

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's	)	
Alternative Energy Portfolio Standard Report	)	
to the General Assembly for Compliance	)	Case No. 12-1100-EL-ACP
Years 2009 & 2010	)	

**COMMENTS  
BY THE  
SIERRA CLUB AND THE OHIO ENVIRONMENTAL COUNCIL**

---

**I. Introduction.**

Ohio's Alternative Energy Portfolio Standard ("AEPS") was initiated by Amended Substitute Senate Bill 221 ("SB221") of the 127<sup>th</sup> General Assembly (2008 Ohio Laws S221, effective July 31, 2008), and is codified primarily in Ohio Revised Code Sections 4928.64 and 4928.65. Ohio's AEPS requires that by 2025, twenty-five percent of Ohio's electric supply must come from alternative energy resources as defined in ORC §4928.01.<sup>1</sup> Specifically, half of the 25% may be generated from advanced energy resources and at least half *shall* be generated from renewable energy resources, including one-half per cent from solar energy resources.<sup>2</sup> All but the Advanced energy provision is to be developed in accordance with statutorily defined benchmarks.<sup>3</sup>

Ohio law also provides for reporting requirements and opportunities for public comment to confirm compliance with the AEPS. In short, each electric utility and electric service

---

<sup>1</sup> R.C. 4928.64(B)

<sup>2</sup> R.C. 4928.64(B)(1) and (2).

<sup>3</sup> *Id.*

company must file annual compliance plans<sup>4</sup> and reports.<sup>5</sup> The plans must demonstrate how the company intends to comply with the statutory benchmarks utilizing at least a ten-year planning horizon.<sup>6</sup> The compliance reports demonstrate how the specific benchmarks have or will be met by presenting and analyzing all activities undertaken in the previous calendar year.<sup>7</sup> The public is offered an opportunity to review the annual reports and provide comments.<sup>8</sup>

In addition, PUCO Staff is directed to perform annual compliance reviews taking into consideration the annual status reports and any public comments filed. After completing their review, the Staff must file their findings, recommendations and proposed modifications, if any.<sup>9</sup> Ohio law requires the Commission submit an annual report to the General Assembly describing the compliance with the AEPS as well as any strategy for encouraging the use of alternative energy resources in supplying the state's electricity needs.<sup>10</sup>

On April 16, 2012, the Commission filed its report entitled "Alternative Energy Resource Market Assessment." That same day, Staff submitted its Draft Report (Staff Draft Report) to which the Commission invited interested parties to comment within 30 days.<sup>11</sup> After reviewing the various utility compliance filings for 2011 and the Staff Draft Report, the Ohio Environmental Council ("OEC") and the Sierra Club, as interested persons, determined these reports to be deficient in two substantive ways. First, the process is not conducive to analysis and comment from interested parties. The individual filings and the Staff Draft Report, lack any substantive

---

<sup>4</sup> OAC §4901:1-40-3(C)

<sup>5</sup> OAC §4901:1-40-5(A)

<sup>6</sup> OAC §4901:1-40-3(C)

<sup>7</sup> OAC §4901:1-40-5(A)

<sup>8</sup> OAC §4901:1-40-5(B)

<sup>9</sup> OAC §4901:1-40-05(A) and (C)

<sup>10</sup> ORC §4928.64(D)(1)

<sup>11</sup> *In the Matter of the Commission's Issuance of the Alternative Energy Portfolio Report for 2009 and 2010*, Case No. 12-1100-EL-ACP, Entry at 2 (April 16, 2012).

detail that would allow interested persons to evaluate the nature of compliance with the AEPS and its related policy goals and objectives. Virtually all of the information has been redacted from the individual filings on the basis of confidentiality; the documents being filed lack consistency both in terms of substance and form; and the time in which to file comments is limited to thirty days. In addition, it is both impracticable and excessively burdensome to intervene in every case, arrange a confidentiality agreement with each submitting entity, await the receipt of the unredacted version of the report – and then file comments. Therefore, interested persons have no adequate or efficient means to evaluate the information being provided to the Commission.

