



Friday, January 14th, 2005

TO: Members of the Pennsylvania Public Utility Commission
FROM: Nathan Willcox, PennEnvironment Energy & Clean Air Advocate
RE: Implementation of the Alternative Energy Portfolio Standards Act of 2004
Docket No. M-00051865

PennEnvironment appreciates the opportunity to submit testimony to the Pennsylvania Public Utility Commission regarding implementation of the Alternative Energy Portfolio Standards Act of 2004. PennEnvironment is a statewide, non-profit environmental advocacy organization with more than 13,000 members across the Commonwealth. We have been active on energy issues in the state for many years, and we were actively involved in the debate surrounding the Alternative Energy Portfolio Standards Act of 2004 before its passage. We also work closely with our allies in other states—specifically the State Public Interest Research Groups—and our staff have therefore not only been involved in the Pennsylvania effort on this issue, but also in portfolio standard efforts in other states. For this reason, we greatly value consistency between different states' portfolio standards, and this is echoed throughout our detailed comments below.

Our suggestions regarding implementation of the Act are meant to ensure that this new standard benefits the environment and public health of Pennsylvania as much as possible. PennEnvironment believes that the purpose of an alternative portfolio standard should be to promote truly clean and renewable energy resources, while at the same time prioritizing those alternative energy resources with the lowest cost. Please feel free to contact Nathan Willcox with any questions regarding the below comments at (215)-732-5897.

I. Force Majeure

--PennEnvironment encourages the PUC to clarify the language included in the Force Majeure section of the standard. Specifically, the “reasonably available” and “sufficient quantity” terms used in relation to the availability of alternative energy resources should be clarified. Leaving these terms as they are without further definition opens the door for confusion in evaluating requests by electric distribution companies and electric generation suppliers to have this section of the standard applied.

--PennEnvironment encourages the PUC to require a higher threshold with regard to a lack of available alternative energy resources, before it is recommended to the General Assembly that an “underlying obligation be eliminated” within the standard. The present language suggests that in response to a request from a single electric

distribution company or electric generation supplier, the PUC can recommend that the underlying standard be completely eliminated. Such a drastic move as eliminating any obligation within the standard should require a certain threshold with regard to the lack of available resources.

II. Deferrals and Cost Recovery

--PennEnvironment encourages the PUC to ensure that the cost recovery language does not provide incentive for electric distribution companies and electric generation suppliers to avoid steering their generation mix towards the cleanest and most renewable energy sources within each tier of the standard.

--PennEnvironment strongly encourages the PUC to carefully review requests from electric distribution companies and electric generation suppliers to ensure that costs are prudently incurred, as would be any other costs passed on to ratepayers. This is to ensure that consumers are not paying more than they should for the cleanest alternative energy resources.

--PennEnvironment encourages the PUC to clarify the current deferral and cost recovery language to prevent “double recovery”—counting twice the costs of alternative energy resources that have already been included in generation rates or stranded cost recovery. Deferral and cost recovery provisions should only apply to new or incremental resources, as many of the costs incurred by electric distribution companies and electric generation suppliers for existing alternative energy supplies have already been factored in as stranded costs passed along to consumers. From an environmental perspective, this and other cost recovery provisions are critical, as unnecessarily high increases in electricity rates that result from overly generous deferral and cost recovery language could give the public the false impression that clean, renewable energy sources require significant increases in rates. Numerous case studies have shown this perceived requirement to be false, and it is critical that electric distribution companies and electric generation suppliers are not allowed to create this false impression through taking advantage of the current generous cost recovery language.

III. Creation of Alternative Energy Credits and Trading Platform

--PennEnvironment encourages the PUC to ensure that the alternative energy credit system maximizes the environmental and ratepayer benefits *for Pennsylvania*, as opposed to other states whose alternative energy resources will qualify for crediting towards the Pennsylvania standard. Accordingly, PennEnvironment urges the PUC to strengthen the credit trading language currently included to guard against “double counting” of alternative energy sources by different electric distribution companies and electric generation suppliers, and under different states’ portfolio standards. Specifically, with regard to double counting, PennEnvironment encourages the PUC to clarify the language guarding against double counting for the following are prevented:

- A. Alternative energy sources already in rates in other jurisdictions, specifically in regulated states.
- B. Alternative energy sources sold at a premium in green pricing programs.
- C. Alternative energy sources already getting credit for being zero emission resources in other programs, such as carbon trading markets.

