

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Annual Alternative)
Energy Status Report of Ohio Edison)
Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company)**

Case No. 12-1246-EL-ACP

Findings and Recommendations of the PUCO Staff

I. Statutory Background

Senate Bill 221, with an effective date of July 31, 2008, established Ohio's alternative energy portfolio standard (AEPS) applicable to electric distribution utilities and electric service companies. The AEPS is addressed principally in sections 4928.64 and 4928.65, Ohio Revised Code (ORC), with relevant resource definitions contained within 4928.01(A), ORC.

According to 4928.64(B)(2), ORC, the specific compliance obligations for **2011** are as follows:

- Renewable Energy Resources = **1.00%** (includes solar requirement)
- Solar Energy Resources = **0.03%**

In addition, there is a requirement that at least half of the renewable energy resources, including the solar energy resources, shall be met through facilities located in this state.

The PUCO further developed rules to implement the Ohio AEPS, with those rules contained within Ohio Administrative Code (OAC) 4901:1-40.

4901:1-40-05(A), OAC:

Unless otherwise ordered by the commission, each electric utility and electric services company shall file by April fifteenth of each year, on such forms as may be published by the commission, an annual alternative energy portfolio status report analyzing all activities undertaken in the previous calendar year to demonstrate how the applicable alternative energy portfolio benchmarks and planning requirements have or will be met. Staff shall conduct annual compliance reviews with regard to the benchmarks under the alternative energy portfolio standard.

4901:1-40-05(C), OAC:

Staff shall review each electric utility's or electric services company's alternative energy portfolio status report and any timely filed comments, and file its findings and recommendations and any proposed modifications thereto.

The findings and recommendations in this document pertain to the company's compliance status. This document does not address such matters as cost recovery or status relative to the statutory 3% cost provision.

II. Company Filing Summarized

Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (the Companies) filed their annual alternative energy status report for 2011 on April 16, 2012. In their status report, the Companies proposed a baseline of 36,320,796 megawatt-hours (MWHs), which they indicated is the average of their Ohio standard service offer sales for the 2008, 2009, and 2010 calendar years.¹ With their proposed baseline and the 2011 statutory benchmarks, the Companies computed their aggregate 2011 compliance obligations to be the following:

- 5,449 Ohio Solar MWHs
- 5,447 Non-Ohio Solar MWHs
- 176,156 Ohio Non-Solar² Renewable MWHs
- 176,155 Non-Ohio Non-Solar Renewable MWHs

In addition, the Companies had an aggregate shortfall of 1,577 Ohio solar MWHs from previous compliance years that was carried forward to 2011, thus increasing the Companies' overall 2011 Ohio solar requirement to 7,026 MWHs.³

The Companies asserted in their annual compliance status report that they fully satisfied their 2011 compliance requirements, including the deficiencies from previous years, with the purchase of renewable energy credits (RECs) and solar RECs (S-RECs) through its Residential REC Program, spot market purchases, and requests for proposals.⁴

¹ Annual compliance status report, p. 3

² Staff uses "non-solar" in this context to refer to the total renewable requirement net of the specific solar carve-out. Staff acknowledges that there is not a specific "non-solar" requirement in the applicable statute.

³ Annual compliance status report, Exhibit A, p. 4 of 4

⁴ Annual compliance status report, p. 5

III. Filed Comments

No persons filed comments in this proceeding.

IV. Staff Findings

Following its review of the annual status report and any timely comments submitted in this proceeding, Staff makes the following findings:

- (1) That the Companies are electric distribution utilities in Ohio with retail electric sales in the state of Ohio, and therefore the Companies had AEPS compliance obligations for 2011.
- (2) That the Companies submitted their annual compliance status report for 2011 AEPS compliance activities on April 16, 2012.
- (3) That the Companies' proposed baseline is reasonable.
- (4) That the Companies accurately computed their aggregate 2011 compliance obligations, including their compliance deficiency from 2009 and 2010.
- (5) That adding the in-state solar compliance deficiency from previous years to the 2011 in-state solar compliance requirement is consistent with the Commission's direction from Case No. 11-2479-EL-ACP.⁵
- (6) That the Companies' reserve subaccount data on the PJM EIS Generation Attribute Tracking System (GATS) showed the following having been retired for the 2011 compliance year:
 - 176,156 Ohio Non-solar RECs
 - 172,017 Non-Ohio Non-solar RECs
 - 7,026 Ohio S-RECs
 - 5,447 Non-Ohio S-RECs
- (7) That in addition to the RECs and S-RECs transferred to its GATS reserve subaccount, the Companies also proposed to apply the 4,138 excess non-Ohio non-solar RECs that were inadvertently retired in 2009. Staff finds this application to be consistent with the Commission's decision in Case No. 10-0499-

⁵ Finding and Order; August 3, 2011

EL-ACP.⁶ Adding these 4,138 RECs to the 172,017 non-Ohio non-solar RECs in the GATS reserve subaccount for 2011 results in a total of 176,155 such RECs.

- (8) That following a review of the Companies' reserve subaccount data on GATS, Staff confirmed that the Companies satisfied their total non-solar obligation, as well as the specific minimum in-state non-solar requirement, for 2011. The specific RECs that the Companies transferred to their GATS reserve subaccount were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2011.
- (9) That following a review of the Companies reserve subaccount data on GATS, Staff confirmed that the Companies satisfied their total and in-state solar obligations for 2011, including the shortfall from previous compliance years. The specific S-RECs that the Companies transferred to their GATS reserve subaccount were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2011.

V. Staff Recommendations

Following its review of the information submitted in this proceeding and other relevant data, Staff recommends the following:

- (1) That the Companies be found in compliance with their 2011 AEPS compliance obligations, including compliance shortfalls from previous compliance years.
- (2) That for future compliance years in which the Companies are utilizing GATS to demonstrate their Ohio compliance efforts, the Companies continue to initiate the transfer of the appropriate RECs and S-RECs to their GATS reserve subaccount between March 1st and April 15th so as to precede the filing of their Ohio annual compliance status report with the Commission.

⁶ Finding and Order; March 14, 2012

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Summary: Staff Review and Recommendation electronically filed by Mr. Stuart M Siegfried on behalf of PUCO Staff