

January 13, 2005

***VIA OVERNIGHT MAIL***

Commonwealth of Pennsylvania  
Secretary's Bureau  
Pennsylvania Public Utility Commissions  
P.O. Box 3265, Harrisburg, PA 17105-3265

Re: Docket No. M-00051865      Implementation of the Alternative  
Energy Portfolio Standards Act of 2004

Technical Conference  
January 19, 2005

Dear Secretary McNulty

Enclosed please find the comments of PPM Energy for the Technical Conference regarding the Implementation of the Alternative Energy Portfolio Standards Act of 2004.

Respectfully submitted,

Donald J. Winslow  
Vice President of Policy and Regulatory Affairs

PENNSYLVANIA PUBLIC UTILITIES COMMISSION

Docket No. M-00051865      Implementation of the Alternative  
Energy Portfolio Standards Act of 2004

**COMMENTS OF PPM ENERGY**

**FOR THE TECHNICAL CONFERENCE, JANUARY 19, 2005**

PPM Energy applauds all the responsible officials of the Commonwealth for their vision in the passage of the state's Alternative Energy Portfolio Standards Act. With the law, Pennsylvania is poised to extend its leadership in the advancement of clean and sustainable electricity generation. PPM Energy looks forward to working with the Pennsylvania Public Service Commission in developing effective and workable rules to ensure that the promise of the Alternative Energy Portfolio Standards Act is fully realized.

PPM Energy is based in Portland, Oregon. It is part of the Scottish Power group of companies, which includes PacifiCorp, which operates in Oregon, Washington, California, Wyoming, Utah and Idaho. PPM Energy currently has a portfolio of more than 830 MW of wind power in operation in seven states, and has a goal of bringing 2,300 MW of new wind power to market by 2010. PPM Energy places almost all of its output in long-term contracts, balancing its supply portfolio with sales to wholesale customers.

PPM recently acquired Atlantic Renewable Energy Company, one of the leading developers of wind projects in the eastern US. Of the total 250 MW of wind generation built to date on the East Coast, Atlantic Renewable was responsible for initiating and developing six projects totaling 162 MW. Currently, PPM Atlantic Renewable has more than 500 MW of wind power capacity under development in New York, Pennsylvania, West Virginia, and New Jersey. For more information, please visit [www.ppmenergy.com](http://www.ppmenergy.com)

At this time, PPM Energy would like to comment on several aspects of the Alternative Energy Portfolio Standard:

- the alternative energy credits program,
- the registry for alternative energy credits,
- “force majeure,” and alternative compliance payments,
- and the renewable portfolio standards in other states and regional coordination.

#### Alternative Energy Credits Program

One component of a successful market for renewable energy is a robust market for alternative energy credits (“credits”), often called renewable energy credits (RECs).

A robust alternative energy credit market, like the market in any commodity, requires multiple participants: generators, wholesale traders (who may also trade energy, but who may trade only credits or other non-energy commodities) brokers, and buyers. The market for wind credits can be more than a market between the owner of a wind facility and an electric generation supplier with an obligation under the Alternative Energy Portfolio Standard. In the AEPS Act, only electric distribution companies and electric generation suppliers are mentioned as potential “bankers” of credits. For the

credit trading program to work most effectively, all the participants in the commodity market must have the ability to buy, sell, and bank credits. It is essential that the rules implementing the AEPS allow for this mix of participants to create an efficient market and thereby ensure an adequate supply of clean energy at the most economical cost.

### Registry for Credits

Regarding the capture and publication of information related to the price of credit transactions, PPM believes that in establishing the registry, the Commission must not require the publication of proprietary business information that could inhibit the market. In attempting to do a good deed by creating transparency, we urge the Commission to be careful about causing a greater harm: chilling the market for renewable credits. Although we concede the need for regulated entities to submit their price of the transactions to the Commission in support of their cases for cost recovery, we think it is counterproductive for all prices to be available in the public domain.

