

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**COMMENTS OF THE ENERGY ASSOCIATION OF PENNSYLVANIA RE:
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION IMPLEMENTATION
OF THE ALTERNATIVE ENERGY PORTFOLIO STANDARDS ACT OF 2004**

The Energy Association of Pennsylvania, (“EAPA”) hereby files this response to the Pennsylvania Public Utility Commission’s (“Commission”) “Notice of Technical Conference” (“Notice”) for the Implementation of the Alternative Energy Portfolio Standard Act of 2004 (Act 213), hereafter (“the Act”), which was issued on January 7, 2005, and requesting Comments regarding the implementation of the Act.

I. Introduction

The Act represents a significant change in how energy will be provided to consumers in Pennsylvania. This Act has so many aspects of change and innovation as to be daunting in its implementation. While the notice is a start, the issues in this docket are far more complicated and intricate, and therefore cannot adequately be covered in one hearing.

The legislation has admittedly tight timeframes, but additional hearings are necessary to allow for both greater dialogue and rebuttal. Therefore, the Association would urge a higher level of dialogue to be achieved by scheduling a series of hearings pursuant to this docket throughout January of 2005.

II. Directives

Act 213, while permitting deferral of some costs for a short period of time, does come down on the side of recovery of costs on a full and current basis. The operative words of *full* and *current* do not allow either lengthy deferrals or exclusions from collection.

III. POLR

To ascertain whether an EDC is meeting its requirement to have a specific percentage of load met with alternative energy sources, it is critical and basic to ascertain what comprises that load.

For the EDCs, a critical question involved in defining *load* is what is required of an EDC regarding *provider of last resort* (POLR). The POLR docket has repeatedly received this Commission's attention, and we are nearing completion. However, until POLR policy is in place, we are going to spin our wheels in this docket. There is no question that the Commission's statutory requirement to determine a POLR is tied to its ability to succeed in this docket. This interdependence cannot or should not be ignored, so as to prevent unnecessary re-work.

IV. Definitions and Reporting Requirements

The Commission has a massive job to successfully implement this Act. To facilitate that undertaking, the EAPA would volunteer to be a repository of definitions and proposed reporting requirements for submission to the parties within the month, to ensure that all parties continue to discuss their concepts with common language. The EAPA, through its predecessor, was helpful in the restructuring process and we are willing to undertake a similar role in this epic docket.

V. Troubleshooting

There are obstacles to the success of the Act that need to be addressed by some subgroup of parties to ensure that, substantively, we address this executive and legislative directive in a positive fashion.

An example of a potential source of difficulty is zoning. The Act sets forth some definitive terms about the overruling of local zoning laws in particular for Tier-1 facilities. Since there are a host of laws governing wetlands, historic sites, local powers, groundwater protection,

shore lands and solid waste, to name but a few, the Commission and DEP may want to anticipate these difficulties and set up a process and procedure, and most importantly a forum, to take jurisdiction over these complex and potentially competing issues.

VI. Reliability

The Commission has undertaken significant analysis of electric reliability in the State. New technology, new load-shaping policies, net metering, and the various known reliability aspects of the various Tier 1 and Tier 2 sources, all will have an impact on reliability. We would like to offer that we will assist, coordinate, or participate in a reliability subgroup, because the changes generated by this legislation will have an impact on reliability, which again needs to be quantified into the Commission's rules on reliability.

VII. Reporting Needs

The Reporting Period is a fiscal year running from June 1 through May 31. Load-serving entities are exempt from meeting the requirements of the Act while retail customers in the service territory are under a fixed price generation plan approved by the PUC. All existing PUC-approved fixed price generation plans expire December 31 of a given year. The Act is unclear with respect to the obligation that load-serving entities will have during the Reporting Period that includes seven months of generation rate plans and five months without fixed prices. The obligation for this "transition Reporting Period" should be addressed. EAPA believes that a load-serving entity's exemption should extend through the end of a transition Reporting Period with the obligation to meet the requirements of the Act beginning June 1 of the second year following the expiration of existing PUC-approved fixed price generation plans.

VIII. Conclusion

The Commission has been given many new responsibilities under Act 213, and the Commission should establish a process to permit time for input from interested parties so that Act 213 is implemented in a responsible and coordinated fashion.

Respectfully submitted,

J. Michael Love, Esq.
President and CEO
Energy Association of Pennsylvania