

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Alternative Energy)
Resources Report for Calendar Year)
2010 from Noble Americas Energy)
Solutions LLC)

Case No. 11-2462-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

Noble Americas Energy Solutions LLC (Noble Americas or Company) filed a redacted compliance report for the 2010 compliance year on April 14, 2011, along with a motion for protective order requesting that certain information remain under seal. In an entry addressing the motion for protective order, the Attorney Examiner granted in part and denied in part the Company's motion.¹

Noble Americas proposed an AEPS compliance baseline of 325,956 megawatt hours (MWHs). The Company indicated that it had zero Ohio retail electric sales in 2007 and 2008, and therefore proposed a baseline consisting of its actual sales for 2009.² Using its proposed baseline and the statutory benchmarks, the Company computed its AEPS compliance obligations for 2010. In addition, the Company had an Ohio solar shortfall from 2009, addressed by a previous *force majeure* ruling in Case No. 10-0428-EL-ACP, which was carried forward to 2010 thereby increasing its total 2010 solar obligation.

The Company asserted in its filing that it fully satisfied its 2010 compliance obligations, with the exception of its Ohio solar obligation for which the Company sought a *force majeure* determination in Case No. 11-2384-EL-ACP.³

Included within the confidential portion of its filing (Exhibit B) were details on the renewable energy credits (RECs) and solar RECs that the Company had transferred to its PJM EIS Generation Attributes Tracking System (GATS) reserve subaccount for 2010.

¹ August 9, 2012; p. 4

² Doing business as Sempra Energy Solutions LLC in 2009

³ The *force majeure* determination was granted by Commission finding & order dated August 3, 2011

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 Noble Americas is an electric services company with retail electric sales in the state of Ohio, and therefore Noble Americas had an AEPS compliance obligation for 2010.
- (2) That Noble Americas filed its annual status report for 2010 AEPS compliance activities on April 14, 2011.
- (3) That Noble Americas appropriately calculated its baseline.
- (4) That Noble Americas accurately calculated its 2010 AEPS compliance obligations.
- (5) That following a review of Noble Americas' reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total non-solar⁴ obligation, as well as the specific minimum in-state non-solar requirement, for 2010. The RECs that the Company has transferred to its 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.
- (6) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied a portion of its solar obligation with the shortfall having been addressed in its request for *force majeure*. The S-RECs that Noble Americas transferred to its 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 the Company's reserve subaccount was deficient Ohio S-RECs for 2010.

⁴ Staff uses "non-solar" in this context to refer to the total renewable energy requirement net of the specific solar requirement. Staff acknowledges that there is not a specific "non-solar" requirement in the applicable statute.

V. Staff Recommendations

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

- (1) That Noble Americas be found to be in compliance with its unadjusted non-solar compliance obligations and its adjusted solar obligations.
- (2) That the Ohio solar deficiency noted in (IV)(7) above be added to the Company's 2011 solar obligation, consistent with the Commission decision in Case No. 11-2384-EL-ACP.
- (3) That for future compliance years in which the Company is utilizing GATS to demonstrate its Ohio compliance efforts, the Company initiates 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 its Ohio annual compliance status report with the Commission.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/26/2013 10:49:58 AM

in

Case No(s). 11-2462-EL-ACP

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