

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of Palmco Power OH, LLC)
Annual Alternative Energy Portfolio)
Status Report for 2012)**

Case No. 13-0930-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 **2012** are as follows:

- Renewable Energy Resources = **1.50%** (includes solar requirement)
- Solar Energy Resources = **0.06%**

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

Palmco Power OH LLC (Palmco or Company) filed its AEPS compliance status report for the 2012 compliance year on April 15, 2013. In its public filing, the Company indicated that it had no Ohio retail electric sales in 2009, 2010, or 2011. The Company further indicated that its actual sales for 2012, which it proposed to use at its baseline, were 2,941 megawatt-hours (MWHs). Palmco used its proposed baseline and the statutory benchmarks for 2012 to calculate its compliance obligations, the details of which are provided in the unredacted version of its filing.

Palmco indicated in its filing that the renewable energy credits (RECs) and solar RECs (S-RECs) that it obtained for compliance had been retired through the PJM EIS Generation Attribute Tracking System (GATS).

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 the Company is an electric services company with retail electric sales in the state of Ohio, and therefore the Company had an AEPS compliance obligation for 2012.
- (2) That the baseline proposed by Palmco is reasonable. With no Ohio retail electric sales during the period 2009 – 2011, the baseline under 4901:1-40-03(B)(2)(b), OAC, should consist of a reasonable sales projection for a full calendar year. Rather than a projection, the Company has proposed to use its 2012 actual sales. Because the actual sales would be more representative than projected data, Staff does not contest the use of the actual sales data in this context.

- (3) That the Company accurately calculated its 2012 compliance obligations, given its proposed baseline.
- (4) That the Company transferred RECs and S-RECs to its GATS reserve subaccount for Ohio compliance purposes.
- (5) That following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total non-solar¹ obligation, while exceeding the specific minimum in-state non-solar requirement, for 2012. The RECs that the Company 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, 2012.
- (6) That following a review of the Company's reserve subaccount data on GATS, Staff determined that the Company was one Ohio S-REC short of satisfying its total solar obligation and specific minimum in-state solar requirement for 2012. The S-RECs that the Company 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, 2012.
- (7) That to address the solar compliance deficiency, Palmco should be assigned an alternative compliance payment of \$350.00. This payment is calculated by multiplying the 1 MWH compliance shortfall by the solar compliance payment in effect for 2012.²

V. Staff Recommendations

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

- (1) That the Company be found to have not satisfied its 2012 AEPS compliance obligations.

¹ 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.

² 4928.64(C)(2)(a), Revised Code

- (2) That the Company should remit payment to the Commission in the amount of \$350.00 consistent with the requirements in 4901:1-40-08(B), OAC.

The payment should be directed to the PUCO's Fiscal Department, and made out to "Treasurer State of Ohio". A letter should also be attached to the check stating that it is a compliance payment required by Ohio Revised Code Section 4928.64 for deposit to the credit of the Advanced Energy Fund, under the control of the Ohio Development Services Agency and created under section 4928.61 of the Revised Code. The letter should also cite the Commission case ordering the payment.

- (3) That the Company should submit an attestation in this docket consistent with the requirements in 4901:1-40-08(D), OAC.
- (4) 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 their 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

6/12/2013 3:04:21 PM

in

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