

**BEFORE THE**  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Alternative  
Energy Portfolio Standards  
Act of 2004

Docket No. M-00051865

**REPLY COMMENTS OF EXELON CORPORATION RE: THE PENNSYLVANIA  
PUBLIC UTILITY COMMISSION IMPLEMENTATION OF THE ALTERNATIVE  
PORTFOLIO STANDARDS ACT OF 2004**

PECO Energy Company (“PECO”) and Exelon Generation Company, LLC (collectively “Exelon”) jointly file these reply comments to testimony provided at the Pennsylvania Public Utility Commission (the “Commission”) Alternative Energy Technical Conference held on January 19, 2005 (the “Technical Conference”).

**I. INTRODUCTION**

In its Secretarial Letter dated January 25, 2005, the Commission requested reply comments on the unsworn testimony offered by various interested parties at the Technical Conference. As such, Exelon hereby submits the following reply comments. Where appropriate, comments for similar issues raised by multiple parties have been consolidated.

## II. DISCUSSION

### a. DEP Section 2 Technical Guidance

In its Technical Guidance comments, the Department of Environmental Protection (“DEP”) recommends that the Commission consider “requiring Electric Distribution Companies (“EDCs”) to provide real-time pricing technology to any customer requesting it.” Exelon suggests that the Commission carefully review the work done by its Demand Side Working Group concerning the costs and benefits of such a requirement. While the high costs to provide this type of technology are certainly recoverable under the Act, the benefits associated with this requirement are comparatively small. Developing a billing system sophisticated enough to bill on real time information would be costly, while it is unknown whether enough customers would volunteer to make this type of investment worthwhile. Additionally, with competitive metering and billing available in many service territories, suppliers already have the opportunity to provide this service should demand for real time pricing develop.

The DEP appears to restrict participation of large industrial customers participating in utility or RTO programs. In its testimony, DEP states, “Only users shifting load voluntarily (i.e. that are not part of an RTO or utility compensation plan for interruptible load shifting) can qualify for alternative energy credits under the Act”. It should be noted that some utility and RTO programs (like PECO Rider IR-2 and PJM Economic Load Response Program) are market based voluntary programs and therefore should qualify for alternative energy credits (“AECs”) if they meet other eligibility requirements. Exelon would propose that the DEP and the Commission clarify the intent of this statement so as not to exclude qualified customers who participate in EDC,

Electric Generation Supplier (“EGS”) or Regional Transmission Organization (“RTO”) programs.

Another issue in need of further clarification from the Commission is ownership of the AECs. DEP testimony seems to assume that the customer owns the AECs in all cases. Determination of who owns the AECs should be based upon, but not necessarily limited to, the following: (i) individual program design, and (ii) the party paying the costs of the program. For example, an EDC should own the AECs associated with energy savings from EDC-managed programs, the cost of which are recovered from ratepayers under the Act. If EDCs are not permitted to receive the AECs from the programs they administer, then utilities (and their ratepayers) would essentially pay twice for the same kWh (once for the cost of the utility program where in the kWh savings were created, and then a second time if the utility were to also have to acquire the AECs from the customer). Further, if utilities are not permitted to receive the AECs from the programs they administer, then the AEPS effectively becomes an incremental initiative.

**b. DEP Net Metering**

In its comments on net metering, the DEP recommends adopting New Jersey interconnection and net metering standards (which allow net metering up to 2 MW), for “consistency among PJM states”. At this time, however, there is no consensus among the thirteen PJM states regarding such standards. New Jersey is the only state among them that allows net metering up to 2 MW.

The term “net metering” was interpreted differently by the parties represented at the Technical Conference. Some suggested that net metering allows for the full retail

credit for any energy delivered back to the grid, while others argue that the customer generators should only be credited for the energy delivered to the grid at prevailing wholesale prices. PECO currently allows net metering at the full retail rate for qualified renewable customer generators up to 40 KW. This arrangement was agreed to as part of its Merger Settlement Agreement<sup>1</sup> as a means to provide a subsidy to support the economic viability and market development of small renewable generators. The implementation of the Act is developing a new market in the form of AECs which will ultimately provide an additional source of revenue for these small renewable generators. As a result, customer generators no longer need to receive the additional subsidy of net metering at the full retail rate. Instead, a reasoned approach is that customer generators should be paid wholesale for any energy delivered back into the grid plus retains the ownership of any AECs associated with this energy. For these reasons, PECO does not support net metering at full retail rates, especially if the threshold for net metering is raised above current limits.

