

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of Border Energy Electric)
Services, Inc. 2011 Annual Alternative)
Energy Portfolio Status Report)**

Case No. 12-1237-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 **2011** are as follows:

- Renewable Energy Resources = **1.00%** (includes solar requirement)
- Solar Energy Resources = **0.03%**

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

Border Energy Electric Services, Inc. (Border Energy or Company) filed its 2011 AEPS status report on April 13, 2012. In its annual status report, the Company indicated a lack of Ohio electric sales in 2008, 2009, and 2010, and therefore proposed that its baseline consist of actual sales for 2011.¹ Using its proposed baseline of 70,859 megawatt-hours (MWHs) and the statutory benchmarks, Border Energy calculated its 2011 compliance obligations to be as follows:

- 687 Non-Solar² MWHs, of which at least 344 must originate from Ohio sources
- 22 Solar MWHs, of which at least 11 must originate from Ohio sources

Border Energy asserted in its filing that it fully satisfied its 2011 compliance obligations through the purchase of renewable energy credits (RECs) and solar RECs (S-RECs) sourced exclusively from Ohio facilities.³

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 Annual status report, p. 2

² 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.

³ Annual status report, p. 3

- (1) That Border Energy is an electric services company in Ohio with retail electric sales in the state of Ohio, and therefore the Company had an AEPS obligation for 2011.
- (2) That the baseline proposed by Border Energy is reasonable. With no Ohio electric sales during the period of 2008 – 2010, projected sales for 2011 could have been used to calculate the baseline. The use of projected sales, as referenced in 4901:1-40-03(B)(2)(b), OAC, was intended to facilitate a company's compliance planning in that it could quantify its compliance requirements earlier in the year. Staff acknowledges that the use of actual sales data, as proposed by the Company, is more accurate than using projected data and therefore Staff does not contest the proposed baseline.
- (3) That the Company accurately calculated its 2011 compliance obligations given its proposed baseline and the statutory benchmarks.
- (4) That the Company maintains an account with the PJM EIS Generation Attribute Tracking System (GATS), but the Company has not to date transferred any RECs or S-RECs to its reserve subaccount for Ohio retirement purposes for the 2011 compliance year.
- (5) That the Company provided Staff with details on the RECs and S-RECs that it obtained to satisfy its 2011 AEPS compliance obligations. Based on the details provided by the Company, it has adequate RECs and S-RECs to fulfill its 2011 compliance requirements. The RECs and S-RECs, all of which came from PUCO-certified facilities located in Ohio, were appropriately associated with electricity generated between August 1, 2008, and December 31, 2011.

V. Staff Recommendations

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

- (1) That Border Energy be found to have satisfied its 2011 AEPS compliance obligations, provided the condition below is met.
- (2) That the Company transfer the RECs and S-RECs, as detailed in the information provided to Staff, to its GATS reserve subaccount for Ohio compliance purposes. Compliance is contingent upon this transfer. Such transfer should occur within 45 days of the Commission's final decision in this proceeding. Staff will review the details of this transfer for confirmation and to ensure consistency with the data previously provided by the Company.

- (3) That for future compliance years in which the Company is utilizing GATS to demonstrate its Ohio compliance efforts, the Company initiate the transfer of the appropriate RECs and S-RECs to its 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