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February 9, 2005

**VIA UNITED PARCEL SERVICE**James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265**Re: Implementation of the Alternative Energy Portfolio  
Standards Act of 2004  
Docket No. M-00051865**

Dear Secretary McNulty:

Enclosed herewith for filing on behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company are an original and sixteen (16) copies of Reply Comments in the above-referenced proceeding. Please date stamp the enclosed additional copy and return to me in the enclosed postage-prepaid envelope.

A copy of these Comments is also being mailed electronically to Karen Mitchell and Britte Earp.

Sincerely,

  
Linda R. Evers, Esquiredlm  
Enclosures

c: As Per Certificate of Service

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**Docket No. M-00051865**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant):

Service by United Parcel Service, postage prepaid, as follows:

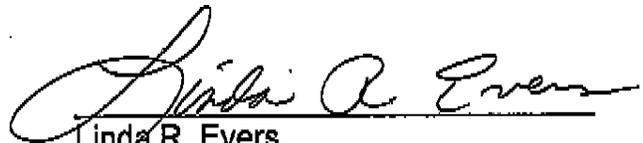
James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Service by electronic mail, as follows:

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Dated: February 9, 2005



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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

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**Docket No. M-00051865**

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**REPLY COMMENTS ON BEHALF OF METROPOLITAN EDISON  
COMPANY, PENNSYLVANIA ELECTRIC COMPANY AND  
PENNSYLVANIA POWER COMPANY –  
THE FIRSTENERGY OPERATING COMPANIES**

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**I. INTRODUCTION**

Pursuant to the January 7, 2005 Notice of Technical Conference ("Notice"), the FirstEnergy operating companies of Pennsylvania Electric Company ("Penelec"), Metropolitan Edison Company ("Met-Ed"), and Pennsylvania Power Company ("Penn Power") (collectively, "FirstEnergy") submitted preliminary written comments on January 18, 2005 regarding the implementation of the Alternative Energy Portfolio Standards ("AEPS") Act of 2004 ("Act" or "Act 213"). In addition, FirstEnergy provided oral comments during the Technical Conference. All interested parties were informed during the Technical Conference that the Commission is accepting reply comments and parties should submit their reply comments on or before February 9, 2005. Accordingly, FirstEnergy submits the following Reply Comments:

## II. BACKGROUND

On November 30, 2004, Governor Edward G. Rendell signed into law the Alternative Energy Portfolio Standards Act of 2004 also known as Act 213. The Act provides the Pennsylvania Public Utility Commission ("Commission") and the Pennsylvania Department of Environmental Protection ("DEP") with certain responsibilities associated with implementing AEPS.

During the Technical Conference, unsworn testimony of the various witnesses focused upon several areas of the Act such as: (1) force majeure (availability and qualification of eligible alternative energy resources), (2) deferrals and cost recovery, (3) creation of alternative energy credits program and trading platform, (4) alternative compliance payments, (5) portfolio requirements of other states and regional coordination, (6) development of technical standards for verification of energy efficiency and demand side management activities, and proposed depreciation schedules for Alternative Energy Credits ("AEC") resulting from such measures, (7) development of technical standards for net metering, and (8) development of technical standards for interconnection. The diverse interest groups represented at the Technical Conference provided different views and interpretations of Act 213.

FirstEnergy appreciates the Commission taking the initiative to bring all interested stakeholders together at the Technical Conference and commits to working with the DEP, the Commission and other stakeholders to make Act 213 a success. It is with the belief that Pennsylvania can be a leader in alternative energy that FirstEnergy submits its Reply Comments. As an overarching and fundamental principle, we urge the Commission to construe the Act in a manner which does not create a subsidy

program that produces additional stranded costs and upward pressure on rates generally. This is unnecessary and not supported by the Act. Instead, consistent with the intent of the Act, in weighing the varying positions on the critical issues, the Commission should insure the promotion of a trading platform which provides natural incentives for the development of a renewable resources market.

**III. THE ENTITY PROCURING THE ALTERNATIVE ENERGY FROM A QUALIFYING NON-UTILITY GENERATOR IS ENTITLED TO THE ALTERNATIVE ENERGY CREDITS ("AECs")**

Contrary to the opinion of York County Solid Waste and Refuse Authority ("YCSWA") and ARIPPA, FirstEnergy, as well as other interested parties such as the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA") and Industrial Energy Consumers of Pennsylvania, believes that the AECs associated with a qualifying Non-Utility Generator ("NUG(s)") belong to the utility and its customers that have been paying for the high priced output of the NUG. FirstEnergy purchases the output from a number of NUGs pursuant to Power Purchase Agreements ("PPA(s)") that were initially entered into in the 1980-1990 time frame. In the specific case of YCSWA, Met-Ed purchases the output from the facility pursuant to a PPA that was entered into by the parties in November of 1986. This PPA will terminate on December 31, 2016.

