

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF
THE OFFICE OF CONSUMER ADVOCATE
ON THE MARCH 25th IMPLEMENTATION ORDER

On March 25, 2005, the Pennsylvania Public Utility Commission (“Commission”) entered an Implementation Order addressing some of the immediate implementation issues related to the Alternative Energy Portfolio Standards Act of 2004 (“Act 213” or the “Act”). The primary issues addressed by the Commission in the March 25th Implementation Order were the schedule by which the Commission will meet its obligation to develop rules and regulations necessary to implement the Act and the schedule for compliance with the mandates of the Act for electric distribution companies (“EDCs”) and electric generation suppliers (“EGSs”). March 25th Implementation Order at 1. The Implementation Order contemplates a process of additional Orders and Rulemakings to address all of the various issues presented by Act 213.

In this first Implementation Order, the Commission specifically addresses the compliance schedule for EDCs and EGSs; the schedule for the creation and banking of alternative energy credits during the cost-recovery period; the working group on interconnection and net metering; the working group on energy efficiency, demand side management and load management; and the Pennsylvania Sustainable Energy Board. The Commission requested Comments on the topics addressed in the March 25th Implementation Order. In general, the OCA was in agreement with the Commission's March 25th Implementation Order.

As noted in the Implementation Order, the OCA recognizes that this Order is the first in a series of Orders and Rulemakings regarding Act 213 and is not intended to address all details necessary for implementation. The focus of the Order is to establish certain schedules for compliance with the Act. The OCA is concerned, however, with an issue related to establishing the schedule for the creation and banking of alternative energy credits. Specifically, the Implementation Order addresses the inception and expiration dates for credits created during the cost recovery period and states that the actual qualification process for alternative resources and certification of credits will be addressed separately at a later date. March 25th Implementation Order at 8. A related issue is the determination of what Tier I and Tier II sources are already included in the retail sales of the EDC or EGS.

The banking provisions of Section 3(e)(7) allow for the banking of credits for retail sales of electricity generated during the cost recovery period subject to a specific limitation:

Bankable credits shall be limited to credits associated with electricity sold from Tier I and Tier II sources during a reporting year which exceeds the volume of sales from such sources by an electric distribution company or electric generation supplier during the 12-month period immediately preceding the effective date of this act.

Section 3(e)(7). In other words, it is only the incremental purchases during the cost recovery period that can be banked.

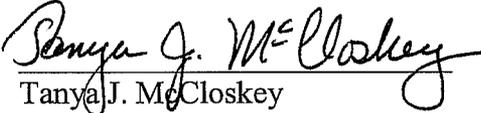
To properly implement the banking provisions, the Commission must first determine the volume of sales from Tier I and Tier II sources of each EDC and EGS for the period February 28, 2004 through February 28, 2005 so that any incremental purchases over and above those levels can be identified and tracked. The OCA urges the Commission to add this task to the schedule and move quickly to establish this review so that the most accurate accounting of these sources for the historic period can be obtained.

This task also has significant implications for the deferral cost recovery provisions in Section 3(a)(3). Under the cost recovery provisions, payments for alternative energy credits that are voluntarily acquired by an electric distribution company during its cost recovery period can be deferred for future recovery. Section 3(a)(3)(ii). This voluntary compliance, and deferral, forms the basis of the bankable credits. See, Section 3(d). To ensure that the cost deferral for these bankable credits only reflects the incremental sources, it is essential to have accurate information regarding the volume of Tier I and Tier II sources during the February 28, 2004 through February 28, 2005 time frame.

The Commission's Implementation Order addressing scheduling, Working Groups and the Pennsylvania Sustainable Energy Board is one step in the complex process needed for the full implementation of Act 213. The OCA looks forward to continuing to work

with the Commission, and the various Working Groups, on the many necessary details. The OCA offers these Comments only on the March 25th Implementation Order as called for in the Order and does not address the many remaining issues. The OCA expects to continue to offer Comments in the Working Groups, in the rulemakings, and in response to other Commission requests on the many implementation issues.

Respectfully Submitted,


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