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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the
Alternative Energy Portfolio
Standards of 2004

Docket No. L-00060180

Reply Comments of Conservation Services Group, Inc. on the Implementation of the Alternative Energy Portfolio Standards Act of 2004

Conservation Services Group ("CSG") is pleased to have the opportunity to comment on the Proposed Rulemaking Order of the Alternative Energy Portfolio Standards Act of 2004 (Act 213) (the "Act"). CSG provides full service representation to renewable generators participating in RPS compliance markets and voluntary green power markets. CSG's expertise is in the following areas: regulatory process, attribute verification and tracking, transaction logistics, policy, marketing, sales, and contracting.

Herein, CSG offers its comments regarding several key issues discussed at the Public Meeting held July 20, 2006 and on the proposed regulations, attached as Annex A to the Proposed Rulemaking Order (the "Order"). These issues include the Fuel and Technology Standards for Alternative Energy Source, the General and Special Force Majeure, the Banking of Alternative Energy Credits, and the Alternative Energy Credit Registry Provisions in the Act.

Fuel Technology Standards for Alternative Energy Sources

The first issues concerns the definition of "distributed generation" alternative energy resources. Although the Act "does not specify a particular fuel or technology that qualifies," we at CSG believe that because the Act addresses *alternative energy resources*, only distributed generation that utilizes alternative energy sources and resources designated in Tier I or Tier II should be considered eligible. Natural gas or diesel fuel are not defined in either Tier I or II of the Act as alternative energy sources. Therefore, CSG believes distributed generation units that generate only electricity using natural gas or diesel as its fuel source should not be eligible as an alternative energy resource under the Act.

Efficient distributed "co-generation" units can make a significant contribution toward achieving the objectives of the Act. Therefore, we believe that it is appropriate to allow participation of such units, provided they meet high efficiency standards.

The Act defines distributed generation as "the small-scale power generation of electricity and useful thermal energy." As for what constitutes "small-scale" the Commission determines that "at minimum, we find that this definition would include net-metered and interconnected customer-generations, particularly in commercial and industrial settings, that utilize Tier II sources. CSG believes the definition should apply to all customer-sited systems. Furthermore, it should provide for the aggregation of small (residential) units, for this would motivate developers of new residential developments to include solar and other alternative resource solutions in new construction. CSG currently represents the renewable attributes for a small condo development, where revenue from RECs is expected to lower the monthly condo fee by approximately 30%. This benefit in

addition to reduced electricity costs for the homeowners has proven to be a significant marketing advantage.

By including customer-sited systems as distributed generation, the Commission would be aligning its regulations with other emerging markets. For example, in FERC's Forward Capacity Market Settlement Agreement, the parties agreed that if a unit is under 5 MW it automatically qualifies as distributed generation. However, if it is over 5 MW, then it must prove that the unit size is no greater than the peak demand of the facility the unit supports.

General and Special Force Majeure

CSG would like to commend the Commission on these thoughtful provisions. CSG appreciates the difficulty in striking a balance between encouraging the "development of new energy resources" and burdening the public with the cost recovery of "excessively priced alternative energy credits;" yet we believe the Commission has effectively struck this balance with their force majeure and alternative compliance payment provisions.

The only suggestion CSG has regarding these provisions is that the Commission move towards a more permanent decision concerning the establishment of a force majuere/ alternative compliance payment rule, rather than making decisions for each reporting period that would only be applicable to that reporting period. Making decisions for each reporting period would be quite onerous and time consuming to the Commission. If the Commission implemented a multi-year decision this would not only benefit the Commission, but also give EDCs and EGS more certainty when making investments of

what estimated costs should be factored into their investment decisions. The Commission rightly references states like Massachusetts that have adopted similar force majuere/ alternative compliance payment provisions. The practical implementation of the Commission's proposal is very similar to regulations in Massachusetts, except the Commission makes decisions on an annual/reporting period basis. CSG believes it would behoove the Commission to model a multi-year decision on the Massachusetts model, setting the value in the initial year with automatic indexed increases for inflation.

Banking of Alternative Energy Credits

CSG agrees with the Order in that it recognizes that the prior interpretations of the banking provisions of the Act may be problematic. Specifically, CSG addresses the issue of banking alternative energy credits by the EDCs during the cost-recovery period. The Act states:

> "An EDC and EGS may bank alternative energy credits certified during a cost-recovery period for use for use either: (1) The reporting period in which the cost-recovery period expires, and the reporting period that immediately follows. (2) The first 2 full, 12 month reporting periods for which compliance with § 75.31 is required after the expiration of the cost-recovery period."

One could argue that an EDC could bank AECs for many years before its cost-recovery period ends. If this were the case, then it is conceivable that the EDC would not have the necessity to purchase AECs for several years into its compliance period, nullifying its demand for AECs during those years. This in turn would increase the supply of AECs, which would lower the price to a level that would be non-financially advantageous to EGSs, resulting in not meeting one of the Act's key mandates of having "greater reliance

of alternative energy sources in servicing Pennsylvania's retail electric customers" (Docs. No. 621947). For this reason, CSG urges the Commission to consider limiting the number of years an EDC can bank AECs during its cost-recovery period to no more than two.

Furthermore, for CSG, the interpretation of the banking provisions for EGSs is unclear. We ask the Commission to please clarify the restrictions (or lack thereof) by which EGSs may bank AECs during the Cost-Recovery period as well. To balance the market, CSG believes that both banking provisions for EDCs and EGSs should be complementary and equal. For example, if an EDC is allowed to bank AECs from the two generation years prior to the end of the cost-recovery period to meet their compliance obligations during the first two compliance years, then EGSs should also be able to bank compliance eligible AECs from the two years prior to the end of any EDCs cost-recovery period. Furthermore, the EDC should be able to sell the AEC's to that EDC for compliance any time up through the end of the second full compliance year for that EDC. This approach will ensure that the Commission does not create an unintended market advantage for either buyers or sellers.

Experience in New England with banking of certificates from the generation year prior to the initial compliance year, has shown to benefit both buyers and sellers. Sellers were able to negotiate sales of credits and collection of payments prior to the initial compliance year, while buyers were able to negotiate discounted prices in exchange for early payment.

Alternative Energy Credit Registry

In this section, the Commission designates PJM-EIS's GATS as the current credit registry required by the Act. Though CSG applauds the Commission for recognizing the value of a comprehensive attribute tracking system and registry, it is concerned that the Commission does not "permanently designate any particular party or technology as the credit registry in the rulemaking." Consistency in the methodology by which the Alternative Energy Credits will be traded is imperative. For if there is uncertainty that the current comprehensive settlement system may later by overhauled or replaced by a different credit registry, this could potentially lower the confidence in the market by its participants.

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