YCSWA claims that "public policy interests can only be met" if the "AECs created in relation to electric energy produced by such qualifying generating facilities MUST be owned by the generating facilities as of the instant of generation of the energy." YCSWA also states that "Any other result would be contrary to promotion of investment in and operation of generating facilities capable of producing electric energy from alternative energy sources." These positions are not supportable.

Simply because an Electric Distribution Company ("EDC") claims title to green attributes associated with a legacy PPA that it agreed to long before the contemplation of Act 213 and the creation of an AEC market, does not in anyway minimize the investment in new renewable generating facilities. The facilities that are subject to existing PPAs have already been built, so further incentives with respect to these facilities (like YCSWA) are not needed or even relevant. FirstEnergy recognizes "new" facilities that are not already subject to a PPA would be dealt with differently, which could allow for AEC-based incentives to encourage development of new facilities if it is determined that such incentives are warranted. FirstEnergy is only claiming the credits because its customers have been paying the full costs of power purchased, usually at above-market prices, as a result of Commission approved PPAs. Utilities were required to enter into the PPAs because the facilities qualified under Public Utility Regulatory Policy Act of 1978 ("PURPA") and the NUGs invoked the mandatory purchase obligations of PURPA. If the state had not approved the PPAs under PURPA, there would not be a long-term PPA nor would there be a question about AEC ownership. FirstEnergy submits that the public interest is best served by creating and defining AEC ownership in such a manner as to provide that the environmental attributes from existing PPAs between NUG QF's and utilities will be made available to the purchasing utilities and its customers at no additional cost.

As mentioned earlier in these reply comments, other parties have brought this issue to light as well. Both the OCA and the OSBA want to be certain that the cost recovery provisions of the Act do not allow recovery of costs that are already in rates. They believe that contracts between utilities and NUGs that were signed as a result of

PURPA were already included in existing rates cannot be recovered a second time under the new law.

The FirstEnergy Companies call to the Commission's attention to a recent decision by the New Jersey Board of Public Utilities ("BPU") at Docket No. EO04080879 unanimously approved the New Jersey Attorney General's recommendation that the Renewable Energy Certificates ("REC") (the equivalent of AECs in Pennsylvania) ownership from existing NUG facilities belong to the purchaser and not the NUG. FirstEnergy as well as other stakeholders recommend that this Commission reach the same conclusion: fairness and equity should dictate that customers receive the benefit of AECs resulting from the purchase of power under existing, facility-specific NUG PPAs with EDCs.

**IV. THE EDC SHOULD NOT BE REQUIRED TO PURCHASE ALTERNATIVE ENERGY CREDITS FOR ALL ENERGY DELIVERED INTO THEIR SERVICE TERRITORY**

Dominion Energy asserts that the Commission should "... require that the EDCs purchase credits for all energy delivered into their service territory--for shopping and non-shopping customers...". This suggestion contradicts the language of the Act, which clearly places responsibility for meeting portfolio requirements on both EDC's and EGS's. The suggestion goes significantly beyond the scope of the Act as set forth below:

"From the effective date of this Act through and including the 15th year after enactment of this act, and each year thereafter, the electric energy sold by an electric distribution company or electric generation supplier to retail electric customers in this Commonwealth shall be comprised of

electricity generated from alternative energy sources, and in the percentage amounts as described under subsections (b) and (c)."

As discussed by numerous parties in their comments, it is important that Act 213 align with forthcoming Provider of Last Resort ("POLR") regulations. An EDC should be allowed to include AEPS requirements as part of any procurement process it utilizes to meet its POLR obligations.

#### **V. A COORDINATED REGIONAL SUPPLY ASSESSMENT IS NECESSARY**

FirstEnergy concurs with Exelon's suggestions regarding monitoring of regional resources and markets. As portfolio requirements develop, Pennsylvania should coordinate within the PJM region to establish a systematic inventory of resources used to meet portfolio requirement initiatives in the various states. Market information and data will be essential to decisions related to appropriate targets, prudence pricing and other processes under the Act, especially Force Majeure.

