Case No. 09-1940-EL-REN
 An Eligible Ohio Renewable Energy)
 Resource Facility)

COMMENTS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

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**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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In its Finding & Order dated August 11, 2010, the Commission approved the application of the R.E. Burger (Burger) facility as an eligible Ohio renewable energy resource generating facility. Within the Finding & Order, the Commission directed the following (Finding 21, p. 10):

With respect to the creation of a methodology to determine the existing market value of a REC, the Commission finds that additional comments are necessary to address this issue. Accordingly, the Commission will establish a 60-day comment period, followed by a 30-day period for reply comments, for interested persons to submit proposals for, or comments regarding, a methodology to determine the existing market value of RECs. Such proposals and comments may include market-based alternatives, such as auctions, to determine the value of RECs. However, this additional comment period will not delay our approval of the certification of the Burger facility as an eligible Ohio renewable energy resource generating facility.

Consistent with this directive, Staff timely submits its comments on the determination of the market value of renewable energy credits (RECs), as well as a number of other related

topics critical to the implementation of the multiplier calculation contemplated by 4928.65, Ohio Revised Code.

4928.65, Ohio Revised Code --- The public utilities commission shall adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources, except that, for a generating facility of seventy-five megawatts or greater that is situated within this state and has committed by December 31, 2009, to modify or retrofit its generating unit or units to enable the facility to generate principally from biomass energy by June 30, 2013, each megawatt hour of electricity generated principally from that biomass energy shall equal, in units of credit, the product obtained by multiplying the actual percentage of biomass feedstock heat input used to generate such megawatt hour by the quotient obtained by dividing the then existing unit dollar amount used to determine a renewable energy compliance payment as provided under division (C)(2)(b) of section 4928.64 of the Revised Code by the then existing market value of one renewable energy credit, but such megawatt hour shall not equal less than one unit of credit.

Staff Comments:

(1) The market value of what kind of REC?

The statutory language is silent as to what kind of REC should be evaluated for purposes of this calculation, and the market value may differ significantly depending on the type of REC considered. Staff believes that a non-solar Ohio REC would be the most appropriate reference point in that such REC would be most comparable to the generation type associated with the Burger facility.

In addition, the statutory language (4928.65, ORC), “the then market value ...”, implies to Staff that the design is intended to utilize a spot REC market value in the

multiplier calculation. Therefore, it is arguably not appropriate to rely on fixed prices from a 20 year purchase agreement, for instance, in the multiplier calculation.

The solar REC market is irrelevant in this context, as Burger is not proposing the use of solar energy resources. Further, as Burger is physically located within the state of Ohio, the market value for out-of-state RECs also seems less relevant for purposes of the multiplier calculation.

(2) How frequently should the multiplier threshold be assessed?

In its Finding & Order, the Commission concluded the following (p.8):

The Commission finds that the Burger facility should be deemed to be generating principally from biomass fuels, and thus that the REC multiplier formula should be applied, only when the Burger facility is operating with no more than 20 percent low-sulfur western coal and fuel oil, co-fired with biomass fuels. At all other times, the test phase formula should be used to calculate the number of RECs generated through the use of biomass fuels at the Burger facility.

It is therefore critical to first determine if the minimum biomass threshold has been achieved. Staff proposes that a monthly determination would represent a reasonable frequency for such an evaluation because the company will be reporting its renewable generation to GATS on a monthly basis. To accomplish this, Staff recommends that the FirstEnergy Generation Corporation be required to aggregate the total heat input for each month at Burger Units 4 and 5 including a specific identification of the total monthly heat input attributable to approved renewable energy resources. If the renewable resource heat input is at least 80% of the total unit heat input for that particular month, then Staff would propose that the multiplier effect be triggered for RECs associated with electric

generation during the month under consideration. If the 80% level is not achieved when looking at the aggregated monthly data, then Staff recommends that any multiplier not be applied for any of the RECs generated during that month.

This monthly percentage, if 80% or greater, would also be directly fed into the monthly multiplier calculation to satisfy the “actual percentage of biomass feedstock heat input used to generate such megawatt hour” component of the formula.

Such calculation should be performed as soon as the monthly input data is available. For purposes of confirmation, Staff recommends that the Company be required to maintain all necessary documentation to verify the monthly calculations and provide such documentation to Staff upon request.

(3) How frequently should the market value be determined?

A market value could presumably be determined over any conceivable time frame, from daily to annually, and everything in between. While the statute is silent on this issue, Staff believes that an annual determination of market value is most appropriate. Staff acknowledges that there may be volatility in the market for non-solar Ohio RECs, volatility that may be diluted by looking at the value annually, but Staff believes that the annual approach offers the most reasonable balance between market accuracy and administrative efficiency.

(4) How should the spot market value for an Ohio non-solar REC be determined?

Although a number of options exist, each with advantages and disadvantages, Staff believes that a market index for non-solar Ohio RECs should be used to determine the spot market value estimate. Staff believes that such an index ideally should be widely

recognized and publicly available. However, it may be necessary to obtain a subscription for such an index in the event one is not publicly available. An appropriately chosen index would provide an unbiased, administratively convenient, and verifiable market value.

Staff proposes to determine the market value in January of each year based on an average of at least quarterly market indices for non-solar Ohio RECs from the previous year. This market value would then be used as the input for the monthly multiplier calculation as applicable during the entire calendar year. For example, Staff would calculate the market value in January 2013 based on data from 2012, and this market value would be applied throughout 2013. Staff acknowledges that this approach would result in the use of somewhat dated market index data to represent the REC market value. However, Staff believes that this approach, in addition to being more efficient administratively, offers benefits in that FirstEnergy Generation Company will know the multiplier during the year, thereby offering greater certainty to compliance efforts. In addition, this approach offers more certainty in the event that any of the Burger RECs are offered for sale, such that both bidders and seller would have more information on the product being offered.

