

PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

IMPLEMENTATION OF THE ALTERNATIVE
ENERGY PORTFOLIO STANDARD ACT OF
2004

DOCKET NO. M-00051865

RULEMAKING RE: ELECTRIC DISTRIBUTION
COMPANIES' OBLIGATION TO SERVE RETAIL
CUSTOMERS AT THE CONCLUSION OF THE
TRANSITION PERIOD TO 66 Pa.C.S. § 2807(e)(2)

DOCKET NO. L-00040169

**Written Comments by
Conservation Services Group Inc.**

Conservation Services Group Inc. ("CSG") submits these written comments in response to the "Final Order" (or "Order") concerning the default service rulemaking under the Docket No. M-00051865 issued by the Pennsylvania Public Utility Commission ("PUC") on October 27, 2005.

CSG appreciates the opportunity to comment on the attached issues, including those issues identified in the Order of November 18, 2005.

- 1. Should Act 213 cost recovery be addressed in the Default Service regulations as opposed to a separate rulemaking? Is it necessary to consider Act 213 cost recovery regulations on a different time frame in order to encourage development of alternative energy resources during the "cost recovery period"?**

CSG urges the PUC to address all ACT 213 cost recovery in the Default Service Regulations. We feel it is very important that Default Service Providers have a single regulation that encompasses all aspects of cost recovery. Further, actual cost recovery will only occur at the time that renewable electricity is generated and the Default Service Providers serve customers. The cost implications for customers of either short or long term procurements must be carefully considered.

- 2. Do the prevailing market conditions require long-term contracts to initiate development of alternative energy resources? May Default Service Providers employ long-term fixed price contracts to acquire alternative energy resources? What competitive procurement process may be employed if the Default Services Provider acquires alternative energy resources through a long-term fixed price contract?**

CSG urges the PUC to give Default Service Providers the tools to adopt a comprehensive portfolio management strategy including and appropriate balance of long term contracts, short term contracts and current year contracts. Combining the security of long term contracts with the competitive price advantage of short term and current year contracts results in a comprehensive portfolio that provides the following: hedging value to protect consumers; due diligence of price discovery; and access to markets that increases generator confidence.

Long-term contracts, by definition, carry greater risks. It is as likely that a Default Service Provider will in the end pay above market rate as below market rate for AECs acquired under a long-term contract. To limit rate-payers' risk exposure to long-term contracting, the PUC could require all such procurements to be submitted for review. However, CSG recommends that the PUC consider a more market-based approach to mitigate risk, such as limiting the percentage of total anticipated obligation that a Default Service Provider can procure under a long-term contract. Such a strategy would provide a reasonable protection to rate payers without creating an additional administrative burden on the Agency.

- 3. Should force majeure provisions of Act 213 be integrated into the Default Service procurement process? Should Default Service Providers be required to make force majeure claims in their Default Service implementation filing? What criteria should the Commission consider in evaluation a force majeure claim? How may the Commission resolve a claim of force majeure by and electric generation supplier?**

CSG strongly believes that there must be a mechanism to verify force majeure claims. A simple, effective, and cost-efficient market test is proposed below. In the compliance market for Alternative Energy Credits (AECs) in Pennsylvania, there will be basically three types of parties:

- Complying Entities (CEs)—Electric distribution companies and electric generation suppliers who are required by law to meet a minimum AEC purchase requirement during a given compliance year.
- Qualified Generators (QGs)—Generators that have been qualified by the state.
- Facilitating Agents (FAs)—Such Brokers and Consultants who work on a commission basis for facilitating AEC transactions between Buyers and Sellers.

CSG proposes that the Pennsylvania PUC conduct a public, transparent, and competitive bid to verify a CE's Force Majeure Claim, called a Force Majeure Verification Auction (FM Auction). A FM Auction will have three possible outcomes:

Force Majeure Claim Rejected: A Force Majeure Claim shall be rejected if sufficient qualified AECs are bid into the FM Auction at a price that the PUC determines to be “Reasonable for Cost Recovery.” The CE(s) making the claim will be required to purchase sufficient AECs to meet their obligation from sellers who participate in the FM Auction. Sellers will be paid their bid price (not a clearing price). In addition, to cover costs and to discourage frivolous use of the FM Auction both the CE(s) and AEC seller(s) will pay the PUC a per AEC “FM Auction Fee.”

Force Majeure Claim Verified: A Force Majeure Claim shall be verified if no qualified AECs are bid in to the FM Auction at a price that the PUC determines to be

“Reasonable for Cost Recovery.” The CE(s) will be granted an exemption from the Alternative Energy Portfolio Standard (AEPS) obligation in this case.

Force Majeure Claim Partially Verified: A Force Majeure Claim will be partially verified if some qualified AECs are bid into the FM Auction at a price that the PUC determines to be “Reasonable for Cost Recovery.” The CE(s) making the claim will be required to purchase the “Reasonably Priced” AECs and will receive an exemption for the portion of their obligation that cannot be met through the FM Auction.

- 4. Given that Act 213 includes a minimum solar photovoltaic requirement as part of Tier I, should resources be treated different from other alternative energy resources in terms of procurement and cost recovery?**

CSG agrees that Act 213 should include a minimum solar photovoltaic requirement as part of Tier I and that the PUC should indicate what it would consider a reasonable price at which Default Service Providers would be allowed as cost recovery for Solar AECs. CSG believes that strong market signals such as the \$300 per solar REC alternative compliance payment under the New Jersey RPS are having dramatic implications for investment decisions.

- 5. Should the Commission integrate the costs determined through a § 1307 process for alternative energy resources with the energy costs identified**

through the Default Service Provider regulations? How could these costs be blended into the Default Service Providers Tariff rate schedules?

CSG strongly believes that it is critical that cost recovery for AECs be incorporated in the energy portion of the end use consumer's bill.

6. May a Default Service Provider enter into a long-term fixed price contract for the energy supplies produced by coal gasification based generation if the resulting energy costs reflected in the tariff rate schedules are limited to the prevailing market prices determined through a competitive procurement process approved by the Commission?

No Comments

7. Should the Commission delay the promulgation of default service regulations until a time near the end of the transition period, as suggested by the Independent Regulatory Review Commission in its comments on the proposed regulations?

No Comments

8. Does the Commission need to make any revision to its proposed default service regulations to reflect the mandates of the Energy Policy Act of 2005?

CSG is unaware of any provisions of the Energy Policy Act of 2005 that will have an impact on default service regulations.