

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Liberty Power)
Holdings LLC Annual Alternative)
Energy Portfolio Status Report for 2012)**

Case No. 13-0751-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 **2012** are as follows:

- Renewable Energy Resources = **1.50%** (includes solar requirement)
- Solar Energy Resources = **0.06%**

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

Liberty Power Holdings LLC (Liberty Power or Company) filed its AEPS compliance status report for the 2012 compliance year on April 15, 2013. The Company also filed a request for waiver seeking authorization to use its actual 2012 sales, rather than a projection of calendar year sales, as its compliance baseline for the 2012 compliance year. In addition, at Staff's request, the Company provided supplemental information detailing its 2012 sales volume.¹

In its public filing, the Company indicated that it had no Ohio retail electric sales in 2009, 2010, or 2011. The Company indicated that its actual sales for 2012, which it proposed to use at its baseline, were 1,815 megawatt-hours (MWHs). Liberty Power used its proposed baseline and the statutory benchmarks for 2012 to calculate its compliance obligations, the details of which are provided in the unredacted version of its filing.

Liberty Power asserted in its compliance status report that it obtained and retired the necessary renewable energy credits (RECs) and solar RECs (S-RECs) to achieve compliance with its 2012 AEPS requirements.

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 Filed confidentially on June 3, 2013

- (1) That Liberty Power is an electric services company with retail electric sales in the state of Ohio, and, therefore, the Company had an AEPS compliance obligation for 2012.
- (2) That the Company filed its AEPS compliance report on April 15, 2013.
- (3) That the Company initially proposed a baseline of 1,815 MWHs which it indicated reflected its actual 2012 sales. However, based on supplemental information filed by the Company, the actual delivered sales volume for 2012 was 1,705 MWHs. Staff finds that the 1,705 MWH figure should be used as the baseline in this proceeding. The proposed use of actual 2012 sales was the subject of a waiver request that is currently pending before the Commission. The Staff filed a recommendation in this case in which it did not contest the waiver request.²
- (4) That the Company accurately calculated its 2012 compliance obligations, given its proposed baseline. However, using the baseline identified by Staff, the compliance obligations are one REC and one S-REC lower than initially calculated by the Company in its compliance filing.
- (5) That the Company retired RECs and S-RECs for 2012 compliance via its PJM EIS Generation Attribution Tracking system (GATS) account.
- (6) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total non-solar³ obligation, while also satisfying the specific minimum in-state non-solar requirement, for 2012. The RECs that the Company transferred to its 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, 2012.
- (7) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total solar obligation, as well as the specific minimum in-state solar requirement, for 2012. The S-RECs that the Company transferred to its GATS reserve subaccount were sourced from generating facilities certified by the Commission and were appropriately

² Staff Review and Recommendation filed on April 3, 2013.

³ 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.

associated with electricity generated between August 1, 2008, and December 31, 2012.

- (8) That based on Staff's recommended baseline and compliance obligations, the Company retired the following in excess of its 2012 AEPS compliance obligations:
 - 1 Non-Ohio S-REC
 - 1 Non-Ohio REC

V. Staff Recommendations

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

- (1) That Liberty Power be found to have satisfied its 2012 AEPS compliance obligations.
- (2) That because Liberty Power retired more RECs and S-RECs than was necessary to satisfy its 2012 AEPS compliance obligations as quantified above in Finding 8, Staff recommends that the Company, Staff, and GATS representatives coordinate to adjust the quantity of RECs and S-RECs transferred to the reserve subaccount for 2012 compliance purposes so that the quantity transferred matches the Company's compliance obligation as determined by the Commission. If such adjustment cannot be completed prior to the end of February 2014, the time at which such adjustments would no longer be permitted, Staff recommends that the excess identified in Finding 8 be eligible to be applied administratively to a future compliance obligation provided such application is consistent with 4901:1-40-04(D)(3), OAC.
- (3) That for future compliance years in which the Company is utilizing GATS to demonstrate its Ohio compliance efforts, the Company initiates the transfer of the appropriate RECs and S-RECs to its 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.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/21/2013 9:15:04 AM

in

Case No(s). 13-0751-EL-ACP

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