#### **VI. PROJECTS WITHIN THE MIDWEST INDEPENDENT SYSTEM OPERATOR ("MISO") ARE ALLOWED TO MEET EDCs' AEPS REQUIREMENTS**

PennFuture incorrectly states that an interpretation could be made that projects outside of PJM should not be allowed to satisfy mandates of Act 213 and would bar MISO related projects. This is in direct contradiction to the Act which states "energy derived only from alternative energy sources inside the geographical boundaries of this Commonwealth or within the service territory of *any Regional Transmission Organization ("RTO") that manages the transmission system in any part of this Commonwealth* (emphasis added) shall be eligible to meet the compliance requirement under this Act." MISO has Federal Energy Regulatory Commission

("FERC") approval to operate as a RTO. Penn Power is an EDC serving customers within the Commonwealth of Pennsylvania. Penn Power is also a part of MISO. Therefore, under the direct and express language of the Act, projects within MISO should be allowed to meet Penn Power's and other EDCs' requirements under Act 213.

While some may think it laudable to support only renewable generation sources located in the Commonwealth of Pennsylvania, this view is contrary to the Act. It fails to recognize the inter-state configuration of the electric grid and fails to consider the overall environmental benefits of promoting renewables on a regional basis as well as the benefit to the programs' initiatives by enhancing a larger, more vibrant, regional marketplace.

## **VII. DISQUALIFICATION OF SOURCES**

DEP has stated in its draft technical guide that if a generation source reports that it has experienced a major environmental violation, alternative energy credits equivalent to the number of megawatt hours generated during the period of major non-compliance shall be disqualified from eligibility. FirstEnergy supports compliance with all environmental regulations. However, FirstEnergy is concerned about the retroactive application of this section. To the extent FirstEnergy has relied on AECs from a source that has been disqualified, FirstEnergy could find, through no fault of its own, that it now has an unexpected shortfall in meeting its requirements under Act 213. Therefore, any alternative compliance payments related to a shortfall as a result of this action by DEP, should be fully recovered by the EDC pursuant to the automatic energy adjustment clause as a cost of generation supply. Additionally, FirstEnergy

suggests that should DEP be placed in the unfortunate position of disqualifying alternative energy credits, that this action could give rise to the force majeure provisions of the Act. It is quite possible that a number of EDCs could be relying on AECs from the same source and disqualification could have a huge market impact. FirstEnergy also submits that what constitutes a major environmental violation needs to be further defined so as to afford notice and due process to all market participants. We support DEP's position as stated at the February 2, 2005 Energy Advisory Board meeting that major environmental violations would be of a "permit bar" magnitude and not of an administrative or minor equipment malfunction nature.

#### **VIII. PUMPED STORAGE SHOULD BE COUNTED AS A TIER II ALTERNATIVE ENERGY**

There have been suggestions that only net generation from pumped storage facilities should be eligible as a Tier II resource. Pumped storage resources store off-peak generation until it can be used to meet electricity needs during on-peak periods. In so doing, existing capacity resources are more effectively utilized which provides an added benefit, a decreased need to construct new fossil power plants. It is on-peak demand that drives the need to add new power plants. By utilizing off-peak generation to meet on-peak energy needs, pumped storage displaces the need to build new fossil power plants by the amount of on-peak capacity it provides. This means that compared to a regional generation portfolio that excludes pumped storage, a generation portfolio that includes pumped storage can provide an identical amount of generation and can do so with a smaller amount of installed fossil power plant capacity. Since a

level of fossil power plant additions is avoided, the corresponding environmental impacts associated with siting and building a fossil power plant are also avoided.

In addition, pumped storage offers extremely strong load following capabilities that help support the addition of renewable resources in a region. Many of the popular renewable technologies are either intermittent in nature (such as wind resources) or non-dispatchable (such as landfill gas resources). The strong ramp-rates of pumped storage resources can cover and make room for renewable resources that are dispatch-constrained. This is important because a significant part of the PJM motivation to adopt a new capacity market design is to address the concern over sufficient load-following capability being available in the near future.

