

FILE

BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Columbus Southern Power Company for)
Amendment of the 2009 Solar Energy)
Resource Benchmark, Pursuant to)
Section 4928.64(C)(4), Ohio Revised)
Code.)

987
Case No. 09- -EL-EEC

In the Matter of the Application of)
Ohio Power Company for Amendment)
of the 2009 Solar Energy Resource)
Benchmark, Pursuant to Section)
4928.64(C)(4), Ohio Revised Code.)

988
Case No. 09- -EL-EEC

**COLUMBUS SOUTHERN POWER'S AND OHIO POWER'S APPLICATION
AND REQUEST FOR EXPEDITED CONSIDERATION**

Columbus Southern Power Company (CSP) and Ohio Power Company (OP), collectively the "Companies" or "AEP Ohio," submit this application regarding the Companies' 2009 Solar Energy Resource (SER) benchmark.¹ Am. Sub S.B. No. 221 (SB 221) adopted benchmark requirements for solar energy resources found in Section 4928.64, Ohio Rev. Code (SER benchmarks). Of particular relevance to this application, Section 4928.64(B)(2), Ohio Rev. Code, specifically requires the Companies to meet a SER benchmark of 0.004% in 2009 and 0.010% in 2010. The Commission's final rules concerning the alternative energy portfolio requirements, including the renewable energy requirements generally and solar energy requirements specifically, have only recently been adopted (and have not yet become effective). The Companies have made good faith

¹ The Companies are not currently anticipating the need for amendment of the non-solar renewable energy resource benchmarks for 2009, but that result presumes that all of the applications for qualified facility certification pending before the Commission are granted. Accordingly, the Companies reserve the right to request through a separate application that the non-solar renewable energy resource benchmarks for 2009 be amended, should circumstances subsequently develop that necessitate such a request.

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efforts to comply with the 2009 SER benchmark, as further discussed below, and have been unable to achieve compliance. Because the period for compliance is rapidly coming to closure, the issues raised in this application are urgent and expedited consideration is requested. In particular, the Companies request that the Commission determine, for compliance purposes, that the Companies' 2009 SER benchmark be reduced as explained below based on factors beyond the Companies' control, pursuant to the Commission's *force majeure* authority under Section 4928.64(C)(4), Ohio Rev. Code.

In further support of their application, CSP and OP state the following:

1. The Companies are both an "electric distribution utility" as that term is defined in Section 4928.01 (A) (6), Ohio Rev. Code, and as that term is used in Chapter 4928, Ohio Rev. Code.
2. The Commission has conducted a rulemaking proceeding in Case No. 08-888-EL-ORD that has recently resulted in the adoption of rules concerning the SER benchmarks. The rules adopted in Case No. 08-888-EL-ORD are not yet effective and remain subject to legislative oversight review by the General Assembly's Joint Committee on Agency Rule Review.
3. AEP Ohio has been planning and developing its compliance activities but also needs to wait until after the 08-888 rulemaking was completed to finalize or fully implement those plans. There were significant compliance issues regarding the SER benchmarks that remained pending throughout most of 2009 as part of the 08-888 rulemaking, such as whether the Ohio-based requirements will be imposed annually (as opposed to being imposed by 2025). Due to these uncertainties, AEP Ohio's could not implement a final compliance plan for 2009.

4. Section 4928.65, Ohio Rev. Code, permits usage of Renewable Energy Credits (RECs) for compliance and AEP Ohio's focus has been on obtaining RECs. In order to achieve full statutory compliance with the SER benchmark (with half of the needed SER required to be from within Ohio), CSP would need to produce 798 MWh of energy from a solar energy resource or obtain 798 RECs (at least half from within Ohio and the remainder from elsewhere); OP would need to produce 1,028 MWh of energy from a solar energy resource or obtain 1,028 RECs (at least half from within Ohio and the remainder from elsewhere). Thus, the total AEP Ohio SER benchmark for 2009 would be the equivalent of 1,826 RECs.
5. In a good faith effort to comply with the SER benchmarks contained within SB 221, AEP Ohio funded and constructed its own solar generating facilities. Specifically, CSP has constructed a 70 kW photovoltaic distributed generating facility on the roof of its Athens Service Center and OP has constructed a 70 kW photovoltaic distributed generating facility on the roof of its Newark Service Center. Both projects were completed in early 2009 and certification of these facilities as renewable energy resources is pending before the Commission in Case Nos. 09-880-EL-REN and 09-881-EL-REN, respectively.
6. AEP Ohio has made a good faith effort to comply with the SER benchmarks contained within SB 221, in coordination with efforts made by American Electric Power Service Corporation (AEPSC) on AEP Ohio's behalf. AEPSC has developed expertise and experience in commodity markets and exchanges, including the solar REC market.

