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November 28, 2005

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

VIA HAND DELIVERY

RE: Implementation of the Alternative Energy Portfolio Standards Act of 2004: Designation of the Alternative Energy Credits Registry; Docket No. M-00051865

Dear Secretary McNulty:

Enclosed for filing with the Commission are the original and fifteen (15) copies of Comments of the Industrial Energy Consumers of Pennsylvania, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors ("IECPA, et al."), in the above-referenced proceeding.

Please date stamp the extra copy of this transmittal letter and kindly return it for our filing purposes.

Very truly yours,

McNEES WALLACE & NURICK LLC

By Charis Mincavage
David M. Kleppinger
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Counsel to the Industrial Energy Consumers of Pennsylvania, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors

CM/lhe
Enclosures
c: Ms. Carrie Beale (via e-mail)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Alternative Energy Portfolio Standards Act Of 2004: Designation of the Alternative Energy Credits Registry	: : : :	**Docket No. M-00051865**

COMMENTS OF THE INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA, THE MET-ED INDUSTRIAL USERS GROUP, THE PENELEC INDUSTRIAL CUSTOMER ALLIANCE, THE PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP, THE PP&L INDUSTRIAL CUSTOMER ALLIANCE, AND THE WEST PENN POWER INDUSTRIAL INTERVENORS

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Dated: November 28, 2005

I. INTRODUCTION

On November 30, 2004, Governor Edward Rendell signed the Alternative Energy Portfolio Standards Act of 2004 ("AEPS" or "Act 213" or "Act"). Act 213 requires Electric Distribution Companies ("EDCs") and Electric Generation Suppliers ("EGSs") to include a specific percentage of electricity from alternative resources in the generation that they sell to Pennsylvania customers, the percentage of which is increased via a fifteen-year schedule.

The Pennsylvania Public Utility Commission ("PUC" or "Commission") opened a proceeding to implement the Act, and on October 28, 2005, the PUC entered a Tentative Order to address the tentative designation of PJM Environmental Information Services, Inc.'s ("PJM EIS") Generation Attribute Tracking System ("GATS") as the credit registry for AEPS.

The Industrial Energy Consumers of Pennsylvania ("IECPA"), the Met-Ed Industrial Users Group ("MEIUG"), the Penelec Industrial Customer Alliance ("PICA"), the Philadelphia Area Industrial Energy Users Group ("PAIEUG"), the PP&L Industrial Customer Alliance ("PPLICA"), and the West Penn Power Industrial Intervenors ("WPPII") (hereinafter, "IECPA, et al.") participated in the PUC's AEPS Working Groups ("WG"), provided formal and informal comments during the course of this proceeding on various issues related to implementation, and reviewed the PUC's Tentative Order.[1]

IECPA, et al., submits these Comments to respond to specific issues in the PUC's Tentative Order. As discussed more fully herein, IECPA, et al., submits that: (1) if GATS is utilized for the energy credit tracking system, GATS must implement a system that tracks Alternative Energy Credits ("AECs") stemming from Demand Side Management and Energy

[1] Appendix A, attached hereto, provides the membership for each of these groups.

Efficiency ("DSM/EE") programs; (2) if GATS is used to track DSM/EE programs, entities obtaining less than 10 megawatts of credits from DSM/EE programs should not have to pay an annual fee; (3) if GATS utilizes another method for tracking AECs stemming from DSM/EE programs, the Commission must ensure that this methodology enables the owners of these credits to retain ownership and the right to trade these AECs; and (4) if Load Serving Entities ("LSEs") are subject to a volumetric charge of $0.008/MWh, this volumetric charge should only apply to the portion of the LSE's load required to meet AEPS standards.

II. COMMENTS

A. Application of GATS to Demand Side Management and Energy Efficiency Programs

Act 213 indicates that an AEC will serve as the unit by which compliance with AEPS is measured, with an AEC representing one megawatt hour of qualified alternative energy generation. Pursuant to Act 213, the Commission must develop an AEC registry in order to ensure that current information on the alternative energy market is readily available. To that end, the PUC proposes to utilize GATS to serve as a certificate based tracking and reporting system, with GATS creating, tracking, trading, and accepting AECs.

Unfortunately, the Tentative Order suggests that GATS is only able, at this time, to track and report AECs related to generation. Because AEPS allows AECs to be earned for DSM/EE programs, the Commission must ensure a means by which entities (e.g., large industrial customers) earning AECs through DSM/EE programs are able to obtain, trade, and report these credits.

Moreover, according to the PUC's Secretarial Letter of September 20, 2005, PJM-EIS has advised the Commission that for behind the meter ("BTM") generators, the last certificate date for calendar year 2005 generation is January 31, 2006. In other words, BTM generators must subscribe and register their generators and submit generation data by January 31, 2006, in order to obtain certificates created for 2005. Because GATS does not have a process established for AECs related to DSM/EE programs, customers with DSM/EE AECs do not currently have a means by which to obtain certificates for 2005. Moreover, even assuming that GATS can and does establish such a tracking process in the coming weeks, requiring customers to register and submit the necessary data by January 31, 2006, would create a hardship in terms of timing.

Thus, if GATS is able to modify its system to account for AECs stemming from DSM/EE, GATS may be an adequate system for tracking purposes. Assuming such a modification is possible, however, GATS must ensure that customers with DSM/EE AECs are able to receive credit for 2005, including an extension for registering and providing such data. If GATS is unable to account for DSM/EE programs, then the Commission must implement a separate program to account for these credits, including providing credit for AECs acquired during 2005. Without implementation of such a program, entities engaging in DSM/EE projects may be detrimentally impacted by not receiving full credit for these efforts. Moreover, any process that does not ensure credit for AECs related to DSM/EE programs would be inconsistent with the intent of Act 213. Accordingly, the PUC must undertake the necessary action to ensure adequate tracking, reporting, and crediting for DSM/EE programs.

B. Entities With Demand Side Management/Energy Efficiency Credits Under 10 Megawatts Should Have Any Annual Fee Waived.

According to the PUC Order, most GATS subscribers are required to pay an annual fee to use the GATS system. Specifically, each LSE must pay $2,000 per year, with non-LSEs, including brokers and generators, paying a $1,000 per year fee. Several parties, however, do not have to pay an annual fee. Under the current GATS system, renewable generators with aggregate generation under 10 megawatts, non-transacting state regulators, and subscriber affiliates have the annual fee waived.

Assuming the GATS system can be modified to track AECs related to DSM/EE, a similar waiver should be applied to entities (e.g., large industrial customers) with less than 10 megawatts of potential credits stemming from DSM/EE programs. To place a fee on entities seeking to track credits stemming from DSM/EE programs would create additional hardship and expense on such customers. By providing a waiver for both generation and DSM/EE programs, the PUC ensures that all customers utilizing the GATS program to track AECs are similarly situated and not subject to unreasonable discrimination.

C. Any Tracking Program Must Ensure that the Owners of Alternative Energy Credits Are Able to Continue to Track and Trade These Credits.

As noted above, the current GATS system does not address the tracking and reporting of AECs stemming from DSM/EE programs. If the PUC intends to utilize the GATS system, the Commission must ensure that GATS adopts a method that would allow all owners of AECs to continue to track, trade, and report these credits. The implementation of any methodology that could adversely affect the ownership and value of such credits should be rejected.

For example, a large industrial customer may obtain AECs related to the implementation of a DSM program. If that customer has to provide these AECs to its EDC in order to allow the EDC to track these credits along with any generation credits tracked through GATS, the customer would no longer have ownership rights over the credits. Specifically, the customer would lose the ability to track and trade the credits through the GATS system, as only the EDC would have the ability to review the information and trade the credits through GATS. As a result, the customer would lose any potential benefits intended under Act 213.

For these reasons, the most appropriate resolution would be for GATS to implement a method that would allow for the tracking of AECs stemming from DSM/EE programs. If GATS is unable to meet such requirements, then the PUC must adopt a different form of tracking for DSM/EE programs in order to fulfill the legislative directive creating AECs for such programs, as well as ensuring benefit for all EDCs, EGSs, and customers with such AECs.

D. Any Volumetric Charge Should Be Applied Only to the Portion of an LSE's Load Required to Meet AEPS Standards.

According to the PUC's Tentative Order, LSEs must pay "a volumetric charge of $0.008/MWh determined against net load served in the states in which the LSE uses GATS." The Commission suggests that the proposed volumetric charge is a just and reasonable cost for complying with Act 213.

Unfortunately, the volumetric charge, as proposed, would increase the costs of implementing AEPS. Rather, the Commission should require GATS to apply the volumetric charge only to the portion of the LSE's load required to meet AEPS standards. Because GATS need only track that portion of the load applicable for AEPS, rather than the LSE's whole load, GATS should only apply the volumetric charge to the AEPS applicable portion of the LSE's load.

Applying the volumetric charge only to the portion of the LSE's load required to meet the AEPS standards helps to ensure that the costs of implementing AEPS remain just and reasonable. Moreover, such an application will ensure that the costs of implementing AEPS are directly related to such implementation. Conversely, applying a volumetric charge to the LSE's net load would extend costs beyond those related to AEPS. Thus, the PUC should modify implementation of the volumetric charge accordingly.

III. CONCLUSION

WHEREFORE, the Industrial Energy Consumers of Pennsylvania, the Met-Ed Industrial Users Group, the Penelec Industrial Customer Alliance, the Philadelphia Area Industrial Energy Users Group, the PP&L Industrial Customer Alliance, and the West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider the aforementioned issues in the course of implementing the Alternative Energy Portfolio Standards Act.

Respectfully submitted,

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Dated: November 28, 2005

APPENDIX A

INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA

Air Liquide Industrial U.S. LP
Air Products and Chemicals, Inc.
BOC Gases
Carbone of America
Carpenter Technology Corporation
CertainTeed Corporation
Ervin Industries, Inc.
Glen-Gery Corporation
Hershey Foods Corporation
Knouse Foods Cooperative, Inc.
LWB Refractories
NRG Energy Center - Pittsburgh
PPG Industries, Inc.
Praxair, Inc.
Procter & Gamble Paper Products Co., The
Rohm and Haas Company
Standard Steel
United States Steel Corporation
World Kitchen Inc.

MET-ED INDUSTRIAL USERS GROUP

Air Liquide America L.P.
Carpenter Technology Corporation
East Penn Manufacturing Company
Farmers Pride, Inc.
Glen-Gery Corporation
Harley-Davidson Motor Company - York Division
Knouse Foods Cooperative, Inc.
Lehigh Cement Company
PPG Industries, Inc.
LWB Refractories

PENELEC INDUSTRIAL CUSTOMER ALLIANCE

Appleton Papers Inc.
E.I. DuPont de Nemours and Company
Electralloy, a G.O. Carlson, Inc., Co.
Ellwood National Forge Company
Erie Forge & Steel, Inc.
Glen-Gery Corporation
The Plastek Group, Inc.
PPG Industries, Inc.
The Procter & Gamble Paper Products Co.
Sheetz, Inc.
Standard Steel
Wegmans Food Markets, Inc.

PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP

Air Liquide America L.P.
The Boeing Company
Buckeye Pipe Line Company, L.P.
Franklin Mills Associates Limited Partnership
GlaxoSmithKline
Jefferson Health System
Kimberly-Clark Corporation
Merck & Co., Inc.
Rohm and Haas Company
Saint Joseph's University
Temple University

PP&L INDUSTRIAL CUSTOMER ALLIANCE

Agere Systems, Inc.
Air Products and Chemicals, Inc.
Alcoa, Inc.
Binkley & Ober, Inc.
BOC Gases
Buckeye Pipe Line Company, L.P.
CertainTeed Corporation
Chamberlain Manufacturing Corp.
Cinram Manufacturing Inc.
Hercules Cement Company
Hershey Foods Corporation
High Industries, Inc.
Lafarge Whitehall Cement
Magee Rieter Automotive Systems
Mount Joy Wire Corporation
Praxair, Inc.
Stroehmann Bakeries
TIMET North America
Wegmans Food Markets, Inc.

WEST PENN POWER INDUSTRIAL INTERVENORS

Air Liquide America L.P.
Air Products and Chemicals, Inc.
Allegheny Ludlum Corp.
Carbone of America
Ervin Industries
Excela Health
Lehigh Heavy Forge Corp. (Whemco, Inc.)
PPG Industries, Inc.
Sheetz, Inc.
Timken Latrobe Steel
World Kitchen