

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Alternative Energy )  
Portfolio Standard for Calendar Year 2009 ) Case No. 10-507-EL-ACP  
for Integrys Energy Services, Inc. )

FINDING AND ORDER

The Commission finds:

- (1) Integrys Energy Services, Inc. (Integrys), 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 increased to 0.010 percent for 2010.
- (3) In a finding and order issued on April 28, 2010,<sup>1</sup> the Commission granted Integrys' request for a *force majeure* determination, contingent upon Integrys meeting its revised 2010 SER benchmark, which the Commission increased to include the shortfall for the 2009 SER benchmark.
- (4) 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

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<sup>1</sup> In the Matter of the Application of the Retail Electric Supply Association for an Amendment to the 2009 Solar Energy Resource Benchmark Pursuant to Section 4928.64(C)(4), Revised Code, Case No. 10-428-EL-ACP.

requirements have been or will be met. Additionally, Commission Staff must conduct an annual compliance review with regard to the benchmarks. Further, Rule 4901:1-40-08(A), O.A.C., provides that electric services companies that fail to meet their applicable benchmarks are required to remit a compliance payment based on the amount of noncompliance in the absence of a *force majeure* determination. Finally, Rule 4901:1-40-02(A), O.A.C., provides that electric services companies that do not serve Ohio retail electric customers are not required to comply with the terms of the alternative energy portfolio benchmarks.

- (5) On April 15, 2010, Integrys filed its 2009 alternative energy portfolio status report pursuant to Section 4928.64, Revised Code, and Rule 4901:1-40-05(A), O.A.C. In its report, Integrys proposes a baseline and computes its compliance obligations. Regarding its solar obligation, Integrys indicates that it was unable to meet its 2009 SER benchmark. Consequently, in Case No. 10-428-EL-ACP, Integrys sought a *force majeure* determination, pursuant to Section 4928.64(C)(4), Revised Code, regarding its 2009 SER benchmark. Additionally, regarding its overall renewable energy resource compliance obligation, Integrys indicates that it was unable to meet its 2009 benchmark. Therefore, as to its overall compliance obligation, Integrys proposes to remit a compliance payment.
- (6) On May 13, 2010, the Ohio Environmental Council (OEC) filed a motion to intervene in the above-captioned case. No party opposed the motion to intervene. The Commission finds that the motion to intervene is reasonable and should be granted. Further, on May 17, 2010, and May 18, 2010, respectively, OEC submitted comments and amended comments. OEC's initial comments focused on a perceived lack of justification for a *force majeure* determination related to the solar requirements. The amended comments acknowledged the *force majeure* determination issued by the Commission on April 28, 2010, in Case No. 10-428-EL-ACP, but nevertheless expressed OEC's objections to "blanket" *force majeure* determinations.
- (7) On May 21, 2010, the Retail Electric Supply Association (RESA) filed reply comments, citing the Commission's decision in Case

No. 10-428-EL-ACP and setting forth its support for blanket *force majeure* determinations where appropriate.

- (8) On April 19, 2011, in the above-captioned case, Staff filed its findings and recommendations on Integrys' alternative energy portfolio status report. Initially, Staff finds that Integrys was required to comply with the terms of the alternative energy portfolio benchmarks for 2009, as it engaged in retail electric sales in Ohio.

Additionally, Staff indicates that it reviewed Integrys' computations of its baseline and compliance obligations for 2009. Staff finds that the baseline proposed by Integrys is reasonable. Further, Staff finds that Integrys accurately computed its 2009 compliance obligations. Staff reports that Integrys did not secure sufficient renewable energy credits (RECs) and, consequently, proposed to submit the annual compliance payment. Further, Staff finds that Integrys did not secure any solar RECs to meet its 2009 solar compliance obligation. However, Staff notes that the Commission approved the *force majeure* determination request by Integrys in Case No. 10-428-EL-ACP. Thus, Staff finds that Integrys complied with its 2009 revised solar obligation.