IV. Alternative Compliance Payments

--In short, PennEnvironment encourages the PUC to adopt as many of the alternative compliance payment specifications established by New Jersey within their portfolio standard as possible.

--PennEnvironment urges the PUC to ensure that the alternative compliance payment is in fact a penalty for non-compliance, or a payment made when despite their best efforts, NO eligible resource was available to an electric distribution company or electric generation supplier. This is meant to prevent an electric distribution company or electric generation supplier from buying their way out of the requirement rather than procuring alternative energy sources. To this end, cost recovery requests from electric distribution companies and electric generation suppliers should be judged against those companies' and suppliers' demonstrated commitment to seek and procure alternative energy resources, including through long term commitments and planning.

V. Development of Technical Standards for Verification of Energy Efficiency and Demand Side Management Activities, and Proposed Depreciation Schedules for Alternative Energy Credits Resulting from such Measures

--PennEnvironment encourages the PUC to adopt clarifying language for energy efficiency and demand side management activities that will help to promote these clean and cost-effective activities within Tier II of the standard. At the same time, there are measures that should be taken to ensure that electric distribution companies and electric generation suppliers are not able to escape significant investments in alternative energy resources, or decrease their investments in such resources based on claimed investments in energy efficiency. To this end, PennEnvironment recommends the following:

- A. There should be limits set on the time period for which energy savings from an energy efficient investment can count towards a electric distribution company's or electric generation supplier's obligation towards the standard. This will help to ensure that there is ongoing investment in energy efficiency technologies, as opposed to a one-time investment in energy efficient products or programs at the beginning of the standard's 15 year period.
- B. At the same time, the limits that are set on the counting of energy savings from a single energy efficiency investment need to take into account the lifetime and "payback period" for energy efficiency savings over initial investment of the product or service in question. For instance, it takes upwards of 2-3 years to save more in electricity cost savings than the upfront increased cost (the "payback period") of more efficient larger appliances. Therefore, a 3 or 4 year limit on the crediting of energy savings from such large appliances would all but ensure that electric distribution companies and electric generation suppliers would not invest in such larger efficient appliances. This would be especially unfortunate, as these larger products are just as—if not more—important in advancing energy efficiency efforts than products with shorter payback periods.

- C. Lastly, certain minimum requirements should exist for electric distribution companies and electric generation companies to be able to claim credit for the energy savings from an energy efficiency program. Specifically, electric distribution companies and electric generation companies should not be able to claim credit for minimal investments in energy efficiency projects that would have occurred with or without their investments.

VI. Development of Technical Standards for Net Metering

--PennEnvironment encourages the PUC to adopt as many of the net metering specifications established by New Jersey within their portfolio standard as possible. Key points that we encourage the PUC to adopt include:

- A. Systems up to 2MW should be eligible for inclusion in any net metering system.
- B. There should be a requirement that electric distribution companies and electric generation suppliers install the necessary equipment at the site of generation by a certain number of days after a request from a customer. This will prevent customers with energy they are ready to sell back into the grid being delayed by the inaction of electric distribution companies or electric generation suppliers in supplying them with the necessary equipment.
- C. Only Tier 1 resources should qualify for inclusion in the net-metering system

VII. Definitions of Qualifying Resources

--PennEnvironment encourages the PUC to clarify the definition of “Low-impact hydropower”, so that only new (i.e. systems that came on line in 2004 at the earliest) low-impact hydropower is eligible. The current language leaves it in question whether or not existing low-impact hydropower is eligible. Due to the amount of low-impact hydropower already available in the areas from which utilities can obtain alternative energy for the purpose of this standard, this clarification is necessary to ensure that all of Tier 1 is not consumed by existing low-impact hydropower.

--PennEnvironment encourages the PUC to clarify the definition of municipal solid waste incineration so that only energy from the five existing facilities in Pennsylvania can qualify. Energy from the Harrisburg facility, once online, should not count towards fulfillment of the requirements within the standard. Lastly, energy from municipal solid waste incineration facilities in other states should not count towards fulfillment of the requirements within the standard.

VIII. Public Disclosure of Compliance

--PennEnvironment encourages the PUC to clarify the language on p. 16, section (8), regarding the registry of compliance with the alternative energy standard. Specifically, the information provided to the general public should be in a format that is easily understandable—most importantly including a percentage breakdown showing how much of each energy resource each electric distribution company and electric distribution supplier uses to fulfill the alternative energy standard requirements.