



Michael J. Dolan II  
Vice President & CFO

January 14, 2005

Secretary's Bureau Docket No. M-00051865  
Commonwealth of Pennsylvania  
Pennsylvania Public Utility Commission  
PO Box 3265  
Harrisburg, PA 17105-3265

**Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004**

Dear Secretary McNulty,

We submit our comments on behalf of US Wind Force, LLC ("USWF"), a wind farm developer based in Wexford, PA and active in the Mid-Atlantic, with wind farm projects under development in Pennsylvania, as well as West Virginia, Maryland and Virginia.

We respectfully request that the commission recognize USWF as an interested party in the proceedings surrounding Docket No. M-00051865, regarding the Implementation of the Alternative Energy Portfolio Standards Act of 2004 (the "Act") in the Commonwealth of Pennsylvania.

In its Notice of Technical Conference (dated January 7, 2005), the Commission encouraged all interested parties to submit written comments to the Commission's Secretary's Bureau. Further, the Commission, in an effort to assist all interested parties, identified eight (8) areas of concentration for comments and presentation. Below, USWF offers its comments on several of these areas and one (1) additional area of concern which is addressed in our first comment.

- 1) We, first and foremost, are concerned that Section 4 of the Act may be interpreted to allow energy from "Alternative Energy Sources" located anywhere in the Midwest ISO (MISO) to meet the compliance requirements under the Act. This is because part of northwestern Pennsylvania is located in the MISO RTO. Section 4 of the Act notes that generation in a "service territory that manages the transmission system in any part of this Commonwealth shall be eligible to meet the compliance requirements under this Act." We believe this would be an incorrect interpretation of the Act and contrary to the intention of the Legislation and of the Governor in signing this Act into Law.
  - a. We believe the intention was to allow an Electric Distribution Company ("EDC") or an Electric Generation Supplier ("EGS") serving load in Penn Power's service territory, for example, to source Alternative Energy Credits (AECs) from the same RTO as where the load resides. It did not intend that an EDC or an EGS serving load in PJM should source AECs for that load from a MISO source.
  - b. This interpretation is supported by the fact that any customer load (that falls within a specific RTO service territory) is serviced by an EDC or an EGS who is a member of that specific RTO, and, as a member, will source that electric energy from that specific RTO. The legislators realized, in crafting Section 4 of the Act, that it might, in some cases, be unreasonable to force a member of one RTO to become a member of another RTO in order to source Alternative Energy to meet the requirements under the Act when they could just as easily obtain it from their own RTO.

- c. Further, we do not believe this interpretation will completely restrict other RTO's (like MISO) generated AECs from trading with other RTO's (like PJM) with service territories in the Commonwealth. It would only impose a delivery requirement from the source RTO into the service RTO.

Therefore, we very respectfully request that the Commission clarify these matters by setting rules that limit the use of Alternative Energy Sources in any RTO, to meet the compliance requirements of the Act only for the load served in that part of the RTO's service territory that is in the Commonwealth. In other words, credits required for load in Penn Power's service area could be generated in the MISO. Credits required for load in PJM would have to be generated in PJM or at least delivered into PJM. Further, the EDC or EGS should be required to demonstrate that the energy and AECs associated with load in one RTO used for compliance in another RTO was delivered into the load RTO.

- 2) With regard to "Force Majeure (Availability and qualification of eligible alternative energy resources)", we believe the Commission should focus on limiting the 'chicken and egg' dilemma, where EDC's and EGSs resist contracting for the output from Alternative Energy Sources. This delay and subsequent reliance on the spot market for credits could very likely mean renewable sources are not built, thereby driving AEC prices up to the Alternative Compliance Payment level. EDCs and EGSs may then seek rate relief from the Commission, and thus clearly compromise the intended success of this legislation; encouraging new and clean renewable generation.

If contracts for the output from projects are committed to early on, they *will* be built, and more AECs will be on the market. Their cost and the overall cost of Alternative Energy will be moderated. Since the Act is a long-term commitment on the part of the Commonwealth, it would be at odds with the Act for the EDC's and EGS's to only look to source for their supply on a short term or spot market basis.

We believe the market will meet the requirements of the Act in a more orderly and cost effective way if the EDC's and EGS's are proactive and make long-term commitments to meet their anticipated needs. Therefore, we respectfully recommend that the Commission strongly encourage the EDC's and the EGS's to plan ahead, and not rely inappropriately on the spot market to meet their requirements under the Act. This will allow the market to develop in a more orderly fashion with less volatility.

- 3) With regard to "Deferrals and cost recovery", we believe it is appropriate to allow any EDC or EGS that is 1) required to comply with the Act, and 2) is under a rate cap agreement and 3) that acts reasonably, as noted in our comments above regarding Force Majeure, to defer and recover any incremental costs they incur in complying with the Act.
- 4) With regard to the "Creation of alternative energy credits program and trading platform", we believe, having participated in the development of PJM's Generation Attribute Tracking System (GATS), that GATS should be the preferred platform. Because many Alternative Energy Source contracts will be bilateral in nature (like many of today's contracts for energy in PJM), and most will be for bundled products (energy and AECs), the proposed GATS bulletin board trading platform may be sufficient. One of the goals of creating a trading platform for AECs is to create an open market. We see the bulletin board as that vehicle, and would liken it to the PJM LMP market where bids, asks and trades would be public; however, PJM would not be involved in the settlement, but only in facilitating and the reporting on them. Further, to require bundled bilateral trades to be unbundled and their AEC value reported individually by each party will make the AEC value highly subjective rather than objective or market based.

- 5) With regard to “Alternative compliance payments” (or “ACP’s”), we respectfully recommend that the Commission make it unequivocally clear to the EDC’s and EGS’s that such ACP’s are merely a safety valve, and paying them is not an acceptable alternative to compliance under this Act. Further, the Commission may want to institute rules that require the EDC’s and EGS’s to demonstrate good faith efforts to acquire AECs in the market place, as noted in our comments regarding Force Majeure. We believe the ACP is currently (with emphasis) set at an appropriate level to allow the market to deliver AECs under long term contracts at rates below the ACP level.
- 6) With regard to “Portfolio requirements of other states and regional coordination”, we believe the Act allows for certain Alternative Energy Sources from other states in PJM to be eligible to meet the compliance requirements under this Act, and that PJM GATS will be able to coordinate these states portfolio requirements and avoid any double counting of the associated AECs (or REC’s as they are known in other states). We believe it may be possible for the consumers in the Commonwealth to benefit from expanding this regional coordination with other markets under conditions of reciprocity (i.e. where other states have comparable Alternative or Renewable Portfolio Standards) and/or perhaps limiting it to states or regions that are contiguous to the the Commonwealth or PJM. The intent is not to lose one of the Act’s intended tangible benefits of creating opportunities for economic development in the Commonwealth.
- 7) With regard to “Development of technical standards for verification of energy efficiency and demand side management activities, and proposed depreciation schedules for alternative energy credits resulting from such measures”, we are unable to offer any constructive comments at this time.
- 8) With regard to “Development of technical standards for net metering”, and Development of technical standards for interconnection”, we are unable to offer comments as we deal primarily with utility scale generation projects, and this area of the Act addresses customer generators operating behind a retail meter.

We thank the Commission for allowing USWF to comment. Representatives of USWF expect to attend the hearing scheduled for the 19<sup>th</sup> of January to address any questions on our comments. We will be available to assist the Commission in any way we can through out this process.

Sincerely,

Michael J. Dolan II  
VP & CFO  
US Wind Force, LLC