Second, all of the Ten-Year Plans are silent in regard to the “advanced” energy portfolio standard.<sup>12</sup> Even though reporting entities do not have to file reports documenting compliance with the advanced energy benchmark until 2024, their strategy to satisfy this standard should be addressed in the compliance plans well ahead of 2024, the year before the additional 12.5% is statutorily required to be achieved.

OEC and Sierra Club respectfully submit the following comments in an attempt to highlight these deficiencies and to recommend changes to initiate a meaningful process by which necessary information is conveyed to the public and to the General Assembly in a manner that promotes the integrity of Ohio’s alternative energy standard.

## **II. Comments**

### **A. Inclusion of Renewable Energy Generating Facility Source Information**

---

<sup>12</sup> OAC 4901-1-40-05(A)(2) – The rule states that these are “advanced energy resource benchmark[s],” presumably referring to the other 12.5% that is not required to be generated by renewable resources. But this portion of the requirement may be generated by renewable *or* advanced resources, as defined by Ohio law.

Under R.C. 4928.64(D)(1), the Public Utilities Commission of Ohio is required to submit to the general assembly a report describing the compliance of electric distribution utilities and electric services companies with the alternative energy benchmarks under O.R.C. §4928.64(B). In the opinion of OEC and Sierra Club, the Staff Draft Report is lacking information which is needed to adequately inform the state legislature of the compliance status of the electric distribution utilities and the electric services companies. The Staff Final Report should state the compliance status of each individual electric distribution utility and electric services company for 2009 and 2010. In addition, the report should compile a detailed listing of each renewable energy generating facility used towards compliance including the type of renewable resource, the amount of energy generated by that facility, and the average price of RECs from each source.

It is important for the legislature not only to understand whether the alternative energy benchmarks are being achieved, but the nature of how each utility is achieving the benchmarks in order to gain a complete picture of the functioning of the REC markets. The Staff Draft Report in its current form lacks data that could make it more useful to the legislature in their determination of future energy policy. In addition, public access to this information is equally as vital as it informs public dialogue related to energy issues.

The adequacy of the Commission's report under R.C. 4928.64(D)(1) is dependent upon the comprehensiveness of the status reports filed by each electric utility and electric services company under Ohio Administrative Code ("O.A.C") §4901:1-40-5 ("Status Reports"). These reports are required to analyze "all activities undertaken in the previous calendar year to demonstrate how the applicable alternative energy portfolio benchmarks and planning requirements have or will be met." The individual electric utilities and electric services companies have interpreted these requirements in various ways, leading to a variety of

information being provided. Under O.A.C. §4901:1-40-5(A), the Commission may prescribe the form of the Status Reports. OEC and Sierra Club recommend that the Commission create a template for the Status Reports that includes the identification of each renewable energy generating facility used towards compliance including the type of renewable resource, the amount of energy generated by that facility, the average price of RECs from each source, and the method of verifying the RECs. Uniform and comprehensive reporting on the Status Reports will aid the Commission Staff in the preparation of the AEPS Reports and allow for future AEPS Reports to be more of use to both the legislature and the general public.

## **B. Confidentiality**

Much of the information that we recommend to be included in the AEPS Report has been redacted from the individual Status Reports and has been designated as confidential under protective orders. Some of this information is protected under O.A.C. 4901-1-24 as a result of being deemed a trade secret under R.C. 1333.61(D) and the six factor test adopted by the Supreme Court.<sup>13</sup> To the degree that confidential information cannot be publically disclosed, it should be redacted from the AEPS Report and the general assembly should be provided with an unredacted confidential version.

In the interest of providing as much information as possible to the public, aggregated data regarding the type of renewable resources that are being used to count toward the baseline should be included in the public version of the AEPS Report as a means of tempering the legitimate confidentiality interests as the PUCO determines, and the public interest.

---

<sup>13</sup> *State ex rel. The Plain Dealer v. Ohio Dept. of Ins.* (1997), 80 Ohio St. 3d 513, 524-525.

