

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Bay)
Shore Unit 1 for Certification as an Eligible) Case No. 09-1042-EL-REN
Ohio Renewable Energy Resource)
Generating Facility.)

FINDING AND ORDER

The Commission finds:

- (1) On November 3, 2009, as amended on November 11, 2009, and as supplemented on January 15, 2010, March 11, 2010, and April 6, 2010, Bay Shore Unit 1 filed an application for certification as an eligible Ohio renewable energy resource generating facility.
- (2) On December 30, 2009, January 14, 2010, February 25, 2010, and March 4, 2010, the Office of the Ohio Consumers' Counsel (OCC), The Sierra Club of Ohio (Sierra Club), the Ohio Environmental Council (OEC), and the Buckeye Forest Council (BFC) filed motions to intervene, respectively. No memorandum contra were filed. Because the application was filed before the effective date of Rule 4901:1-40-04(F)(1), Ohio Administrative Code (O.A.C.), which requires intervention within twenty days after the filing of an application, the Commission finds that the motions for intervention are reasonable and should be granted.
- (3) OCC filed comments on Bay Shore's application on December 30, 2009.
- (4) Consistent with Sections 4928.64 and 4928.65, Revised Code, in order to qualify as a certified eligible Ohio renewable energy resource generating facility, a facility must demonstrate in its application that it has satisfied all of the following criteria:
 - (a) The generation produced by the renewable energy resource generating facility can be shown to be deliverable into the state of Ohio, pursuant to Section 4928.64(B)(3), Revised Code.

- (b) The resource to be utilized in the generating facility is recognized as a renewable energy resource pursuant to Sections 4928.64(A)(1) and 4928.01(A)(35), Revised Code, or a new technology that may be classified by the Commission as a renewable energy resource pursuant to Section 4928.64(A)(2), Revised Code.
 - (c) The facility must satisfy the applicable placed-in-service date, delineated in Section 4928.64(A)(1), Revised Code.
- (5) Bay Shore Unit 1 submitted for certification a 136 MW generating unit, located at 4701 Bay Shore Road, Oregon, Ohio 43616. The application indicates that although Units 2, 3, and 4 are also in operation at that location, certification is sought only for Unit 1. The application states that Bay Shore Unit 1 is owned by an electric services company (a competitive retail electric service provider certified by the Commission). The application explains that the facility is located within the geographic area of the Midwest Independent Transmission System Operator, Inc. Based upon the application, and the facility's location in Ohio, the electricity generated from the Bay Shore Unit 1 facility is deliverable into Ohio. Accordingly, the Commission finds that the application satisfies the first criterion.
- (6) According to the application, Bay Shore Unit 1 uses solid biomass fuel as its renewable energy resource, by co-firing wood pellets and/or briquettes along with petcoke. Fuel oil is also used as needed for flame stabilization and startup. The application states that Bay Shore Unit 1 began co-firing biomass pellets made of Southern yellow pine on November 5, 2009, in a series of test burns. The test burns are scheduled to continue on an intermittent basis until April 12, 2010. Any co-firing after April 12, 2010, is subject to approval by the Ohio Environmental Protection Agency. The application included a detailed formula explaining how the amount of electricity, and the resulting renewable energy credits (RECs), generated from the biomass energy will be calculated, in accordance with Rule 4901:1-40-01(G), O.A.C.

OCC argues that a combustion facility, like Bay Shore Unit 1, should not be certified as a renewable energy resource until the facility can demonstrate that it has sustainable access to the fuel necessary to produce the renewable energy. OCC raises the concern that, if the renewable material that Bay Shore Unit 1 proposes to use is unavailable, consumers could incur costs for plant modifications without benefitting from the creation of renewable energy. The Commission disagrees with OCC. An application for certification is not the appropriate forum for addressing cost issues. An applicant seeking certification as a renewable energy generating facility must demonstrate that the type of fuel used in the facility to generate renewable energy qualifies as a renewable resource. The Commission is indifferent about the percentage of biomass used in co-firing, because the RECs generated are proportionally metered and calculated based on the amount of biomass consumed.

