

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|--|----------|--------------------------------|
| In the Matter of the GDF Suez Energy |) | Case No. 13-1974-EL-ACP |
| Resources NA.'s Annual Alternative |) | Case No. 14-0600-EL-ACP |
| Energy Portfolio Status Reports for 2011-2013 |) | |

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 **2011** are as follows:

- Renewable Energy Resources = **1.00%** (includes solar requirement)
- Solar Energy Resources = **0.03%**

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%**

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, during 2011 through 2013 there was 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

GDF Suez Energy Resources NA (GDF or Company) filed its AEPS compliance status report for the 2012 compliance year on April 9, 2013, and its AEPS compliance status report for the 2013 compliance year on April 14, 2014. The company did not file an AEPS compliance status report for the 2011 compliance year. In its report for the 2012 compliance year, the Company stated that the Company had no sales for 2009-2011. However, in the Company's report for compliance year 2013, sales for 2011 were included.

The company has confirmed that its megawatt-hour (MWH) sales for 2011-2012 were

Table A

| | Sales (MWh) |
|------|-------------|
| 2011 | 28,375 |
| 2012 | 154,717 |

Therefore, the Company had a compliance obligation for compliance year 2011. On November 24, 2014, the Company filed the 2011 compliance year report in Case No. 14-0600-EL-ACP.¹ The Company informed staff that it had sent the report to the Utilities department of the PUCO via Federal Express on April 12, 2012. The report had not been e-filed until November, 24, 2014.

¹ 14-0600-EL-ACP is also the docket in which the Company's 2013 compliance report was filed

In the 2011 compliance year report, the company stated that it did not have sales in 2008-2010 and had proposed using actual sales for 2011 as its baseline for the 2011 compliance year.

In several past cases, the Commission has authorized the use of compliance year sales as a baseline if a company has no sales in the previous three years.² However, consistent with Commission rule, if a company had sales during any of the previous three years, an average of the prior years' sales in which the company had sales should be used as the compliance baseline.³ Instead of using a three year average, GDF used compliance year sales as the compliance baseline for compliance years 2012 and 2013.

Table B

| Compliance Year | Sales (MWh) | Baseline as proposed | Corrected Baseline | Notes |
|-----------------|-------------|----------------------|--------------------|---|
| 2011 | 28,375 | 28,375 | 28,375 | Actual Compliance year sales |
| 2012 | 154,717 | 154,717 | 28,375 | As there were sales in 2011 the baseline should be 28,375 |
| 2013 | 554,408 | 554,408 | 91,546 | As there were sales in 2011 and 2012 the baseline should be 91,546 (average of 2011 & 2012 sales) |

GDF retired the following number of RECs in its GATS reserve subaccounts.

Table C

| Compliance Year | RECs/S-RECs obtained based on proposed baselines | | | |
|-----------------|--|------------|-----------------|----------------|
| | Solar total | Solar Ohio | Non-solar total | Non-solar Ohio |
| 2011 | 10 | 10 | 300 | 300 |
| 2012 | 98 | 49 | 2,310 | 1,700 |
| 2013 | 499 | 250 | 10,589 | 5,295 |

Using compliance year sales for 2011 and the applicable averaging per Commission rule for 2012 and 2013, Staff has calculated the compliance obligations are as follows:

² Commission rule requires the use of a projection if no sales during preceding three years, but the Commission has permitted the use of compliance year sales, rather than a projection, in response to waiver requests.

³ 4901:1-40-03(B)(2)(a), OAC

Table D

| Compliance Year | RECs/S-RECs needed based on corrected baselines | | | |
|-----------------|---|------------|-----------------|----------------|
| | Solar total | Solar Ohio | Non-solar total | Non-solar Ohio |
| 2011 | 9 | 5 | 276 | 138 |
| 2012 | 18 | 9 | 409 | 205 |
| 2013 | 83 | 42 | 1,749 | 875 |

GDF's use of incorrect baselines has resulted in the following excess retirement of RECs in GDF's GATS reserve subaccounts:

Table E

| Compliance Year | Excess (Shortage) RECs/S-RECS | | | |
|-----------------|-------------------------------|------------|-----------------|----------------|
| | Solar total | Solar Ohio | Non-solar total | Non-solar Ohio |
| 2011 | 1 | 5 | 24 | 24 |
| 2012 | 80 | 40 | 1,901 | 1,495 |
| 2013 | 416 | 208 | 8,840 | 4,420 |

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 GDF 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 2011, 2012 and 2013.
- (2) That the baseline proposed by GDF is incorrect, and has resulted in over-compliance of 2011, 2012 and 2013 statutory benchmarks. Corrected baselines are listed in Table B.
- (3) That for Ohio compliance purposes, the Company has transferred RECs and S-RECs to its GATS reserve subaccounts in the quantities detailed in Table C.

- (4) That GDF has informed PUCO Staff that the Company has no intention of using the excess RECs in Table E for future compliance purposes. The Company prefers to have over-complied in 2011-2013, and to begin 2014 with a clean balance.
- (5) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied and exceeded its total non-solar⁴ obligation and the specific minimum in-state non-solar requirement, for 2011. 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, 2011.
- (6) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied and exceeded its total solar obligation and the specific minimum in-state solar requirement, for 2011. 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, 2011.
- (7) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied and exceeded its total non-solar obligation and 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.
- (8) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied and exceeded its total solar obligation and 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.

⁴ 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.

- (9) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied and exceeded its total non-solar obligation and the specific minimum in-state non-solar requirement, for 2013. 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, 2013.
- (10) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied and exceeded its total solar obligation and the specific minimum in-state solar requirement, for 2013. 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, 2013.

V. Staff Recommendations

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

- (1) That GDF is found to have satisfied its 2011, 2012 and 2013 AEPS compliance obligations.
- (2) 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.
- (3) That for each future compliance year in which the Company demonstrates its Ohio compliance efforts, the Company reserve a new case number with the industry code "EL" and the purpose code "ACP", and subsequently files its Annual Alternative Energy Portfolio Status Report in the docket for that case.
- (4) That the excess RECs and S-RECs listed in Table E be considered consumed and therefore unavailable for future compliance.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/12/2015 4:09:42 PM

in

Case No(s). 13-1974-EL-ACP, 14-0600-EL-ACP

Summary: Staff Review and Recommendation electronically filed by Mr. Mark C Bellamy on behalf of PUCO Staff