7. On behalf of AEP Ohio, AEPSC issued a competitive request for proposals in July of 2009 for Ohio solar RECs produced between July 31, 2008 and December 31, 2009. As a result of this RFP, three Expressions of Interest Forms were submitted but no bids were received.
8. AEP Ohio purchased thirteen 2009-vintage solar RECs in the open market (subject to certification of the producing facility by the Commission). These RECs were purchased for \$450/REC plus transaction costs. Based on AEPSC's experience, this price was competitive and consistent with the present conditions in the solar REC market. In AEPSC's opinion, the insufficient supply for 2009 solar RECs is inflating the current price. In any case, AEPSC believes that there is an insufficient supply in the solar REC market to achieve compliance.
9. As a result of a competitive RFP for Solar Resources, AEP Ohio also entered into a 20-year renewable energy purchase agreement (REPA) with Wyandot Solar LLC in connection with the construction of a 10 MW AC (~12 MW DC) solar farm in Wyandot County, Ohio. The estimated commercial operation date for the Wyandot facility is April 15, 2010 (partial production date with full production anticipated by August 15, 2010). This REPA is expected to provide AEP Ohio a stream of Ohio-based solar RECs well into the future – but there will be none produced in 2009 from the Wyandot Solar project. Further, the Wyandot Solar project will utilize solar panels from First Solar, Inc., which has manufacturing facilities in Perrysburg, Ohio.
10. AEP Ohio has also explored the possibility of obtaining solar RECs from its own customers that have distributed solar generating facilities. But most of these

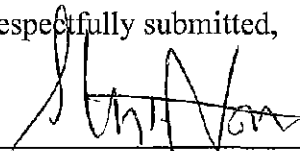
customers do not have utility-grade metering in place and have not yet sought the required certification from the Commission for their facilities. In light of the exemption recently adopted by the Commission (but not yet effective) for facilities that are 6kW or less, the Companies can now re-evaluate a solicitation of these customers. In any case, there are not nearly enough of those solar RECs available to help AEP Ohio reach compliance with the 2009 SER benchmarks and it is not clear that customers would sell their RECs any cheaper than the open market.

11. Notwithstanding these reasonable compliance efforts, AEP Ohio would remain short of compliance with the 2009 SER benchmark by approximately 1,666 RECs (depending on the actual output of the Newark and Athens distributed solar generating facilities in 2009).
12. Section 4928.64(C)(4), Ohio Rev. Code, enables the Commission to invoke *force majeure* and modify a SER compliance obligation by eliminating all or part of a benchmark after considering whether the SER are reasonably available in the marketplace in Ohio or PJM/MISO in sufficient quantities for the utility to comply with the minimum benchmark. The Commission is to consider whether the utility has made a good faith effort to comply. Based on the above-described market conditions and factual circumstances, AEP Ohio submits that it is appropriate for the Commission to modify the 2009 SER benchmark for AEP Ohio by the amount of the Companies' actual shortfall and requests that the Commission issue an order granting the Companies' request.

13. Based on an approval of the Companies' request as stated in paragraph 12 above, the Companies would propose that the Commission increase their 2010 SER benchmark, absent any further action in 2010 by the Commission, to be more than 0.010% (by adding the Companies' actual 2009 shortfall to the statutory 2010 SER benchmark). Based on the Wyandot REPA described above, AEP Ohio will obtain enough RECs to achieve that level of increased compliance in 2010 at a more reasonable cost.
14. Under these circumstances, the Commission decision to modify the 2009 SER benchmark advances the public interest and preserves future compliance requirements without taking away from State energy policy of pursuing alternative energy resources.

WHEREFORE, based on the reasons stated above, AEP Ohio requests that the Commission expeditiously approve this application.

Respectfully submitted,



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