

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Direct Energy)
Services, LLC 2010 Annual Alternative)
Energy Portfolio Status Report)**

Case No. 11-2481-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

Direct Energy Services, LLC (Company) filed both a redacted and unredacted version of its status report on April 15, 2011. In addition, the Company filed a motion for protective order seeking confidential treatment for certain information in the unredacted version of its filing. In the redacted version, the Company indicated that it did not have any Ohio retail electric sales in 2010.

III. Filed Comments

No persons filed comments in this proceeding.

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 Direct Energy Services, LLC is an electric services company in Ohio.
- (2) That Direct Energy Services, LLC submitted its annual status report for 2010 compliance activities on April 15, 2011.
- (3) That through the review of internal documents and Intrastate Annual Reports, Staff independently verified Direct Energy Services' claim that it did not conduct retail electric sales in Ohio during 2010.
- (4) That OAC Section 4901:1-40-02, Purpose and Scope, indicates the following:

Parties affected by these alternative energy portfolio standard rules include all Ohio electric utilities and all electric services companies serving retail electric customers in Ohio. Any entities that do not serve

Ohio retail electric customers shall not be required to comply with the terms of the alternative energy portfolio standard.

- (5) That Direct Energy Services, LLC did not serve Ohio retail electric customers in 2010 and therefore did not have a compliance obligation in 2010.

V. Staff Recommendations

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

- (1) That the filing of Direct Energy Services, LLC in this proceeding be accepted, with no further steps required.

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