As another example of the potential benefit that pumped storage can provide to other renewables, Texas is looking at coupling energy storage with wind resources. Daily transmission problems in the state are affecting pockets of wind generation to the point that wind generation is forced to be cut. A study is being conducted to determine whether energy storage can economically be used to store and then release the wind energy when the transmission constraint eases. Along with avoiding the curtailment of wind generation, additional value is seen by essentially turning an intermittent wind resource into a dispatchable resource. Due to local site conditions, Texas is looking at compressed air energy storage ("CAES") as their storage medium. Pumped hydro would be the most-likely storage medium in PJM if similar or other such needs arise. In fact, pumped hydro may be considered environmentally friendlier than CAES since the CAES generation mode uses combustion turbines firing natural gas, where pumped storage relies on water.

**IX. EXISTING LOW-IMPACT HYDROPOWER SHOULD QUALIFY AS TIER I ALTERNATIVE ENERGY SOURCES**

FirstEnergy believes that the DEP, in its draft Section II, Technical Guidance, incorrectly interprets Act 213's definition of low impact hydropower to restrict Tier I project eligibility to only incremental hydroelectric development. The Act 213, Paragraph 5 under Section 2 states:

"(5) Low impact hydropower, consisting of any technology that produces electric power and that harnesses the hydroelectric potential of moving water impoundments, provided such incremental hydroelectric development:

- (i) does not adversely change existing impacts to aquatic systems;
- (ii) meets the certification standards established by the Low Impact Hydropower Institute and American Rivers, Inc., or their successors;
- (iii) provides an adequate water flow for protection of aquatic life and for safe and effective fish passage;
- (iv) protects against erosion; and
- (v) protects cultural and historic resources."

An equally reasonable interpretation of Paragraph 5 of Act 213 does not preclude existing low-impact hydropower facilities but simply sets forth additional eligibility requirements for incremental hydroelectric development. There is no public policy rationale for not including existing low-impact hydropower which would otherwise qualify as a Tier I source. In addition, the definition of "Alternative Energy Sources"

states "the term shall include the following **EXISTING AND NEW** sources for the production of electricity . . . (5) Low-impact hydropower...".

#### **X. EDCs ARE ALLOWED COMPLETE COST RECOVERY**

Section 3 of the Act specifically allows EDCs to recover all costs both direct and indirect related to the purchase of resources to comply with Section 3 of the Act. It includes, but is not limited to, costs such as the purchase of electricity generated from alternative energy sources, payments for alternative energy credits, costs of credits banked, payments to any third party administrators and charges by a RTO that are related to alternative energy. These costs are to be recovered pursuant to an automatic energy adjustment clause as a cost of generation supply. The OCA states that the Commission should review costs incurred by EDCs for prudence and reasonableness. If the Commission intends to consider some level of "just and reasonable price" as a determination for allowance of full recovery, EDCs and EGSs need to know as soon as possible the Commission's intentions.

Furthermore, the OCA suggests that the alternative compliance payments should act as a price cap for the procurement of alternative energy. FirstEnergy believes that a blanket application of the alternative compliance payments in this manner would be contrary to the spirit and purpose of the Act. To prohibit EDCs from recovering their procurement costs that exceed the alternative compliance payments would have the effect of penalizing EDCs for striving to meet its alternative energy goals as required by Act 213. Earlier versions of AEPS legislation contained language restricting cost recovery. That language was rejected in favor of the present language that does not unnecessarily restrict full cost recovery. FirstEnergy believes all costs

associated with complying with or exceeding the requirements with the Act should be fully recoverable whether it be alternative compliance payments or the procurement of alternative energy credits.

**XI. A CUSTOMER SERVING ITS OWN LOAD TO MEET THE REQUIREMENTS OF AEPS WOULD GO BEYOND THE SCOPE INTENDED BY THE ACT**

The Industrial Energy Consumers of Pennsylvania ("IECPA") in their comments suggest that customers who serve their own load or serve as their own EGS should not be required to meet the requirements of an EGS under the Act. FirstEnergy is not opposed to this perspective, only to the extent that this obligation does not fall back on the EDC providing delivery service to the load. Should the Commission determine that such customers are exempt under the Act, then the EDCs should not be required to include the customer's load in the EDC's obligation under Act 213. In the event that the Commission does not intend to exempt this load from the Act and the requirement reverts to the EDC, the EDC must be entitled to collect from the customer(s) serving as its own EGS the costs the EDC incurred in order to meet the requirements of the Act for that customer(s).

