

COPY

October 11, 2007

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Via Hand Delivery

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

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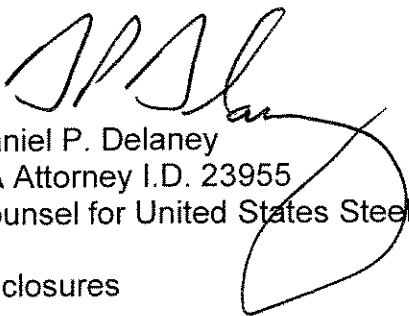
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004.
Docket No. L-00060180

Dear Secretary McNulty:

Enclosed please find an original and 15 copies of United States Steel Corporation's additional comments in response to the Public Utility Commission's Secretarial Letter dated September 13, 2007 which reopened the public comment period at this docket. An electronic copy of these additional comments has also been provided to the Bureau of Conservation, Economics and Energy Planning.

Very truly yours,


Daniel P. Delaney
PA Attorney I.D. 23955
Counsel for United States Steel Corporation

Enclosures

cc: Shane M. Rooney, Esquire (w/Enclosures)
Amy Jo Rudy (electronic copy)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Alternative Energy Portfolio Standards Act of 2004. : : Docket No. L-00060180

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**ADDITIONAL COMMENTS OF UNITED STATES STEEL CORPORATION
TO PROPOSED RULEMAKING ORDER.**

United States Steel Corporation ("US Steel") files these additional comments in response to the Public Utility Commission's ("Commission's") Secretarial Letter dated September 13, 2007 which reopened the public comment period at this docket to provide interested parties the opportunity to advise the Commission on how the Act 35 of 2007 amendments to the Alternative Energy Portfolio Standards Act of 2004, 73 P.S. § 1648.1, et seq. ("AEPS" or "Act"), should be reflected in the final form of the Commission's AEPS regulations. US Steel previously filed comments on the Commission's proposed regulations in this docket on December 13, 2006 and participated as a member of the Commission's Demand Side Management/Energy Efficiency Working Group. US Steel's Mon Valley Works has been issued an interim qualification as a Tier II alternative energy system under the Act by the Commission and the Pennsylvania Department of Environmental Protection in January 2006. US Steel provides the following additional comments concerning the Act 35 AEPS amendments and their inclusion in the Commission's proposed regulations appended to the July 25, 2006 Order at this docket.

Summary of Comments

The success of the Alternative Energy Portfolio Standards Act of 2004 will depend in large measure on the establishment and maintenance of a robust alternative energy credit market in Pennsylvania. Electric Distribution Companies (“EDCs”) and Electric Generation Suppliers (“EGSs”) will rely on this market to procure the credits required for compliance with the Act. Parties which have been qualified as an alternative energy system under the Act will rely on the credit market as a marketplace for the sale of the Tier I and Tier II credits. The declaration of force majeure by the Commission may be necessary under some circumstances but such declarations have the potential to adversely affect the development of an alternative energy credit market in Pennsylvania. The declaration of a force majeure is a significant commercial event which should be carefully and completely evaluated by the Commission prior to a decision.

The revised definition of force majeure contained in Section 1 of Act 35 identifies a number of additional considerations the Commission must examine before declaring force majeure. In considering a force majeure declaration, the Commission should establish a procedure which allows all interested parties an opportunity to comment on these additional considerations prior to a Commission decision. An expedited and flexible comment procedure could satisfy due process requirements and meet the market exigencies presented. In light of the additional considerations identified in the revised definition, the Commission’s decision would benefit from the comments of interested and knowledgeable parties. Adoption of a comment procedure should not be

unduly burdensome on the EDCs or EGSs or the Commission in determining whether a force majeure is appropriate under the circumstances.

Additional Comments

§ 75.37 General Force Majeure.