### “Force Majeure” and alternative compliance payments.

By invoking “force majeure” and claiming that a shortage of credits prevents it from meeting its AEPS obligations, an electric generation supplier may seek to have the Public Utilities Commission “modify” its obligation. PPM Energy suggests that the modification of a supplier’s AEPS obligation need not mean that the obligation is eliminated or reduced. Even if the obligation to purchase the required credits is “excused” for a given year, other reasonable compliance mechanisms are available to ensure the goals of the AEPS are met. PPM Energy believes that an electric generation supplier and the

Commission should view the AEPS obligation in the same context as as they view their obligation to meet reliability standards. To accomplish that, PPM Energy offers five suggestions for consideration below.

First, the rules should insist on good faith efforts by electric generation suppliers to secure credits for AEPS. Good faith efforts may require the electricity suppliers to enter into medium- to long-term contracts to ensure alternative energy supply. To be able to finance a wind project, developers need long-term contracts for all or a significant portion of their facility's output. To create a market climate that supports such long-term contracts agreements, the Commission needs to be unequivocally clear about the importance of the AEPS. Electric generation suppliers cannot be allowed to shop casually for credits, then appeal to the Commission for relief if they fail to find generators of alternate energy that are willing to agree to their terms of price or term.

Second, alternative compliance payments could be an effective mechanism in both preventing and redressing any shortage of renewable supply. Should an electric generation supply make a "force majeure" request to the Commission, one appropriate remedy available to the Commission is to order the supplier to make up its shortfall by using the formula for alternative compliance payments. By using alternative compliance payments in this way, suppliers will have a greater incentive to comply with the AEPS because the market price for renewable credits typically is lower than compliance payments. In addition, by modifying the supplier's obligation and ordering alternative compliance payments, the Commission's action will provide additional funds to support the development of new alternative energy resources, making it more likely that

alternative energy resources will become available, as envisioned by the bill. Used in this fashion, alternative compliance payments can help reverse a potentially negative spiral.

Third, if it were to determine that sufficient alternative energy credits were not reasonably available in a given year, the Commission could “excuse” a supplier’s obligation in one year by adding the deficiency in alternative energy credits in that year to the supplier’s subsequent years’ requirements. Suppliers are able to bank excess credits for future compliance, and requiring them to bank AEPS debits for future years establishes an appropriate symmetry. An adjustment of this kind will speak clearly to suppliers and establish the importance of meeting their renewable energy obligations under the law.

Fourth, if the Commission were to determine in a given year that alternative energy credits were not reasonably available, that finding should apply only to the year in question. The full AEPS as anticipated by the law should remain in place for that supplier for the following compliance period. Any “force majeure” determinations should be made on a year-by-year basis.

Fifth, if in a given year any generation supplier is able to meet its requirements under the law, the fact that the supplier was able to comply with the requirements of the law should demonstrate that all suppliers could have met their requirements, had they taken the appropriate steps to secure alternative energy supply. Under such a circumstance, we would expect the Commission to reject other suppliers’ claims of “force majeure”.

The renewable portfolio standards in other states and regional coordination.

Neighboring states in PJM, New York, and several states in New England have alternative energy (or renewable) portfolio standards. They all hope to develop some of those resources in their home states, but there is the recognition that the development of clean resources in nearby states could be helpful in providing adequate clean energy resources. New Jersey, for example, recognizes credits resulting from eligible renewable resources delivering energy anywhere in PJM. Connecticut has gone further: it has amended its Renewable Portfolio Standard law to allow generation suppliers to meet their renewable energy requirements by buying qualifying resources from New York, Pennsylvania, New Jersey, Maryland, and Delaware. However, this flexibility is only available after the Connecticut Department of Public Utility Control (DPUC) has determined that the state from which the renewable resource comes has a comparable renewable portfolio standard.

We urge the Commission to do all that is within its power to establish rules for Pennsylvania's AEPS that are compatible with those of other states, like Connecticut, so wind resources in Pennsylvania can qualify for eligibility as renewable resources throughout the region.

PPM Energy is grateful for this opportunity to comment, and we look forward to working with the Commission and the Department as they develop rules to implement the AEPS.