

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

Case No. 13-0884-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

Public Power, LLC (Public Power or Company) filed its AEPS compliance status report for the 2012 compliance year on April 15, 2013. In addition, the Company 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 its public filing, the Company indicated that it had no Ohio retail electric sales in 2009, 2010, or 2011. The Company further indicated that its actual sales for 2012, which it proposed to use at its baseline, were 41,469 megawatt-hours (MWHs). Public 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.

Public 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) That Public 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 41,469 megawatt-hours (MWHs) which it indicated reflects its actual 2012 sales. The use of such baseline 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.¹ In subsequent conversations, the Company indicated that its actual 2012 Ohio retail electric sales should be corrected to 38,597 MWHs, as reflected in its amended CRES annual report. Staff supports the use of this corrected sales figure.
- (4) That the Company accurately calculated its 2012 compliance obligations, given its baseline as initially proposed. However, given its revised 2012 sales figure, the Company's compliance obligations are lower than initially calculated.
- (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-solar² obligation, while exceeding 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 associated with electricity generated between August 1, 2008, and December 31, 2012.
- (8) That, through its GATS reserve subaccount, the Company retired more RECs and S-RECs than were needed to satisfy its 2012 compliance obligations. Staff finds that the Company retired the following in excess of its requirements:
 - 1 Other S-RECs

¹ Staff Review and Recommendation filed on April 15, 2013.

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.

- 42 Ohio RECs

V. Staff Recommendations

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

- (1) That Public Power be found to have satisfied its 2012 AEPS compliance obligations.
- (2) That because Public 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 its Ohio annual compliance status report with the Commission.

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