**XII. AECs GENERATED FROM DEMAND SIDE MANAGEMENT PROGRAMS ("DSM") MAY BELONG TO THE EDC**

IECPA in their comments contend that AECs belong to the Customer and not to the EDC or EGS. This may be true when the customer is investing in DSM measures for their own accord and not in order to be compensated through some other program. However, in the event the customer is pursuing Demand Side Management ("DSM") measures in order to participate in an EDC sponsored program and in the

event the EDC is recovering the costs of the program from its ratepayers, the credits should belong to the EDC and should be used to fulfill the requirements of the EDC under the Act. If the customer is pursuing DSM measures in order to participate in a PJM program, the credits should transfer to the Load Serving Entity ("LSE" the EDC or EGS providing energy to the load) from whom PJM collects the payments made to the Curtailment Service Provider sponsoring the customer in the PJM program. In the case of an EDC, if the EDC is recovering these costs from its ratepayers the credits should be used to fulfill the requirements of the EDC under the Act. Otherwise, the credits should remain with the LSE for disposition as it chooses.

### **XIII. INTERCONNECTION AND NET METERING**

As indicated in our initial Comments, FirstEnergy urges that the issues of Interconnection and Net Metering be considered independently of each other because they are fundamentally different, the former being largely technical and the latter, largely financial. The Commission, in its Advanced Notice of Proposed Rulemaking ("ANOPR") on Interconnection of Small Generation, appropriately did not include Net Metering, which we applaud. DEP suggests that they be considered together since they both involve interplay with our customers. Yet, that could be said about a vast majority of this Commission's rulemakings. Nonetheless, since many of the commenting parties have considered these issues in tandem, we will therefore, also reflect that approach in these Reply Comments. Because both issues do have potential financial impacts on EDCs, and despite the Act's provisions for cost recovery, it is important the Commission develop rules for implementation of the Act in a fashion that does not create additional stranded costs and the concomitant upward pressure on rates. As indicated above, the

Act does not create a subsidy program, but instead provides incentives to the development of alternative energy resources through implementation of a trading platform for AECs. This important distinction should be kept in mind in considering the issues associated with both Interconnection and Net Metering. One additional point to consider, especially since many of the commenting parties, like OSBA, PPM Energy, York County Solid Waste, Dominion Retail, among others, did not comment at all on the interconnection and net metering issues in their initial comments, it is important that all stakeholders be afforded additional opportunities to provide input and respond to issues developed through additional working groups, technical conferences or other issue-specific forums for a full and complete vetting of these important concerns.

**A. Consistent Rules**

In general, FirstEnergy supports those commenting parties that have urged consistency in the development of net metering and interconnection standards and, in particular, that rules be consistent with procedures and regulations currently applicable to the PJM market (see for example, Industrial Energy Consumers of Pennsylvania, Pennsylvania Farm Bureau's comments of Crone and Harbach, Solar Energy Industries, Exelon, PJM and PPL). However, we have two important caveats in this respect. One is that it must be recognized that Penn Power is a member of MISO and will necessarily participate through that market. Therefore, some flexibility in the technical standards for net metering and interconnection will be necessary in order to accommodate other markets. This is important for the development of the trading platform and marketplace in general. Second, as we stressed in our initial Comments, it is important that there be sufficient flexibility overall. Net metering rules must recognize

that many companies have developed Net Metering tariffs as a result of settlements, etc., and until the generation rate caps are ended, should not be bound to provide otherwise than pursuant to its tariff (see comments of Exelon and PPL in this regard, which we support). Such flexibility is also necessary in the interconnection rules with respect to EDCs' ability to perform the appropriate studies and require appropriate equipment necessary to meet the specific needs of its distribution system for purposes of system integrity and safety. This will also be covered in the section on Procedural Timeline below.

Regarding the issue of consistency, there is one final point that should be addressed: a number of commenting parties that urge consistency with New Jersey rules, also suggest that the rules be consistent with IEEE standards (e.g., Solar Energy Industries, DEP, Native Energy). As we pointed out in our initial comments, this is in itself inconsistent. There are a number of requirements under the IEEE standards, such as the important requirement for the disconnect switch that the New Jersey rules do not permit the EDCs to enforce. This is just one example of why we believe the adoption of the PJM approach, in that it incorporates the IEEE standards as they are from time to time modified, is the preferred approach. The IEEE standards are objective, well-reasoned, and peer-reviewed standards that are readily available to all existing and potential alternative energy facility owners and their engineers.

