

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Direct Energy)	
Services, LLC 2020 Renewable)	Case No. 21-0324-EL-ACP
Portfolio Standard Status Report)	

In the Matter of the Direct Energy)	
Services, LLC 2021 Renewable)	Case No. 22-0190-EL-ACP
Portfolio Standard Status Report)	

In the Matter of the Direct Energy)	
Services, LLC 2022 Renewable)	Case No. 23-0295-EL-ACP
Portfolio Standard Status Report)	

Staff Findings and Recommendations

I. Statutory Background

Amended Substitute Senate Bill 221, of the 127th 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 **2020 – 2022** are as follows:

RPS Compliance Year	Total Renewables	Solar Requirement	“Non-Solar” Requirement ¹
2020	5.5%	0%	5.5%
2021	6%	0%	6%
2022	6.5%	0%	6.5%

¹ Staff uses “non-solar” in this context to refer to the total renewable requirement net of the specific solar carve-out. Staff acknowledges that there is not a specific “non-solar” requirement in the applicable statute.

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

2020 Compliance Year

Direct Energy Services, LLC (Direct Energy or Company) filed its RPS compliance status report for the 2020 compliance year on April 14, 2021.² In its compliance filing, Direct Energy proposed a baseline of 675,328 megawatt-hours (MWHs) which it indicated was its Ohio retail electric sales for 2020. Applying the statutory benchmark to its proposed baseline, the Company calculated its 2020 compliance obligation to be 37,143 renewable MWHs.

Direct Energy indicated that it had obtained the necessary renewable energy credits (RECs) and/or solar RECs (S-RECs) to satisfy its 2020 compliance obligation. The Company further indicated that it had transferred RECs and/or S-RECs to its PJM EIS Generation Attribute Tracking System (GATS) reserve subaccount for Ohio compliance purposes.

² Direct Energy filed an updated compliance report on November 13, 2023, to correct 2020 sales to match the Company's Annual Report for Fiscal Assessment as required in OAC 4901:1-40-03(B)(2)(c).

2021 Compliance Year

Direct Energy filed its RPS compliance status report for the 2021 compliance year on April 13, 2022.³ In its compliance filing, Direct Energy proposed a baseline of 612,900 megawatt-hours (MWHs) which it indicated was its Ohio retail electric sales for 2021. Applying the statutory benchmark to its proposed baseline, the Company calculated its 2021 compliance obligation to be 36,774 renewable MWHs.

Direct Energy indicated that it had obtained the necessary renewable energy credits (RECs) and/or solar RECs (S-RECs) to satisfy its 2021 compliance obligation. The Company further indicated that it had transferred RECs and/or S-RECs to its PJM EIS Generation Attribute Tracking System (GATS) reserve subaccount for Ohio compliance purposes.

2022 Compliance Year

Direct Energy filed its RPS compliance status report for the 2022 compliance year on April 11, 2023.⁴ In its compliance filing, Direct Energy proposed a baseline of 614,812 megawatt-hours (MWHs) which it indicated was its Ohio retail electric sales for 2022. Applying the statutory benchmark to its proposed baseline, the Company calculated its 2022 compliance obligation to be 39,963 renewable MWHs.

Direct Energy indicated that it had obtained the necessary renewable energy credits (RECs) and/or solar RECs (S-RECs) to satisfy its 2021 compliance obligation. The Company further indicated that it had transferred RECs and/or S-RECs to its PJM EIS Generation Attribute Tracking System (GATS) and Midwest Renewable Energy Tracking System (M-RETS) reserve subaccounts for Ohio compliance purposes.

III. Filed Comments

No persons filed comments in these proceedings.

IV. Staff Findings

³ Direct Energy filed an updated compliance report on November 13, 2023, to correct 2021 sales to match the Company's Annual Report for Fiscal Assessment as required in OAC 4901:1-40-03(B)(2)(c).

⁴ Direct Energy filed an updated compliance report on November 13, 2023, to confirm that its 2022 sales were conducted as either a power marketer or as a retail generation provider.

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) Direct Energy was an electric services company in Ohio with retail electric sales in the state of Ohio during 2020, 2021 and 2022, and therefore the Company had an RPS obligation for 2020, 2021 and 2022.⁵
- (2) The 2020 baseline proposed by the Company is reasonable, and given the proposed baseline and the 2020 statutory benchmark, Direct Energy accurately calculated its RPS compliance obligation.
- (3) The Company transferred 37,143 RECs and/or S-RECs to its GATS reserve subaccount for 2020 Ohio compliance purposes.
- (4) Following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its renewable obligation for 2020. The S-RECs and RECs that the Company transferred to its GATS reserve subaccount were sourced from generating facilities certified by the Commission and were of appropriate vintages.
- (5) The 2021 baseline proposed by the Company is reasonable, and given the proposed baseline and the 2021 statutory benchmark, Direct Energy accurately calculated its RPS compliance obligation.
- (6) The Company transferred 36,774 RECs and/or S-RECs to its GATS reserve subaccount for 2021 Ohio compliance purposes.
- (7) Following a review of the Company's reserve subaccount data on GATS, Staff confirmed that the Company satisfied its renewable obligation for 2021. The RECs and/or S-RECs that the Company transferred to its GATS reserve subaccount were sourced from generating facilities certified by the Commission and were of appropriate vintages.
- (8) The 2022 baseline proposed by the Company is reasonable, and given the proposed baseline and the 2022 statutory benchmark, Direct Energy accurately calculated its RPS compliance obligation.

⁵ Direct Energy was certified to provide power marketer services in Ohio in 2020, 2021 and 2022; see PUCO Case No. 00-1936-EL-CRS.

- (9) The Company transferred a total of 39,963 RECs and/or S-RECs for 2022 Ohio compliance purposes. The total included 5,884 RECs and/or S-RECs transferred to its GATS reserve subaccount for 2022 Ohio compliance purposes, and 34,079 RECs and/or S-RECs transferred to its M-RETS reserve subaccount for 2022 Ohio compliance purposes.
- (10) Following a review of the Company's reserve subaccount data on GATS and M-RETS, Staff confirmed that the Company satisfied its renewable obligation for 2022. The RECs and/or S-RECs that the Company transferred to its GATS and M-RETS reserve subaccounts were sourced from generating facilities certified by the Commission and were of appropriate vintages.

V. Staff Recommendations

Following its review of the information submitted in this proceeding and other relevant data, Staff recommends that Direct Energy is found to have satisfied its 2020, 2021 and 2022 RPS compliance obligations. Staff further recommends that these annual compliance status reports be automatically approved consistent with Ohio Adm.Code 4901:1-40-05(D).

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

12/15/2023 2:18:53 PM

in

Case No(s). 21-0324-EL-ACP, 22-0190-EL-ACP, 23-0295-EL-ACP

Summary: Staff Review and Recommendation electronically filed by Barbara Cote
on behalf of Staff.