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File #:

August 30, 2010

BY HAND

Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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2010 AUG 30 PM 3:19  
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SECRETARY'S BUREAU

**RE: Petition of Duquesne Light Company to Contest the Finding of Non-Compliance with the Alternative Energy Portfolio Standards Act and Modify the Alternative Compliance Payment or, in the alternative, Declare a Force Majeure for Duquesne Light Company for the 2008/2009 Alternative Energy Compliance Period - Docket No. P-2010-2153577**

Dear Secretary Chiavetta:

As directed by Ordering Paragraph No. 3 of the Interim Order in the above-referenced proceeding, enclosed please find copies of the following written testimony:

- CEEP St. No. 1 - Direct Testimony of Wayne L. Williams, Ph.D
- CEEP St. No. 2 – Direct Testimony of Dina M. Deana
- OSBA St. No. 1 – Direct Testimony Brian Kalcic
- Duquesne Light Company St. No. 1 – Direct Testimony of Anthony F. Pekny
- Duquesne Light Company St. No. 2 – Direct Testimony Gary S. Page
- Duquesne Light Company St. No. 1-R – Rebuttal Testimony of Anthony F. Pekny

A copy of the Interim Order is also enclosed.

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Page 2

Respectfully Submitted,



Andrew S. Tubbs

AST/jl

Enclosures

cc: Honorable Katrina L. Dunderdale (letter & certificate of service only)  
Certificate of Service (letter & certificate of service only)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Docket No. P-2010-2153577**

**Duquesne Light Company**

**Statement No. 1**

**RECEIVED**

**2010AUG 30 PM 3:50**

**PA FILE  
SECRETARY'S BUREAU**

**Direct Testimony of Anthony F. Pekny**

**June 25, 2010**

1 **Q. Please state your full name and business address.**

2 **A.** My name is Anthony F. Pekny. My business address is 411 Seventh  
3 Avenue, Pittsburgh, Pennsylvania 15219.

4

5 **Q. By whom are you employed and in what capacity?**

6 **A.** I am currently the Vice President for Energy Procurement for Duquesne Power,  
7 which is an affiliate of Duquesne Light Company (Duquesne Light).

8

9 **Q. Please describe your professional and educational background.**

10 **A.** I received a Bachelor of Science Degree in Accounting from Pennsylvania State  
11 University in 1979 and a Masters in Business Administration from the University  
12 of Pittsburgh in 1985. I was employed by Deloitte and Touche in 1979 and  
13 performed various audit functions for manufacturing and utility clients as a staff  
14 accountant and senior accountant. I began my career at Duquesne Light  
15 Company in 1982. Over the last 28 years, I have held staff, supervisory and  
16 managerial positions in Fossil Generation, Financial Systems, and Corporate  
17 Budgeting. From 1998-2001, I was the Vice President, Treasurer and Controller  
18 for Duquesne Enterprises, an unregulated affiliate of Duquesne Light Company.  
19 From 2001-2003, I was the Manager of Corporate Development for Duquesne  
20 Light Company. In 2003, I was appointed to my current position as Vice  
21 President for Energy Procurement for Duquesne Power.

22

1 **Q. Please briefly describe the subject matter of your testimony in this**  
2 **proceeding.**

3 **A.** First, I will address relationship between Duquesne Light Company, and  
4 Duquesne Power, as well as the manner in which Duquesne Power acquires  
5 generation and alternative energy credits on behalf of Duquesne Light. Second, I  
6 will discuss the overall process of procuring alternative energy credits on behalf  
7 of Duquesne Light. Finally, I will discuss my reasons for believing Duquesne  
8 Light should not be penalized in this proceeding

9

10 **Q. Are you sponsoring any exhibits to the filing?**

11 **A.** Yes. I am sponsoring the following Exhibits:

12 AFP-1 AEPS Website – Qualified Generation Facilities Summary

13

14 AFP-2 Dissent of Vice Chairman Tyrone J. Christy, Evaluation of Proposals to  
15 Select the Alternative Energy Credits Administrator, Public Meeting dated June 3,  
16 2010

17

18 **Q. Please describe the other witnesses who will be testifying on behalf of**  
19 **Duquesne Light Company.**

20 **A.** Gary Page, Supervisor of Unregulated Services for Duquesne Power, will address  
21 Duquesne Light's efforts to insure compliance with alternative energy  
22 requirements and related topics. He will also discuss the reasons Duquesne  
23 Power believed it was in compliance with the AEPS requirements for the  
24 2008/2009 compliance period.

