



January 13, 2005

VIA OVERNIGHT MAIL

Commonwealth of Pennsylvania
Secretary's Bureau
Pennsylvania Public Utility Commissions
P.O. Box 3265, Harrisburg, PA 17105-3265

Re: Docket No. M-00051865 - Implementation of the Alternative Energy Portfolio Standards Act of 2004 - Technical Conference, January 19, 2005

Dear Secretary McNulty:

Enclosed please find the comments of Community Energy, Inc. for the Technical Conference regarding the Implementation of the Alternative Energy Portfolio Standards Act of 2004.

Respectfully submitted,

Brent Beerley
Vice President

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PENNSYLVANIA PUBLIC UTILITIES COMMISSION

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

COMMENTS OF COMMUNITY ENERGY, INC.

FOR THE TECHNICAL CONFERENCE, JANUARY 19, 2005

Community Energy, Inc. (CEI) commends the development of the Alternative Energy Portfolio Standard (AEPS) in Pennsylvania, and the leadership driving the effort. CEI and its wind energy customers are committed to the Governor's statewide renewable energy goal, and are part of the financial commitment and effort to reach that goal and move beyond it with a growing market for renewable energy.

CEI is a marketer and developer of wind-generated power nationally, with its headquarters in Wayne, PA. After five years of wind energy marketing in Pennsylvania, CEI has completed contracts for sale of over 100 MW of Pennsylvania wind supply to leading retail customers in the state who have stepped up to pay the premium necessary to bring wind energy online, including more than 35 universities in the state, Johnson and Johnson, approximately 10,000 PECO residential customers, and the Commonwealth of Pennsylvania. Thanks to these leaders, and the nationally recognized voluntary green market they have established, Pennsylvania has jumped in the lead on wind energy development with more new wind generation than any other state east of the Mississippi. The lead has put the state in a strong position to attract national and global investment and has helped to build support for the AEPS.

CEI directs its comments to one critical aspect of the AEPS; the interaction with the voluntary market for alternative energy in Pennsylvania.

Market Integrity

The AEPS will boost renewable energy demand to the next level and works perfectly in tandem with the voluntary green market, so long as the two are allowed to work side-by-side. It is important that the language of the rule not inadvertently shut down this healthy voluntary green market as it expands and ramps up long-term demand building on the momentum of the voluntary market.

The AEPS meshes with the voluntary market in the provisions for tracking the Alternative Energy Credits. Double counting Alternative Energy Credits already sold and delivered under voluntary green energy sales for compliance under the AEPS would shut down the voluntary market for sales of Alternative Energy, as it would short-circuit the ability of customers to voluntarily purchase alternative energy.

While this common sense result is clear when viewed from the perspective of consumer fraud and consumer fairness, it can get lost in the notion of ownership of an Alternative Energy Credit. An example makes it clear. Many Pennsylvania universities, corporations, government entities and residential customers have made sizable purchases (commercial green energy purchases range in size from a few \$1000 to several \$100,000 per year) of Alternative Energy Credits from Pennsylvania wind generation. These purchases supported and continue to support the 100 plus megawatts of wind generation already brought on line in Pennsylvania. If the passage of the AEPS were to mean that those customer payments of millions of dollars per year simply shift the costs of compliance with AEPS to them rather than to the utility or ratepayers as contemplated they would be wise to stop making those payments. Customer payments

would make no difference under this double counting approach, and the customer would simply be taking on an obligation that under the AEPS belongs to everyone or every ratepayer.

On the other hand, the common sense application of the tracking of Alternative Energy Credits under the AEPS means that Alternative Energy Credits purchased voluntarily by customers buying green energy are not also counted for compliance by an Electric Distribution Company or Electric Generation Company under the Act. Compliance requires that purchases of Alternative Energy Credits intended to create the level of demand for alternative generation contemplated by the Act, be separate from purchases of Alternative Energy Credits by customers, which are intended to create the demand for alternative generation contemplated by the customer. The two purchases are separate and additive.

Consumer expectations and fairness require the separate counting of Alternative Energy Credits sold in voluntary retail sales, just as Section 4 of the Act addresses double-counting in connection with portfolio standards in other states. Just as double counting is to be avoided with respect to other states' portfolio standards, it is important to do the same for the voluntary green market customers in Pennsylvania. Without this clarification, leading customers would have their voluntary purchases shifted to unfairly take on alone the costs of meeting the portfolio standard, rather than creating an increase in demand for renewable energy--the exact reason they pay premiums for Pennsylvania wind energy.

The choice in clarifying the rules on tracking and counting of Alternative Energy Credits under the AEPS would either: (i) allow both the AEPS and the green market to operate side-by-side where each accelerate development of new renewable energy, or (ii) eliminate the green market by imposing the AEPS as the only market for sale of Alternative Energy Credits. Other states looking at the issue—New York, New Jersey,

Texas and Massachusetts—have kept the voluntary and compliance markets as additive, rather than eliminating one in favor of the other. With Pennsylvania as the national leader on using voluntary market sales of Alternative Energy Credits as a way to build new wind generation and building the most new wind generation among all states in the eastern U.S., it would be tragic irony if Pennsylvania was the first to eliminate that market upon passage of a portfolio standard.

CEI recommends the straightforward language below to keep the tracking and counting of Alternative Energy Credits in the voluntary and compliance markets separate and additive. Counting the Credits once and only once for each purpose continues the vitality of both markets.

In the General Compliance Section

Market Integrity. – Any and all Alternative Energy Credits sold at retail or used to track or supply a voluntary purchase of electricity by a retail customer outside of the requirements of the AEPS shall not be sold, retired, claimed or represented as compliance under the AEPS. Alternative Energy Credits used to support a sale of electricity with a claim of alternative energy generation shall be tracked and counted separately from Alternative Energy Credits used to support compliance under the AEPS.

CEI appreciates this opportunity to comment and looks forward to working with the Commission and the Department as they develop the AEPS rules.