From a longer term perspective, the issue of the shelf life of trade secrets related to REC sources needs to be addressed. Currently, under O.A.C. 4901-1-24(F), protective orders issued pursuant to the rule automatically expire after 18 months. However, the party that filed the motion for protective treatment of certain information can file a motion to extend the protective order beyond the original 18 months. In order to present the most current and relevant information in future AEPS Reports, a consistent policy should be adopted regarding future claims of confidentiality regarding the alternative energy annual status reports. Since the nature of the information being protected in all of the Status Reports is similar (the lists of REC suppliers similar to customer lists) the analysis of how long such information should remain confidential would be comparable between among filings. Sierra Club and OEC recommend that all source information should become publicly available within 12 months following the end of the compliance year, if this policy will not infringe on Ohio law regarding trade secrets. At a minimum, source data should become available in the shortest amount of time that would not violate Ohio law. Once historical source data is no longer confidential, it should be included in the individual filing entity's following year ACP reports for a minimum of five years after the first public release of the data.

The Staff Draft Report reflects the form of the ACP reports filed by Ohio's investor owned utilities and the CRES providers. OEC and Sierra Club do not wish to call for revised ACP filings in 2012, but seeks to propose changes to the Commission so that all subsequent, future-year filings reflect a more complete picture of the renewable and advanced resource development in Ohio as recommended in these comments. The final Alternative Energy Portfolio Standard Staff Report for 2009 and 2010 in this docket (Staff Final Report) should be revised.

**C. Justified and unjustified reasons for confidentiality**

OEC and Sierra Club do not believe all the information currently being filed as confidential is correctly labeled as such. We are skeptical of the claim that any information regarding the amounts of renewable energy from any given source, the vintage years of that renewable energy, or the specific identification of that source should be protected. We acknowledge that a one-year delay in the presentation of the price paid for a resource has a legitimate purpose, although we also feel that this purpose should be weighed against the public interest of understanding the cost of compliance for Ohio utility customers and how the alternative energy market is developing.

Ohio's electricity generators cannot have the contract prices they agree to made public without losing some important market power. However, this confidentiality confounds the over-arching public interest in understanding the resource mix. Ohio's electric resource is poorly diversified. The changes caused by deregulation have moderated that, and the Energy Efficiency and Alternative Energy objectives contained in SB 221 have created significant movement towards a more diverse and less costly resource mix. There is considerable distance to be travelled ahead. Doing so with the most pertinent and accurate information in hand is essential to ensuring that Ohio's progress is good progress.

The ongoing use of confidentiality as it is practiced in the 2012 ACP filings prevents a public understanding of progress in relation to diversity and movement towards specific technologies that individuals and groups of Ohio energy customers may prefer. It is a major barrier in developing enthusiasm and appreciation for wind power in particular, since wind prices have dropped below the range of costs for electricity from new coal generators. Wind is also intersecting with the price of power from new natural gas combined cycle plants, with some

uncertainty about whether the intermediate term price of natural gas will be below or above the last decade's average. Wind is certainly below the cost of power from new or old natural gas combustion turbines during the last several years (natural gas prices were over \$5.50/mmbtu in late 2009<sup>14</sup>). But because current information about wind prices in Ohio is kept secret, it is hard to demonstrate to lawmakers and the public the scale of the price reduction, which is a benefit that should be conveyed to all Ohioans.

This veil of confidentiality also obscures the fact that a significant portion of Ohio's compliance has been achieved from existing resources. This is of course essential information for the Commission, the public and Ohio legislators contemplating changes in Ohio's Alternative Energy Portfolio requirements and other parts of Ohio law.

In addition to keeping contract prices confidential, most of the filed status reports attempt to keep their sales volumes confidential. There may be merit to this perspective for some of the smaller entities whereas the larger entities are not similarly at risk if their prices and sales volumes are made public.

OEC and Sierra Club urge the PUCO to make a strong distinction between current and future projections of benchmarks and baselines, and the history of actual sales and compliance achievements. The current year information for the filing entities may be protected by confidentiality agreements and filing of redacted values. Historical values should not be treated with confidential protection in order to fully inform the public on the status of renewable and advanced energy resources in Ohio.

---

<sup>14</sup> <http://futures.tradingcharts.com/historical/NG/2009/0/continuous.html>.