Biomass energy is specifically recognized as a renewable resource pursuant to Section 4928.01(A)(35), Revised Code. The biomass energy materials Bay Shore Unit 1 proposes to use, specifically, wood pellets and/or briquettes, meet the definition of biomass energy contained in Rule 4901:1-40-01(E), O.A.C. Therefore, the Commission finds that the second criterion is satisfied.

- (7) The application explains that the Bay Shore Unit 1 facility was retrofitted in order to permit co-firing with biomass fuel, utilizing a new rail unloading machine to offload the biomass fuel, with additional physical changes made to a conveyor. In addition, mechanical dust collectors and/or sprays, as well as an increased focus on housekeeping, are used for dust mitigation, as the dust from the biomass fuel creates a risk of explosion.

The placed-in-service requirement imposed by Section 4928.64(A)(1), Revised Code, can be met through the creation of a renewable energy resource on or after January 1, 1998, by the modification of any facility placed in service prior to January 1, 1998. The Commission finds that the physical modifications made to the Bay Shore Unit 1 facility, as well as the facility's commencement of using renewable fuels, such as biomass energy, in its existing power plant, constitute a modification that creates a renewable energy resource. Accordingly, the

Commission finds that the Bay Shore Unit 1 facility meets the third criterion.

- (8) Given that Bay Shore Unit 1's application demonstrates that its facility satisfies the requisite statutory criteria to become certified as an eligible Ohio renewable energy resource generating facility, as well as the Commission's rules, the Commission finds that Bay Shore Unit 1's application should be approved, and that the RECs generated will be proportional to the renewable energy or renewable fuel consumed by the facility.
- (9) In addition to satisfying the above-cited criteria, Section 4928.65, Revised Code, requires a renewable energy resource generating facility to be registered with an approved attribute tracking system, such as the Generation Attribute Tracking System (GATS), or the Midwest Renewable Energy Tracking System (M-RETS), for the facility's renewable energy credits to be used for compliance with Ohio's alternative energy portfolio standards. Bay Shore Unit 1 indicated in its application that it intends to register with GATS, and additionally stated that it would meet all the documentation and reporting requirements mandated by GATS for multi-fuel generating units.
- (10) Bay Shore Unit 1 is hereby issued certification number 10-BIO-OH-GATS-0129 as an eligible Ohio renewable energy resource generating facility. In the event of any substantive changes in the facility's operational characteristics or proposed fuel source, or if the results of any test burns demonstrate that co-firing biomass fuel is not feasible, Bay Shore Unit 1 must notify the Commission within 30 days of such changes. Failure to do so may result in revocation of its certification.

It is, therefore,

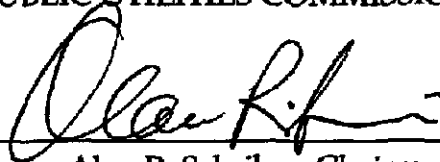
ORDERED, That the motions to intervene filed by OCC, the Sierra Club, OEC, and BFC be granted, in accordance with finding (2). It is, further,

ORDERED, That Bay Shore Unit 1's application for certification as an eligible Ohio renewable energy resource generating facility be granted as set forth herein. It is, further,

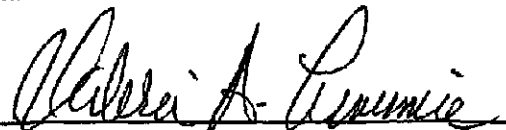
ORDERED, That Bay Shore Unit 1 be issued certification number 10-BIO-OH-GATS-0129, in accordance with findings (8) and (10). It is, further,

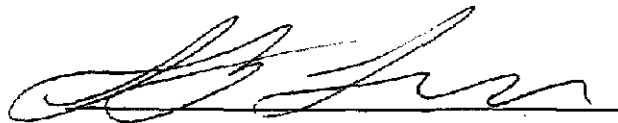
ORDERED, That a copy of this finding and order be served upon all parties of record.

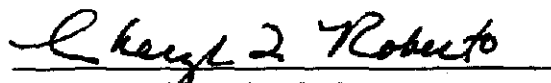
THE PUBLIC UTILITIES COMMISSION OF OHIO


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Renee J. Jenkins
Secretary