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The Pennsylvania Public Utility Commission
Attn.: Secretary
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Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION
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December 13, 2006

INDEPENDENT REGULATORY
REVIEW COMMISSION

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**RE: Comments of Community Energy, Inc. – Implementation of the
Alternative Energy Portfolio Standards Act of 2004 Docket No. L-00060180**

Community Energy, Inc. (CEI), a Pennsylvania-based wind energy supplier and wholly-owned subsidiary of the world's leading wind energy company Iberdrola, appreciates the opportunity to comment on the implementation the Alternative Energy Portfolio Standards (AEPS). CEI would like to express complete support for the comments submitted on December 13, 2006 by Citizens for Pennsylvania's Future (PennFuture) and in addition would like to emphasize three items critical to the effectiveness of the AEPS, as well as the health of the leading Pennsylvania green power market. CEI's position on the three items -- i.) Force Majeure, ii.) the Voluntary Market, and iii.) Banking of Credits -- are summarized below. For a more detailed discussion of these and other important issues (including draft regulatory language) please see the comments submitted by PennFuture.

i.) Force Majeure

CEI recognizes that Force Majeure is a required provision in any performance based regulation or contract. In the event of some rare and unpredictable circumstance that leads to a supply shortage in the market, the EDC's and EGS's should not be penalized for their noncompliance. Save for such a rare circumstance, however, the Force Majeure provision of the AEPS regulation should not offer an obligated EDC or EGS the opportunity to shirk their requirements under Act 213. The authors of Act 213 were aware that the benefits of using a market-based approach to promoting renewable energy like the AEPS requires deferring to the laws of supply and demand, which means allowing prices to rise when supply is short. Given that the ACP provision of this regulation already caps potential costs at \$45/MWh (please see ACP comments by PennFuture), CEI strongly urges the PUC to strictly limit the applicability of the Force Majeure provision to acts of God, war, or similarly uncontrollable events. Failing to do so will reduce the market confidence of renewable energy developers and investors, and will likely short-circuit this regulation. Please see Penn Future's comments and suggested changes to the regulations (in § 75.57 and 75.58) for more detailed recommendations.



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ii.) Voluntary Market Integrity

In 2001, CEI helped get the first Pennsylvania wind farms built by marketing green power and proving that there was a robust voluntary market in the state. These wind farms helped build momentum for green power in the state and are part of the reason the AEPS has become a reality. If voluntary green power sales are allowed to count towards Act 213 compliance the voluntary market will quickly cease to exist as customers will realize that their purchase does not support renewable energy beyond what is already legally required (i.e., they are unable to fulfill their desire to make a difference with their purchase). It is clearly the intent of Act 213 to maintain the viability of the voluntary market and not establish a ceiling for renewable energy generation. To do so, however, it is important to remove any ambiguity in the language of the regulation. There should be no room for an EDC or EGS to argue that voluntary green power sales can be used to comply with Act 213. The two markets should be entirely separate, and a REC sold into one should never be eligible to be sold or claimed into the other. If this is done properly, the retail customer's choice to purchase green power will continue to drive growth in Pennsylvania's burgeoning renewable energy industry.

CEI recommends the following language to make the intent of Act 213 clear in the regulations, and in doing so protect the green market.

§ 75.34 Alternative energy credit certification.

(c) An alternative energy credit may not be certified for a MWh of electricity generation or electricity conservation that has already been used **TO SATISFY VOLUNTARY ALTERNATIVE ENERGY CREDIT OR ELECTRICITY PURCHASES**, another state's renewable energy portfolio standard, alternative energy portfolio standard, or other comparable standard.

§ 75.35. Alternative energy credit program administrator.

(d) (2) The program administrator may not certify alternative energy credit for a MWh of electricity generation or electricity conservation that has already been **used TO SATISFY VOLUNTARY ALTERNATIVE ENERGY CREDIT OR ELECTRICITY PURCHASES** , another state's renewable energy portfolio standard, alternative energy portfolio standard, or other comparable standard



§ 75.40. Alternative energy market integrity.

(a) All sales by EDCs and EGSs to retail electric customers **OF ALTERNATIVE ENERGY CREDITS OR ELECTRICITY** marketed as deriving from alternative energy sources ~~that exceed the requirements of § 75.31 at the time of the sale~~ shall be supported by alternative energy credits separate from and in addition to alternative energy credits counted for compliance with the requirements of § 75.31.

iii.) Banking of Credits

The AEPS market will include a broad group of players, including but not limited to generators, wholesale power and AEC marketers, aggregators and load serving entities. The current language appears to prevent certain segments of market participants from taking advantage of a key element of any successful credit trading program – credit banking. CEI strongly urges the Commission to allow for all market participants to bank AECs in order to ensure maximum market liquidity and efficiency, which will in turn lower costs to the rate-payers. To accomplish this objective, CEI recommends Penn Future's changes to § 75.61.

CEI would like to again thank the Commission for its leadership and the opportunity to comment, and looks forward to working with Staff on finalizing the regulations.

Sincerely,

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