

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative Energy : Case No. 13-889-EL-ACP
Resources Report for Calendar Year 2012 :
from Independence Energy, LLC. :

REVIEW AND RECOMMENDATIONS
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO

On April 12, 2013, Independence Energy Group LLC (Independence Energy or Company) filed a Request for Waiver specifically seeking authorization to deviate from the baseline calculation methodology detailed in Ohio Administrative Code (O.A.C.) 4901:1-40-03(B)(2)(b).

Rule 4901:1-40-02(B), O.A.C., indicates that the Commission may waive any portion of this rule provided that the request does not involve a statutory mandate. While R.C. 4928.64(B) does address the baseline computation for companies with sales during the preceding three calendar years, it does not present a methodology for competitive electric providers with a more limited Ohio electric retail sales history. Therefore, Staff concludes that the Commission may waive O.A.C. 4901:1-40-03(B)(2)(b) if it deems it appropriate to do so.

The rule dictates that active electric service companies utilize a reasonable projection of sales for a calendar year as their alternative energy portfolio standard (AEPS) compliance baseline in the event that they do not have any retail electric sales in the state during the three calendar years preceding the compliance year.

The company asserts in its filing that it had no Ohio electric sales during 2009 – 2011, but that it began operations in Ohio in October 2012. In such a scenario, O.A.C. 4901:1-40-03(B)(2)(b) would require that Independence Energy’s AEPS compliance baseline for the 2012 compliance year consist of a reasonable projection of its sales for a calendar year. However, the Company is proposing to use its actual 2012 retail sales as its baseline rather than a projection of sales.

The use of projected sales, as detailed in O.A.C. 4901:1-40-03(B)(2)(b), was intended to facilitate a company’s compliance planning in that it could quantify its compliance requirements earlier in the year. However, Staff acknowledges that the use of actual sales data, as proposed by Independence Energy, is more accurate than using projected data and, therefore, Staff recommends that the requested waiver be granted.

If granted, the proposed use of actual Ohio sales from 2012 would comprise the compliance baseline for purposes of the Company’s filing requirement for the 2012 compliance year under O.A.C. 4901:1-40-05. The annual filing requirement under O.A.C. 4901:1-40-03(C) should be unaffected by this waiver request.

Respectfully submitted,

Michael DeWine
Ohio Attorney General

William L. Wright
Section Chief

*/s/ Thomas G. Lindgren*_____

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Review and Recommendations** submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served via electronic mail upon applicant's counsel, Stephen M. Howard, Vorys, Sater, Seymour & Pease, 52 East Gay Street, Columbus, Ohio, 43215, smhoward@vorys.com, this 15th day of April, 2013.

*/s/ Thomas G. Lindgren*_____

Thomas G. Lindgren
Assistant Attorney General

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Summary: Report Review and Recommendations submitted on behalf of the Staff of the Public Utilities Commission of Ohio by Assistant Attorney General Thomas Lindgren. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio