

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

Comments of PPL Electric Utilities Corporation

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. Introduction

By Tentative Order entered January 31, 2006, the Public Utility Commission (“PUC” or the “Commission”) proposed standards and processes for qualifying alternative energy systems and for certifying Alternative Energy Credits (“AECs”). Among the issues addressed in this Tentative Order are the following:

- The roles of the PUC and the Department of Environmental Protection (“DEP”) regarding alternative energy system qualification and credit certification.
- The need for alternative energy sources to be in compliance with environmental regulations.
- The process for review and approval of alternative energy system qualification.
- Maintaining alternative energy system status.

- Fuel source and geographic requirements for alternative energy system qualification.
- Alternative energy credit certification standards.
- Health and safety standards.

The Tentative Order establishes a 30 day comment period from the date of publication in the Pennsylvania Bulletin. The Tentative Order was published in the Pennsylvania Bulletin on February 11, 2006; making comments due not later than March 13, 2006. By Secretarial Letter dated March 10, 2006, the due date for comments was extended to March 17, 2006.

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) is an Electric Distribution Company (“EDC”) serving 1.3 million customers in central eastern Pennsylvania. PPL Electric provides default generation service to its customers and, as an entity serving retail customers, PPL Electric will be required to comply with the requirements of the Alternative Energy Portfolio Standards Act (“Act 213”). PPL Electric has been an active participant in the stakeholder process that the Commission established to address issues relevant to the implementation of Act 213. PPL Electric appreciates the opportunity to provide comments on the above-captioned Tentative Order and looks forward to continuing to work with the Commission and all other stakeholders to address issues associated with implementation of Act 213.

Following are PPL Electric’s comments addressing each of the major issues identified in the Tentative Order.

II. Comments

Roles of the PUC and the DEP regarding alternative energy system qualification and credit certification.

In the Tentative Order, the Commission concludes that Act 213 vests with the Commission the power to promulgate regulations establishing standards and processes for resource qualification and alternative energy credit creation. PPL Electric concurs with this conclusion.

The Tentative Order further states that final determinations on resource qualification will be made by the Commission or its agent, the program administrator. More specifically, the program administrator will assure that sufficient information has been provided and that the resource is geographically eligible. The administrator will refer to the DEP the question of whether the resource is consistent with the definition of “alternative energy source” set forth in Act 213. At this point, the DEP also would assess whether the resource is in compliance with state and federal environmental laws and regulations. PPL Electric concurs with this approach.

In addition, the Tentative Order concludes that the DEP should be utilized in the qualification process in a manner similar, though not necessarily identical, to the approach set forth in Section 318 of the Public Utility Code regarding water purity. Under that process, the administrator would certify qualification questions to the DEP and would be bound by the DEP’s determinations. Although there are significant differences between determinations of water quality and qualification of a resource under Act 213, the Company concurs with the Commission’s approach.

However, critical implementation details must be addressed by the Commission. Questions regarding the qualification of alternative energy resources

may be less narrow and less specific than those related to water purity. Other than the definitions provided in Act 213, there is currently no information available to assure that determinations are made in a consistent manner. The Tentative Order notes that the DEP has released certain “technical guidelines” and provides a web link to a document titled “Technical Guidance.” However, that document is captioned “draft” and, to PPL Electric’s knowledge, has not been formally circulated for comments. As currently drafted, this document is a mix of technical guidance on a number of issues including compliance and eligibility as well as recommendations on the resolution of matters that appear to be within the purview of the PUC.

PPL Electric recommends that the DEP should issue technical guidance regarding the definitions of alternative energy sources contained in Act 213. Such guidance would reduce uncertainty regarding proposed projects and promote consistency in decisions regarding qualification. PPL Electric also believes that such guidance must be more focused than the current draft and that a formal process should be instituted to provide the opportunity for public input and for the DEP to respond to that input.

Compliance with environmental regulations.

PPL Electric concurs, in concept, with the conclusion in the Tentative Order that failure to maintain compliance with applicable environmental laws would lead to a loss of qualifying status for an alternative energy source. As noted above, PPL Electric believes that the DEP is the appropriate entity to assess whether a resource is in compliance with state and federal environmental laws and regulations. However, PPL Electric also believes that there is a need for either rules or technical

guidance to clarify these compliance issues. Act 213 simply states that DEP shall ensure “that qualified energy sources meet all applicable environmental standards.” 72 P.S. § 1648.7(b). PPL Electric believes that guidance should be provided on basic implementation issues, including the following:

- Is the consequence of non-compliance permanent loss of qualifying status or only loss of qualifying status during the period of non-compliance?
- How is the period of non-compliance defined?
- Is non-compliance with administrative requirements treated any differently from non-compliance with emission or discharge requirements?
- How is qualifying status affected by a finding of non-compliance that is being contested?
- How does a finding of retroactive non-compliance affect a facility’s qualifying status during the retroactive period and the validity of any credits created during that period?

