

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Alternative Energy)
Portfolio Status Report of Dominion) Case No. 10-2986-EL-ACP
Retail, Inc.)

FINDING AND ORDER

The Commission finds:

- (1) Dominion Retail, Inc. (Dominion Retail), is an electric services company as defined in Section 4928.01(A)(9), Revised Code.
- (2) Section 4928.64(B), Revised Code, establishes benchmarks for electric services companies to acquire a portion of their electricity supply for retail customers in Ohio from renewable energy resources. Specifically, the statute requires that, for 2009, a portion of the electricity sold by means of retail electric sales in Ohio must come from alternative energy resources, including 0.004 percent from solar energy resources (SER), half of which must be met with resources located within Ohio. This requirement increases to 0.010 percent for 2010.
- (3) Section 4928.64(C)(1), Revised Code, requires the Commission annually to review an electric services company's compliance with the most recent applicable benchmark and, in the course of that review, to identify any undercompliance or noncompliance of the company that it determines is weather-related, related to equipment or resource shortages for advanced energy or renewable energy resources as applicable, or is otherwise outside the company's control. To facilitate the Commission's annual review, Rule 4901:1-40-05(A), Ohio Administrative Code (O.A.C.), requires that, unless otherwise ordered by the Commission, each electric services company file by April 15 of each year an annual alternative energy portfolio status report. The report must analyze all activities the company undertook in the previous year in order to

demonstrate how pertinent alternative energy portfolio benchmarks and planning requirements have been or will be met. Additionally, Commission Staff must conduct an annual compliance review with regard to the benchmarks.

- (4) Subject to certain exceptions, Section 4928.64(C)(2), Revised Code, provides that, if the Commission determines, after notice and opportunity for hearing, and based upon its findings in the annual review regarding avoidable undercompliance or noncompliance, that the electric services company has failed to comply with any benchmark, the Commission shall impose a renewable energy compliance payment on the company. Section 4928.64(C)(2)(c), Revised Code, provides that the compliance payment shall be remitted to the Commission, for deposit to the credit of the advanced energy fund created under Section 4928.61, Revised Code.
- (5) On December 10, 2010, Dominion Retail filed its 2009 alternative energy portfolio status report. Dominion Retail recognizes that Rule 4901:1-40-05(A), O.A.C., requires the annual status report to be filed by April 15 but states that it failed to submit the report in a timely manner due to an internal miscommunication regarding the applicable due date. Dominion Retail requests that it be granted leave to file its report out of time.

Dominion Retail reports that, during 2009, it undercomplied by the entire amount of its 2009 alternative energy benchmarks and, therefore, proposes to make a renewable energy compliance payment. Dominion Retail explains that, in view of the nominal nature of the applicable 2009 alternative energy benchmarks and the mid-year effective date of the statute that established them, it made the business decision to make the compliance payment required by Section 4928.64(C)(2), Revised Code, rather than alter its existing resource plan for supplying its Ohio customers in 2009. Dominion Retail also cites the limited availability of Ohio sourced renewable energy credits (RECs) as a reason for its decision not to attempt to purchase RECs to meet its 2009 benchmark obligations.

Dominion Retail assures that it takes its alternative energy benchmark obligations seriously and maintains that it has placed orders for RECs in 2010 that will be applied to its 2010 benchmark obligations. As evidence of its good faith, Dominion Retail asserts that it has elected to forego requesting relief from the 2009 Ohio solar benchmark on the *force majeure* grounds asserted by other electric services companies in connection with their 2009 alternative energy portfolio status reports, notwithstanding the obvious merit of those claims.

Dominion Retail notes that, pursuant to the Commission's Finding and Order in Case No. 10-469-EL-ACP,¹ the compliance payment applicable for undercompliance with the 2009 renewable benchmarks is \$45 per megawatt hour (MWh). Pursuant to Rule 4901:1-40-08(A)(1), O.A.C., the compliance payment applicable for undercompliance with the 2009 solar benchmarks is \$450 per MWh. Accordingly, as Dominion Retail's 2009 benchmark for each of the non-solar renewable resource categories was 181 MWh, Dominion Retail calculates its compliance payment obligation for the non-solar renewable resource categories to be \$16,290. Additionally, as Dominion Retail's 2009 benchmark for each of the solar resource categories was 3 MWh, Dominion Retail calculates its compliance payment obligation for the solar categories to be \$2,700. Dominion Retail combines its non-solar renewable resource and solar resource compliance payments for a total 2009 payment obligation of \$18,990.

- (6) On January 18, 2011, Staff filed findings and recommendations on the matter. With respect to the timeliness of Dominion Retail's alternative energy portfolio status report, Staff believes that Dominion Retail will comply with future filing requirements in a timely manner. Additionally, Staff represents that it finds Dominion Retail's calculation of \$18,990 to be accurate. Staff recommends that Dominion Retail remit payment to the Commission in the amount of \$18,990, consistent with the

¹ In the Matter of the Annual Adjustment of the Non-Solar Alternative Compliance Payment Pursuant to Section 4928.64(C)(2)(b), Revised Code, Case No. 10-469-EL-ACP, Finding and Order (April 28, 2010).

requirements of Rule 4901:1-40-08(B), O.A.C. Finally, Staff recommends that Dominion Retail submit an attestation, indicating that it will not seek to recover the compliance payment from consumers, consistent with Rule 4901:1-40-08(D), O.A.C.

- (7) On February 17, 2011, Dominion Retail filed an affidavit, attesting that, in accordance with the Staff's findings and recommendations, Dominion Retail had submitted its 2009 compliance payment to the Commission's Fiscal Department on February 7, 2011, and that Dominion Retail will not seek to recover the compliance payment from consumers.
- (8) Upon review of Dominion Retail's alternative energy portfolio status report and Staff's findings and recommendations, the Commission grants Dominion Retail's request for leave to file its report out of time.

Further, the Commission finds that Dominion Retail undercomplied by the entire amount of its 2009 alternative energy benchmarks. Considering that Dominion Retail made the business decision to make a renewable energy compliance payment rather than alter its existing resource plan for supplying its Ohio customers in 2009, and has in fact already remitted the compliance payment to the Commission, we find that Dominion Retail's proposal to voluntarily make the compliance payment and forego relief on *force majeure* grounds is reasonable. Therefore, Dominion Retail's compliance payment of \$18,990 should be deposited to the credit of the advanced energy fund created under Section 4928.61, Revised Code.

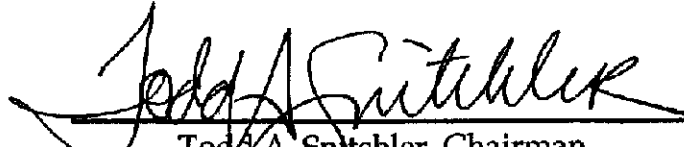
It is, therefore,

ORDERED, that Dominion Retail's request for leave to file its 2009 alternative energy portfolio status report out of time be granted. It is, further,

ORDERED, that Dominion Retail's compliance payment of \$18,990 be deposited to the credit of the advanced energy fund. It is, further,

ORDERED, That a copy of this finding and order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Todd A. Snitchler, Chairman


Paul A. Centolella


Valerie A. Lemmie

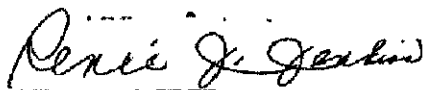
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MLW/sc

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Renee J. Jenkins
Secretary