

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Alternative Energy)
Resources Report for Calendar Year 2010) Case No. 11-2448-EL-ACP
from Constellation NewEnergy, Inc.)

FINDING AND ORDER

The Commission finds:

- (1) Constellation NewEnergy, Inc. (Constellation), is an electric services company as defined in Section 4928.01(A)(9), Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) Section 4928.64(B), Revised Code, establishes benchmarks for electric services companies to acquire a portion of their electricity supply for retail customers in Ohio from renewable energy resources. Specifically, the statute requires that, for 2010, a portion of the electricity sold by means of retail electric sales in Ohio must come from alternative energy resources (overall renewable energy resources benchmark), half of which must be met with resources located within Ohio (in-state renewable energy resources benchmark), and 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).
- (3) Rule 4901:1-40-05(A), Ohio Administrative Code (O.A.C.), requires that, unless otherwise ordered by the Commission, each electric services company file by April 15 of each year an alternative energy portfolio status report. The report must analyze all activities the company 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, the Commission's Staff (Staff) must conduct an annual compliance review with regard to the benchmarks. Finally Rule 4901:1-40-02(A), O.A.C., provides that electric services companies that do not serve Ohio retail electric customers are not required to comply with the terms of the alternative energy portfolio benchmarks.

- (4) On April 14, 2011, Constellation filed its 2010 alternative energy portfolio status report, pursuant to Section 4928.64, Revised Code, and Rule 4901:1-40-05(A), O.A.C. In its report, Constellation states that it calculated its baseline for 2010 based on the average of its retail electric sales for 2007, 2008, and 2009. Using this baseline and the 2010 statutory benchmarks, Constellation reports that it met its overall renewable energy resources benchmark, its in-state renewable energy resources benchmark, its overall SER benchmark, and its in-state SER benchmark through the use of renewable energy credits (RECs) and solar RECs. Additionally, Constellation indicates that it satisfied its in-state SER shortfall from 2009, which was carried over to its 2010 benchmarks.
- (5) On January 22, 2013, Staff filed findings and recommendations regarding Constellation's alternative energy portfolio status report. Initially, Staff finds that Constellation was required to comply with the terms of the alternative energy portfolio benchmarks for 2010, as it had retail electric sales in Ohio. Staff notes that Constellation's proposed baseline is reasonable; however, Staff notes that its calculations indicate Constellation overstated its overall renewable energy resources benchmark.

Additionally, Staff states that it reviewed Constellation's Generation Attribute Tracking System (GATS) reserve subaccount data and confirms that, for 2010, Constellation satisfied its overall renewable energy resources benchmark, in-state renewable energy resources benchmark, overall SER benchmark, and in-state SER benchmark, including its in-state SER shortfall from 2009, which was carried over to 2010. Staff further indicates that it confirmed that the RECs and solar RECs originated from generating facilities certified by the Commission and were associated with electricity generated during the applicable timeframe. However, Staff notes that Constellation retired 122 overall RECs, 137 in-state RECs, 2 overall solar RECs, and 2 in-state solar RECs in excess of its compliance obligations through 2010.

Accordingly, Staff recommends that Constellation be found to be in compliance with its 2010 alternative energy compliance obligations, including its shortfall carried over from 2009. Staff

further recommends that the excess RECs and solar RECs retired via Constellation's GATS reserve subaccount that exceeded the amount necessary for compliance in 2010 be eligible to be applied against applicable future compliance obligations, provided that the timing does not conflict with Rule 4901:1-40-04(D)(3), O.A.C. Finally, Staff recommends that, for future compliance years in which Constellation utilizes GATS to demonstrate its Ohio compliance efforts, Constellation initiate transfer of the appropriate RECs and solar RECs to its GATS reserve subaccount between March 1 and April 15 so as to precede the filing of its annual alternative energy portfolio status report with the Commission.

- (6) Upon review of Constellation's alternative energy portfolio status report and Staff's findings and recommendations, the Commission finds that Constellation is in compliance with its 2010 overall renewable energy resources benchmark, in-state renewable energy resources benchmark, overall SER benchmark, and in-state SER benchmark, including its shortfall carried over from 2009. Consequently, the Commission finds that Constellation's alternative energy portfolio status report for 2010 should be accepted.

The Commission further finds that, consistent with Staff's recommendation, the excess RECs and solar RECs retired via Constellation's GATS reserve subaccount that exceeded the amount necessary for compliance in 2010 be eligible to be applied against applicable future compliance obligations, provided that the timing does not conflict with Rule 4901:1-40-04(D)(3), O.A.C. Finally, with respect to future compliance years, the Commission directs Constellation to initiate the transfer of the appropriate RECs and solar RECs to its GATS reserve subaccount between March 1 and April 15, consistent with Staff's recommendation.

It is, therefore,

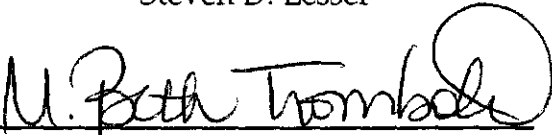
ORDERED, That Constellation's alternative energy portfolio status report for 2010 be accepted in accordance with Finding (6). It is, further,

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


THE PUBLIC UTILITIES COMMISSION OF OHIO

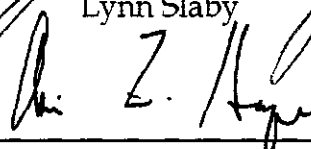
Todd A. Snitchler, Chairman

Steven D. Lesser



M. Beth Trombold



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Secretary