25

1 **Q. Please describe your current responsibilities as the Vice President for Energy**  
2 **Procurement for Duquesne Power.**

3 **A.** As the Vice President for Energy Procurement for Duquesne Power, I am  
4 responsible for procuring energy and alternative energy credits for Duquesne  
5 Light Company and Duquesne Light Energy. I manage day-ahead and real-time  
6 load for approximately 600,000 customers and oversee in excess of \$250 million  
7 in annual energy purchases.

8

9 **Q. Please describe Duquesne Power's relationship with Duquesne Light**  
10 **Company as it pertains to this proceeding.**

11 **A.** Duquesne Power is a wholly owned subsidiary of Duquesne Light Holdings and is  
12 an affiliate of Duquesne Light Company. Duquesne Power is a wholesale energy  
13 supplier with market based rate authority granted by the Federal Energy  
14 Regulatory Commission (FERC). Duquesne Power relies upon competitive  
15 wholesale market purchases in the PJM Interconnection LLC (PJM) Regional  
16 Transmission Organization (RTO) to obtain energy, capacity and ancillary  
17 services for Duquesne Light Company's applicable Provider of Last Resort  
18 (POLR) service.

19 Duquesne Power provides procurement services to its affiliate, Duquesne Light  
20 Company. Under the Stipulation entered into by the parties in the Default Service  
21 Plan, or POLR IV, Docket No. P-00072247, and approved by the Pennsylvania  
22 Public Utility Commission, Duquesne Light Company procures power for its  
23 Residential and Small Commercial default service customers through a contract

1 with its affiliate, Duquesne Power. A provision of the contract approved as part  
2 of POLR IV required Duquesne Power to procure alternative energy credits  
3 (AECs) on behalf of Duquesne Light. Accordingly, Duquesne Power's  
4 relationship with Duquesne Light as it pertains to this proceeding involves  
5 Duquesne Power purchasing AECs for Duquesne Light.

6  
7 **Q. How did you become involved with Duquesne Light Company's compliance**  
8 **with the AEPS Act?**

9 A. As part of my duties in connection with acquiring wholesale power and AECs  
10 through the procurement services provided by Duquesne Power, I oversee the  
11 department that (1) gathers the necessary information to purchase appropriate  
12 AECs; (2) performs due diligence in acquiring the AECs; and (3) procures the  
13 AECs for Duquesne Light.

14  
15 **Q. What process does Duquesne Power undertake to ensure compliance with the**  
16 **AEPS Act?**

17 A. Duquesne Power calculates the amount of AECs Duquesne Light needs to  
18 comply for a given year by comparing the actual load served by the Duquesne  
19 load serving entities and applying the appropriate renewable percentage for Tier I,  
20 Tier II, and solar credits needed for the given reporting period. Gary Page will  
21 discuss the AEC procurement process in more detail as a part of his testimony.

22

1 Q. What about the credits that are the subject matter of this proceeding – what  
2 process did Duquesne Power undertake to ensure compliance for those  
3 AECs?

4 A. On behalf of Duquesne Light, Duquesne Power procured 114,916 Tier I AEC for  
5 the 2008/2009 compliance year obligations, of which 42,980 are from the  
6 “Cadillac” facility located in Michigan. The Cadillac facility burns wood, in part,  
7 to generate electricity. Duquesne Power conducted due diligence and found that  
8 Cadillac possessed a certificate issued by the Commonwealth, qualifying it as a  
9 Pennsylvania alternative energy facility.

10

11 Q. What is your understanding of the process by which generating facilities  
12 become “qualified” as an alternative energy system in Pennsylvania?

13 A. I am advised the rules provide that generating facilities must complete and file an  
14 application developed by the Commission and supporting attachments with the  
15 alternative energy credit program administrator, the Department of Environmental  
16 Protection and any other parties designated by the Commission. The applications  
17 are designed to elicit information relative to the generation facilities’ geographic  
18 location, the facilities’ source of generation and the facilities compliance with  
19 environmental regulations. Specifically, the generation facility must demonstrate  
20 that: (1) it is located in Pennsylvania or in a Regional Transmission Organization  
21 that manages a portion of the electric transmission system in this Commonwealth;  
22 (2) it generates electricity from or conserves electricity through a Tier I or Tier II  
23 alternative energy source; and (3) has verified compliance with applicable

1 environmental regulations. Once all of the information is verified, the generating  
2 facility receives a certificate as a qualified Pennsylvania alternative energy  
3 system. The generating facility is then listed on the Commission's AEPS registry  
4 as a qualified facility.

