**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Alternative Energy Resources Report for Calendar Year 2012 from Liberty Power Holdings, LLC | :  :  : | Case No. 13-751-EL-ACP |

**REVIEW AND RECOMMENDATIONS**

SUBMITTED ON BEHALF OF THE STAFF OF

THE PUBLIC UTILITIES COMMISSION OF OHIO

On March 27, 2013, Liberty Power Holdings, LLC (Liberty Power or Company) filed a Request for Waiver specifically seeking authorization to deviate from the baseline calculation methodology detailed in Ohio Administrative Code (O.A.C.) 4901:1-40-03(B)(2)(b).

O.A.C. 4901:1-40-02(B) indicates that the Public Utilities Commission of Ohio (Commission) may waive any portion of this rule provided that the request does not involve a statutory mandate. While R.C. 4928.64(B) does address the baseline computation for companies with sales during the preceding three calendar years, it does not present a methodology for competitive electric providers with a more limited Ohio electric retail sales history. Therefore, Staff concludes that the Commission may waive 4901:1-40-03(B)(2)(b), O.A.C., if it deems it appropriate to do so.

The rule dictates that active electric service companies utilize a reasonable projection of sales for a calendar year as their alternative energy portfolio standard (AEPS) compliance baseline in the event that they do no have any retail electric sales in the state during the three calendar years preceding the compliance year.

Liberty Power asserts in its filing that it had no sales during 2009-2011, but it began operations in Ohio in May, 2012. In such a scenario, 4901:1-40-03(B)(2)(b), O.A.C., would require that Liberty Power’s AEPS compliance baseline for the 2012 compliance year consist of a reasonable projection of its sales for a calendar year. However, the Company is proposing to use its actual 2012 retail sales as its baseline rather than a projection of sales.

The use of projected sales, as detailed in 4901:1-40-03(B)(2)(b), O.A.C., was intended to facilitate a company’s compliance planning in that it could quantify its compliance requirements earlier in the year. However, Staff acknowledges that the use of actual sales data, as proposed by Liberty Power, is more accurate than using projected data and therefore Staff recommends that the requested waiver be granted.

If granted, the proposed use of actual Ohio sales from 2012 would comprise the compliance baseline for purposes of the Company’s filing requirement for the 2012 compliance year under 4901:1-40-05, O.A.C.. The annual filing requirement under 4901:1-40-03(C), O.A.C., should be unaffected by this waiver request.

Respectfully submitted,

**Michael DeWine**

Ohio Attorney General

**William L. Wright**

Section Chief

/s/ Thomas G. Lindgren

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# PROOF OF SERVICE

I hereby certify that a true copy of the foregoing **Review and Recommendations** submitted on behalf of the Staff of the Public Utilities Commis­sion of Ohio,was served via electronic mail upon applicant’s counsel, Stephen M. Howard, Vorys, Sater, Seymour & Pease, 52 East Gay Street, Columbus, Ohio, 43215, [smhoward@vorys.com](mailto:smhoward@vorys.com), this 3rd day of April, 2013.

/s/ Thomas G. Lindgren

**Thomas G. Lindgren**

Assistant Attorney General