At a minimum, historical values should be provided without confidential protection for the following:

- The TYPE of renewable resource
- The SOURCE of renewable resource
- The AMOUNT of renewable resource for each reporting entity
- The AMOUNT of renewable resource from each source
- The PRICE of each category of REC
- The PRICE of each REC or group of REC's from a single source

OEC and Sierra Club recommend that historical information for all of these categories should not be kept confidential after one year. OEC and Sierra Club recognize the legitimacy of a one year delay in the amount of renewable resource from each source and the price of each REC or group of REC's from a single source. If this information continues to be filed as confidential, it should be explained in the filing why this information is treated as confidential, and when it will be made public.

The Lawrence Berkeley Laboratory, a division of the U.S. Department of Energy deals with this conflicted interest by publishing aggregate costs of contracts<sup>15</sup>. This is an appropriate approach for a large national overview, but not for the State of Ohio. The public interest is served by allowing the public to know which resources are being used, which ones cost less and which cost more, and which utilities and generators are doing a better job of securing the low cost resources for their customers.

---

<sup>15</sup> <http://eetd.lbl.gov/EA/EMP/reports/wind-energy-costs-2-2012.pdf> (See Slide 8 for a presentation of aggregate cost data, and slides 28 and 29 for the forward price trend).

The PUCO Staff Draft Report aggregates information for the 2009 and 2010 reporting periods for the CRES providers, as a means of solving some of the conflicting interests here. We do not support aggregation of CRES provider information beyond 12 months as a means of preventing the public access to renewable compliance information, and do not believe that all of the information filed under seal in the 2011 reporting period is legitimately protected at all. For example, all CRES providers should report for the current year each fraction of their compliance which was each of the various different types of renewable resource identified in Ohio law. This would be useful information regarding what sectors of the alternative resource market are developing in Ohio. Other information about the source, share and cost may also be made public without violating the CRES provider's legitimate interest in confidentiality. For example, a range of costs for each type of renewable resource, without specifying the amount of cost overall, during the first 12 month period.

#### **D. Issues with the Draft Staff Report**

The averages for the three years prior to 2009 and 2010 respectively was 154,667,290 MWH's and 148,219,340 MWH's:

- Ohio's 2006 Generation was 155,434,075 MWH's.
- Ohio's 2007 Generation was 155,155,545 MWH's.
- Ohio's 2008 Generation was 136,090,225 MWH's.
- Ohio's 2009 Generation was 136,090,225 MWH's.
- Ohio's 2010 Generation was 143,598,337 MWH's<sup>16</sup>.

If the entire state of Ohio would have met the SB 221 Renewable Energy benchmarks, Ohio's renewable energy achievements for each of these years would have been 386,668.2 MWH's in

---

<sup>16</sup> <http://www.eia.gov/electricity/state/ohio/>

2009 and 757,216.6 MWH's in 2010. The Staff Draft Report identifies the total MWH's required for 2009 and 2010 as 335,050 and 613,218, respectively. The Staff Draft Report should clearly identify and explain the discrepancy between the standard and actual compliance levels.

The title of the PUCO Staff Draft Report is "PUCO Staff Draft Alternative Energy Portfolio Standard Report for 2009 and 2010". The Staff Report and the various Plans filed in the Alternative Energy Compliance (ACP) dockets should address how Ohio is positioned to achieve *full* compliance with the 2025 alternative energy portfolio requirement. In its present form, it merely addresses the Renewable Energy provisions of the Alternative Energy Portfolio Standards.

There is a clear distinction between the Status Reports or Reports which are filed, and the ten year Plans which are also filed in the ACP dockets. The 2011 Reports have no absolute obligation to address the Alternative Energy Portfolio as it exists in law. The Staff Report should reflect both the Reports and the Plans, and the Plans extend to 2022, by which time the reporting entities should be addressing the full Alternative Energy standard. The plans filed in 2009 and 2010 address the years up to 2020 and 2021 respectively, and should include discussion of the full Advanced Energy provisions.

