BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**REPLY COMMENTS ON BEHALF OF THE**
**<u>OFFICE OF SMALL BUSINESS ADVOCATE</u>**

The act of November 30, 2004 (P. L. ___, No. 213), known as the Alternative Energy Portfolio Standards Act ("Act"), requires that increasing percentages of the electricity sold in the Commonwealth be generated from designated alternative energy sources.

By Notice dated January 7, 2005, the Pennsylvania Public Utility Commission ("PUC" or "Commission") announced a January 19, 2005, technical conference to facilitate the implementation of the Act. The Notice invited interested parties to submit written comments and to make oral presentations at the technical conference.

On January 14, 2005, the Office of Small Business Advocate ("OSBA") submitted written comments. On January 19, 2005, the OSBA presented oral comments at the technical conference.

By Secretarial letter dated January 25, 2005, the Commission invited interested parties to submit reply comments by February 9, 2005.

The OSBA hereby submits the following reply comments in response to the Commission's invitation. In submitting these reply comments, the OSBA does not waive its right to file further comments on these and other issues at a later point in this proceeding.

1. Methane Digesters

The Pennsylvania Farm Bureau ("PFB"); RCM Digesters, Inc.; *Native*Energy; and Environomics LLC commented that PPL is not paying enough for electricity generated from methane digesters to make it worthwhile for farmers to invest in digesters. The PFB and these other entities also identified certain administrative requirements and fees as significant impediments to utilizing methane digesters.

It may be possible to remove these impediments through changes to the tariff of PPL Electric Utilities Corporation ("PPL"). However, if that does not prove sufficient, the Commission should enlist the help of the Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF") to address these issues. The SEF has a budget surplus of about $16 million, derived principally from payments by PPL stockholders. Furthermore, PPL ratepayers are now paying a distribution surcharge to the SEF.

In view of the SEF's surplus and the SEF's responsibility for promoting renewable energy, it is reasonable to expect the SEF to make a significant financial contribution toward making methane digesters cost-effective and, thereby, reducing the odor and nutrient runoff problems associated with intensive agricultural operations. Such a contribution could take the form of production incentives to farmers or direct payments to PPL and energy brokers to cover administrative charges which would otherwise have to be borne by the farm generators.

2. Net Metering

PPL and the First Energy Operating Companies ("First Energy") commented that net metering has the potential to create a shortfall in the recovery of stranded costs and wires-related charges.

Put simply, stranded cost is recovered on a volumetric basis via a Competitive Transition Charge ("CTC") or an Intangible Transition Charge ("ITC"). Similarly, part of a utility's distribution revenue is based on the volume of electricity delivered by the Electric Distribution Company ("EDC"). Without a billing adjustment of some type, a customer who begins net metering presumably would pay the CTC, ITC, and distribution rates only on the *difference* between the kWh delivered to the customer by the EDC and the kWh sent by the customer over the EDC's distribution system. As a result, the customer would pay less for CTC, ITC, and distribution even though the aggregate amount of electricity the customer consumed had not changed.

In theory, the shortfall in CTC, ITC, and distribution revenue would have to be recovered by raising rates, but it is unclear whether the shortfall would actually be significant. Nevertheless, the Commission should consider whether to require the net metering customer to pay the CTC or ITC in the same amount the customer would owe if the customer were not on net metering. Such an adjustment in rates would be consistent with the principle that the CTC and the ITC are to be recovered on a non-bypassable basis.

Although the EDC would be delivering less electricity to the net metering customer than before net metering, a similar "hold harmless" adjustment to the customer's distribution charges may, or may not, be justified from a cost of service standpoint. However, because the net metering customer would receive a benefit from being able to send that customer's self-generated electricity over the EDC's distribution system, the *total* distribution charges paid by a net metering customer should reflect that benefit. Accordingly, the Commission should consider how best to measure the cost of the two-way distribution service the net metering customer would be receiving.

3. Ownership of Alternative Energy Credits

ARIPPA and the York County Solid Waste and Refuse Authority ("York") have suggested that non-utility generators ("NUGs") should be able to sell alternative energy credits on account of the generation of electricity from waste coal and municipal waste.

It is unclear from these comments whether ARIPPA and York are suggesting that NUGs should be allowed to sell the credits associated with electricity for which ratepayers are already compensating the NUGs because of pre-restructuring contracts. Any such double recovery would be inappropriate. The goal of Act 213 is to assure the use of an appropriate amount of alternative energy, not to enable NUGs to earn more for the electricity they are already obligated to generate.

Accordingly, the Commission should permit NUGs to sell alternative energy credits only to the extent that the NUGs are not already committed to generate the electricity on which those credits are based.

4. Alternative Energy Credits for EGSs

Dominion Retail Inc. ("Dominion") has suggested that the EDC should be required to buy alternative energy credits for both shopping and non-shopping customers in the EDC's service territory and to recover the costs from ratepayers via a non-bypassable surcharge.

According to Dominion, it would be difficult for a potential shopping customer to compare an Electric Generation Supplier's ("EGS's") price for electricity (which includes the cost of alternative energy) with the EDC's price (which would collect alternative energy costs through a periodically adjusted surcharge). Although Dominion has identified a potential problem, it has proposed the wrong solution. The distortion about which Dominion has warned could be avoided if, after the rate cap period, the EDC were to charge a "blended price" for all electricity (including electrons generated from alternative sources and electrons generated from non-alternative sources) rather than to collect the costs for alternative energy through a periodically adjusted surcharge.

Dominion's comment focused on the potential distortion of competition between an EGS and an EDC. However, Dominion failed to acknowledge the fact that its proposal would preempt a different, but equally important, form of competition, i.e., competition among EGSs with regard to the mix and price of alternative energy.

WHEREFORE, the OSBA respectfully requests that the Commission implement the Act in a manner consistent with the aforementioned reply comments.

Respectfully submitted,

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