

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of EDF Industrial Power        )  
Services (OH), LLC's Annual Alternative    )  
Energy Portfolio Status Report for 2013     )**

**Case No. 14-0793-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 **2013** are as follows:

- Renewable Energy Resources = **2.00%** (includes solar requirement)
- Solar Energy Resources = **0.09%**

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**

EDF Industrial Power Services (OH), LLC (EIPS OH or Company) filed its AEPS compliance status report for the 2013 compliance year on April 28, 2014. In its compliance filing, EIPS OH indicates that it began serving Ohio retail electric customers in December 2013. The Company proposed a baseline of 2,249 megawatt-hours (MWHs) which it indicated reflects its actual Ohio retail sales for 2013.

Applying the statutory benchmarks to its proposed baseline, EIPS OH calculated its 2013 compliance obligations to be as follows:

- 2 solar MWHs, at least one of which must originate from an Ohio facility
- 43 non-solar renewable MWHs, at least 22 of which must originate from Ohio facilities

EIPS OH indicated that it did not satisfy its 2013 compliance obligations through the retirement of renewable energy credits, and proposed to pay an alternative compliance payment of \$2,788.

## **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 EIPS OH 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 2013.
- (2) That the baseline proposed by EIPS OH consists of its actual sales for 2013. With no sales during the 3 years preceding the compliance year, the OAC requires that

the baseline consist of a reasonable projection of sales for a calendar year.<sup>1</sup> The Company filed a request to waive a portion of the applicable rule, instead proposing to use its actual sales during the compliance year. Staff finds the proposed baseline to be reasonable, noting that the Commission has permitted the use of actual sales from the compliance year in several other similar instances.

- (3) That EIPS OH accurately calculated its AEPS compliance obligations given its proposed baseline and the statutory benchmarks for 2013.
- (4) That the Company has not retired any RECs and S-RECs for Ohio compliance purposes.
- (5) That the Company calculated a compliance payment of \$2,788 required to address its compliance shortfall. However, in the event of a compliance payment, Commission rules require that the amount of noncompliance is rounded up to the next MWH.<sup>2</sup> The Company's solar requirement equates to 2.0241 MWHs<sup>3</sup>, which in the event of a compliance payment, would round up to 3 MWHs rather than 2 MWHs as calculated by the Company. As a result, Staff calculates an alternative compliance payment due of \$3,138.<sup>4</sup>

## **V. Staff Recommendations**

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

- (1) That EIPS OH be found to have not satisfied its 2013 AEPS compliance obligations, and therefore an alternative compliance payment is warranted.
- (2) That EIPS OH should be directed to remit payment to the Commission in the amount of \$3,138 consistent with the requirement in 4901:1-40-08, OAC. Payment should not be made until such time as directed by the Commission.

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<sup>1</sup> 4901:1-40-03(B)(2)(b), OAC

<sup>2</sup> 4901:1-40-08(A), OAC

<sup>3</sup> 2249 MWHs \* 0.09% = 2.0241

<sup>4</sup> ((43\*\$48.56) + (3 \* \$350)) = \$3,138.08

The payment should be directed to the PUCO's payment lockbox, and made out to "Treasurer State of Ohio". A letter should also be attached to the check stating that it is a compliance payment required by Ohio Revised Code Section 4928.64 for deposit to the credit of the Advanced Energy Fund, under the control of the Ohio Development Services Agency and created under section 4928.61 of the Revised Code. The letter should also cite the Commission case ordering the payment. The address for the PUCO's payment lockbox is as follows:

Treasurer State of Ohio  
L-3603  
Columbus, OH 43260-3603

- (3) That the Company should submit an attestation in this docket consistent with the requirements in 4901:1-40-08(D), OAC.
- (4) 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