

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Alternative Energy Resources Report for the 2012 Calendar Year From Constellation NewEnergy, Inc.)) **Case No. 13-0905-EL-ACP**

In the Matter of the Alternative Energy Resources Report for the 2013 Calendar Year From Constellation NewEnergy, Inc.)) **Case No. 14-0610-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 section 4928.64, 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 and 2013 are as follows:

Compliance Year	Renewable Resources (including solar)	Solar Resources
2012	1.5%	0.06%
2013	2.0%	0.09%

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

For the 2012 compliance year, Constellation NewEnergy, Inc. (Constellation or Company) filed both a redacted (public) and unredacted (confidential) version of its annual alternative energy status report on April 15, 2013. In its status report, Constellation indicated that it had Ohio retail electric sales in 2009, 2010 and 2011, with its proposed baseline representing an average of the annual sales for that three year period. With a baseline of 863,801 megawatt-hours (MWHs) and the 2012 statutory benchmarks, the Company calculated its 2012 compliance obligations the details of which are included in the unredacted version of its status report. The Company asserted in its annual compliance status report that it fully satisfied its 2012 compliance requirements with the purchase of renewable energy credits (RECs) and solar RECs (S-RECs). The Company further stated that it retired the necessary RECs and S-RECs through its PJM EIS Generation Attribute Tracking System (GATS) reserve subaccount.

For the 2013 compliance year, Constellation filed both a redacted (public) and unredacted (confidential) version of its annual alternative energy status report on April 14, 2014. In its compliance status report, Constellation proposed a baseline of 1,409,571 MWHs which it asserted was an average of its annual Ohio retail electric sales for 2010 – 2012. With its proposed baseline and the 2013 statutory benchmarks, the Company calculated its 2013 compliance obligations to be as follows:

- 1,268 solar MWHs
- 26,922 non-solar MWHs

The Company indicated in its status report that it fully satisfied its 2013 compliance requirements with the purchase of RECs and S-RECs. The Company further stated that it retired the necessary RECs and S-RECs through its GATS reserve subaccount.

III. Filed Comments

No persons filed comments pertaining to the compliance reports in these proceedings.

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 during 2012 and 2013, and therefore the Company had AEPS compliance obligations for both 2012 and 2013.
- (2) That the Company's proposed 2012 and 2013 baselines are reasonable, and that the Company accurately calculated its 2012 and 2013 compliance obligations.
- (3) That the Company has transferred RECs and S-RECs to its GATS reserve subaccount to demonstrate compliance with its 2012 and 2013 AEPS obligations.
- (4) That the Company had retired excess RECs and S-RECs in a previous compliance year.¹ The Company has proposed to apply that excess, comprised of 4 S-RECs and 259 RECs, to its 2013 compliance obligations.²
- (5) That following a review of the Company's reserve subaccount data on GATS for 2012, Staff confirmed that the Company satisfied its total solar and non-solar obligations as well as the specific in-state minimum requirements. The RECs and S-RECs that the Company transferred to its GATS reserve subaccount for 2012 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 for 2013, and with consideration of the excess RECs and S-RECs retired in previous years, Staff confirmed that the Company satisfied its total solar and non-solar obligations as well as the specific in-state minimum requirements. The RECs and S-RECs that the Company transferred to its GATS reserve subaccount for 2013 were sourced from generating facilities certified by the Commission and were appropriately associated with electricity generated between August 1, 2008, and December 31, 2013.

¹ Staff Findings and Recommendations; Case No. 12-1218-EL-ACP

² Company's status report filing, Table 3; Case No. 14-0610-EL-ACP

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 satisfied its 2012 and 2013 AEPS compliance obligations.
- (2) 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 its Ohio annual compliance status report with the Commission.

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Summary: Staff Review and Recommendation for the 2012 and 2013 compliance years electronically filed by Mr. Stuart M Siegfried on behalf of PUCO Staff