

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Commerce Energy of )  
Ohio, Inc. dba Just Energy Annual )  
Alternative Energy Portfolio Status )  
Report for 2012 )**

**Case No. 13-0928-EL-ACP**

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Findings and Recommendations of the PUCO Staff

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**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**

Commerce Energy of Ohio, Inc. dba Just Energy (Just Energy or Company) filed its AEPS compliance status report for the 2012 compliance year on April 15, 2013. In its compliance filing, Just Energy proposed a baseline of 58,204 megawatt-hours (MWHs). The Company indicated that it had no Ohio retail electric sales during 2009 - 2011, and therefore its proposed baseline consisted of 2012 sales. Applying the statutory benchmarks to its proposed baseline, Just Energy calculated its 2012 compliance obligations the details of which are provided in the unredacted version of its status report.

The Company indicated that it had obtained the necessary renewable energy credits (RECs) and solar RECs (S-RECs) to satisfy its 2012 compliance obligations. The Company further indicated that it used the PJM EIS Generation Attribute Tracking System (GATS) to retire the necessary RECs and S-RECs to demonstrate compliance.

## **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 Just Energy is an electric services company in Ohio with retail electric sales in the state of Ohio, and therefore the Company had an AEPS obligation for 2012.
- (2) That the Company erroneously computed its 2012 AEPS compliance obligations, with the result being that it over-stated its non-solar compliance obligation by 35 MWHs and under-stated its solar obligation by 1 MWH.

- (3) That the Company transferred RECs and S-RECs to its GATS reserve subaccount for Ohio compliance purposes prior to filing its compliance status report in this proceeding.
- (4) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total non-solar<sup>1</sup> obligation, as well as 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.
- (5) 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.
- (6) 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:
  - 9 Ohio S-RECs
  - 1 Other S-RECs
  - 18 Ohio RECs
  - 18 Other RECs

## **V. Staff Recommendations**

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

- (1) That Just Energy be found to have satisfied its 2012 AEPS compliance obligations.

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<sup>1</sup> 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.

- (2) That because Just Energy retired more RECs and S-RECs than was necessary to satisfy its 2012 AEPS compliance obligations as quantified above in Finding 6, 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 6 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 1<sup>st</sup> and April 15<sup>th</sup> so as to precede the filing of their 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