As discussed above, the draft technical guidance document referenced in the Tentative Order addresses some matters related to compliance. However, PPL Electric believes that such guidance must be more focused than the current draft, and that a formal process should be instituted to provide the opportunity for public input and for the DEP to respond to that input.

Process for review and approval of alternative energy system qualification.

PPL Electric concurs with the process outlined in the Tentative Order for approval and review of alternative energy system qualification decisions. However, the Company recommends that the rules permit a project that successfully challenges an adverse finding to request that the Commission reinstate any credits that may have been lost during the pendency of its challenge.

Maintaining alternative energy system status.

The Tentative Order specifies that alternative energy systems will be required to provide certain information annually to the DEP and that failure to provide that information will result in the loss of qualifying status. The Tentative Order also states that material changes in operations, including changes in fuel source or environmental compliance, may also result in the loss of qualifying status. Finally, the Tentative Order states that the Commission will provide notice and an opportunity for the owner(s) of the facility to be heard. PPL Electric generally concurs with this approach. The Company recommends that maintaining current information in the Commission's designated registry (which at this time is the Generator Attributes Tracking System or "GATS" owned by PJM-EIS, LLC.) also be made a condition for retaining qualifying status. Also, PPL Electric recommends that the procedures by which a facility owner is notified that its qualifying status is in jeopardy also specifically give the owner a limited time to correct the deficiency without loss of qualifying status or adverse impact on the validity of any credits produced.

Fuel source and geographic requirements for alternative energy system qualification.

With regard to fuel source, the Tentative Order acknowledges that the definitions included in Act 213 are not very specific and asks whether it would be appropriate to include the DEP's draft technical guidelines for fuel source requirements into the Act 213 rulemakings. PPL Electric concurs with that approach, but reiterates that such guidance must be more focused than the current draft, and that a formal process should be instituted to provide the opportunity for public input and for the DEP to respond to that input. The Company also recommends that, because some of these technologies are just developing and may change in material ways, formally developed guidance with opportunities for public input would be a more appropriate mechanism than including specificity in the rules themselves. PPL Electric is concerned that amending language in rules to accommodate new circumstances may be unnecessarily cumbersome and time consuming.

PPL Electric concurs with the finding in the Tentative Order that all resources within PJM and MISO should be eligible to meet the qualification requirements and provide alternative energy credits to any entity serving retail load in Pennsylvania. PPL Electric does not believe that permitting resources within an ISO (such as NYISO) to be eligible is necessarily inconsistent with the objectives of Act 213. However, PPL Electric concurs with the Commission's finding that the plain language of Act 213 requires resources to be located within a regional transmission organization ("RTO").

Alternative energy credit certification standard.

PPL Electric supports the Commission's conclusion that alternative energy credits can be either purchased together with the electric commodity or separately through a tradable instrument. This is consistent with the plain language of Act 213. 72 P.S. § 1648.3(e)(4)(ii).

The Company also concurs with the Commission's conclusions regarding deliverability. Act 213 requires that alternative energy sources must be located within the geographic boundaries of the Commonwealth or within the service territory of any RTO that manages the transmission system in any part of the Commonwealth. 72 P.S. § 1648.4. This provision means, consistent with the Commission's interpretation of the issue of geography discussed above, that any resource located within Pennsylvania, or PJM or MISO would be eligible. With regard to delivery, the definition of "alternative energy system" states that the electricity must be delivered either to the distribution system of an EDC or to the transmission system operated by a RTO. 72 P.S. § 1648.2. Because all generators within PJM and MISO deliver their output to either a distribution system or to the transmission system operated by PJM or MISO, PPL Electric believes that all such generators meet the deliverability test. Further, because only generators within these two RTOs qualify, PPL Electric does not believe that there is a need match generation with delivery as there is in New York's administration of its renewable portfolio standard.

Health and safety standards.

The Tentative Order requests comments on whether resource qualification should be made contingent upon a resource complying with health and safety standards that may need to be developed for alternative energy sources. PPL Electric believes that, to the extent that any alternative energy systems raise health and safety concerns, appropriate rules should be developed by the Department of Labor and Industry. Moreover, those rules should be administered and enforced in the same manner as similar rules for non-alternative energy systems. PPL Electric believes that health and safety issues should be addressed directly through appropriate enforcement actions and not through the loss of qualifying status under Act 213.

III. Conclusion

For all of the reasons stated above, PPL Electric Utilities Corporation recommends that the Public Utility Commission proceed with implementation of the Alternative Energy Portfolio Standards Act consistent with its January 31, 2006 Tentative Order and PPL Electric Utilities Corporation's comments, thereto.

Respectfully submitted,

Paul E. Russell
Associate General Counsel
PPL Electric Utilities Corporation
Two North Ninth Street
Allentown, PA 18101
(610) 774-4254

Dated: March 17, 2006
at Allentown, Pennsylvania