#### **B. Procedural Timeline**

Some of the commenting parties such as Citizen Power, Pennsylvania Farm Bureau, Penn Environment, among others, have submitted that review with respect to a application for interconnection and presumably with respect to determining

issues of metering requirements as well, should be performed pursuant to a strict timeline. In general, while we believe that there may be opportunities for a more standardized approach and equipment pre-certification with respect to small inverter-based units of limited nameplate ratings, it is essential that the EDCs review of larger systems not be limited by such a cookbook approach at the potential expense of system integrity and safety. Therefore, Citizen Power's comment that the EDC should be required to install equipment at a customer generator site within 60 days of request is overly prescriptive and impractical. Similarly, Penn Environment's suggestion that customers not incur delays "by the inaction of electric distribution companies or electric generation suppliers", although not specific, is a dual suggestion that EDCs should be limited to the amount of time to review and that "inaction" is the only reason for an EDC's time to respond. FirstEnergy objects to this suggestion and urges that adequate time be afforded, especially for large inverter-based systems or rotating equipment systems, in order to perform system impact studies, determination of necessary distribution system upgrades and proper safety equipment, negotiation of a contract and finally, implementation of the interconnection. All of this is necessary in order to ensure the integrity of the system and safety of workers, customers and the public alike. Moreover, all of these issues are important and take time and should not be construed as "inaction". In a similar respect, those who refer to the New Jersey standards as a preferred template (Solar Energy and DEP) are supporting an overly restrictive approach insofar as time is concerned. We, instead, support the approach that the Energy Association of Pennsylvania ("EAP") has recommended in its comments. In this regard, 30 to 60 days may be sufficient to collect and review data and install any

necessary metering for smaller inverter units but with larger or unique applications even getting all necessary information in order to fully review requests can be problematic within a 90-day time period. Adequate time is essential.

### **C. Maximum Size of Net Metering Units**

Some of the commenting parties supporting again the New Jersey Net Metering standards (see for example, Solar Energy, Sustainable Development Fund and DEP) propose that net metering be allowed up to two megawatts. The Act does provide some fairly specific guidance on facilities up to one megawatt.

Within the definition of "Net Metering", the size of the generator is clearly limited to "when the renewable energy generating system is intended primarily to offset part or all of the customer-generator's requirements for electricity." This limitation curtails the customer generator from becoming a net exporter, under the Act, for sale to the EDC or wholesale sales into the market. In the event that is the intended purpose of a new facility, there are existing mechanisms for doing so.

The definition of Customer Generator further limits the size of the generator to a nameplate capacity 50 kW at a residential location or otherwise up to one megawatt or up to two megawatts if the facility meets one of two provisos. The first proviso applies to customers who offer to operate in parallel with the utility during a grid emergency, which is presumably when generation resources are reaching their limit or because of system constraints. It would seem apparent that in order to qualify under this exception, the generator must be contractually obligated to operate at capacity during such conditions. The second proviso applies to customers who can export energy into a "micro-grid" in support of essential services, provided IEEE promulgates

appropriate technical standards. There are no such standards in place today. Because of the complexity associated with circumstances applicable to this second proviso, appropriate guidelines cannot be developed without these technical standards. The Commission should defer development of these guidelines until such time as IEEE develops the necessary technical standards.

In their comments, the Pennsylvania Farm Bureau suggests that in order to install larger systems, farmers be permitted to supply energy to other members of their family. This would fall under the definition of retail wheeling which has consistently been disallowed. As stated above, there are other mechanisms available for sale of excess energy into the wholesale market. One of the primary drivers behind the installation of methane digesters is to dispose of animal waste. The Farm Bureau needs to factor in the savings associated with such installations and not rely on subsidies from ratepayers throughout the Commonwealth to improve profitability.

#### **D. Cost and Cost Recovery**

In general, many commenting parties seek to have EDCs absorb (1) some or all of the costs of physical interconnection to the distribution grid, or (2) the rate impact of the net metering of the interconnected generator delivery of energy to the EDC. Although the Act provides for cost recovery and it is, of course, fundamental to the EDCs that cost recovery be full and current, FirstEnergy is nonetheless concerned that such attempts to place these costs upon the EDCs creates an unintended subsidization of alternative energy resources and a resultant upward pressure on rates. The development of a workable trading platform and a vibrant marketplace should be

the paramount objectives of the Act. Through this, natural incentives will be provided to alternative energy resources without unnecessarily subsidizing the same.

