

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Alternative Energy )  
Portfolio Status Report for 2013 of ) Case No. 14-611-EL-ACP  
NextEra Energy Services Ohio, LLC. )

FINDING AND ORDER

The Commission finds:

- (1) NextEra Energy Services Ohio, LLC. (NextEra or the Company) is an electric services company as defined in R.C. 4928.01(A)(9) and, as such, is subject to the jurisdiction of this Commission.
- (2) R.C. 4928.64(B)(2) establishes benchmarks for electric services companies to acquire a portion of their electricity supply for retail customers in Ohio from renewable energy resources. Half of the renewable benchmark must be met with resources located within Ohio (in-state renewable benchmark), including a portion from solar energy resources (solar benchmark), half of which must be met with resources located within Ohio (in-state solar benchmark).<sup>1</sup> The specific renewable compliance obligations for 2013 are 2.00 percent (which includes the solar requirement) and 0.09 percent for solar. R.C. 4928.645 (formerly R.C. 4928.65 prior to the enactment of 2014 Sub.S.B. No. 310), provides that an electric utility or electric services company may use renewable energy credits (RECs) and solar energy credits (SRECs) to meet its respective renewable energy and solar benchmarks. Ohio Adm.Code 4901:1-40-01(BB) defines a REC as the environmental attributes associated with one megawatt hour (MWh) of electricity generated by a renewable energy resource, except for electricity generated by facilities as described in Ohio Adm.Code 4901:1-40-04(E).

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<sup>1</sup> The Commission notes that, for future reports, Sub.S.B. No. 310 of the 130th General Assembly, which became effective September 12, 2014, has amended R.C. 4928.64 and 4928.65 to, inter alia, eliminate the in-state renewable benchmarks and advanced energy component, freeze renewable energy benchmarks for 2015 and 2016, and allow an alternative sales baseline calculation for determining compliance.

- (3) Ohio Adm.Code 4901:1-40-05(A) requires each electric services company to annually file by April 15 an alternative energy portfolio status report (AEPS report), unless otherwise ordered by the Commission. The AEPS report must analyze all activities the company undertook in the previous year in order to demonstrate how pertinent alternative energy portfolio benchmarks have been met. Staff then conducts an annual compliance review of the company's filing and records on the PJM EIS Generation Attribute Tracking System (GATS) to ensure that RECs were sourced from generating facilities certified by the Commission and appropriately associated with electricity generated between August 1, 2008, and December 31, 2013.
- (4) On April 14, 2014, NextEra filed its 2013 AEPS report with a motion for protective order pursuant to Ohio Adm.Code 4901-1-24, for its ten-year forecast of its AEPS compliance obligations. NextEra asserts that this data is proprietary information, the public disclosure of which would jeopardize the Company's ability to compete in Ohio's retail energy market.. NextEra reports that it has satisfied its 2013 compliance obligations.
- (5) Ohio Adm.Code 4901-1-24 allows the Commission to issue an order to protect the confidentiality of information to the extent that state or federal law prohibits release of the information, including where the information is deemed to constitute a trade secret as defined by R.C. 1333.61(D). R.C. 4905.07 provides that all facts and information in the possession of the Commission shall be public, except as provided in R.C. 149.43, and as consistent with the purposes of R.C. Title 49. With respect to AEPS reports, the Commission has held that motions for protective orders should be granted for future projected data, but denied for any current or historical data that has been publicly disclosed, such as a company's historical intrastate sales or REC requirements that are a mathematical function of publicly-reported sales. See, e.g., *In rePublic Power, LLC*, Case No. 13-884-EL-ACP, Finding and Order (Dec. 18, 2013) at 3-5; *In reCommerce Energy of Ohio, Inc., dba Just Energy*, Case No. 13-928-EL-ACP, Finding and Order (Dec. 18, 2013)

at 2-4; *In re Direct Energy Services, LLC*, Case No. 12-1233-EL-ACP, Finding and Order (Dec. 11, 2013) at 5-6.

- (6) With respect to the instant case, NextEra's motion should be granted, and this information should remain under seal in the Commission's Docketing Division for a 24-month period from the date of this Order. NextEra should note that, pursuant to Ohio Adm.Code 4901:1-24(F), any motion to extend such period of confidential treatment should be filed at least 45 days in advance of the expiration date, pursuant to Ohio Adm.Code 4901-1-24(F), or this information may be released without further notice.
- (7) On September 10, 2014, Staff filed its review and recommendations for the Company's AEPS report. Staff reports that NextEra is an electric services company in the state of Ohio, and thus had an AEPS obligation for 2013. Staff reports that the Company accurately calculated its AEPS compliance requirements. Staff reviewed the Company's GATS account record to verify compliance, and determined that the Company has satisfied its 2013 AEPS compliance obligations, as well as its compliance obligations from the 2010 and 2011 compliance years that were rolled forward to 2013 in pursuant to the Commission's October 23, 2013 Opinion and Order in Case Nos. 11-2363-EL-ACP and 12-1285-EL-ACP. Staff recommends that, for future compliance years, the Company initiate the transfer of the appropriate RECs and SRECs to its GATS reserve subaccount between March 1 and April 15 so as to precede the filing of its annual AEPS report with the Commission.
- (8) Upon review of the Company's AEPS report and the record in this proceeding, we adopt Staff's recommendations. We find that the Company's 2013 proposed compliance baseline is reasonable, and that the Company has met its compliance obligations for 2013, as well as those rolled forward from the 2010 and 2011 compliance years. Further, the Company is directed to comply with Staff's recommendations for future compliance years.

It is, therefore,

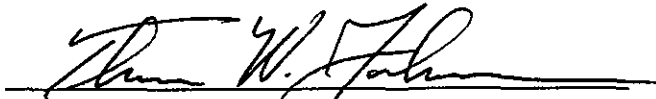
ORDERED, That the Company's 2013 AEPS report be accepted as filed, as NextEra has met its AEPS compliance obligations for 2013 as well as those rolled forward from prior years. It is, further,

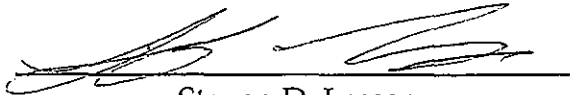
ORDERED, That the Company's motion for protective order be granted, and that such information remain under seal in the Docketing Division for a 24-month period. It is, further,

ORDERED, That NextEra comply with Staff's recommendations adopted herein. It is, further,

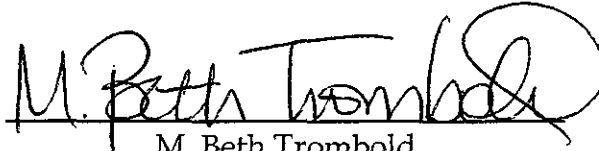
ORDERED, That a copy of this Finding and Order be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
Thomas W. Johnson, Chairman

  
Steven D. Lesser

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Lynn Slaby


  
M. Beth Trombold

  
Asim Z. Haque

RMB/dah

Entered in the Journal

**APR 08 2013**

  
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Barcy F. McNeal  
Secretary