

PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265

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IMPLEMENTATION OF THE ALTERNATIVE  
ENERGY PORTFOLIO STANDARD ACT OF  
2004: STANDARDS AND PROCESSES FOR  
ALTERNATIVE ENERGY SYSTEM  
QUALIFICATION AND ALTERNATIVE  
ENERGY CREDIT CERTIFICATION  
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DOCKET NO. M-00051865

March 17, 2006

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

Conservation Services Group Inc. (“CSG”) submits these written comments in response to the “Tentative Order” (“Order”) concerning the Standards and Processes for the Alternative Energy System Qualification and Alternative Energy Credit Certification under the Docket No. M-00051865 issued by the Pennsylvania Public Utility Commission (“PUC”) on January 27, 2006. The Order proposes, based on the Alternative Energy Portfolio Standard Act of 2004, 73 P.S §§1648.1-8 (the “Act”), what standards and processes should be used to qualify energy systems and certify alternative energy credits. CSG appreciates the opportunity to comment on the Order and applauds the PUC’s for all its efforts on the Act thus far.

**A. Legislative Intent Regarding the Act**

CSG is in full agreement with the Commission that the interpretation of the Act should be construed from the plain language of the provisions of the Act were the language is unambiguous. Considering the Act is without a declaration of policy, the

most prudent and appropriate approach the PUC could take when ascertaining the meaning of provisions of the Act is to refer to the greatest extent possible the plain language of the provisions.

**B. Allocation of Agency Responsibilities Regarding Alternative Energy System Qualification and Credit Certification Process.**

CSG agrees with the Commission on its interpretation of the Act vesting the Commission with the power to promulgate regulations establishing standards and processes for resource qualification and alternative energy credit creation, as well as the responsibility to make final determinations on resource qualification. In addition, CSG agrees with the Commission's interpretation of the Act regarding DEP's role to ensure that qualifying facilities comply with environmental status.

CSG believes consistency when dealing with public regulations and procedures is very important. Interested public parties have been reading and responding to the Commission's orders concerning the Act. To maintain consistency interested public parties will also be submitting request to the Commission for determinations on resource qualifications under the Act.

**C. DEP's Role in Qualification of Alternative Energy System**

CSG is of the same opinion as the Commission that the Act's plain language requires an involved role of responsibility from the DEP. Because of the DEP's experience and knowledge of certain issues surrounding qualifying an alternative energy resource, it would be prudent to appeal to their expertise for determinations. In addition,

CSG concurs with the Commission that these determinations should be final and binding not just guidance.

### **Confirmation of Compliance with Environmental Regulations**

CSG has no objection with the Commissions finding that compliance with environmental regulations is a condition of being granted and maintaining “alternative energy system” status. However, CSG would urge that the Commission when revoking the status, and with it the right to produce alternative energy credits (AEC), of an alternative energy system due to an environmental regulation violation, that the Commission limit the effect of loss status on forward or prospectively produced AECs. AECs that were produced and sold prior to the status revocation should remain valid and unaffected.

If certified AECs are susceptible to revocation, it would have a crippling effect on the market trading AECs. Confidence in the market would not exist if market participants believed the commodity they are selling or buying could be pulled from the market post production or trade.

Understanding the need for market participant confidence by only adjusting discrepancy’s prospectively, NEPOOL GIS has included such a consideration in the NEPOOL GIS Operating Rules, specifically Rule 2.8 (b) Adjustments to Certificates which states the following:

Any adjustments to a GIS Generator’s or Importing Account Holder’s total number of Certificates that is the result of an MMA (Monthly Meter Adjustment) that occurs in a Trading Period ... after the Trading Period in which such Certificates was initially issued shall be accounted for by adjusting that GIS Generator’s total number of Certificates in such later Trading Period. (Emphasis added)

PJM GATS has also included a similar provision in its operating rules, specifically Rule 8.3 Account Holder Review Period which states the following:

Adjustments, either the creation of additional certificates or the subtraction of certificates, shall take place in the account/sub account to which the generation unit is assigned. If new certificates are created, the vintage of the certificates shall be the *next* month and year that certificates are issued for that generation unit. (Emphasis added)

It is important for a markets integrity and growth that the commodity which is being exchanged is valid and fully transferable. Again, CSG has no objection to removing an alternatives energy system's status if a failure of an environmental regulation is shown; however, to maintain a functional market CSG would recommend limiting prohibition of AEC production from the time the status is removed and not to attach any AEC prior to the status revocation.

#### **D. Process for Approval and Review of Alternative Energy System Qualification Decisions**

CSG agrees that the Commission should delegate decisions on alternative energy system qualification to the administrator. Furthermore, the administrator should have a timeline of 90 days from the date the application is received at the PUC to act on the application. We also think it is appropriate for the interested parties to have the opportunity to challenge the determination by filing a petition within 10 days, but not longer.

#### **E. Maintaining Alternative Energy System Status**

In order for there to be due process of maintaining alternative energy services status, CSG recommends that there be at least two months after the filing date of the annual

environmental report so that the Commission would have ample time to consult with the Department of Environmental Protection, the AEPS Administrator, and the GATS Administrator to decide if revoking the alternative energy system status of a facility is necessary.

For example, by giving a November deadline for filing the annual environmental report, the Commission would be able to start the following year in January knowing which facilities remained in compliance. Too long of a delay between the due date of the filings and when the Commission provides its notices of the facilities' statuses, could trigger market uncertainty.

## **F. The Alternative Energy System Qualification Standard**

### **1. Fuel Source Requirement**

CSG agrees that the PUC should incorporate the technical guidelines for the fuel source requirements into the Commission's Act 213. This is especially critical for new renewable energy developers.

### **2. Geographic Requirement**

Because Section 1648.4 does not include a purpose section or a statement of legislative intent, CSG proposes a unique solution that is not only consistent with the applicable legal standards, but it also addresses both the in-state geographic location requirement and the service territory issue. The plain language in Section 1648.4 of the Act states that "Energy derived...shall be eligible to meet the compliance requirements under act" (Emphasis added). It does not explicitly state the level of this eligibility or that the resources would have comparable market value. Therefore, it may be appropriate

for the PUC to evaluate the possibility of rewarding extra value to those renewable energy sites that are developed within the Pennsylvania geographic border.

For example, in Colorado “for purposes of compliance with the Renewable Energy Standard, each kilowatt-hour of Eligible Renewable Energy generated in Colorado shall be counted as 1.25 kilowatt-hours of Eligible Renewable Energy.” (4 CCR 723-3). By adding value to those RECs that are generated in Pennsylvania, the PUC would promote fuel diversity, economic development, and environmental benefits within the state. Furthermore, it still satisfies the legislative intent of not completely excluding those energy sources that are located within the service territory of any RTO that manages the transmission system in any part of the Commonwealth. However, unlike the 25% increase in Colorado, CSG recommends that the increased value only be 5% to 10%.

Respectfully Submitted by:

Patricia Stanton  
Director of Renewable Energy Markets  
Conservation Services Group