If net metering rules permit full retail reimbursement of energy delivered to the grid, then allowing customer generators to also retain ownership of the AECs amounts to a form double recovery. If this is the case, then fairness would dictate that the Load Serving Entity would retain the rights to any AECs produced by these generators.

In the section titled “Meters and Metering”, PECO requests that the language be more flexible than proposed in the New Jersey net metering regulation. A single meter option is not feasible with PECO’s Automated Meter Reading system. PECO currently uses two meters to provide net metering options for customers under its tariff.

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<sup>1</sup> PECO Energy Joint Petition for Settlement Docket # A- 110550F0147

**c. Deferral of AECs**

Both the Office of Consumer Advocate and Industrial Energy Consumers of Pennsylvania raised the issue that deferral of AECs associated with former EDC plants included in stranded costs calculation should not be permitted. The Commission should note that these former EDC plants are no longer affiliated with the EDCs as they have been sold in the market or transferred to an affiliated generation company and are no longer under the jurisdiction of the Commission. While the EDCs have a requirement under the Act to procure AECs to meet portfolio standards, they do not own or control the assets that produce the AECs. In addition, there were no stranded costs associated with former PECO plants Conowingo and Muddy Run. In fact, the value of these plants was used to reduce other stranded costs.

**d. Impact on Voluntary Programs on AEPS requirements**

Exelon believes that the Act allows utilities and EGSs to receive credit for the renewable kWh realized from their existing retail wind or other renewable programs. PECO will continue to honor its current voluntary wind offering contractual obligations and is committed to work with interested parties in the implementation of the Act to determine future viability of such programs.

**e. Alternative Compliance Payments (“ACP”)**

During the Technical Conference, it was made clear that ACP will not be recoverable. As a result when an EDC or EGS is confronted with the option of buying AECs at prevailing market prices higher than the established ACP penalties it will pay

the higher price for the AECs that is recoverable rather than pay the ACP. The Commission should clearly explain how it intends to address this scenario so that all market participants understand the applicable rules well in advance. In particular, details on how the Commission intends to conduct its Force Majeure review will aid market participants with respect to the above scenario.

**f. Should suppliers be required to meet AEPS requirements?**

In its testimony, Dominion suggests that the Alternative Energy Portfolio Standard (“AEPS”) requirements should be the sole responsibility of the EDC and that EGS should be exempt from compliance. The Act clearly stipulates that the AEPS requirements apply to both EDCs and EGSs.

**g. Can customers sell AECs back into the market?**

An issue raised at the Technical Conference is whether a retail customer that has purchased forward renewable energy credits can then sell the credits into the over-the-counter or bilateral AEC markets. Exelon does not believe there is a legal or regulatory reason that would prevent such a sale. AEC sales and purchases are not FERC-jurisdictional and thus do not require the selling entity to have a power marketing license or market-based rates authority.

**h. Long term contracts**

In its testimony, PPM Energy brings up the issue of how long-term off-take contracts with renewable generators get executed if the prevailing wholesale procurement methodology for distribution companies is a load auction in which winning suppliers sell supply for terms that may not exceed five (5) years and typically are three (3) years in duration. Exelon believes that the renewable development market will proceed in the same way whether or not load is auctioned off. The market's willingness to execute long-term off-take agreements has little or nothing to do with which companies are supplying the distribution companies and for how long. The AEPS requirements supercede the duration of commitments that are built into the auction designs. Thus the requirements continue regardless of what entity is supplying the load. Of critical importance is the response by the market to and supply and demand generally. If demand exceeds supply and companies discern a business opportunity, it is possible that new construction will occur to fill the imbalance. The companies that might respond to the imbalance will estimate the sales potential of the projects over a given duration. The structure of wholesale procurement for distribution companies will not affect the estimate. At most, the structure may provide guidance on the marketing side -- i.e., what hedges might be available in the market and for what duration. The real issue is how many credit-worthy companies will be willing to take on all the risks of long-term off-take agreements, or will renewable generators take on more merchant risk than they have been willing or able to thus far.

### III CONCLUSION

Exelon submits these reply comments in an attempt to provide some additional clarification on some of the issues raised by various parties at the Technical Conference. It is clear that there is still much work ahead to further resolve many of the issues associated with implementation of the Act. Exelon is committed to continue its support of the Commission as it progresses in the implementation process.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Jesse", is written over a horizontal line. The signature is fluid and cursive, with a long tail extending to the right.

Dated: February 9, 2005

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