

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Alternative)
Energy Status Report of Ohio Edison)
Company, The Cleveland Electric) Case No. 11-2479-EL-ACP
Illuminating Company, and The Toledo)
Edison Company.)

FINDING AND ORDER

The Commission finds:

- (1) Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI), and The Toledo Edison Company (TE) (collectively, FirstEnergy or the Companies) are public utilities as defined in Section 4905.02, Revised Code, and, as such, are subject to the jurisdiction of this Commission.
- (2) Section 4928.64(B), Revised Code, establishes benchmarks for electric utilities to acquire a portion of the electric utility's standard service offer from renewable energy resources. Specifically, the statute provides that, for 2010, a portion of the electric utility's electricity supply for its standard service offer must come from alternative energy sources (overall renewable energy resources benchmark), including 0.010 percent from solar energy resources (overall solar energy resources (SER) benchmark), half of which must be met with resources located within Ohio (in-state SER benchmark). This requirement increased to 0.030 percent for 2011.
- (3) On April 15, 2011, FirstEnergy filed an application requesting a *force majeure* determination regarding its 2010 in-state SER benchmark.
- (4) Intervention in this proceeding was granted to the Environmental Law and Policy Center (ELPC), Ohio Energy

Group, Nucor Steel Marion (Nucor), the Solar Alliance, Ohio Manufacturer's Association Energy Group, Citizen Power, and Ohio Consumers' Counsel.

- (5) On August 3, 2011, the Commission issued its Finding and Order (August 3 Finding and Order) finding that FirstEnergy presented sufficient grounds for the Commission to reduce the Companies' overall 2010 SER benchmark to the level of solar renewable energy credits (RECs) acquired in 2010.
- (6) On September 2, 2011, Nucor and ELPC filed applications for rehearing regarding the Commission's August 3 Finding and Order, which the Commission denied by entry on rehearing issued September 20, 2011.
- (7) Rule 4901:1-40-05(A), Ohio Administrative Code (O.A.C.), requires that, unless otherwise ordered by the Commission, each electric utility file by April 15 of each year an annual alternative energy portfolio status report. The report must analyze all activities the utility undertook in the previous year in order to demonstrate how pertinent alternative energy portfolio benchmarks and planning requirements have been or will be met. Additionally, Staff must conduct an annual compliance review with regard to benchmarks.
- (8) In its April 15, 2011, filing, the Companies also submitted their 2010 alternative energy status report.
- (9) On May 30, 2012, Staff filed findings and recommendations on FirstEnergy's alternative energy portfolio status report. In its review, Staff notes that the Commission previously granted the Companies' request for a *force majeure* determination in its August 3 Finding and Order. Initially, Staff finds that FirstEnergy was required to comply with the terms of the alternative energy portfolio benchmarks for 2010, as it is an electric distribution utility in Ohio with retail electric sales in Ohio. Additionally, Staff finds that the Companies' proposed baseline and 2010 compliance obligation are reasonable and appropriately calculated.

- (10) Staff further states that it reviewed FirstEnergy's Generation Attribute Tracking System (GATS) reserve subaccounts and confirms that, for 2010, FirstEnergy satisfied its overall renewable energy resources benchmark, its in-state renewable energy resources benchmark, its overall SER benchmark, and its adjusted in-state SER benchmark, as well as the shortfall carried over from 2009. Staff further indicates that it reviewed the Companies' GATS reserve subaccount information and confirmed that the RECs originated from generating facilities certified by the Commission and, for the most part, associated with electricity generated during the applicable time frame. Staff notes that the reserve subaccount details did demonstrate three Ohio solar RECs from January 2011 as having been applied toward 2010 compliance.
- (11) In its review, Staff recommends that FirstEnergy be found to be in compliance with its adjusted 2010 alternative energy compliance obligations, including its shortfall carried over from 2009. Further, Staff recommends that the deficiency consisting of 1,577 in-state solar RECs be added to the Companies' 2011 compliance obligation, consistent with the Commission's ruling in the Companies' request for a *force majeure* determination in the August 3 Finding and Order. Staff also recommends that, going forward, FirstEnergy only use RECs or solar RECs associated with electricity that was generated during the compliance year or in prior years, but no earlier than August 1, 2008. Finally, Staff recommends 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 solar RECs to their GATS reserve subaccount between March 1 and April 15, preceding the filing of their Ohio annual compliance status report with the Commission.
- (12) Upon review of FirstEnergy's alternative energy portfolio status report and Staff's findings and recommendations, the Commission finds that FirstEnergy is in compliance with its

2010 overall renewable energy resources benchmark, in-state renewable energy resources benchmark, overall SER benchmark, and adjusted in-state SER benchmark, including its shortfall of solar RECs carried over from 2009. Consequently, the Commission finds that FirstEnergy's alternative energy portfolio status report for 2010 should be accepted. Further, the Commission finds that the deficiency of 1,577 in-state solar RECs shall be added to the Companies' 2011 compliance obligation, consistent with the Commission's previous ruling on the Companies' request for a *force majeure* determination in the August 3 Finding and Order. The Commission further finds that, going forward, the Companies shall only use RECs or solar RECs associated with electricity generated during the compliance year or in prior years, but no earlier than August 1, 2008. Finally, the Commission finds that, for future compliance years in which the Companies are using GATS to demonstrate their efforts at Ohio compliance, the Companies shall initiate the transfer of the appropriate RECs and solar RECs to their GATS reserve subaccount between March 1 and April 15, in order to precede the filing of their annual compliance status report with the Commission.

It is, therefore,

ORDERED, That FirstEnergy's alternative energy portfolio status report for 2010 is accepted in accordance with Finding (12). It is, further,

ORDERED, That the deficiency of 1,577 in-state solar RECs shall be added to the Companies' 2011 compliance obligation, consistent with the Commission's previous ruling on the Companies' request for a *force majeure* determination. It is, further,

ORDERED, That FirstEnergy follow the Commission directives as set forth in Finding (12). It is, further,

ORDERED, That a copy of this Finding and Order be served upon all parties of record.

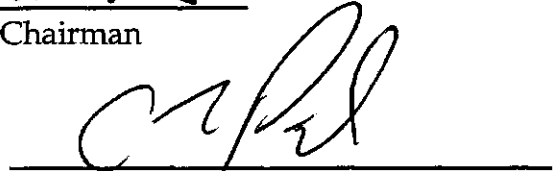
THE PUBLIC UTILITIES COMMISSION OF OHIO



Todd A. Snitchler, Chairman



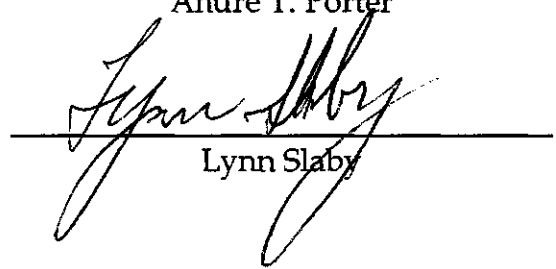
Steven D. Lesser



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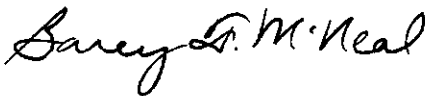


Lynn Slaby

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Barcy F. McNeal
Secretary