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BEFORE
THE PUBLIC UTILTIES COMMISSION OF OHIO

In the Matter of the Alternative Energy Portfolio Status Report of Dominion Retail, Inc.	: : :	Case No. 11-2470-EL-ACP

ANNUAL ALTERNATIVE ENERGY PORTFOLIO STATUS REPORT
OF
DOMINION RETAIL, INC.

I. INTRODUCTION

Dominion Retail, Inc. ("Dominion Retail") is a Commission-certified provider of competitive retail electric service to consumers in this state. As an electric services company as defined in Section 4928.01(A)(9), Revised Code, Dominion Retail is subject to Rule 4901:1-40-05(A)(1), Ohio Administrative Code ("OAC"), which requires jurisdictional electric utilities and electric services companies to submit annual alternative energy portfolio status reports regarding their compliance with the advanced and renewable energy benchmarks set forth in Section 4928.64(B), Revised Code, and Rule 4901:1-40-03(A), OAC, for the preceding calendar year. Dominion Retail hereby submits its alternative energy portfolio status report for the calendar 2010 reporting period.

II. APPLICABLE BENCHMARKS

A. Statutory Benchmark Criteria

Under the benchmarks for 2010 established by Section 4928.64(B)(2), Revised Code, and Rule 4901:1-40-03(A), OAC, electric utilities and electric services companies were to supply 0.50% of the electricity delivered to their Ohio customers from renewable energy resources, with

0.01% of the 0.50% total requirement to be delivered from solar energy resources. In addition, at least one-half of these renewable energy resources and solar energy resources requirements were to be generated by facilities located in Ohio, while the remainder of these requirements were to be met through resources that can be shown to be deliverable into Ohio. *See* Section 4928.64(B)(3), Revised Code, and Rule 4901:1-40-03(A)(2)(a), OAC. Thus, the 2010 statutory benchmarks are calculated by carving out the solar component (0.50% - 0.01% = 0.49%), then dividing the resulting non-solar component and the solar component by two to allocate the requirement for both components between Ohio and non-Ohio resources (0.49% ÷ 2 = 0.245%, 0.01% ÷ 2 = 0.005%). Accordingly, the 2010 benchmarks are as follows:

Ohio Renewable (less Solar)	0.245%
Non-Ohio Renewable (less Solar)	0.245%
Ohio Solar	0.005%
Non-Ohio Solar	0.005%
Total	0.50%

B. 2010 Baseline

To determine compliance with the above benchmarks, a baseline for the reporting year must be established. Rule 4901:1-40-03(B)(2), OAC, provides that, subject to certain exceptions not relevant here, the baseline for an electric services company shall be the average for the preceding three years of the total annual kilowatt-hours of electricity sold by the company to retail electric consumers in the state, based upon the kilowatt-hour sales in the company's most recent quarterly market-monitoring reports or reporting forms. As previously reported to the Commission, Dominion Retail's total annual sales to retail consumers in Ohio for 2007, 2008, and 2009 were 145,109,000 kWh, 117,558,00 kWh, and 372,587,000 kWh, respectively, which, when averaged, produces a 2010 baseline for Dominion Retail of 211,751,333 kWh. Rule 4901:1-40-08(A), OAC, provides that, for purposes of determining the amount of any required compliance payment, the amount of under-compliance shall be rounded to the next MWh. Although the rounding convention to be used in converting kWh sales to MWh sales for purposes of establishing the baseline is not specifically addressed in Rule 4901:1-40-03(B)(2), OAC, Dominion Retail has used the Rule 4901:1-40-08(A), OAC, next-higher rounding convention here, which results in a 2010 MWh baseline of 211,752.

C. Benchmark Summary

Using the 2010 baseline of 211,752 MWH as determined above, the MWh alternative energy resource benchmarks applicable to Dominion Retail are as shown of the following table.

Resource Category	MWh Baseline	Benchmark %	MWh Benchmark
Ohio Renewable	211,752	0.245%	518.792
Non-Ohio Renewable	211,752	0.245%	518.792
Ohio Solar	211,752	0.005%	10.588
Non-Ohio Solar	211,752	0.005%	10.588

III. 2010 BENCHMARK COMPLIANCE STATUS

Section 4928.65, Revised Code, and Rule 4901:1-40-04(D), OAC, permit electric services companies to satisfy all or part of a renewable energy resource benchmark through the purchase of renewable energy credits ("RECs"). Dominion Retail has routinely purchased RECs to comply with alternative energy portfolio requirements of certain other states in which it operates (namely Pennsylvania and certain New England states), and, during 2010, purchased RECs to be applied toward its Ohio benchmark obligations. As a member in good standing of PJM's generation attributes tracking system, Dominion Retail is eligible to utilize RECs for this purpose under Rule 4901:1-40-04(D)(2)(a), OAC. Further, all the RECs Dominion Retail purchased for this purpose originated from facilities that meet the definition of a renewable energy resource as required by Rule 4901:1-40-4(D)(1), OAC. In addition, these RECS were all associated with electricity generated after July 31, 2008 as required by Rule 4901:1-40-4(D)(5), OAC.