A regulatory process would likely need to be established surrounding the determination of the market value each year, in the event that interested parties contest the Staff's determination. Staff would recommend that such process seek resolution as early in the calendar year as practicable so as to remove uncertainty going forward into the year.

(5) GATS/Multiplier Effect

Per discussions with representatives of PJM's Generation Attribution Tracking System (GATS), their system will not reflect the multiplier concept. They will simply be recording the renewable generation at Burger Units 4 and 5 as RECs on a one-for-one basis, thereby requiring that any consideration of a multiplier effect be managed externally.

(6) Hypothetical Scenarios

(a) No Multiplier Effect

FirstEnergy Generation Corporation compiles the monthly heat input ratios, as recommended above by Staff, and in each case the monthly contribution of biomass resources (based on heat input) is less than 80%. In such a scenario, the multiplier would not be applied to generation for any of the months in question. The Company would, however, continue to receive RECs on a one-to-one basis as a function of the biomass resource contribution (if applicable). Such RECs could be traced back to GATS.

(b) Multiplier Effect for Each Month

FirstEnergy Generation Corporation compiles the monthly heat input ratios, as recommended above by Staff, and in each case the monthly contribution of biomass resources (based on heat input) is at least 80% of total. Under such a scenario, the multiplier factor would need to be calculated each month and applied to the monthly generation volumes attributable to the biomass energy resources.

GATS would maintain a record of RECs on a one-to-one basis, and therefore the multiplier effect would have to be recognized through some other administrative process. Staff proposes that the Company be required to do the following:

- (1) Calculate the multiplier factor for that particular month using the appropriate market value for that calendar year, which Staff will review**
- (2) Maintain a list of RECs generated by Burger Units 4 and 5, per month, and the multiplier factor calculated for that**

particular month – this data would be used when assessing compliance efforts.

(c) Multiplier Effect in Some Months

FirstEnergy Generation Corporation compiles the monthly heat input ratios, as recommended above by Staff, and for some months the contribution of biomass resources (based on heat input) is less than 80%, while it is at least 80% for other months.

In months where the 80% threshold is not achieved, the Company should perform the tasks as described in (a) above for those particular months.

In months where the 80% threshold is satisfied, the Company should perform the tasks as described in (b) above for those particular months.

(d) Numerical Example

- Assume an alternative compliance payment (ACP) of \$45 and a market value of \$30 apply in 2013.
- Assume a biomass contribution of 90% for January 2013.
- Assume Burger Units 4 and 5 generated 1,005 MWHs attributable to the biomass resources during January 2013
- Assume GATS created 1,005 RECs for Burger for January 2013

The biomass threshold was achieved for the month, so a multiplier would be applied. With the above assumptions, the multiplier would be calculated to be 1.35 for January 2013. ($= 0.90 * 45/30$)

Therefore, the 1,005 RECs from January 2013 would have an actual compliance value equivalent to 1,356.75 RECs. Staff proposes to round the REC equivalence to the nearest whole REC, rather than tracking partial RECs, and therefore this example would equate to a compliance equivalence of 1,357 RECs.

Respectfully submitted,

Richard Cordray
Ohio Attorney General

William L. Wright
Section Chief

/s/ Thomas W. McNamee

Thomas W. McNamee
Assistant Attorney General
Public Utilities Section
180 East Broad Street, 6th Floor
Columbus, Ohio 43215-3793
614.466.4397 (Telephone)
614.644.8764 (Fax)
william.wright@puc.state.oh.us
thomas.mcnamee@puc.state.oh.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was served on the persons stated below by regular U.S. Mail, postage prepaid, on this 12th day of October, 2010.

/s/ Thomas W. McNamee

Thomas W. McNamee
Assistant Attorney General

Parties of Record:

David Plusquellic
Manager of Renewable Energy Portfolio
FirstEnergy Solutions
341 White Pond Drive
Akron, Ohio 44320

Henry W. Ekhart
Sierra Club of Ohio
Ekhart Law Office
50 West Broad Street, No. 2117
Columbus, Ohio 43215

Nolan Moser
Will Reisinger
Megan De Lisi
The Ohio Environmental Council
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212-3449

Daniel R. Conway
Porter Wright, Morris & Arthur LLP
41 South High Street
Columbus, Ohio 43215

Michael Heintz
Environmental Law & Policy Center
1207 Grandview Avenue, Suite 201
Columbus, Ohio 43212

Mark Hayden
FirstEnergy Corp.
76 South Main Street
Akron, Ohio 44308

Robert Kelter
Environmental Law & Policy Center
35 East Wacker Drive
Suite 1600
Chicago, IL 60601

American Wind Energy Association
1501 M. Street NW Suite 100
Washington, DC 20005

Joseph Serio
Mary V. Edwards
Ohio Consumer Counsel
10 W. Broad Street, Suite 1800
Columbus, Ohio 43215

Terrence O'Donnell
Bricker & Eckler, LLP
100 S. Third St.
Columbus, Ohio 43215

Jim Lang
Kevin P. Shannon
Trevor Alexander
Calfee, Halter & Griswold LLP
1400 KeyBank Center
800 Superior Avenue
Cleveland, Ohio 44114-2688