

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

|  |   |                         |
|--|---|-------------------------|
| In the Matter of the Western Reserve Energy    | ) |                         |
| Services, LLC 2012 and 2013 Alternative Energy | ) | Case No. 15-0986-EL-ACP |
| Portfolio Standard Status Report               | ) | Case No. 15-0987-EL-ACP |

|   |   |                         |
|---|---|-------------------------|
| In the Matter of the Western Reserve Energy     | ) |                         |
| Services, LLC 2014 Renewable Portfolio Standard | ) | Case No. 15-0988-EL-ACP |
| Status Report                                   | ) |                         |

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**Staff Findings and Recommendations**

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I. Statutory Background

Amended Substitute Senate Bill 221, of the 127<sup>th</sup> General Assembly (2008 Ohio Laws S221, effective 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 Ohio Revised Code (R.C.) 4928.64, with relevant resource definitions also contained within R.C. 4928.01(A).

According to R.C. 4928.64(B)(2), the compliance obligations for 2012, 2013 and 2014 are as follows:

| Compliance Year | Renewable Resources (including solar) | Solar Resources |
|-----------------|---------------------------------------|-----------------|
| 2012            | 1.50%                                 | 0.06%           |
| 2013            | 2.00%                                 | 0.09%           |
| 2014            | 2.50%                                 | 0.12%           |

In addition, during 2012 and 2013, there was a requirement that at least half of the renewable energy resources, including the solar energy resources, be met through facilities located in this state.<sup>1</sup>

The Public Utilities Commission of Ohio (PUCO or Commission) further developed rules to implement the Ohio AEPS, contained within Ohio Administrative Code (Ohio Adm.Code) 4901:1-40.

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<sup>1</sup> The minimum in-state requirement did not apply during 2014 as a result of Senate Bill 310.

Ohio Adm.Code 4901:1-40-05(A) states:

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.

Ohio Adm.Code 4901:1-40-05(C) states:

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 Filings Summarized**

### **(1) 2012**

In its status report for the 2012 compliance year, Western Reserve Energy Services, LLC (WRES or Company) indicated it did not have any Ohio retail electric sales during the three years (2009 – 2011) preceding the compliance year. As such, WRES proposed a baseline of 589 megawatt-hours (MWHs) which it asserted represents its actual 2012 sales. With its proposed baseline and the 2012 statutory benchmarks, the Company calculated its 2012 compliance obligations to be as follows:

- 0 solar MWHs
- 8 non-solar MWHs

The Company asserted in its annual compliance status report that it fully satisfied its 2012 compliance requirements, including exceeding the minimum in-state requirement, with the purchase of renewable energy credits (RECs) and solar RECs (S-RECs). The Company further stated that it retired the necessary RECs through its PJM EIS Generation Attribute Tracking System (GATS) reserve subaccount.

**(2) 2013**

In its status report for the 2013 compliance year, WRES proposed a baseline of 14,779 MWHs which it indicated represented its actual 2013 sales. With its proposed baseline and the 2013 statutory benchmarks, the Company calculated its 2013 compliance obligations to be as follows:

- 13 solar MWHs
- 282 non-solar MWHs

The Company asserted in its annual compliance status report that it fully satisfied its 2013 compliance requirements, including exceeding the minimum in-state requirement, with the purchase and retirement of RECs and S-RECs.

**(3) 2014**

For the 2014 compliance year, WRES proposed a baseline of 47,508 MWHs which it asserted was its actual Ohio retail electric sales for 2014. With its proposed baseline and the 2014 statutory benchmarks, the Company calculated its 2014 compliance obligations to be as follows:

- 57 solar MWHs
- 1,131 non-solar MWHs

The Company indicated in its status report that it fully satisfied its 2014 compliance requirements with the purchase and retirement of RECs and S-RECs.

**III. Filed Comments**

No persons filed comments in these proceedings.

**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) The Company was an electric services company with retail electric sales in the state of Ohio during 2012, 2013, and 2014, and therefore the Company had renewable compliance obligations for 2012, 2013, and 2014.<sup>2</sup>
- (2) WRES filed its compliance status reports in May 2015.

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<sup>2</sup> Western Reserve Energy Services, LLC was certified to provide retail generation, power marketer, and power broker services in Ohio during 2012, 2013, and 2014; see PUCO Case No. 12-0824-EL-CRS.

