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December 12, 2006

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

Commonwealth of Pennsylvania  
Secretary's Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Docket No. L-00060180

Implementation of the Alternative  
Energy Portfolio Standards Act of 2004

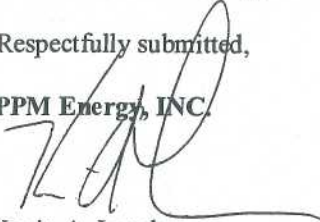
Comments following the Proposed Rulemaking  
Order of July 20, 2006

Dear Secretary McNulty

Enclosed please find an original and 15 copies of comments of PPM Energy regarding the Implementation of the Alternative Energy Portfolio Standards Act of 2004. In addition, we have filed the comments electronically.

Respectfully submitted,

PPM Energy, INC.

  
Kevin A. Lynch  
Director, Policy and Regulation

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Docket No. L-00060180

Alternative Energy Portfolio Standards

Response to July 20, 2006 Proposed Rulemaking  
Order

In response to the Commission's Proposed Rulemaking Order dated July 20, 2006 regarding the Alternative Energy Portfolio Standards (AEPS), Docket No L-00060180, PPM Energy, Inc would like to take this opportunity to offer comments on several issues contained in the above-referenced Order.

PPM Energy, Inc. is a wind-developer and power marketer with headquarters in Portland, Oregon. PPM's wholly owned subsidiary company PPM Atlantic Renewable is a leading developer of wind-generation facilities in Pennsylvania and the Northeast. PPM has previously submitted comments regarding the implementation of the Alternative Energy Portfolio Standards Act.

**Regarding §75.57 force majeure, PPM Energy believes that the Commission should establish a requirement for "good faith" efforts to meet the AEPS obligation, requiring entities with an obligation under the AEPS to enter the market for alternative energy supply early enough to ensure that adequate supply is available.**

As PPM Energy commented to the Commission back in January, 2005, an electric generation supplier and the Commission should view the AEPS obligation in the same way they view a supplier's obligation to provide reliable electric service. Reliability is the most basic standard for electric service, and the requirement is always met, except under

the most extreme circumstances. Reliable service is expected, without question.

Compliance with the RPS should subject to similar expectations.

While the purpose of a force majeure provision is to provide a contingency in the event electricity suppliers cannot meet the RPS standard, the appropriate way to plan for force majeure is to put in place steps and protections to make the condition a rarity, an aberration brought on by unforeseeable circumstances or an unprecedented turn of events.

To make certain that EGSs and EDCs are able to meet the reasonable renewable standard set forth in law, PPM urges that the Commission establish meaningful “good faith” criteria to guide the those entities with the RPS obligation. The market for renewable energy today is still immature, and the necessary resources to ensure compliance with the Commonwealth’s Tier 1 requirements are not yet built. As has effectively been demonstrated elsewhere, EGSs and EDCs can drive the development of those alternative resources by taking the initiative to contract for the purchase of their output. Toward this end, the timely solicitation of supply offers on terms conducive to the development and financing of cost-effective alternative-energy supply options is critical. Those entities with the AEPS obligation cannot simply issue an RFP as the obligation deadline approaches and expect to receive a meaningful set of choices for qualifying supply. Instead, EGSs and EDCs need to begin their efforts to acquire AEPS supply, in the form of renewable credits, well in advance of their deadlines. Put simply, their approach to the market will in large measure dictate whether they are successful in meeting their obligation.

PPM proposes that those with an AEPS obligation meet several simple, transparent requirements of “good faith” to promote the success of the AEPS.



For example, “good faith” efforts to achieve compliance should involve having at least 50% of the obligation under contract at least 12 months prior to time at which the obligation goes into effect. To meet this requirement, those with the obligation would have to issue RFPs and begin negotiations even earlier. In addition, supply must be solicited on terms commonly understood to be conducive to the development of qualifying resources. Supply solicitations should include options for long-term contracts, for example, which support project financing and make the most cost-effective pricing available to consumers.

Further, it is reasonable and appropriate for the Commission to establish criteria by which EGSs and EDCs evaluate alternative-energy supply proposals, in order to ensure that those supply proposals selected are credible and reasonably capable of providing supply when it is needed. Such criteria could include:

- Demonstration of managerial and financial capability necessary to accomplish timely development of the generating facility;
- For wind-generating facilities, demonstration of sufficient wind resource data to support production estimates;
- Meaningful progress with respect to needed permits and interconnection studies.

The interconnection process is public and transparent and therefore provides a useful and reliable standard for measuring meaningful progress.

Applying to a proposed project the standard of legitimacy that PPM Energy recommends, given the costs that would have to be borne by the developer and the work that would have to be done to meet the requirements of the interconnection process alone,

without doubt would screen out projects unlikely to move forward, yet it would create no artificial impediment to genuine projects.

**Regarding §75.61 Banking of Alternative Energy Credits, the Commission should extend the ability to bank credits to all market participants.**

One component of a successful market for renewable energy is a robust and efficient market for alternative energy credits (“credits”). Such a market, like the market in any commodity, must be flexible and deep, and it requires multiple participants, including generators, EGSs, EDCs, wholesale traders (who may also trade energy, but who may trade only credits or other non-energy commodities), and other market participants. The various market participants will maintain an account with the PJM GATS, the credit registry. To be most efficient and cost-effective, and therefore to benefit the ultimate consumer, the market for credits must be more than a market between the owner of a generation facility and a utility or electric generation supplier with an obligation under the AEPS. While the Commission has not excluded participation by entities other than those with the AEPS obligation, it has not extended to other entities comparable authority with respect to banking credits to be used for compliance with the AEPS. PPM Energy supports the credit banking terms extended to EGSs and EDCs, and strongly suggests that those terms be extended to all market participants. This can be accomplished by establishing a vintage standard for all qualifying credits, like that the Commission has included in its order (i.e. credits are valid for compliance purposes during the year in which they were created or in either of the following two compliance years).

Consequently, PPM Energy recommends the following change in §75.61.

Banking of alternative energy credits:

- (a) Alternative energy credits are valid with respect to compliance during the year in which they are certified or in either of the two (2) following compliance periods
- (b) An EDC and EGS or a generator, broker, or other market participant with an account with the credit registry may bank alternative energy credits certified in one reporting period for use in either or both of the two (2) immediately following reporting periods.

PPM Energy thanks the Commission for its consideration of these comments.