Each electric utility and electric service company must file annual compliance plans<sup>17</sup> and reports.<sup>18</sup> For each qualifying resource, the plans must demonstrate how the company intends to comply with the statutory benchmarks utilizing at least a ten year planning horizon.<sup>19</sup> Specifically the plans must provide the baseline for the current year and those expected for future calendar years, a supply portfolio projection, for both generation and power purchases, a description of the methodology used to evaluate compliance options and a discussion of any

---

<sup>17</sup> OAC §4901:1-40-3(C)

<sup>18</sup> OAC §4901:1-40-5(A)

<sup>19</sup> OAC§4901:1-40-3(C)

perceived impediments to achieving compliance with required benchmarks, as well as suggestions for addressing any such impediments.<sup>20</sup>

The compliance reports must demonstrate how the specific benchmarks have or will be met by analyzing all activities undertaken in the previous calendar year.<sup>21</sup> The annual compliance reviews shall also consider any undercompliance and any reasons for such undercompliance that are outside of the company's control such as weather related causes, equipment shortages or resource shortages.<sup>22</sup>

Because of the limited thirty-day comment period on the ACP reports and plans it is impractical for most interested parties to intervene in the individual filings, seek and gain access to the confidentially filed information, develop an informed and useful opinion about the details of Ohio's progress toward the Advanced Energy goals in Ohio law, and present those views in each docket. We are impressed that only the CRES providers failed to comply with the in-State Solar requirement, and that all other compliance was met, apparently with little difficulty. It is still a matter of public interest that there was no overcompliance, which companies failed to meet the standard, and whether the penalty payment for failing to meet the standard is inadequate to incent the utilities to meet the standards.

While there are no annual benchmarks for the implementation of advanced energy resources in Ohio law at this time, it is clear to all participants that the filing entities cannot achieve 12.5% of their total sales in the form of new and different resources in two years. Therefore, all the filed Plans should be required to address the full Advanced Energy portfolio requirement including the alternative energy section. Failure to propose acceptable strategies to meet compliance (starting in 2013 plan filings) should be met with a rejection of the initial filing.

---

<sup>20</sup> *Id.*

<sup>21</sup> OAC §4901:1-40-5(A)

<sup>22</sup> *Id.*

The Staff Draft Report produced in the following year should summarize this planning and should make recommendations to facilitate compliance and achievement of the *entire* 25% obligation presented in Ohio law. One such recommendation would be expedited implementation of a schedule for achieving the full alternative energy portfolio minimum requirements beyond the benchmarks for renewable energy resources. Ohio law requires the establishment of a task force to do this. But it does not prohibit the PUCO from initiating a schedule or from taking action to implement the law, should the task force not be convened, or not take action in a timely manner.

In the Staff Draft Report the PUCO certification process is identified as conforming to OAC §4901:1-40-04(F), primarily addressing:

- A. The resource or technology employed at the facility,
- B. The placed-in service date of the facility,
- C. The deliverability into the State of Ohio of the facility's electrical output.

This list leaves out several essential conditions necessary to verify the effective administration of an alternative energy standard. These may or may not be pertinent to the PUCO's certification process, but they are pertinent to the function and utility of the Staff Draft Report:

1. The amount of generation produced from the facility during the year in question,
2. The location of a repository of REC's, certification, or some other tracking system which accounts for all the REC's produced by a given facility,
3. The record of REC's produced for the given facilities which are sold to other entities.

ORC 4928.01(A)(35) defines renewable energy and explicitly identifies the following resources as qualified renewable resources in Ohio :

- Solar Photovoltaic
- Solar Thermal
- Wind
- Hydroelectric power from Ohio or within or bordering the adjacent states to Ohio
- Geothermal
- Solid waste
- Biomass
- Biomass methane
- Biomass wood
- Black Liquor
- Fuel Cells
- Offshore wind from Ohio's territorial Lake Erie
- Abandoned coal mine methane
- Energy Storage

This list does not include all the qualifications made within this or other sections of the law (intended to ensure that the generated renewable electricity is theoretically deliverable into Ohio). But it is specifically a list of renewable resources which the Ohio General Assembly felt necessary to enumerate.

