

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Constellation)
NewEnergy, Inc. 2011 Annual Alternative)
Energy Portfolio Status Report)**

Case No. 12-1218-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

Constellation NewEnergy, Inc. (Constellation or Company) filed its 2011 AEPS status report on April 12, 2012. In its annual status report, Constellation proposed a baseline comprised of an average of its annual retail electric sales for 2008, 2009, and 2010. Using its proposed baseline and the 2011 statutory benchmarks, Constellation calculated its 2011 compliance obligations the details of which are included in the unredacted version of the Company's compliance filing.

The Company asserted in its filing that it fully satisfied its 2011 compliance obligations through the use of renewable energy credits (RECs) and solar RECs (S-RECs), with such RECs and S-RECs having been retired via Constellation's account with the PJM EIS Generation Attributes 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 Constellation 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 Constellation is reasonable, and the Company accurately calculated its compliance obligations given its proposed baseline.
- (3) That following a review of Constellation's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total non-solar obligation, as well as the specific minimum in-state non-solar requirement, for 2011. 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, 2011.

- (4) That following a review of Constellation's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its total solar obligation, as well as the specific minimum in-state solar requirement, for 2011. 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, 2011.
- (5) That in its Findings and Recommendations pertaining to Constellation's 2010 compliance status report, Staff noted that the Company had retired an excess of RECs and S-RECs. The Company did not apply any of that excess to its 2011 compliance requirements, and therefore the following excess remains available for application to a future compliance obligation¹:

- 2 Ohio S-RECs and 2 Other S-RECs
- 137 Ohio RECs and 122 Other RECs

V. Staff Recommendations

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

- (1) That Constellation be found to have satisfied its 2011 AEPS compliance obligations.
- (2) That Constellation considers incorporating the excess detailed in Finding 5 into its next compliance status report filing so as to eliminate this balance.²
- (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 their Ohio annual compliance status report with the Commission.

¹ Case No. 11-2448-EL-ACP; Finding and Order dated September 18, 2013

² Company's next compliance filing would address the 2013 compliance year; due no later than April 15, 2014

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

10/29/2013 9:56:44 AM

in

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