

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Freepoint Energy	)	
Solutions, LLC 2017 Renewable	)	Case No. 18-0617-EL-ACP
Portfolio Standard Status Report	)	

In the Matter of the Freepoint Energy	)	
Solutions, LLC 2018 Renewable	)	Case No. 19-0589-EL-ACP
Portfolio Standard Status Report	)	

---

**Staff Findings and Recommendations**

---

**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 **2017** and **2018** are as follows:

Compliance Year	Total Renewable Requirement	Solar Requirement
2017	3.5%	0.15%
2018	4.5%	0.18%

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 Filings Summarized**

### 2017 Compliance Year

Freepoint Energy Solutions, LLC (FES or Company) filed its RPS compliance status report for the 2017 compliance year on April 12, 2018. As part of its filing, the Company included both a redacted (public) version and a confidential version of its RPS compliance report.<sup>1</sup> In its compliance filing, FES proposed a baseline, redacted from its public report, that it indicated was its Ohio retail electric sales for 2017. Applying the statutory benchmarks to its proposed baseline, FES calculated its 2017 compliance obligations the details of which were redacted from its public filing.

Rather than retiring the necessary renewable energy credits (RECs) and solar RECs (S-RECs) to satisfy its 2017 compliance obligations, the Company has proposed to remit an alternative compliance payment in the amount of \$5,521.60.

### 2018 Compliance Year

FES filed its RPS compliance status report for the 2018 compliance year on April 2, 2019. As part of its filing, the Company included both a redacted (public) version and a confidential version of its RPS compliance report.<sup>2</sup> In its compliance filing, FES proposed a baseline, redacted from its public report, that it indicated was its Ohio retail electric sales for 2018.

---

<sup>1</sup> The Company's filing did not include a Motion for Protective Order.

<sup>2</sup> The Company's filing did not include a Motion for Protective Order.

Applying the statutory benchmarks to its proposed baseline, FES calculated its 2018 compliance obligations the details of which were redacted from its public filing.

The Company indicated that it had obtained the necessary RECs and S-RECs to satisfy its 2018 compliance obligations. The Company further indicated that it had transferred RECs and S-RECs to a recognized attribute tracking system.

### **III. Filed Comments**

No persons filed comments in these proceedings.

### **IV. Staff Findings**

Following its review of the Company's annual status reports, other relevant compliance materials, and any timely comments submitted in these proceedings, Staff makes the following findings:

- (1) FES was an electric services company in Ohio with retail electric sales in the state of Ohio during 2017 and 2018, and therefore the Company had an RPS obligation for both 2017 and 2018.<sup>3</sup>
- (2) The baselines proposed by the Company are reasonable, and given the proposed baseline and the applicable statutory benchmarks, FES accurately calculated its RPS compliance obligations for 2017 and 2018.
- (3) To satisfy its 2017 RPS obligations, the Company proposed an alternative compliance payment of \$5,521.60. In the event of an alternative compliance payment, Commission rules require that the level of noncompliance be rounded up to the next megawatt-hour.<sup>4</sup> When employing this rounding requirement, Staff calculates an alternative compliance payment of \$5,821.84 using the Company's proposed baseline.
- (4) The Company has transferred S-RECs and RECs to a Commission-approved attribute tracking system for 2018 Ohio compliance purposes. Following a review of the tracking system retirement data, Staff confirmed that the Company satisfied its RPS obligations for 2018. The S-RECs and RECs that the Company

---

<sup>3</sup> FES was certified to provide power marketer services in Ohio during 2017 and 2018; see PUCO Case No. 16-1904-EL-CRS.

<sup>4</sup> OAC 4901:1-40-08

retired were sourced from generating facilities certified by the Commission and were of appropriate vintages.

- (5) The Company redacted considerable data from its RPS compliance filings, including its historical sales, its compliance obligation, its compliance performance, and the attribute tracking system utilized.<sup>5</sup> These redactions were consistent with neither Staff guidance nor the Commission decision in case no. 12-1233-EL-ACP.

## **V. Staff Recommendations**

Following its review of the information submitted in these proceedings and other relevant data, Staff recommends that FES is found to have satisfied its 2018 RPS compliance obligations.

For its 2017 compliance obligation, the Company should be directed to remit payment to the Commission in the amount of \$5,821.84 consistent with the requirement set forth in Ohio Adm.Code 4901:1-40-08. Payment should not be made until such time as directed by the Commission.

The payment should be directed to the PUCO, payable to "Treasurer State of Ohio". A letter should also be attached to the check stating that it is a compliance payment required by R.C. 4928.64 for deposit to the credit of the Advanced Energy Fund, under the control of the Ohio Development Services Agency and created under R.C. 4928.61. The letter should also cite the Commission case ordering the payment. The address for the PUCO is as follows:

Public Utilities Commission of Ohio  
180 E. Broad Street, 4<sup>th</sup> Floor Finance  
Columbus, OH 43215

The Company should further be directed to file an attestation in Case No. 18-0617-EL-ACP consistent with the requirements set forth in Ohio Adm.Code 4901:1-40-08(D). This filing should be completed within 30 (thirty) days of the Commission issuing its decision in this case.

While Staff typically has not contested the redaction of projected sales and projected compliance obligations found in Section II of the report template, the data from Section I of the report should not be afforded confidential treatment. Staff recommends that the Commission direct FES to file its future RPS compliance reports in a form that is consistent with the Commission decision in case no. 12-1233-EL-ACP.

---

<sup>5</sup> Staff notes that electric suppliers publicly file their annual sales volumes in their annual reports as part of the fiscal assessment process. <https://www.puco.ohio.gov/docketing/annual-reports-for-fiscal-assessment/>

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

**Commission of Ohio Docketing Information System on**

**12/23/2019 8:12:40 AM**

**in**

**Case No(s). 18-0617-EL-ACP, 19-0589-EL-ACP**

Summary: Staff Review and Recommendation for the 2017 and 2018 RPS Compliance Years  
electronically filed by Mr. Stuart M Siegfried on behalf of PUCO Staff