

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Diamond Energy	)	
East, LLC 2021 Renewable	)	Case No. 22-0735-EL-ACP
Portfolio 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 renewable energy compliance obligation for **2021** is 6%.

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 renewable energy portfolio status report analyzing all activities undertaken in the previous calendar year to demonstrate how the applicable renewable energy portfolio benchmarks have been met. Staff shall conduct annual compliance reviews with regard to the benchmarks under the renewable energy portfolio standard.

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

Staff shall review each electric utility's or electric services company's renewable 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**

Diamond Energy East, LLC (Diamond or Company) filed its RPS compliance status report for the 2021 compliance year on August 11, 2022. In its compliance filing, Diamond indicated it did not have any Ohio retail electric sales during 2021.

## **III. Filed Comments**

No persons filed comments in this proceeding.

## **IV. Staff Findings**

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

- (1) Diamond was an electric services company in Ohio during 2021, and therefore the Company had an RPS filing obligation for 2021.<sup>1</sup>
- (2) Diamond filed its compliance status report on August 11, 2022. In its report, the Company asserted that it had zero Ohio retail electric sales in 2021, a claim verified by Staff through independent review.<sup>2</sup>
- (3) Ohio Adm.Code 4901:1-40-02, Purpose and Scope, indicates the following:

Parties affected by these renewable portfolio standard rules include all Ohio electric utilities and all electric services companies serving retail

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<sup>1</sup> Diamond was certified to provide retail electric generation provider services in Ohio in 2021; see PUCO Case No. 21-0629-EL-CRS.

<sup>2</sup> Staff's verification consisted of reviewing both market monitoring data and the Company's 2021 Annual Report for Fiscal Assessment.

electric customers in Ohio. With the exception of the filing requirements set forth in 4901:1-40-05 of the Administrative Code, any entities that do not serve Ohio retail electric customers during a given calendar year shall not be required to comply with the terms of the renewable portfolio standard during that calendar year.

- (4) As Diamond did not serve Ohio retail electric customers in 2021, the Company did not have an RPS compliance obligation in 2021.<sup>3</sup>

## **V. Staff Recommendations**

Following its review of the information submitted in this proceeding and other relevant data, Staff recommends that Diamond's filing in this proceeding be accepted. Staff further recommends that this annual compliance status report be automatically approved consistent with Ohio Adm.Code 4901:1-40-05(D).

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<sup>3</sup> 3 With no sales during the compliance year, a retail electric generation provider would not be required to comply with the statutory renewable obligations contained within R.C. 4928.64(B)(2). However, the retail electric generation provider must satisfy the filing requirement contained within Ohio Adm.Code 4901:1-40-05, which Staff finds has been satisfied by Diamond in this proceeding.

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Summary: Staff Review and Recommendation Diamond Energy East, LLC 2021  
RPS Report electronically filed by Barbara Cote on behalf of Staff.