

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

**In the Matter of the Adoption of Rules for)
Alternative and Renewable Energy)
Technologies and Resources, and)
Emission Control Reporting) Case No. 08-888-EL-ORD
Requirements, and Amendment of)
Chapters 4901:5-1, 4901:5-3, 4901:5-5, and)
4901:5-7 of the Ohio Administrative Code,)
pursuant to Chapter 4928, Revised Code,
to Implement Senate Bill No. 221.**

INITIAL COMMENTS OF THE CITY OF HAMILTON, OHIO

The City of Hamilton, Ohio is a home-rule city organized and existing under the Constitution and laws of the State of Ohio and the Hamilton City Charter. The City owns and operates a not-for-profit municipal electric system that includes electric generating facilities, and provides generation, transmission, and distribution services to its retail customers within the City and to certain other customers.

The City currently owns and operates two hydroelectric generating facilities and is beginning development of a third major hydroelectric generating facility, in coordination with AMP-Ohio. Today, approximately 42% of the energy supplied by Hamilton to its customers is generated by hydroelectric facilities. When the new hydroelectric generating facility now being developed comes on line in approximately four years, Hamilton estimates that approximately 62% of the energy supplied by Hamilton to its customers will be generated from hydroelectric facilities. The ability to participate in renewable energy credit markets would allow the City and its customers to benefit through the sale of RECs, which helps lower the overall cost of these renewable energy projects.

Hamilton is undeniably ahead of its time in its development and reliance on clean, non-carbon emitting hydroelectric energy. However, we are concerned that the proposed rules render Hamilton's existing and proposed hydroelectric facilities ineligible for participation in the Ohio REC market. Hamilton is respectfully providing comments to revise the proposed rules in order to conform with legislative intent to enable Hamilton's hydroelectric facilities to qualify for RECs and as renewable energy resources under the rules.

A. Hamilton's FERC-Licensed Hydroelectric Facilities

Hamilton currently holds three licenses from the Federal Energy Regulatory Commission (FERC) authorizing Hamilton to own and operate three hydroelectric generating facilities. A brief background on each of these projects is as follows:

1. The Greenup Hydroelectric Project: The Greenup Project (FERC Project No. 2614) is a major run-of-the-river hydroelectric facility located on the Ohio River at the Greenup Locks and Dam, with a nameplate generating capacity of 70.24 MW and average energy production of approximately 280,000 MWh annually. Hamilton acquired the Project and Project license in 1988 and has owned and operated the Project since that time. The original license was issued by FERC in 1978 for a term of fifty (50) years. The Project entered commercial operation in December 1982. The Greenup Project is located on the Ohio side of the dam because the existing locks are located on the Kentucky side of the dam.

2. The Hamilton Hydro Project: The Hamilton Hydro (FERC Project No. 2724) is a run-of-the-river hydroelectric facility located on a diversion canal adjacent to the Great Miami River, in Hamilton, with a nameplate generating capacity of approximately 2 MW and average energy production of approximately 8,000 MWh annually. The Hamilton Project was originally developed by the Hamilton and Rossville Hydraulic Corporation in 1850 for manufacturing and other purposes. Henry Ford purchased the company in 1919 and constructed a hydroelectric power plant containing three turbine-generating units with an installed capacity of 2.25 MW.

The City took ownership in 1962 and in February 1996 Hamilton put the project back into full operation after completing a rehabilitation that included replacing the three original turbine generating units with two new units. Starting in 1999, well in advance of the September 2001 termination date provided for in the then current FERC license, Hamilton engaged in the extensive re-licensing effort for the project. In December 2001, FERC issued a new license to Hamilton for a period of thirty (30) years.

3. The Meldahl Hydroelectric Project: FERC issued a license to Hamilton authorizing the development and operation of the Meldahl Project (FERC Project No. 12667) in June 2008, for a term of fifty (50) years. The Project is located at the Captain Anthony A. Meldahl Locks and Dam on the Ohio River, with a licensed capacity of approximately 105 MW and anticipated energy production of approximately 520,000 MWh annually. Hamilton is actively working on the final design and preparing for commencement of construction of the Project, which is targeted to begin commercial operation in 2013. The Meldahl

Project will be located on the Kentucky side of the dam because the existing locks are located on the Ohio side of the dam.

