

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

RE: Implementation of the Alternative :
 Energy Portfolio Standards Act of :
 2004: Standards for the Participation of :
 Demand Side Management Resources :

Docket No. M-00051865

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

I. Introduction

On June 23, 2005, the Pennsylvania Public Utility Commission (Commission or PUC) issued a Tentative Order on the Alternative Energy Portfolio Standards Act of 2004, 73 P.S. §§ 1648.1-1648.8 (The Act or Act 213). The Tentative Order addresses implementation issues regarding the use of demand side management, energy efficiency and load management programs and technologies to meet the requirements of the Act. The following areas are addressed: standard energy savings measures; metered and custom measures; depreciation schedule for alternative energy credits; qualifying measures and implementation; and maintenance of the manual and general guidelines.

The OCA agrees with the Commission that clear rules are critical to the successful implementation of Act 213. Tentative Order at 4. The OCA supports the Commission's efforts to develop the necessary regulations and believes that the Commission is pursuing a sound approach with its Tentative Order. The PUC requested comments within 60 days of the entry of the Order. The OCA provides the following Comments in response:

II. Discussion

A. Standard Energy Savings Measures (Technical Resource Manual)

The OCA supports the Commission's proposed development of a Technical Resource Manual (TRM). In its Tentative Order, the Commission ordered a "catalog approach" to establish the number of energy credits available for standard energy savings measures. Tentative Order at 5. The Tentative Order states that this approach is intended to "address standard energy savings measures that are available to large number of customers through retail consumer-products and whose effects cannot be directly metered." Id. The OCA urges the Commission to closely coordinate the manual provisions related to appliance efficiency with the development of standards under Title I of the Energy Policy Act of 2005.

The OCA agrees with the Commission that such an approach would also include retail consumer products including energy efficient appliances, light bulbs, and HVAC equipment. Id. A Technical Reference Manual (TRM) will provide a "consistent framework for calculating deemed savings for a menu of energy efficiency measures using supported assumptions and customer data as input values in industry-accepted algorithms." Id. The TRM will estimate annual energy savings for a "limited selection of energy efficient technologies and measures." Id. The Commission developed its TRM using comparable protocols from New Jersey and Vermont. Id.

The OCA is not in a position to comment on the technical details contained in the Technical Reference Manual. So long as the measures contained are sufficiently diverse and the deemed savings calculations are reasonable, this method should enhance the ability to use standard energy savings measures, such as standard demand side management and energy efficiency technologies, for compliance purposes. The OCA believes that modeling the

Pennsylvania TRM after those in New Jersey and Vermont is a sound approach. The OCA supported this approach in its August 11, 2005 Comments and continues to support this approach.

B. Metered and Custom Measures

The Commission also developed a second group of general guideline measures that are not covered by the catalog approach. This approach includes both metered and custom measures. Tentative Order at 6. Metered measures “require actual metered usage or self-generation.” Id. An example would be distributed generation, *i.e.* generator output, where the value of the savings can be directly measured. Id. Custom measures “include measures that may be considered too complex or unique to be included in the catalog.” This would include “measures that may involve metered data, but require additional assumptions to arrive at a “typical” level of savings as opposed to an exact measurement.” Id. The Commission cites a time-of-use program that “determines savings by comparing actual metered usage to typical load profiles of similar customers.” Id.

1. Eligible entities

The first guideline states:

Entities eligible to apply for credits include, but are limited to: retail customers who have undertaken measures, EDCs or EGSs whose customers are participating in tariffed programs or retail contracts and who, in accordance with the language of the tariff contract, have acquired the right to any Credits resulting from operations under the tariff or contract; and equipment or service providers who have provided equipment or services to customers pursuant to a contract that gives the provider the right to any Credits resulting from the installation of that equipment or use of the service.

Tentative Order at 6-7. In the second guideline, the Commission states that the Program Administrator (PA) responsibilities will be established by regulation. Such a responsible party

will be appointed in the future. Tentative Order at 7. However, the Tentative Order does outline the PA's responsibilities including the requirement that anyone requesting credits must file a signed application, verified by an affidavit. Id.

The OCA submits that the list of entities eligible to apply for credits should also include service providers who aggregate credits for customers without owning the credits. A specific example would be a Curtailment Service Providers (CSPs). In PJM Interconnection, LLC's (PJM) DSR programs, many customers have CSPs handle all of the administrative details for the party actually providing the demand response. The OCA submits that in order for the CSPs to continue to handle the administrative details of those credits that are eligible under the AEPS, they must also be eligible to apply for credits on behalf of end-use customers or others. The OCA submits that the administrative requirements of filing an application and affidavit to fulfill the second guideline would further support the ability to use an "agent" to assist such end-use customers. Agents should not be restricted to CSPs as there may be other parties that can aggregate credits strictly at the retail level.

2. Participation of existing resources

The OCA has no comment on the third guideline regarding the participation of existing demand side response and energy efficiency resources as Tier II resources.

3. Application

The fourth guideline states "the application shall include adequate documentation to fully describe the DSM or EE measures installed or proposed by the customer and an explanation of how the installed facilities qualify for alternative energy credits under the Act." Tentative Order at 7. The OCA suggests that adequate documentation be defined in terms of clarity and completeness rather than exhaustive documentation. The OCA agrees that it is necessary for the

resources to be fully described and for the proposal to be fully outlined. The OCA would caution, however, that overly burdensome application processes may deter the participation of potentially eligible resources.