The total RECs purchased by Dominion Retail during to 2010 in each benchmark category are shown on the following table.

Resource Category	RECs (in MWh)	MWh Benchmark	Surplus/(Deficiency)
Ohio Renewable	2,200.000	518.792	1,681.208
Non-Ohio Renewable	3,150.000	518.792	2,631.208
Ohio Solar	0	10.588	(10.588)
Non-Ohio Solar	241.000	10.588	230.412

As indicated by the information presented in the table, Dominion Retail has fully complied with the 2010 Ohio Renewable, Non-Ohio Renewable, and Non-Ohio Solar benchmarks, and intends to carry over the surplus for application in subsequent reporting years to the extent permitted by Section 4928.65, Revised Code. The description of the RECs retired in 2010 to satisfy each of these benchmarks is shown in Exhibit A to this report, the unredacted version of which is being filed herewith under seal pursuant to a motion for a protective order. Because of the limited availability of Ohio Solar RECs ("SRECs"), Dominion Retail was unable to acquire the SRECs necessary to satisfy the 2010 Ohio Solar benchmark, and, thus, reports that it has under-complied by the entire amount of that benchmark.

Pursuant to Section 4928.64(C)(2)(a), Revised Code, and Rule 4901:1-40-08(A)(1), OAC, the compliance payment applicable for under-compliance with the 2010 Ohio Solar benchmark is $400 per MWh, with the amount of under-compliance to be rounded up to the next MWh. Thus, Dominion Retail's compliance payment obligation for its failure to meet the Ohio Solar benchmark would be $4,400 (11 MWh x $400 = $4,400). However, as discussed below, Dominion Retail is seeking relief from the Ohio Solar benchmark pursuant to the force majeure provision of Section 4928.64(C)(4)(a), Revised Code.

IV. REQUEST FOR RELIEF FROM 2010 OHIO SOLAR BENCHMARK

Section 4928.64(C)(4)(a), Revised Code, provides that an electric services company may request the Commission to make a force majeure determination with respect to all or part of the company's compliance with a renewable energy resource benchmark for annual review period in question. Section 4928.64(C)(4)(b), Revised Code, requires that, in considering such requests, the Commission "determine if renewable energy resources are reasonably available in the marketplace in sufficient quantities for the utility or company to comply with the subject minimum benchmark during the review period." The statute further requires that, in making this assessment, the Commission consider the availability of renewable energy or solar energy resources in Ohio and other jurisdictions in the PJM and MISO regional transmission organizations.

Section 4928.64(C)(4)(b), Revised Code, also provides that, in determining whether to grant relief from a benchmark on force majeure grounds, the Commission consider whether the subject company has made a good faith effort to acquire the necessary renewable energy and/or solar energy resources. Rule 4901:1-40-06(A)(1), OAC, also speaks to requests for force majeure determinations, stating that an electric services company must "demonstrate that it pursued all reasonable compliance options including, but not limited to, renewable energy credit (REC) solicitations, REC banking, and long-term contracts."

In conjunction with their 2009 alternative energy portfolio status reports, numerous Ohio electric distribution utilities and electric services companies sought force majeure determinations from the Commission as grounds for modification of their 2009 Ohio Solar benchmarks. In granting these requests, the Commission determined that there were insufficient solar resources, including SRECs, available in Ohio during the 2009 reporting period to permit these utilities and companies to achieve full compliance with this benchmark.[1] The Commission must, of course, make a new determination with respect to the availability of Ohio solar energy resources and Ohio SRECs in the marketplace in considering requests for force majeure determinations as the basis for relief from the 2010 Ohio Solar benchmarks. As discussed below, Dominion Retail's business model dictates that it meet its Ohio benchmark obligations through the purchase of RECs. Dominion Retail's inability to obtain Ohio SRECS in 2010 supports a determination there were still insufficient SRECS available in Ohio in 2010 to permit full compliance with the 2010 Ohio Solar benchmark to be achieved.

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[1] *See, e.g., In the Matter of the Application of Columbus Southern Power Company for Amendment of the 2009 Solar Energy Resource Benchmarks*, Case No. 09-987-EL-EEC, *et al.* (Entry dated January 7, 2010); *In The Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Approval of a Force Majeure Determination for a Portion of the 2009 Solar Energy Resources Benchmark Requirement*, Case No. 09-1922-EL-ACP (Finding and Order dated March 10,2010); *In the Matter of the Application of The Dayton Power and Light Company for Approval of a Force Majeure Determination for a Portion of the 2009 Solar Energy Resources Benchmark Requirement*, Case No. 09-1989-EL-ACP (Finding and Order dated March 17, 2010); *In the Matter of the Application of the Retail Electric Supply Association for an Amendment to the 2009 Solar Energy Resource Benchmark*, Case No. 10-428-EL-ACP (Finding and Order dated April 28, 2010); and *In the Matter of the Application of FirstEnergy Solutions Corp. for Approval of its Alternative Energy Annual Status Report and for an Amendment of its 2009 Solar Energy Resources Benchmark*, Case No. 10-467-EL-ACP (Finding and Order dated February 23, 2011).