In that context, FirstEnergy has the following reply comments with respect to those parties who commented on interconnection and net metering cost recovery issues:

Those commenting parties that submit that the customer generator should receive credit at the "full retail rate" such as PennFuture, Pennsylvania Farm Bureau, DEP, Environomics, among others, are proposing a significant subsidy. This is simply unwarranted, unnecessary and imprudent. Alternative energy sources are the recipient of various subsidies in the form of production tax credits, investment tax credits, state tax credits, accelerated depreciation and grants of assorted kinds from federal and state agencies. The market share mandated by Act 213 is a sufficient regulatory subsidy in itself. Contending that some generators should be compensated at rates that effectively guarantee their financial viability is to afford them an unfair advantage in the market.

Existing or new customers that develop alternative energy resources nonetheless are customers on the distribution system, and both benefit by that system as well as impose significant obligations on the distribution system. For some alternative energy resources, this is more significant than for others. For example, intermittent generators (wind and solar, for example) still require the full support of the distribution system to be on standby when they do not generate. Commenting parties proposing that there be no additional "standby, capacity, interconnection, stranded costs or other fee or charge" are simply socializing those costs on all ratepayers in order to provide the alternative energy provider a free ride. This is unnecessary. If the

alternative energy generator has the opportunity to place energy on the system and be compensated fairly for that energy because the Act creates a trading platform and a marketplace for the megawatts the generator creates, this is a sufficient economic incentive to do so. The Electricity Generation Customer Choice and Competition Act created the Competitive Transition Charge ("CTC") as a non-bypassable charge, and the Act didn't modify the Competition Act's intent or provisions on such CTC. Again, this is one of the numerous charges that this potential free ride would bypass contrary to the Electricity Generation Customer Choice and Competition Act dictates. Whether the Commission determines to develop an appropriate rate for the energy supplied into the system by an alternative energy resource or provides the EDCs with an appropriate surcharge for use of the distribution system as the OCA suggests, either both merit consideration. Nonetheless, in doing so, the Commission should be mindful of the fact that creating new and additional stranded costs is, in the long run going to distort the marketplace and not further the goals of the Act. In this respect, we support the comments submitted by Exelon Corporation and PPL with respect to the costs of equipment necessary to implement the interconnection, costs of system upgrades and/or installation of additional metering in order to properly capture the amount of energy generated into the system. It is fundamental that these costs be borne by the party benefiting by the transaction. OCA recognizes the need to have a customer bear a charge for use of the distribution system regardless of net usage that appropriate metering modification may be necessary.

Commenting parties such as DEP, PennFuture and the Pennsylvania Farm Bureau who suggest that the costs to install a new meter should be initially borne

by the EDC, and that the generator absorb only future changes, cannot be supported. The Act specifically requires that "All qualifying alternative energy systems must include a qualifying meter to record the cumulative electric production to verify the advanced energy credit value." In order to qualify for marketable credits under the Act, the output of the generator must be metered. As a practical matter, many of the EDC's billing systems are not capable of recognizing reverse registration on a single meter. In the event a customer's alternative energy system produces more energy over the course of a month than the customer consumed, a single meter allowed to run backwards would produce a register reading at the end of the month that was less than the reading at the beginning of the month. Rather than interpret the readings as an indication of excess energy delivery into the EDC's system, many billing systems will interpret the readings as energy consumption approaching 100,000 kWh, causing confusion and potential billing problems.

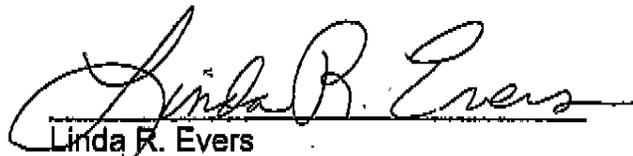
To address these concerns, FirstEnergy recommends that the Commission not mandate single metering. Rather, the Commission should implement a metering protocol under which the customer-generator utilizes two meters – the first to record its usage and the second to record its generation. Such a protocol is entirely consistent with the Act. Similar metering applications have been used to measure station service of generators located in the FirstEnergy service territories within Pennsylvania and New Jersey.

#### XIV. CONCLUSION

FirstEnergy appreciates the opportunity to provide these reply comments and assist the Commission, DEP and other stakeholders in identifying the issues related to the implementation of Act 213. We look forward to participating in future rulemaking and technical conferences regarding this matter and urge the Commission to consider issue-specific workshops or working groups to focus on the many issues that need to be addressed in order to effectively implement the Act.

Dated: February 9, 2005

Respectfully submitted,



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