Therefore, it is pertinent that the reports on renewable resources made to the state of Ohio, and the subsequent summary of those reports identify submitted resources by at least these categories. The present reporting indicates only the compliance in terms of solar generation,

and all other “renewable” generation as having been met, or not met, with the only other distinction being the location of the resource in Ohio or not in Ohio. It is also in the public interest to identify the specific quantity of MWH’s from each resource which is coming from each neighboring state.

The most pressing questions for the public are whether customers are getting what they pay for, and how much they are being asked to pay for it. Answering these questions in a complete manner is not possible with the recommended additional information, even if the non-solar renewables are aggregated and the public is informed on how much they cost as a group.

Several REC verification processes exist, including the PJM GATS, the MISO M-RETS, and the PUCO’s current process. After examining the PJM GATS system, it is clear that the system is not designed to facilitate verification of buyers and sellers of RECs. Certification of REC generators is not correlated to the number of RECs produced in a single year, and then with the number of RECs sold in a single year, so there is no assurance that double-counting is not occurring. The Staff Final Report should ensure that Ohio’s customers are getting the alternative energy they are paying for by providing a clear method of ensuring that no double-counting of RECs is taking place. It should explicitly identify the different verification processes which are acceptable for Ohio’s Advanced Energy compliance, and it should explicitly identify whether all REC’s were certified through that or those process(es).

The process for verification of RECs must be transparent, to the greatest extent possible, while protecting legitimate competitive and trade interests. The reports from the entities regulated under Ohio’s standard, and from the PUCO itself must direct the public to the correct references in order to review claims of cost and of compliance.

#### **E. Issues with the ACP filings – Reports and Plans**

Conducting a review of the ACP filings is particularly challenging for several reasons. Some entities filed reports, some filed plans, some filed both separately, and some filed both combined. At least one entity (DTE Energy Supply, Inc) has filed its 2011 Alternative Energy Resources Report in a completely unrelated docket, 10-414-EL-CRS (filing on May 3, 2012). The Commission should require consistency both in terms of substance and docket designation. If filing in the ACP docket is not to be required, perhaps it would be possible to place a marker entry in the ACP docket directing interested parties to the other location.

The identification of these filings in the Commission's docketing system ("DIS") and within the individual filings themselves is not at all clear. Case No. 12-1220, which is AEP Retail Energy Partners LLC Annual Alternative Energy Status Report filing, is identified on DIS as "Annual Alternative Energy Compliance", with no company name and no distinction between the filing as a report or as a plan. This may be the most confusing example, but most of the DIS filing titles are confusing at best. The applicants use a variety of terms, and a wide variety of styles of presentation. OEC and Sierra Club do not suggest using a different docket for the plans and for the reports, but it would facilitate transparency to require the filing entities to be systematic, and for the DIS titles to attempt to clarify these distinctions. OEC and Sierra Club recommend the PUCO either develop a template or request the title of the documents be described in sufficient detail that readily indicates whether the document is a "report" or a "plan" as those terms are defined in OAC 4901:1-40. Any combined filings should be clearly identified and delineated.

The substance of the filings are also challenging. Some entities report their baseline only, some report their benchmarks only for the solar and non-solar fractions, some report solar, non-



solar and total, and some provide all of this information. The DP&L Energy Resources filing (12-1205) could be used as a model for future use as it captures the majority of information requested by OEC and the Sierra Club.<sup>23</sup> Again, the documents filed over the last several years lack consistency and are therefore difficult to examine and assess.

In previous years, the limitation of thirty days to comment on these filings has gravely inhibited the public's ability to provide feedback. In the current instance, OEC and Sierra Club members have elected to refrain from intervening in each individual report because to do so would be costly and burdensome. The PUCO should acknowledge the limitations inherent in this process and make necessary changes to promote disclosure of information that would enhance public review and input rather than deter it. These changes should be implemented in a timely manner in anticipation of the 2013 filings covering 2012. In the alternative, the PUCO should extend the comment period to 180 days.

