

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the matter of Direct Energy)
Business Solutions LLC For a)
Waiver From Meeting the 2010 Ohio)
Sited Solar Energy Resource Benchmarks)

Case No. 11-2447-EL-ACP

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**APPLICATION FOR A WAIVER OF THE REQUIREMENT TO PURCHASE OHIO
SITED SOLAR RENEWABLE ENERGY CREDITS FOR CALENDAR YEAR 2010**

Now comes Direct Energy Business LLC ("DEB"), a competitive retail electric service provider ("CRES") and applies to this Commission pursuant to Section 4928.64, Revised Code, for a waiver of the benchmark requirement for Ohio sited Solar Renewable Energy Credits. DEB is authorized to provide retail generation aggregation, power marketer, and power broker services within Ohio pursuant to Certificate No. 00-019(5). DEB has been an active supplier of generation and other competitive services to commercial and industrial customers in Ohio in several electric distribution service areas. As a certificated CRES, in April of 2010 DEB filed a Renewable Energy Report for calendar year 2009. DEB was able to secure all the required general renewable energy credits for service year 2009, the first year that renewable energy portfolio requirements became effective, but was unable to purchase any solar renewable energy credits ("S-RECs") from facilities located in adjoining states which are deliverable into Ohio ("OHS-RECs").

In 2009, DEB filed a pleading demonstrating that there were not enough S-REC facilities to meet the demand for S-RECs. The Commission in Case No. 10-428-EL-ACP exercised its authority under Section 4928.64(C)(4), Revised Code, and determined that an insufficient number of S-RECs existed and thus granted a waiver for both S-RECs and OHS-RECs. The Commission though, in its Finding and Order of April 28, 2010, indicated that the S-REC and

OHS-REC requirements for 2009, rather than being forgiven as a *force majeure*, were being waived, and that CRES and Electric Distribution Utilities must seek in service year 2010 to obtain not only the S-RECs and OHS-REC in sufficient quantities for service year 2010, but also try to obtain makeup quantities of S-RECs and OHS-RECs missed during 2009.

Suppliers operating in states that have renewable energy portfolio standards, such as Ohio, generally purchase S-RECs from an over the counter type market in which brokers match up buyers and sellers of S-RECs. The brokers receive a commission for matching the sellers with buyers, who then deal directly on the sale and transfer of the S-RECs. Given the infancy of the renewable energy credit market, at this time there are only a few brokers for S-RECs in general and OHS-RECs in particular. DEB contacted known REC brokers during the course of 2010 and the first quarter of 2011. DEB was able to purchase all of its 2010 requirement of S-RECs.

DEB was not equally successful, though, in obtaining OHS-RECs. None of the brokers contacted were able to locate any 2010 qualified OHS-RECs offered at prices below the Ohio solar Alternative Compliance Payment (ACP) rate of four hundred dollars (\$400) per S-REC. DEB has attached the names of the brokers it has contacted this year in its effort to find S-RECs and OHS-RECs. These are all of the brokers known by DEB who make a market in S-RECs deliverable to Ohio and OHS-RECs. Appendix A is being provided for purpose of demonstrating that DEB has made a good faith effort to secure the OHS-REC, and to show the small size of the Ohio S-REC market.

DEB believes it is in the best interest of the public and in keeping with the goal of Amended Substitute Senate Bill No. 221 to waive the OHS-REC requirement for 2010 and impose the requirement that CRES like DEB be instructed to find OHS-RECs of sufficient

quantities in 2011 that will fulfill the total quantity of OHS-RECs for the first 36 months of the renewable energy portfolio standards. Waiving the requirement as opposed to charging the ACP will keep the demand for OHS-RECs robust and that should stimulate construction of Ohio sited solar facilities. The success of DEB and other CRES in 2010 in finding not only S-RECs but quantities sufficient to make up for 2009 demonstrates that the market for renewable energy is growing. There is reason to believe that this time next year CRES such as DEB will be reporting that they are able to not only fulfill 2011 requirements for OHS-RECs, but to start making up for past OHS-REC obligations.

WHEREFORE, DEB respectfully requests that the Commission approve this application and issue a Finding and Order, pursuant to Section 4928.64(C)(4), Revised Code, and Rule 4901:1-40-06 of the Ohio Administrative Code, waiving the OHS-RECs requirement for DEB for 2009-2010, on the condition that DEB seek to obtain OHS-RECs in 2011 that would not only fulfill the requirements of calendar year 2011 but make up for some or all of 2009 and 2010 OHS-RECs.

Respectfully submitted,



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APPENDIX A

Procurement of Ohio Solar RECs for 2010 RPS compliance

The US REC market generally functions as an 'over the counter' (OTC) market with buyers and sellers connecting via a small number of established REC brokers. Direct Energy Business, LLC contacted several REC brokers attempting to procure Ohio instate solar RECs. None of the brokers were able to locate any 2010 qualified OH solar RECs offered at prices below the Ohio solar Alternative Compliance Payment (ACP) rate of \$400/solar REC.

Brokers contacted:

Evolution markets Inc.

10 Bank Street

White Plains, NY

10606

Phone: 914-323-0257

ICAP United, Inc.

245 Commerce Green Blvd, Suite 240

Sugar Land, TX

77478

Phone: 281-340-8300

TFS Energy, LLC

680 Washington BLvd, 5th Floor

Stamford, CT

06901

Phone: 212-943-2883

Spectron Energy, Inc

Newport Tower

525 Washington Blvd, Suite 2420

Jersey City, NJ

07310

Phone: 201-757-1379