US Steel previously filed comments on this proposed section (prior comments at p. 11) which requested the Commission to identify procedures for a force majeure determination which would provide adequate notice and opportunity for interested parties to respond to such requests prior to Commission action and those comments are incorporated herein by reference. Those comments proposed that any request for a force majeure determination, whether upon the Commission's own initiative or upon the request of an EDC or an EGS, should be published for comment in the Pennsylvania Bulletin. If the force majeure request was made by an EDC or EGS, that party should be also required to serve a copy of the request upon all parties with whom the EDC or EGS has agreements for the purchase of alternative energy credits. Those comments also proposed that the Commission consider and address the comments filed by interested parties in making its determination on the force majeure declaration.

US Steel's additional comment on this section is that it must be revised to incorporate the revised definition of force majeure contained in Section 1 of Act 35 and the additional considerations identified therein. The revised definition now directs the Commission to consider additional factors in making a force majeure determination. The additional factors include: (1) whether the EDC or EGS has made a good faith effort to acquire sufficient alternative energy to comply with the Act's requirements, including banking alternative energy credits during their transition periods, seeking

credits through competitive solicitations or entering into long-term contracts. In making its determination, the revised definition now directs the Commission to assess the availability of credits in the PJM GATS system and the general availability of credits in Pennsylvania and other PJM jurisdictions. The Commission is also authorized to require solicitations for credits as part of default service before requests for force majeure can be made by an EDC. US Steel submits that the addition of these requirements in the revised force majeure definition supports US Steel's original comment that a flexible procedure for a decision must be developed. The amended definition requires the Commission to establish a procedure that enables the Commission to collect information on these determinations and to provide interested parties a due process opportunity to comment on them. Requests by EDCs or EGSs for force majeure declarations should include information and evidence on the additional issues included in the revised force majeure definition.

The AEPS Act provides a substantial property interest in alternative energy credits for parties qualified as alternative energy suppliers and in the ability to transfer them in an alternative energy credit program established and supervised by the Commission. See Section 3(e) of the Act, 73 P.S. § 1648.3(e). The declaration of a force majeure by the Commission may adversely affect this property right and therefore is subject to due process procedures. See e.g., Allegheny Ludlum Steel Corporation v. Public Utility Commission, 447 A.2d 675, 681 (Pa. Commonwealth Ct. 1982), aff'd, 459 A.2d 1218 (Pa. Supreme Ct. 1983) (due process adequacy of Section 1307 procedures). The Commission should include in its regulations a procedure where the due process rights of parties certified as alternative energy suppliers can be recognized

when considering the possibility of a force majeure declaration under the Act. The filing of comments by all parties will permit the Commission to act with the benefit of the information and positions contained in those comments. Adoption of this procedure should not be unduly burdensome and will allow the Commission to be fully informed prior to making its determination.

§ 75.38 Special Force Majeure.

US Steel also previously filed comments on this section (prior comments at p. 12) and those comments are incorporated herein by reference. Those comments requested the Commission to develop a procedure to allow interested parties to respond to a request for a force majeure determination under this section before it was declared. Although subsection (b) of the proposed regulations does provide for public notice, it does not specifically provide an opportunity for interested parties to file a comment in response to the EDC or EGS petition for a force majeure determination. As stated in the above comment to proposed Section 75.37(a), Act 35's revised definition of force majeure requires a number of determinations by the Commission before declaring a force majeure. The filing of comments by interested parties will permit the Commission to make an informed decision concerning whether a force majeure declaration is appropriate under all of the circumstances. Expedited procedures for notice and the filing of comments would allow the Commission to act quickly on a request if circumstances warrant. The declaration of a force majeure could affect the market for alternative energy credits in Pennsylvania and entities qualified as alternative energy systems should have an opportunity to comment on such a declaration prior to its issuance.

US Steel appreciates the opportunity to have provided these additional comments concerning the Commission's proposed AEPS regulations.

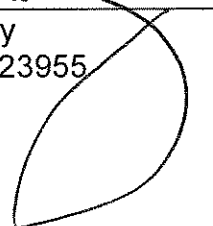
WHEREFORE, United States Steel Corporation respectfully requests the Commission to incorporate these comments and US Steel's prior comments in adopting final regulations for the implementation of the Alternative Energy Portfolio Standards Act of 2004, as amended by Act 35 of 2007.

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Respectfully submitted,



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Dated: October 11, 2007