

March 17, 2006

VIA OVERNIGHT UNITED PARCEL SERVICE

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

**Re: Implementation of the Alternative Energy Portfolio Standards
Act of 2004: Standards and Processes for Alternative Energy
System Qualification and Alternative Energy Credit Certification
Docket No. M-00051865**

Dear Secretary McNulty:

Enclosed for filing are an original and sixteen (16) copies of Comments of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company (collectively, "FirstEnergy") in the above-referenced docket. Please date stamp the additional copy and return in the enclosed postage-prepaid envelope.

FirstEnergy greatly appreciates the opportunity to provide comments regarding this important and timely issue.

Please contact me at the above phone number should you have any questions.

Sincerely,


Linda R. Evers, Esquire

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Enclosures

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Implementation of the Alternative Energy
Portfolio Standards Act of 2004:
Standards and Processes for Alternative
Energy System Qualification and
Alternative Energy Credit Certification**

Docket No. M-00051865

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

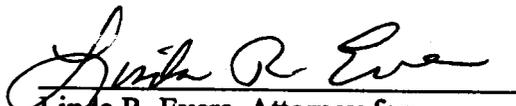
Service by United Parcel Service, postage prepaid, as follows:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

Service by electronic mail, as follows:

Carrie Beale at:
cbeale@state.pa.us

Dated: March 17, 2006


Linda R. Evers, Attorney for:
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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Implementation of the Alternative Energy
Portfolio Standards Act of 2004:
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**COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY AND
PENNSYLVANIA POWER COMPANY TO THE COMMISSION'S
JANUARY 31, 2006 TENTATIVE ORDER**

I. INTRODUCTION

The Alternative Energy Portfolio Standards Act of 2004, 73 P.S. §§ 1648.1 – 1648.8 (the “Act”), requires that a gradually increasing percentage of electricity sold by electric distribution companies (“EDC”) and electric generation suppliers (“EGS”) to retail customers in Pennsylvania be derived from alternative energy sources. Compliance with the Act is measured in terms of alternative energy credits (“AEC”), which represent one megawatt hour of electricity generated from a qualified alternative energy system. EDCs and EGSs must acquire sufficient alternative energy credits to meet the Tier I and Tier II shares required by the Act consistent with the compliance schedule identified by the Commission in prior Orders.

On February 11, 2006 the Pennsylvania Public Utility Commission (“Commission”) published for comment a Tentative Order regarding the implementation of the Alternative Energy Portfolio Standards Act of 2004: Standards and Processes for Alternative

Energy System Qualification and Alternative Energy Credit Certification at the above-referenced docket. These Comments, filed on behalf of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company, collectively “FirstEnergy” or “Companies”, are in response to the Tentative Order.

Allocation of Agency Responsibilities Regarding Alternative Energy System Qualification and Credit Certification Processes

FirstEnergy agrees with the Commission’s tentative finding that § 1648.3(e) vests the Commission with the power to promulgate regulations establishing standards and processes for resource qualification and alternative energy credit creation. Therefore, the responsibility for qualifying resources and final determinations on resource qualification should be made by the Commission or the program administrator under the Commission’s direction.

Confirmation of Compliance with Environmental Regulations

FirstEnergy agrees with the Commission’s tentative findings that compliance with environmental regulations is a requirement to gain alternative energy status. However, the Commission should provide additional guidance as to the degree of non-compliance that could lead to a loss of qualified status for a facility. Violations can occur in varying degrees. There are many issues that should be addressed when a facility loses its status:

- Will the loss of credits be retroactive for the entire reporting period, or prospective from the date the facility lost its status?
- When a facility is disqualified, will it automatically provide the EDCs relying on credits from that facility with a force majeure claim?
- How quickly can the facility regain its qualified status?

These are just some of the issues that will need to be addressed regarding the disqualification of a system.

FirstEnergy supports compliance with all environmental regulations, however, FirstEnergy is concerned about the retroactive application of a facility being disqualified. To the extent that FirstEnergy has relied on AECs from a source that has been disqualified, FirstEnergy could find, through no fault of its own, that it now has an unexpected shortfall in meeting its requirements under the Act. When this occurs, FirstEnergy believes that the granting of a force majeure claim should be automatic. It is possible that a number of EDCs could rely on AECs from the same source and disqualification of a facility could have a huge market impact. Therefore, the disqualification of a system should include due process procedures.

Process for Approval and Review of Alternative Energy System Qualification Decisions

The FirstEnergy Companies agree with the process as delineated in this section with one exception. FirstEnergy believes the time for appeal should be extended from ten (10) days to twenty (20) days. Given the magnitude of this issue and the importance of providing an adequate basis for the appeal, additional time is necessary.

Geographic Requirement

FirstEnergy believes that projects located anywhere within the service territories of PJM Interconnection, LLC (“PJM”) or Midwest Independent Transmission System Operator, Inc. (“MISO”) are eligible projects to meet the Commonwealth’s AEPS requirements. As referenced in the Tentative Order, Section 4 of the Act states that “ energy from sources inside the boundaries of the Commonwealth or within the service territory of any regional transmission organization (“RTO”) that manages the transmission system in any part of this Commonwealth shall be eligible to meet the compliance requirements under this Act.” (73 P.S. § 1648.4). We believe the plain language of this section is clear and allows for compliance to come from both PJM, an RTO that manages a transmission system in

Pennsylvania, and MISO, also an RTO that manages a transmission system in Pennsylvania. The Act does not state that an EDC is limited to its own RTO to meet the requirements of the Act.

FirstEnergy supports the Commission's analysis as set forth in the tentative order concerning application of the Commerce Clause to the use of a geographic qualification test. FirstEnergy supports a broad interpretation of the geographic requirement. A narrower interpretation may not withstand a constitutional challenge and neither does it guarantee the development of alternative energy projects in Pennsylvania. A broader interpretation of the geographic requirement recognizes the interstate configuration of the electric grid and supports the overall environmental benefits of promoting renewables on a regional basis in addition to enhancing a larger, more vibrant regional market place.

Alternative Energy Credit Certification Standards

The FirstEnergy companies encourage the Commission to reject the idea of a Pennsylvania-only delivery requirement. Additionally, AECs should not have to be bundled with energy delivery in order to meet the requirements of the Act. The Act clearly states that "one AEC shall represent one megawatt hour of qualified alternative energy generation whether self-generated, purchased along with the electric commodity or separately through a tradable instrument." Limiting the availability to trade AECs is counter to the development of a vital alternative energy market. Additionally, paragraph 5 of the Act discusses the true-up period and states, "the true-up period shall provide entities covered under this Act the ability to obtain the required number of AECs or to make up any shortfall of the AECs that may be required to comply with this Act." If in order to meet the requirements of the Act, there must always be the delivery of energy accompanied with AECs, then an EDC would not have an opportunity to

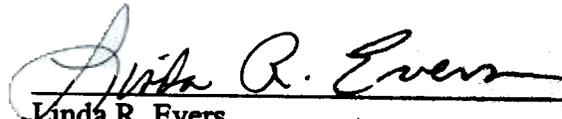
make up a shortfall by purchasing credits. FirstEnergy believes that under the Act credits may be purchased separately from the associated energy and be counted towards compliance.

II. CONCLUSION

The FirstEnergy Companies thank the Commission for the opportunity to comment on this important issue.

Respectfully submitted,

Dated: March 17, 2006



Linda R. Evers

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