As explained in its 2010 Ten-Year Alternative Energy Compliance Plan filed herewith,[2] Dominion Retail's focus is the residential market, and Dominion Retail serves the vast majority of its residential customers pursuant to one-year contracts. Moreover, Dominion Retail typically does not impose an early termination fee on its residential customers with fixed price contracts, which means that these customers can switch to another supplier at any time without penalty. In addition, Dominion Retail makes multiple offers over the course of a calendar year, which further contributes to significant fluctuations in its customer base – and, thus, its generation supply requirements – not only from year-to-year, but within any given year. These factors, coupled with market and regulatory uncertainties, mean that Dominion Retail must maintain a high degree of flexibility in its supply arrangements, which must be geared to serve the amount of load secured by contract at any point. Accordingly, Dominion Retail does not serve Ohio customers through owned generation, nor does it buy physical power forward under long-term contracts. Thus, the relevant inquiry in considering Dominion Retail's request for a force majeure determination is limited to the availability of RECs, or, in this instance, Ohio SRECs, because Dominion Retail must rely on RECs to meet its renewable energy benchmark obligations.

Dominion Retail made a good faith effort to acquire Ohio SRECs in 2010, but was advised by the area's leading REC broker that there were no Ohio SRECs available at any price. Thus, Dominion Retail respectfully requests that the Commission grant its request for a force majeure determination, grant it relief from the 2010 Ohio Solar benchmark, and find that no compliance payment is due.

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[2] *See In the Matter of the Ten-Year Alternative Energy Compliance Plan of Dominion Retail, Inc.*, Case No. 11-2471-EL-ACP.

V. ADJUSTMENT TO THE 2011 OHIO SOLAR BENCHMARK

Section 4928.64(C)(4)(c), Revised Code, provides that, if the Commission modifies a benchmark obligation as a result of a force majeure determination, it may increase the benchmark obligation in subsequent years to the extent of the modification granted "if sufficient renewable energy resource credits exist in the marketplace, to acquire additional renewable energy resource credits in subsequent years." Dominion Retail recognizes that, in the 2009 alternative energy portfolio status report proceedings cited above, the Commission did, in fact, increase the 2010 Ohio Solar benchmark obligations of the subject companies to include the 2009 shortfalls, and conditioned its 2009 force majeure determination on the subject companies achieving compliance with their adjusted 2010 Ohio Solar benchmarks. However, as the Commission correctly recognized, the question of the availability of Ohio SRECs in 2010 is a matter to be considered in the 2010 compliance proceedings.

In adding the amount of 2009 under-compliance to the subject companies' 2010 Ohio Solar benchmarks, the Commission obviously anticipated that existing state and federal incentives for installing solar generation would lead to an increase in Ohio solar capacity and the availability of Ohio-sourced SRECs in 2010. However, Dominion Retail's inability to purchase Ohio SRECs in 2010 suggests that this expectation has not been fulfilled to the extent necessary to permit full compliance with the 2010 benchmarks, let alone the additional requirement resulting from carrying forward the 2009 shortfalls. In considering whether to condition granting relief from the 2010 Ohio Solar benchmarks on force majeure grounds on the subject company achieving the 2011 benchmark plus the 2010 under-compliance amount, the Commission should take into account the effect this requirement will have on the overall demand for Ohio-sourced solar resources, which are already in short supply. Although Dominion Retail is currently actively seeking to acquire Ohio SRECs to apply to its 2011 benchmark, there is no assurance that it will be able to do so, and an additional catch-up requirement will not only exacerbate the problem, but, as a matter of simple economics, will serve to drive up the price of the Ohio SRECs that do exist. Admittedly, this may not be a significant concern while the annual Ohio Solar benchmarks remain at nominal levels. But, if a fluid market for Ohio SRECs does not develop in the near future, at some point, continuing to augment the annual Ohio Solar benchmarks by the amount of past deficiencies will no longer be a reasonable approach.

If the Commission does elect to augment Dominion Retail's 2011 Ohio Solar benchmark by the amount of the 2010 shortfall as a condition of granting relief the relief requested herein, the Commission, as required by Section 4928.64(C)(4)(c), Revised Code, must determine in the 2011 proceeding that "sufficient renewable energy resource credits exist in the marketplace" before reinstating the 2010 Ohio Solar benchmark requirement. Assuming the Commission follows the statute in this regard, Dominion Retail will not object to revisiting the modification of its 2010 Ohio Solar benchmark in the 2011 proceeding. However, if grounds for force majeure relief from this benchmark continue to exist in 2011, Dominion Retail reserves the right to object to carrying the 2010 shortfall forward into subsequent years.

WHERFORE, Dominion Retail respectfully requests that the Commission find (1) that Dominion Retail it has fully complied with its 2010 Ohio Renewable, Non-Ohio Renewable, and Non-Ohio Solar benchmarks; (2) that Dominion Retail's request for a force majeure determination with respect to its otherwise applicable 2010 Ohio Solar benchmark is well made and should be granted; and (3) that no Section 4928.64(C)(4), Revised Code, compliance payments are required at this time.

Respectfully submitted,

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EXHIBIT A

(REC Details Sheet)

REDACTED