

**Industrial Energy Consumers of Pennsylvania
Comments on the Alternative Energy Portfolio Standards Act of 2004
Pennsylvania Public Utility Commission - Technical Conference
January 19, 2005**

On January 7, 2005, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued a Secretarial Letter addressing the recent enactment of the Alternative Energy Portfolio Standards Act of 2004 ("AEPS" or "Act"). Because the Act provides the PUC with various implementation responsibilities, the PUC is soliciting comments and holding a technical conference to obtain input from interested parties regarding AEPS. To that end, the Industrial Energy Consumers of Pennsylvania provides the following preliminary comments regarding the Act. IECPA reserves its right to supplement these comments at a later time.

- IECPA supports the definition of Force Majeure provided in the Act, as well as the application of this provision in Section A of the Act.
 - This provision appropriately ensures that Electric Distribution Companies ("EDCs") and Electric Generation Suppliers ("EGSs") are not obligated to meet goals that cannot be obtained due to a lack of alternative energy resources in the marketplace at reasonable prices.
- IECPA agrees with the definition of EGS set forth in Section A of the Act.
 - The Commission must also ensure, however, that a customer serving its own load is not considered an EGS for purposes of the Act.
 - Similarly, a customer serving its own load, even if it maintains an EGS license, should not be considered an EGS for purposes of the Act.
 - To require a customer serving its own load to meet the requirements of AEPS would go beyond the scope intended by the Act.

- IECPA has concerns with Section A (3) of the Act, which provides for cost recovery.
 - By permitting deferral of these costs during the first year of implementation, costs will be recovered for alternative energy at the same time that rate caps are removed.
 - This combination of deferred recovery and rate cap removal could result in rate shock to customers and have a significant effect on market pricing.
 - IECPA suggests that the deferred recovery mechanism must be thoroughly examined by the PUC prior to implementation in order to prevent any negative impact on the competitive market.

- The Act provides for the use of demand-side management as part of the Tier II alternative energy sources.
 - IECPA supports the use of demand side management and the adoption of this process as an alternative energy source.
 - Upon implementing demand side management as a Tier II source, however, the Commission must consider various issues that would impact customers.
 - The Commission must establish fair and reasonable standards by which to qualify programs as demand side management.
 - The Commission must ensure that the benefits of demand side management programs and the credits generated there from are applied to, and owned by, the customers rather than to the EDC or EGS.
 - Customers will be the entities modifying their processes in order to allow for demand side management and should be credited as such.
 - Customers making investments in demand side management warrant those customers receiving the credits generated by those investments.
 - A careful balance must be followed to ensure that customers are accurately credited for their efficiency without placing rigorous and inappropriate burdens on the customer.
 - Any depreciation schedules adopted by the Commission for credits should not create disincentives to customers engaging in renewable activities and must be done on an equitable and non-discriminatory basis.

- During the period of CTC and ITC collection, customers are paying for generation from EGSs that already include alternate resources. The Commission should make clear that the credits associated with CTC and ITC payments are the property of the customer and not the EDC.
- Section 4 addresses portfolio requirements in other states and provides that an entity cannot "double count" its provisioning of alternative fuels.
 - The Commission should clarify whether resources utilized within an RTO market but outside of Pennsylvania can be counted for purposes of AEPS.
 - IECPA encourages the Commission to allow for the counting of resources utilized within PJM, even if these resources are being providing outside of Pennsylvania.
- Section 5 provides for the development of technical standards for net metering and interconnection.
 - The Commission must ensure that any technical standards are consistent with the policies, procedures, and regulations currently applicable in the PJM market.