- (3) The Company's proposed 2012 baseline is reasonable, and given its baseline and the 2012 statutory benchmarks, the Company accurately calculated its 2012 compliance obligations.
- (4) The Company incorrectly determined its compliance baseline for the 2013 compliance year. As indicated in its 2012 compliance status report, WRES did have Ohio electric sales during 2012.<sup>3</sup> Therefore, consistent with Commission rule, the 2013 baseline should have been an average of the annual sales from the three preceding years.<sup>4</sup> With no sales in 2010 or 2011, the 2013 baseline should equate to the Company's 2012 sales reported as 589 MWHs in the Company's 2012 compliance status report.
- (5) The 2014 compliance baseline proposed by WRES is reasonable. The Company opted to use its compliance year sales to determine its baseline, which is an option available to companies beginning with the 2014 compliance year pursuant to R.C. 4928.643(B). Given its proposed baseline and the 2014 statutory benchmarks, the Company accurately calculated its 2014 compliance obligations.
- (6) The Company transferred 1 S-REC and 9 RECs, all of which were from Ohio facilities, to its GATS reserve subaccount to demonstrate compliance with its 2012 AEPS obligations.
- (7) The Company transferred 14 S-RECs and 283 RECs, all of which were from Ohio facilities, to its GATS reserve subaccount to demonstrate compliance with its 2013 AEPS obligations.
- (8) The Company transferred 58 S-RECs and 1,131 RECs to its GATS reserve subaccount to demonstrate compliance with its 2014 renewable obligations.
- (9) Following a review of the Company's reserve subaccount data on GATS for 2012, Staff confirmed that the Company satisfied its total solar and non-solar obligations as well as the specific in-state minimum requirements. The RECs and S-REC that the Company transferred to its GATS reserve subaccount for 2012 were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2012.
- (10) Following a review of the Company's reserve subaccount data on GATS for 2013, Staff confirmed that the Company satisfied its total solar and non-solar obligations as well as the specific in-state minimum requirements. The RECs

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<sup>3</sup> PUCO Case No. 15-0986-EL-ACP

<sup>4</sup> Ohio Adm.Code 4901:1-40-03(B)(2)(a)

and S-RECs that the Company transferred to its GATS reserve subaccount for 2013 were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2013.

- (11) Following a review of the Company's reserve subaccount data on GATS for 2014, Staff confirmed that the Company satisfied its total solar and non-solar obligations. The RECs and S-RECs that the Company transferred to its GATS reserve subaccount for 2014 were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2014.
- (12) Due to the different baseline applied by Staff for 2013, Staff determined that the Company over-complied for the period 2012 – 2014 by a total of 15 S-RECs and 273 RECs as detailed on Exhibit 1.

## **V. Staff Recommendations**

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

- (1) The Company be found to have satisfied its 2012, 2013, and 2014 renewable obligations.
- (2) The Company should file its compliance status report for the 2015 compliance year by no later than April 15, 2016.
- (3) The excess S-RECs and RECs detailed in Finding 12 should be applied against a future compliance obligation of the Company, provided such application does not conflict with Ohio Adm.Code 4901:1-40-04(D)(3).
- (4) For future compliance years in which the Company is utilizing GATS to demonstrate its Ohio compliance efforts, the Company should initiate 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 its Ohio annual compliance status report with the Commission.

**Exhibit 1**

|   |           | <b>2012 Compliance Year</b> | <b>2013 Compliance Year</b> | <b>2014 Compliance Year</b> |
|---|-----------|-----------------------------|-----------------------------|-----------------------------|
| <b>Company Reported Sales (MWHs)</b>            | 2009      | 0.0                         | 0.0                         | 0.0                         |
|   | 2010      | 0.0                         | 0.0                         | 0.0                         |
|   | 2011      | 0.0                         | 0.0                         | 0.0                         |
|   | 2012      | 589.0                       | 589.0                       | 589.0                       |
|   | 2013      | N/A                         | 14,779.0                    | 14,779.0                    |
|   | 2014      | N/A                         | N/A                         | 47,508.0                    |
|   |           |                             |                             |                             |
| <b>Company's Proposed Compliance Baseline</b>   | MWHs      | 589.0                       | 14,779.0                    | 47,508.0                    |
|   |           |                             |                             |                             |
| <b>Statutory RPS Benchmarks</b>                 | Solar     | 0.06%                       | 0.09%                       | 0.12%                       |
|   | Non-Solar | 1.44%                       | 1.91%                       | 2.38%                       |
|   |           |                             |                             |                             |
| <b>Company-Calculated Obligations (RECs)</b>    | Solar     | 0.00                        | 13.00                       | 57.00                       |
|   | Non-Solar | 8.00                        | 282.00                      | 1,131.00                    |
|   |           |                             |                             |                             |
| <b>Company Retirement on GATS (RECs)</b>        | Solar     | 1                           | 14                          | 58                          |
|   | Non-Solar | 9                           | 283                         | 1131                        |
|   |           |                             |                             |                             |
| <b>Staff-Proposed Baseline</b>                  | MWHs      | 589.0                       | 589.0                       | 47,508.0                    |
|   |           |                             |                             |                             |
| <b>Staff-Calculated Obligations (RECs)</b>      | Solar     | 0.00                        | 1.00                        | 57.00                       |
|   | Non-Solar | 8.00                        | 11.00                       | 1,131.00                    |
|   |           |                             |                             |                             |
| <b>Annual Over/(Under) Compliance Per Staff</b> | Solar     | 1                           | 13                          | 1                           |
|   | Non-Solar | 1                           | 272                         | 0                           |

**Note: The Staff is not taking a position on the Company's use of its 2014 compliance year sales as its baseline for 2014, but rather Staff is acknowledging that the Company has that option under statute. Therefore, Staff ran its calculations using the Company's proposed baseline.**

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 15-0986-EL-ACP, 15-0987-EL-ACP, 15-0988-EL-ACP**

Summary: Staff Review and Recommendation for the 2012, 2013, and 2014 Compliance Years electronically filed by Mr. Stuart M Siegfried on behalf of PUCO Staff