

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Kiwi Energy	)	
NY, LLC 2016 Renewable Portfolio	)	Case No. 17-0885-EL-ACP
Standard Status Report	)	

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**Staff Findings and Recommendations**

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**I. Statutory Background**

Amended Substitute Senate Bill 221, of the 127<sup>th</sup> General Assembly (2008 Ohio Laws S221, effective July 31, 2008), established Ohio's renewable portfolio standard (RPS) applicable to electric distribution utilities and electric service companies. The RPS is addressed principally in Ohio Revised Code (R.C.) 4928.64, with relevant resource definitions also contained within R.C. 4928.01(A).

According to R.C. 4928.64(B)(2), the compliance obligations for **2016** are as follows:

- Renewable Energy Resources = **2.50%** (includes solar requirement)
- Solar Energy Resources = **0.12%**

The Public Utilities Commission of Ohio (PUCO or Commission) further developed rules to implement the Ohio RPS, contained within Ohio Administrative Code (Ohio Adm.Code) 4901:1-40.

Ohio Adm.Code 4901:1-40-05(A), states:

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.

Ohio Adm.Code 4901:1-40-05(C), states:

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**

Kiwi Energy NY, LLC d/b/a Kiwi Energy (Kiwi or Company) filed its RPS compliance status report for the 2016 compliance year on April 11, 2017. In its compliance filing, Kiwi indicated it did not have any Ohio retail electric sales during 2016. With no Ohio electric sales activity in 2016, the Company asserted that it did not have any renewable compliance obligations for 2016.

## **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) Kiwi was an electric services company in Ohio during 2016, and therefore the Company had an RPS filing obligation for 2016.<sup>1</sup>
- (2) Kiwi filed its compliance status report on April 11, 2017. In its report, the Company asserted that it had zero Ohio retail electric sales in 2016, a claim verified by Staff through independent review.
- (3) Ohio Adm.Code 4901:1-40-02, Purpose and Scope, indicates the following:

Parties affected by these alternative energy portfolio standard rules include all Ohio electric utilities and all electric services companies serving retail electric customers in Ohio. Any entities that do not serve

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<sup>1</sup> Kiwi was certified to provide power marketer services in Ohio during 2016; see PUCO Case No. 16-2159-EL-CRS.

Ohio retail electric customers shall not be required to comply with the terms of the alternative energy portfolio standard.

- (4) As Kiwi did not serve Ohio retail electric customers in 2016, the Company did not have an RPS compliance obligation in 2016.<sup>2</sup>

## **V. Staff Recommendations**

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

- (1) Kiwi's filing in this proceeding is accepted.
- (2) 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 1<sup>st</sup> and April 15<sup>th</sup> so as to precede the filing of their Ohio annual compliance status report with the Commission.

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<sup>2</sup> With no sales during the compliance year, a power marketer would not be required to comply with the statutory renewable obligations contained within R.C. 4928.64(B)(2). However, the power marketer must satisfy the filing requirement contained within Ohio Adm.Code 4901:1-40-05, which Staff finds has been satisfied by Kiwi in this proceeding.

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