

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's )  
Alternative Energy Portfolio Standard ) Case No. 13-1909-EL-ACP  
Report to the General Assembly for the )  
2012 Compliance Year. )

FINDING AND ORDER

The Commission finds:

- (1) Am.Sub.S.B. No. 221 (SB221) of the 127th General Assembly (2008 Ohio Laws S221, effective July 31, 2008), initiated Ohio's Alternative Energy Portfolio Standard (AEPS), codified in R.C. 4928.64 and 4928.65. R.C. 4928.64(B) created specific compliance benchmarks for the use of renewable and alternative energy resources in supplying electric generation service in Ohio for electric distribution utilities (EDUs) and competitive retail electric service (CRES) companies.<sup>1</sup> For the 2012 compliance year, the AEPS standards consist of renewable energy resources, including a specific solar requirement. R.C. 4928.64(D)(1) requires the Commission to submit a report to the General Assembly describing the compliance of EDU and CRES providers with the AEPS benchmarks, the average annual cost of renewable energy credits purchased by EDU and CRES providers<sup>2</sup>, and any strategy for compliance or for encouraging the use of renewable energy resources in supplying this state's electricity needs in a manner that considers available technology, costs, job creation, and economic impacts. The statute also requires the Commission to solicit and consider public comments on the report prior to its submission to the General Assembly. Ohio Adm.Code 4901:1-40-09 provides for

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<sup>1</sup> The Commission notes that Sub.S.B. No. 310 of the 130th General Assembly (SB 310), which became effective September 12, 2014, has amended R.C. 4928.64 and 4928.65 to, inter alia, eliminate the advanced energy component, freeze renewable energy benchmarks for 2015 and 2016, and allow an alternative sales baseline calculation for determining compliance.

<sup>2</sup> Am.Sub.S.B. No. 315 of the 129th General Assembly (SB 315) amended R.C. 4928.64(D)(1)(b) to require that the Commission's annual AEPS reports to the General Assembly issued after September 10, 2012, include details on the average annual cost of renewable energy credits (RECs) purchased by EDUs and CRES providers for the year covered in the report.

a 30-day public comment period prior to the submission of the report to the General Assembly.

- (2) By entry issued on October 29, 2013, each EDU and CRES provider with a 2012 AEPS compliance requirement was directed to file, by November 15, 2013, the average cost data for RECs that were or will be retired to comply with 2012 Ohio AEPS obligations. Any reporting company seeking to protect public disclosure of its average REC cost data was directed to file the information under seal with a motion for protective order pursuant to Ohio Adm.Code 4901-1-24. Compliance filings were made by each of the EDUs: Dayton Power and Light Company, Duke Energy Ohio, Inc., and Ohio Power Company, as well as the Ohio Edison Company, Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, FirstEnergy). In addition, the following CRES providers filed data:

AEP Energy, Inc.  
Champion Energy Services LLC  
Cincinnati Bell Energy LLC  
Commerce Energy Inc., dba Just Energy  
Constellation NewEnergy, Inc.  
Direct Energy Business, LLC  
Direct Energy Services, LLC  
DPL Energy Resources Inc.  
Duke Energy Retail Sales, LLC  
Integrus Energy Services, Inc.  
Interstate Gas Supply, Inc., dba IGS Energy  
Liberty Power Holdings, LLC  
MidAmerican Energy Company  
NextEra Energy Services Ohio, LLC  
Noble Americas Energy Solutions LLC  
North American Power and Gas, LLC  
Palmco Power OH, LLC  
Public Power, LLC

- (3) On January 14, 2014, Staff filed a proposed draft of the AEPS report, and an entry was issued granting the motions for protective orders for a two-year period, as well as directing all interested persons to file comments on Staff's draft by February 14, 2014.

- (4) On February 14, 2014, FirstEnergy filed the only comments that included eight suggestions or corrections, six of which will be incorporated into the final report. With respect to its other proposed changes, FE suggests that we eliminate the word "gradually" in describing future industry conditions in Section VI, page 6 of Staff's February 14, 2014 draft report. FirstEnergy asserts that since compliance obligations are a function of a company's historical retail electric sales in the state, changes in customer shopping for generation may not occur gradually in all EDU service areas. In the report, however, the term "gradually" is used to describe the impact upon baseline computation. While customer switching rates have increased in recent years, compliance obligations will generally lag the actual customer switching rates because compliance baselines are generally computed using a three-year average of historical sales.<sup>3</sup> Therefore, even an abrupt rise in the level of customer switching would temper the compliance impact by the inclusion of three years of data. We also believe that it unnecessary to adopt FirstEnergy's suggestion to add clarifying language in Section VII, page 17 of Staff's February 14, 2014 draft report. FirstEnergy asserts that the draft report is unclear whether the calculation of the average cost of RECs and S-RECs used for compliance in 2012 could have been purchased in a prior year. We decline to adopt this suggestion as the existing text clearly indicates that the average cost figures pertain to RECs used for 2012 compliance, which would include the costs of RECs purchased in a prior year.
- (5) With the revisions noted above, the AEPS Report for the 2012 Compliance Year should be accepted and electronically filed in this docket subsequent to the filing of this order. The revised report should also be submitted to the Ohio General Assembly in accordance with R.C. 101.68.

It is, therefore,


ORDERED, That the AEPS Report for the 2012 Compliance Year be accepted and submitted to the Ohio General Assembly in accordance with R.C. 101.68. It is, further,

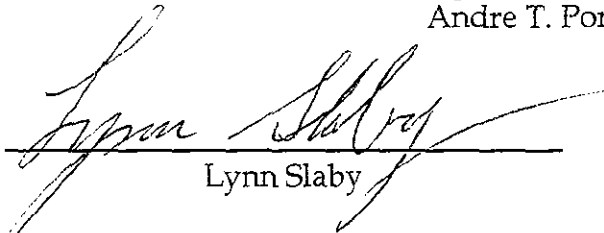
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<sup>3</sup> As noted above SB 310 has amended R.C. 4928.64 and 4928.65 to permit the use of an alternative baseline calculation beginning with the 2014 compliance year.

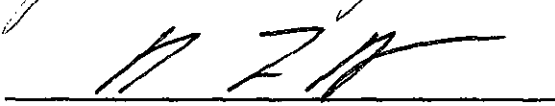
ORDERED, That notice of this Finding and Order be served via the electric-energy listserve, and upon all parties of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Andre T. Porter, Chairman

  
Lynn Slaby

  
M. Beth Trombold

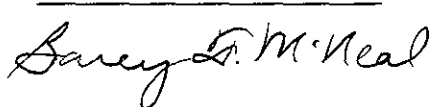
  
Asim Z. Haque

  
Thomas W. Johnson

RMB/dah

Entered in the Journal

**OCT 14 2015**

  
Barcy F. McNeal  
Secretary