Individual reports should identify each different type of resource acquired, according to the definitions in Ohio law, or with even greater detail and subdivision. The reports should identify the source, the method of verification, and the location of verification data. They should also indicate compliance with the annual minimum renewable energy benchmarks in the law, as well as the status of compliance with the remaining 12.5% of the alternative energy portfolio standard required by 2025. If any information is redacted, the specific nature of that information should be identified as clearly as possible, the reason for confidentiality should be stated, and the

---

<sup>23</sup> The filing in DP&L Energy Resources' Plan 12-1205 is better than most of the other filings made in 2012 in that it identifies the specific location of REC purchases, even though all the specific information is redacted. We cannot tell from this public filing if the type or cost of the REC's is identified, and that remains a deficiency, as is true of all the other filings.

future report in which the redacted information will be made publicly available should be identified.

### **III. Conclusion**

After a thorough review of the annual compliance reports, compliance plans and the Staff Draft Report, the undersigned are unable assess how electric utilities and electric service companies are meeting Ohio's alternative energy portfolio standards or how they plan to meet the standards as the benchmarks increase annually. This is due in large part to the lack of information being made available to the public in the reports and plans as filed. Without an open, transparent process, OEC, Sierra Club and the public are unable to assess the status of, or the future of Ohio's alternative energy standard.

Ohio faces an urgent need to develop all the clean energy it can get, as fast as it can get, provided the costs are reasonable. Ohio law does not perfectly reflect the goal of clean energy, nor does Ohio or Federal law adequately reflect the current science on emissions and pollution. Ohio law does not effectively integrate the opportunity for affordable clean energy with the pending need. It is, however, moving Ohio in the right direction.

Ohio and the surrounding region face announced plant closures, and a much larger set of plant closures or retrofits which will be far more expensive than most of the renewables and advanced energy resources being acquired today. Because several Ohio coal plants have been scheduled for closure and replacement, the power plants in the region include a large number of coal plants which have not had modern pollution controls added. So Ohio is exposed to a substantial increase in the cost of electricity over the next several years, as those other plants are brought up to standard or replaced with cleaner resources.

Because of the reduction in the cost of wind power, and the abundant availability of qualified renewable energy from existing sources under the Ohio statutes, it is likely that Ohio's best interests are served by exceeding the Advanced Energy standard, particularly in the years after 2016 when the CAA requirements for toxic pollutants are implemented.

The cost of wind energy and photovoltaics are likely to fall substantially over the next few years, and Ohio's stake in effectively implementing the alternative energy standard is not just the resource we need, but also the manufacturing and economic stimulus created by the development of new resources. Whether or not there is agreement on the correct level of investment, it should be clear to most that without clear information about the resources, the time of their deployment, their cost, and their location, it is virtually impossible to arrive at a clear sense of what might be appropriate.

We respectfully request that the Public Utilities Commission of Ohio consider and adopt these changes.

Respectfully Submitted,

/s/ Christopher J. Allwein  
Christopher J. Allwein, Counsel of Record  
*Williams, Allwein and Moser, LLC*  
1373 Grandview Ave., Suite 212  
Columbus, Ohio 43212  
Telephone: (614) 429-3092  
Fax: (614) 670-8896  
[callwein@wamenergylaw.com](mailto:callwein@wamenergylaw.com)

**The Sierra Club**

/s/ Cathryn N. Loucas  
Cathryn N. Loucas, Counsel of Record  
The Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212-3449  
(614) 487-7506 - Telephone

(614) 487-7510 - Fax  
[trent@theOEC.org](mailto:trent@theOEC.org)  
[cathy@theOEC.org](mailto:cathy@theOEC.org)

**The Ohio Environmental Council**

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by electronic mail this 21<sup>st</sup> day of May, 2012.

/s/ Cathryn N. Loucas

Cathryn N. Loucas

Mike DeWine

William Wright

Attorney General's Office

Public Utilities Commission of Ohio

180 East Broad Street, 6<sup>th</sup> FL

Columbus, OH 43215

[William.Wright@puc.state.oh.us](mailto:William.Wright@puc.state.oh.us)

**Counsel for PUCO Staff**

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**5/21/2012 5:26:44 PM**

**in**

**Case No(s). 12-1100-EL-ACP**

Summary: Public Comment filed by Sierra Club and the Ohio Environmental Council  
electronically filed by Ms. Cathryn N. Loucas on behalf of The Ohio Environmental Council