As a result of its review, Staff recommends that Integrys be found in compliance with its revised solar obligation for 2009 and that Integrys' SER benchmark for 2010 be increased to include the shortfall for 2009, consistent with the Commission's *force majeure* determination in Case No. 10-428-EL-ACP. Staff further recommends that, to address its shortfall relative to its overall compliance obligation, Integrys remit a compliance payment to the Commission in the amount of \$1,170 consistent with the requirements of Rule 4901:1-40-08(B), O.A.C.

- (9) Upon review of Integrys' alternative energy portfolio status report, OEC's comments, and Staff's findings and recommendations, the Commission finds that Integrys satisfied its revised solar obligation for 2009. Consequently, consistent with our approval of Integrys' request for a *force majeure* determination in Case No. 10-428-EL-ACP, we find that Integrys' solar compliance obligation for 2010 should be

increased to include the shortfall for 2009 as calculated by Staff in the confidential version<sup>2</sup> of its findings and recommendations filed on April 19, 2011. Further, we find that Integrys failed to satisfy its overall renewable energy resource compliance obligation and, consequently, shall remit a compliance payment to the Commission in the amount of \$1,170 as calculated by Staff and consistent with the requirements in Rule 4901:1-40-08(B), O.A.C. The payment shall be directed to the Commission's Fiscal Department and made payable to "Treasurer, State of Ohio." Additionally, a letter shall be attached to the check stating that it is a compliance payment required by Section 4928.64, Revised Code, for deposit to the credit of the Advanced Energy Fund, under the control of the Ohio Department of Development and created under Section 4928.61, Revised Code. The letter should also cite the Commission case number ordering the payment. Additionally, Integrys shall submit an attestation in this docket indicating that it will not seek to recover the compliance payment from consumers, consistent with Rule 4901:1-40-08(D), O.A.C. Finally, we find that Integrys' alternative energy portfolio status report for 2009 should be accepted.

It is, therefore,

ORDERED, That the motion to intervene filed by OEC be granted. It is, further,

ORDERED, That Integrys' alternative energy portfolio status report for 2009 be accepted in accordance with finding (9). It is, further,

ORDERED, That Integrys' solar compliance obligation for 2010 be increased to include the shortfall for 2009, as calculated by Staff in the confidential version of its findings and recommendations filed on April 19, 2011. It is, further,

ORDERED, That Integrys remit a compliance payment to the Commission in accordance with finding (9). It is, further,

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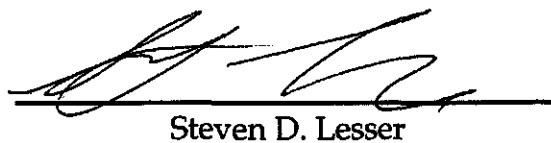
<sup>2</sup> The information redacted from the public version of Staff's Findings and Recommendations was determined to be confidential by the attorney examiner by entry dated January 5, 2011.

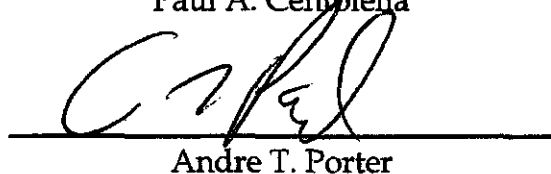
ORDERED, That a copy of this finding and order be served upon all parties of record.

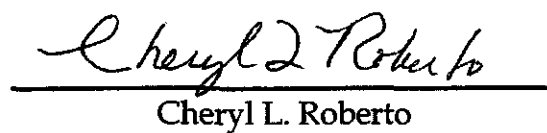
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Todd A. Snitchler, Chairman

  
Paul A. Centolella

  
Steven D. Lesser

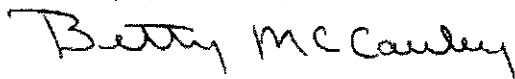
  
Andre T. Porter

  
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MLW/sc

Entered in the Journal

JUN 22 2011

  
Betty McCauley

Betty McCauley  
Secretary