B. The PUCO Staff's Proposed Rules Should Be Modified In Certain Respects To Ensure That Hamilton's Three Hydroelectric Facilities Qualify As Renewable Energy Sources And For Participation In The Ohio REC Market

Two aspects of the PUCO's Staff's proposed rules cause Hamilton uncertainty and concern as to whether Hamilton's three hydroelectric facilities would qualify for participation in the REC markets. First, in defining qualified resources, proposed sections 4901:1-40-04 (A) and (B) refer to resources that "have a planned in-service date of January 1, 1998 or after...." Because Hamilton's Small Hydro and Greenup Projects were in service prior to January 1, 1998, Hamilton is concerned that these projects would be arbitrarily disqualified under the proposed rules as currently drafted.

Second, it is unclear whether the proposed rules as currently drafted require facilities to be located in Ohio in order to count towards the benchmarks set forth in section 4901:1-40-03. Both Greenup and Meldahl are or will be located on the Ohio River, between Ohio and Kentucky, but nominally within Kentucky. The output of these Projects is or will be deliverable into Ohio, however, for the benefit of Ohio citizens. For the reasons discussed below, the proposed rules should be revised to avoid any doubt that these projects are eligible.

1. The January 1, 1998 Date Is Not Applicable To Renewable Energy Resources For Purposes Of R. C. 4928.65

4901:1-40-04 Requirements

Subsection A of this section requires that technologies used to meet the renewable energy resource benchmark must have been placed in service after January 1, 1998. For purposes of meeting the renewable energy resource requirement outlined in R.C. 4928.64 (B) (2), electric distribution utilities or electric services companies may use renewable energy credits as spelled out in R.C. 4928.65. Nothing in 4928.65 requires that the renewable energy resource must be in place after January 1, 1998. Presumably, Staff included the 1998 deadline because R.C. 4928.64 requires that the renewable energy resource be in place after January 1, 1998 in order to be considered an "alternative energy resource". However, nothing in R.C. 4928.65 requires that the renewable energy resource be an "alternative energy resource" as defined R.C. 4928.64 and therefore the 1998 deadline does not apply to 4928.65. Additionally, the legislative intent when drafting 4928.65 was for all alternative energy processes to qualify as sources to meet alternative energy benchmarks, and an amendment

was added to specifically include a "hydroelectric generating facility" that is defined in 4928.65 as "located at a dam on a river, or on any water discharged to a river, that is within or bordering this state or within or bordering an adjoining state." Therefore, Hamilton proposes to eliminate the requirement that the renewable energy source must be placed in service after January 1, 1998.

2. The Ambiguities Regarding Project Location Must Be Eliminated

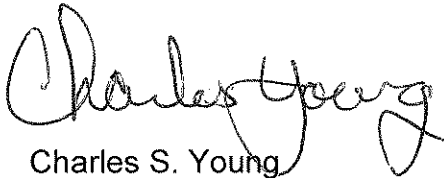
4901:1-40-03 Requirements

(A)(2)(a) – The phrase "generated by facilities located in this state" needs to be clarified as to "qualifying hydroelectric facilities", which by definition may be located "within or bordering this state or within or bordering an adjacent state" (i.e., the proposed definition of "renewable energy resource" and "hydroelectric facility" set forth in division (A)(35) of section 4928.01 of the Revised Code).

C. Conclusions

For the reasons discussed herein, Hamilton respectfully urges that the proposed rules be modified as suggested herein to accommodate the legislative intent that Hamilton be credited for its hydroelectric projects and that RECs from these projects are available to help meet the Alternative Energy Portfolio Standards of Ohio.

Respectfully submitted this 9th day of September, 2008.



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Summary: Comments City of Hamilton Comments electronically filed by Ms. Barbara L Morris on behalf of City of Hamilton