4. Proposed Evaluation Plan

The fifth and the eighth guidelines discuss the proposed evaluation plan and application process. The fifth guideline states:

The application must include a proposed evaluation plan by which the Administrator may evaluate the effectiveness of the DSM or EE measures provided by the installed facilities. All assumptions contained in the proposed evaluation plan should be identified, explained and supported by documentation where possible. The applicant may propose incorporating tracking and evaluation measures using existing data streams currently in use provided that they permit the Administrator to evaluate the program using the reported data.

Tentative Order at 8. The eighth guideline then provides:

The application will be approved if the Administrator determines that the proposal is consistent with the DSM and EE definitions contained in Act and that the proposed evaluation measures will accurately identify the effectiveness of the proposed custom measure.

Tentative Order at 8.

The OCA is concerned about the administrative burdens of complex program evaluations and applications for small end-users. A burdensome program evaluation plan may deter the participation of all but the largest Tier II resources. For the most part, small end-use customers do not have the resources to do a large-scale program evaluation, and burdensome requirements will simply prevent them from participating.

The OCA suggests that the evaluation criteria should minimize any burden and should only be required where the measures used, and the application of those measures, are truly

unique. If sufficient information cannot be obtained based on available reference cases or experience in other states, the least burdensome evaluation method should be used.

6. Verification by meters

The sixth guideline proposes that “To the extent possible, the DSM or EE measures identified in the application should be verified by the meter readings submitted to the Administrator.” Tentative Order at 8. The OCA submits that the Commission’s guidelines should specify some standard approaches that can be used to satisfy this requirement. For example, PJM programs include a meter data protocol that determines how demand response is measured. Such approaches may also include sub-metering or non-revenue metering among the options.

7. Denial of applications

The ninth guideline provides that the denial of any applications will be fully explained by the Administrator. Tentative Order at 8. The OCA fully supports this prudent approach. The OCA believes that such applicants should have the ability to understand why the application was denied, take corrective action, or have a basis on which to appeal the decision.

g. Subject to review by the Commission.

The tenth guideline provides that the Administrator’s decision is subject to review by the Commission. The OCA would also fully support this approach. The OCA would propose that the process for review be expedited and administratively simple.

C. Depreciation schedule

Act 213 requires the Commission to develop a depreciation schedule for “alternative energy credits created through demand side management, energy efficiency and load management technologies.” Tentative Order at 8. The Tentative Order provides that the TRM

savings measures will be assigned a “measure life” that will incorporate depreciation. Tentative Order at 9. The measure life “represents the average expected life of the equipment, including adjustments for possible early removal or remodeling.” Id. The measure life will determine the number of years counted for savings of a particular measure. Id.

In its August 11, 2005 Comments, the OCA supported the notion of using a service life. It is the OCA’s understanding that the average energy savings contained in a Technical Manual would be the average annual savings over the useful life of the efficiency product or measure. The concept of depreciation would thus be built into the use of average annual savings. At the end of the useful life of the measure, then the measure would stop receiving alternative energy credits. Further, it is necessary to track the measures or aggregations in order to ensure that credits end at the conclusion of the useful life of the measure.

For measures that steadily decline in effectiveness over time, the OCA would propose a common sense approach to address measures for which average service lives do not incorporate considerations of declining performance and outright failure. Specifically, where average service lives don’t exist or have an inadequate basis, the Commission should attempt to establish model service lives, initially using existing information from other venues and later based on evaluation of the measures in question. Ideally, most average lives will become established for all measures.

D. Qualifying measures

As stated in the Tentative Order, Act 213 “defines alternative energy sources to include existing and new sources for the production of electricity by demand side management and self-generation.” Tentative Order at 9. The Tentative Order provides that “standard, metered and custom energy savings measures that were installed prior to implementation of the Act shall be

eligible to qualify for credits on a moving forward basis.” Tentative Order at 9. The OCA has no comments on this approach.

The Tentative Order also discusses how the PJM Economic Load Response Program utilizes a Customer Baseline Load (CBL). The CBL determined for the load reductions by comparing “metered load against an estimate of what metered load would have been absent the reduction.” Tentative Order at 10-11. The Commission seeks comments on how to treat the issue of baseline calculations. Tentative Order at 11. The OCA would support the proposal to use the existing CBL methodology contained in the PJM Operating Agreement as suggested in the Tentative Order. Id.

E. Implementation and Maintenance of TRM and General Guidelines

The Tentative Order provides that the Commission’s Bureau of Conservation, Economics and Energy Planning (CEEP) will oversee the implementation, maintenance and update of the TRM and the general guidelines for the metered and custom measures. Tentative Order at 11. The OCA supports this approach. The OCA would suggest that the TRM and general guidelines be updated every few years, rather than annually. Further, the OCA would propose that a full review of the TRM and general guidelines for the metered and custom measures be completed and made public within two years after the program begins. This would allow the parties the opportunity to review areas that may need additional revisions or to further address areas that were not previously contemplated. After this initial review, a periodic schedule for review every few years could be adopted.

III. Conclusion

The Office of Consumer Advocate supports the Commission's efforts developed in the Tentative Order and provides the above Comments in order to further refine the Tentative Order as requested.

Respectfully submitted,

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