

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Annual Alternative)
Energy Status Report of Ohio Edison)
Company, The Cleveland Electric)
Illuminating Company and The Toledo)
Edison Company)**

Case No. 11-2479-EL-ACP

Findings and Recommendations of the PUCO Staff

I. Statutory Background

Senate Bill 221, with an effective date of July 31, 2008, established Ohio's alternative energy portfolio standard (AEPS) applicable to electric distribution utilities and electric service companies. The AEPS is addressed principally in sections 4928.64 and 4928.65, Ohio Revised Code (ORC), with relevant resource definitions contained within 4928.01(A), ORC.

According to 4928.64(B)(2), ORC, the specific compliance obligations for **2010** are as follows:

- Renewable Energy Resources = 0.50% (includes solar requirement)
- Solar Energy Resources = 0.010%

In addition, there is a requirement that at least half of the renewable energy resources, including the solar energy resources, shall be met through facilities located in this state.

The PUCO further developed rules to implement the Ohio AEPS, with those rules contained within Ohio Administrative Code (OAC) 4901:1-40.

4901:1-40-05(A), OAC:

Unless otherwise ordered by the commission, each electric utility and electric services company shall file by April fifteenth of each year, on such forms as may be published by the commission, an annual alternative energy portfolio status report analyzing 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. Staff shall conduct annual compliance reviews with regard to the benchmarks under the alternative energy portfolio standard.

4901:1-40-05(C), OAC:

Staff shall review each electric utility's or electric services company's alternative energy portfolio status report and any timely filed comments, and file its findings and recommendations and any proposed modifications thereto.

The findings and recommendations in this document pertain to the company's compliance status. This document does not address such matters as cost recovery or status relative to the statutory 3% cost provision.

II. Company Filing Summarized

The filing of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (the Companies) includes both their annual alternative energy status report and an application for a *force majeure* determination. The Commission granted the Companies' *force majeure* application¹, and therefore Staff's Findings and Recommendations focus on the annual compliance status report.

The Companies proposed a baseline of 45,500,576 megawatt-hours (MWHs), which they indicated is the average of their Ohio standard service offer sales for the 2007, 2008, and 2009 calendar years.² With their proposed baseline and the 2010 statutory benchmarks, the Companies computed their aggregate 2010 compliance obligations as follows:

- 2,275 Ohio Solar MWHs
- 2,275 Non-Ohio Solar MWHs
- 111,477 Ohio Non-Solar³ Renewable MWHs
- 111,476 Non-Ohio Non-Solar Renewable MWHs

In addition, the Companies had an aggregate shortfall of 931 Ohio solar MWHs and 894 Non-Ohio solar MWHs from 2009 that were carried forward to 2010, thus increasing the Companies overall 2010 solar requirements to 3,206 Ohio Solar MWHs and 3,169 Non-Ohio Solar MWHs.⁴

The Companies asserted in their annual compliance status report filing that they fully satisfied their 2010 compliance obligations with the exception of the Ohio solar component. The filing indicated that the Companies obtained 1,629 Ohio solar renewable energy credits (S-RECs),

¹ Case 11-2479-EL-ACP; Finding and Order dated August 3, 2011

² Annual compliance status report, p. 3

³ Staff uses "non-solar" in this context to refer to the total renewable requirement net of the specific solar carve-out. Staff acknowledges that there is not a specific "non-solar" requirement in the applicable statute.

⁴ Annual compliance status report, Exhibit A

leaving them 1,577 Ohio S-RECs short of their requirement.⁵ This deficiency was addressed in the Companies' *force majeure* application.

III. Filed Comments

Several parties submitted comments in this proceeding, including Nucor Steel Marion, Inc., Ohio Energy Group, Environmental Law & Policy Center, the Office of the Ohio Consumers' Counsel, and Citizen Power. However, these comments primarily addressed the Companies' application for a *force majeure* determination or cost considerations, including the Companies' status relative to the 3% cost provision in ORC 4928.64(C)(3). As mentioned above, the Commission ruled on the *force majeure* request in this proceeding. The Commission also concluded that questions regarding compliance costs would be more appropriately addressed in a new, separate docket.⁶

IV. Staff Findings

Following its review of the annual status report and any timely comments submitted in this proceeding, Staff makes the following findings:

- (1) That the Companies are electric distribution utilities in Ohio with retail electric sales in the state of Ohio, and therefore the Companies had an AEPS compliance obligation for 2010.
- (2) That the Companies submitted their annual compliance status report for 2010 AEPS compliance activities on April 15, 2011.
- (3) That the Companies' proposed baseline is reasonable.
- (4) That the Companies accurately computed their aggregate 2010 compliance obligations, including their compliance deficiency from 2009.
- (5) That the Companies' reserve subaccount data on the PJM EIS Generation Attribute Tracking System (GATS) showed the following for 2010:
 - 111,477 Ohio Non-solar RECs
 - 111,476 Non-Ohio Non-solar RECs
 - 1,629 Ohio S-RECs
 - 3,169 Non-Ohio S-RECs

⁵ Annual compliance status report, p. 2

⁶ Case 11-5201-EL-RDR

- (6) That following a review of the Companies' reserve subaccount data on GATS, Staff confirmed that the Companies satisfied their total non-solar obligation, as well as the specific minimum in-state non-solar requirement, for 2010. The specific RECs that the Companies transferred to their GATS reserve subaccount were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2010.
- (7) That following a review of the Companies reserve subaccount data on GATS, Staff confirmed that the Companies satisfied their total solar obligation for 2010, as well as the specific minimum in-state solar requirement, as adjusted to reflect the *force majeure* determination. The specific S-RECs that the Companies transferred to their GATS reserve subaccount were sourced from generating facilities certified by the Commission and, for the most part, were appropriately associated with electricity generated between August 1, 2008, and December 31, 2010. The reserve subaccount details show 3 Ohio S-RECs from January 2011 as having been applied toward 2010 compliance.

V. Staff Recommendations

Following its review of the information submitted in this proceeding and other relevant data, Staff recommends the following:

- (1) That the Companies be found in compliance with their adjusted 2010 AEPS compliance obligations.
- (2) That the deficiency consisting of 1,577 in-state S-RECs be added to the Companies' 2011 compliance obligation, consistent with the Commission's ruling on the Companies' *force majeure* request.
- (3) That going forward the Companies use only RECs or S-RECs associated with electricity that was generated during the compliance year or in prior years, but no earlier than August 1, 2008.
- (4) That for future compliance years in which the Companies are utilizing GATS to demonstrate their Ohio compliance efforts, the Companies initiate the transfer of the appropriate RECs and S-RECs to their GATS reserve subaccount between March 1st and April 15th so as to precede the filing of their Ohio annual compliance status report with the Commission.

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Summary: Staff Review and Recommendation electronically filed by Mr. Stuart M Siegfried on behalf of PUCO Staff