

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's )  
Alternative Energy Portfolio Standard ) Case No. 12-2668-EL-ACP  
Report to the General Assembly for the )  
2011 Compliance Year. )

In the Matter of the Commission's )  
Alternative Energy Portfolio Standard ) Case No. 13-1909-EL-ACP  
Report to the General Assembly for the )  
2012 Compliance Year. )

ENTRY

The attorney examiner finds:

- (1) Amended Substitute Senate Bill 221 of the 127th General Assembly (2008 Ohio Laws S221, effective July 31, 2008), initiated Ohio's Alternative Energy Portfolio Standard (AEPS), now codified in Sections 4928.64 and 4928.65, Revised Code. The AEPS consists of both renewable energy resources and advanced energy resources, and contains specific compliance benchmarks for total renewable energy resources, including a specific solar requirement, beginning in 2009. Section 4928.64(D)(1), Revised Code, requires the Commission to submit a report to the General Assembly describing the compliance of electric distribution utilities and electric services companies with Section 4928.64(B), Revised Code, and any strategy for utility and company compliance or for encouraging the use of alternative energy resources in supplying this state's electricity needs in a manner that considers available technology, costs, job creation, and economic impacts. The statute also requires the Commission to solicit and consider public comments on the report prior to its submission to the General Assembly. Rule 4901:1-40-09, Ohio Administrative Code (O.A.C.), provides for a 30-day public comment period prior to the submission of the report to the General Assembly.
- (2) Section 4928.01(A)(9), Revised Code, defines an electric services company as "an electric light company that is engaged on a for-profit or not-for-profit basis in the business of supplying or arranging for the supply of only a competitive retail electric service in this state. 'Electric services company' includes a

power marketer, power broker, aggregator, or independent power producer but excludes an electric cooperative, municipal electric utility, governmental aggregator, or billing and collection agent.” AEPS compliance reporting requirements are limited to certified retail electric suppliers (CRES) who take title to the power, and are certified under CRS applications. Suppliers who are certified under AGG or GAG applications, (i.e., aggregators or brokers which serve as pass-through entities in supply transactions) should not file any AEPS compliance reports.

- (3) Amended Substitute Senate Bill 315 of the 129th General Assembly (2012 Ohio Laws S315, effective September 10, 2012), amended Section 4928.64(D)(1)(b), Revised Code, to require that the Commission’s annual AEPS report to the General Assembly include details on the average annual cost of renewable energy credits (RECs) purchased by utilities and companies for the year covered in the report.
- (4) To satisfy this statutory requirement, each electric distribution utility and electric services company with a 2012 AEPS compliance requirement shall file in Case No. 13-1909-EL-ACP, by November 15, 2013, the average cost data for the RECs that it has retired, or will be retiring, to demonstrate compliance with its 2012 Ohio AEPS obligations. The cost data to be filed shall be provided as an average cost for each of the following four categories, as indicated in the table below: (a) Ohio solar, (b) Other solar, (c) Ohio non-solar, and (d) Other non-solar.

Category	\$/REC (average)
Ohio Solar	
Other Solar	
Ohio Non-Solar	
Other Non-Solar	

- (5) If any RECs were purchased as part of a bundled product (i.e., renewable power purchase agreement) or were self-generated, reporting companies should include details and supporting calculations as to how the reported REC costs were determined. If any reporting company believes that its average REC cost data for the 2012 compliance year should be protected from public disclosure as a trade secret, it should file the information

under seal with a motion for protective order pursuant to Rule 4901-1-24, O.A.C. Any information filed in a Commission docket which has not been granted confidential treatment pursuant to such a motion shall be made available to the public.

- (6) In Case No. 12-2668-EL-ACP, motions for protective orders to prevent public disclosure of average REC cost data were filed by Noble America Energy Solutions (Noble); Integrys Energy Services, Inc.; Direct Energy Business, LLC; MidAmerican Energy Company; Duke Energy Ohio, Inc.; AEP Energy, Inc.; Constellation NewEnergy, Inc.; Dominion Retail, Inc.; Ohio Power Company, dba AEP Ohio; The Cleveland Electric Illuminating, Ohio Edison and The Toledo Edison Companies; DPL Energy Resources, Inc.; and The Dayton Power and Light Company. These motions allege that the average REC cost data contained in these filings should be protected from public disclosure as trade secrets. No objections to any of these motions have been filed.
- (7) The motion for protective order filed by Noble on October 23, 2012, in Case No. 12-2668-EL-ACP, appears to have been filed by a corporate officer rather than a licensed Ohio attorney authorized to appear on behalf of Noble, a corporation. Rule 4901-1-08(A), O.A.C., requires that any party not appearing in propria persona shall be represented by an attorney-at-law authorized to practice before the courts of this state, and that corporations must be represented by an attorney-at-law. The filing of a motion for protective order constitutes the practice of law in Ohio, and consequently, this motion can not be considered. If Noble wishes to properly file its motion, it should have an attorney licensed to practice in Ohio duly file a motion on its behalf by November 15, 2013.
- (8) As the remaining motions for protective orders appear reasonable and no opposition has been filed to any motion, these motions should be granted for a period of 24 months from the issuance of this entry.

It is, therefore,

ORDERED, That each electric distribution utility and electric services company with a 2012 AEPS compliance requirement file, in Case No. 13-1909-EL-ACP, by November 15, 2013, the average cost data for the RECs that it has retired, or will be retiring, to demonstrate compliance with its 2012 Ohio AEPS obligations. It is, further,

ORDERED, That Noble be granted until November 15, 2013, to file a valid motion for protective order pursuant to Rule 4901-1-24, O.A.C., in Case No. 12-2668-EL-ACP. It is, further,

ORDERED, That each motion for protective order pursuant to Rule 4901-1-24, O.A.C., filed in Case No. 12-2668-EL-ACP, except that of Noble, be granted for a period of 24 months from the issuance of this entry. It is, further,

ORDERED, That notice or a copy of this entry be served via the electric-energy listserve, and upon all Ohio electric distribution utilities, all certified competitive retail electric service providers except aggregators, and upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/ Richard M. Bulgrin

By: Richard M Bulgrin  
Attorney Examiner

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**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 12-2668-EL-ACP, 13-1909-EL-ACP**

Summary: Attorney Examiner Entry directing each electric distribution utility and electric services company with a 2012 AEPS compliance requirement to file, in Case No. 13-1909-EL-ACP, by November 15, 2013, the average cost data for the RECs for 2012 Ohio AEPS obligations; and granting motions for protective orders for 24 months in Case No. 12-2668-EL-ACP; electronically filed by Vesta R Miller on behalf of Richard M. Bulgrin, Attorney Examiner, Public Utilities Commission of Ohio