



February 9, 2005

***VIA OVERNIGHT MAIL***

Commonwealth of Pennsylvania  
Secretary's Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Docket No. M-00051865

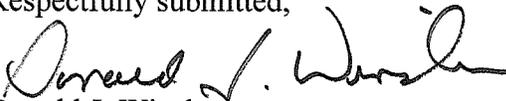
Implementation of the Alternative  
Energy Portfolio Standards Act of 2004

Reply Comments following the Technical  
Conference January 19, 2005

Dear Secretary McNulty

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

Respectfully submitted,



Donald J. Winslow

Vice President of Policy and Regulatory Affairs

Reply comments of PPM Energy in the matter of Docket M-0001865 before the Pennsylvania Public Utilities Commission

PPM Energy appreciates this opportunity to provide reply comments following the January 19, 2005 Technical Conference on issues pertaining to Act 213, the Alternative Energy Portfolio Standards Act. PPM Energy's comments will focus on several topics as follows:

1. Force majeure, including qualification of eligible alternative energy resources and alternative compliance payments,
2. Creation of an alternative energy credits program,
3. Portfolio requirements in other states and regional coordination, and
4. The relationship of the AEPS to voluntary markets for alternative energy.
- 5.

Force Majeure

As Penn Future and the Sustainable Development Fund have stated, we believe that it is essential for the Public Utilities Commission to clearly establish an affirmative obligation on the part of those who must meet the obligation of the AEPS. By clarifying not only who owns the AEPS obligation, but the importance of complying with the AEPS, the Commission sets in motion the appropriate dynamics to establish a growing market in Pennsylvania for alternative energy.

At the Technical Conference, Chairman Holland raised a question about the need for and appropriateness of long-term contracts. PPM Energy believes that one approach the Commission can take to ensure adequate supply of alternative energy is to establish rules for cost recovery for those who enter into long-term contracts for such supply. PPM Energy believes that it would be appropriate for the Commission to order such cost-recovery for long-term contracts that are competitively bid.

In its comments, Dominion Retail, Inc, suggested that it might be appropriate for each electric distribution company to purchase the required AEPS credits for electricity delivered in its service territory. This proposal has considerable merit, and PPM Energy urges the Commission to seriously consider it. Through their wires business, the distribution companies maintain a relationship with all the customers in their service territory and recover costs through regulated rates. They are already in an excellent position to take on the AEPS requirement and pass on reasonable and recoverable costs.

Alternative energy credits ("credits"), which PJM GATS is designed to track accurately, should be the sole mechanism for determining compliance with the AEPS for those customers within PJM. PJM is able to track "credits" from a generating resource to the ultimate purchaser, determining without doubt who has the right to claim each megawatt-hour of alternative energy generation and ensuring that each megawatt-hour has been sold once and only once. Since the GATS will not track credits from generation

outside the PJM, the Commission will need to establish a verification protocol for compliance by those utilities outside of the PJM service territory.

A number of initial comments (and speakers at the Technical Conference) suggested that the Commission has to establish a reasonable price cap for “credits” as a test for determining when Force Majeure may be invoked. PPM Energy believes the law effectively established that price cap with the \$45 alternative compliance penalty, and the Commission should not engage in a new exercise that the legislature successfully concluded. It is, as Penn Future observed, a penalty payment that serves to encourage long-term purchases of alternative energy, to ensure that the Act is successful in bringing environmental and economic benefits to the Commonwealth.

Also regarding alternative compliance payments, PPM supports the comments of the Sustainable Development Fund and disagrees with the position taken by Action, PA with regard to the geographic boundaries in which alternative compliance payments can be spent to support additional alternative energy development. Customers in a given service territory do not buy electricity only from generating resources within that service territory; their electricity is supplied by resources throughout the Commonwealth and the region. Alternative energy resource development within the boundaries of the Commonwealth could be used for compliance with the AEPS by an entity with an obligation under the law. Alternative energy development within the boundaries of the Commonwealth therefore is capable of serving the interests of both local citizens and those throughout the Commonwealth. The best interest of all citizens will be served by allowing alternative compliance funds collected to support new alternative energy facilities to be available to those alternative energy developments likely to be most economic and efficient, without regard to parochial geographic limitations.

#### Creation of an alternative energy credits program

As noted earlier, PJM GATS is being developed to provide a system that can track compliance with regulatory requirements like information disclosure and alternative energy portfolio standards. “Credit” tracking was developed because tracking electrons requires estimates and formulas that produce results that are both imprecise and disadvantageous to alternative energy sources. Consequently, compliance with the PA AEPS (within PJM) should be based on the GATS “credit” system, as Exelon and other commenters recommend.

The Commission should have as a goal ensuring there are no impediments to a free market for “credits.” While establishing firmly a supplier’s obligation to meet the AEPS should lead to some significant portion of statewide AEPS requirements being met through credits acquired in long-term contracts, a liquid market of fungible “credits” is also an essential component in building a successful market for alternative energy. Constellation NewEnergy, among others, made this essential point at the Technical Conference.

We also agree with Constellation NewEnergy on another issue (and disagree with the remarks of Action, PA). Like Constellation NewEnergy, we believe the Commission should develop credit trading rules that protect proprietary data about individual transactions regarding “credits.”

In its comments, PJM reported that it is developing a posting system, to report bid and offer prices of “credits”; Pennsylvania need not set up a unique trading platform for “credit” transactions.

#### Portfolio requirements in other states and regional coordination

Establishing PJM as the territory for eligible resources and using the GATS system for credits will go a long way to ensuring that the Pennsylvania’s AEPS rules are compatible with portfolio requirements elsewhere in PJM. This compatibility will be to the advantage of Pennsylvania resources and electricity customers.

Pennsylvania electricity markets are regional markets. Many suppliers serving the Commonwealth’s customers operate throughout the mid-Atlantic and Northeast region. The distribution companies in Pennsylvania are in many cases part of companies serving customers throughout the region. Almost all have, or will soon have, alternative energy obligations throughout the region. Balkanization of rules regarding eligibility, tracking, and the like will result in less efficient markets for alternative energy, unnecessarily adding business and compliance costs to those who must meet the AEPS. Balkanization of rules will result in higher costs to Pennsylvania customers. As Exelon stated at the technical conference, by establishing common protocols with other states and standardizing the rules for credit trading, the Commission can ensure that “credits” are a regional currency. Having such a currency will enhance the liquidity and depth of existing alternative energy markets, an outcome that will ultimately benefit the Commonwealth’s electricity customers.

#### The relationship of the AEPS to voluntary markets for alternative energy.

PPM supports the comments of Community Energy, Penn Future, and Citizen Power on this issue. By keeping voluntary “green power” market sales separate from sales for AEPS compliance, the Commission will (1) ensure the continuation of the voluntary market, which has been almost entirely responsible for the substantial development of alternative energy resources in the state to date, and (2) enable the voluntary market to continue to spur the development of renewable energy resources over and above those required for AEPS compliance.

Every portfolio standard of which we are aware has rules to allow the green-power market to flourish rather than be subsumed under the alternative energy obligation. We urge the Commission to follow the important precedents established in other states.

### Counting line losses in setting obligations

Insofar as we know, no party has commented on the issue of whether transmission and distribution line losses should be included in the calculation setting a supplier's alternative energy obligation. The AEPS requirement is based on a calculation of energy delivered, and an essential component of delivery is line losses. PPM Energy believes that line losses should be included in the determination of an electricity supplier's AEPS requirement. Electricity suppliers currently allocate the costs of line losses in their charges to customers, and they should readily be able to quantify and add the AEPS obligation from line losses.