5  
6 **Q. What is your understanding of the information provided in the PJM GATS  
7 and AEPS Registry?**

8 A. The Pennsylvania Public Utility Commission determined that PJM's Generator  
9 Attribute Tracking System (GATS) would be used to record and track generation  
10 of credits by generators as well as compliance by load serving entities. Upon the  
11 purchase of an AEC, the seller deposits the AEC into Duquesne Light's GATS  
12 account. Before purchasing the AECs produced by the Cadillac plant, Duquesne  
13 Power checked the GATS system and found that the Cadillac plant was a  
14 registered facility and recorded their production in GATS. Duquesne also  
15 examined the Commission's AEPS Registry, too, as a double check. As  
16 described above, the AEPS Registry is a Pennsylvania website that lists those  
17 alternative energy systems that have been deemed "qualified facilities" under the  
18 AEPS Act. The AECs under question in this proceeding (Cadillac) were produced  
19 by a registered facility in the PJM GATS and the facility was listed as a qualified  
20 facility in Pennsylvania in the AEPS Registry. The credits were entered into the  
21 PJM GATS system without any rejection or problems.

1 **Q. Do you rely on the brokers to certify that the AECs are acceptable for AEPS**  
2 **compliance?**

3 A. No, we do not rely on the brokers. Other entities (such as Clean Power Markets)  
4 certify that the source qualifies as a qualified credit under the AEPS Act.  
5 Duquesne Power made good faith efforts to ensure that all AECs for the 2008-  
6 2009 reporting period were Pennsylvania-certified by checking that all credits had  
7 been certified by Pennsylvania and had a Pennsylvania certification number.  
8 When Duquesne Power buys AECs from a broker, Duquesne Power only accepts  
9 sources that have been certified with a Pennsylvania Certification number.  
10 Duquesne Power also relied on the systems mentioned above, such as the PJM  
11 GATS and the AEPS Registry. The Cadillac facility was listed on the AEPS site  
12 as shown on my Exhibit 1 (AFP-1). Therefore, we felt the credits were both  
13 certified and qualified and would certainly be acceptable for our compliance  
14 purposes. Gary Page will discuss both systems in more detail in his testimony.

15

16 **Q. Why did Duquesne rely solely upon the PJM GATS system database and the**  
17 **PA AEPS registry in performing its due diligence on the Cadillac Facility**  
18 **credits? Weren't there additional steps that should have been taken by**  
19 **Duquesne to ensure compliance?**

20 A: The Commonwealth of Pennsylvania engaged PJM as the central repository to  
21 qualify alternative energy resources and certify qualifying generation quantities.  
22 In addition, as required by the AEPS Act, the Commission developed its AEPS  
23 Registry of qualified facilities. It would be both inefficient and impractical for

1 each load serving entity within the Commonwealth to have to research the  
2 physical location of each potentially qualifying facility, visit the site, validate its  
3 compliance with Tier I or Tier II criteria, and in some way perform due diligence  
4 on its generation volumes for the relevant compliance year. The Commonwealth  
5 recognized the redundancy in such a construct and, instead, required that the  
6 Commission develop the AEPS Registry and also contracted with PJM to perform  
7 all of those due diligence steps centrally so that each load serving entity could rely  
8 upon the results of that diligence as reported in the GATS system. The process  
9 should work well except we believe it is an oversight to omit from the visible data  
10 base one pertinent piece of information – the qualifying RTO. This is particularly  
11 the case when the geographic location and operating RTO of qualified facilities is  
12 provided to the Commission and its credit administrator as part of the application  
13 process.

14  
15 **Q. Why is information regarding the location of the generation important?**

16 **A.** Under the AEPS Act, if AECs are purchased outside of Pennsylvania, the law  
17 requires the facility be located within the RTO that controls the transmission of  
18 the EDC purchasing the AECs. This information is critically important because  
19 there are EDCs governed by the AEPS Act that are managed by neighboring  
20 RTOs, PJM and the Midwest Interconnection System Operator (MISO).  
21 Pennsylvania Power Company (Penn Power) is located in Pennsylvania (adjacent  
22 to the Duquesne service territory) and is in MISO. Penn Power is the only

1 company that would potentially be able to purchase AECs outside of  
2 Pennsylvania, but within MISO.

3 **Q. You mentioned Penn Power as being the only EDC located in Pennsylvania**  
4 **that would be able to purchase MISO credits – do you know how far away**  
5 **the Cadillac facility is located from the PJM territory?**

6 A. Yes, it is approximately 30 miles away from the PJM border. The PJM territory  
7 spans over 900 miles (approximate mileage from Chicago, Illinois to Rocky  
8 Mount, North Carolina). I find it irrational that Duquesne Light can purchase  
9 AECs as far away as Chicago, Illinois or Rocky Mount, North Carolina, yet it  
10 cannot purchase AECs produced only a few miles away from Duquesne Light's  
11 service territory in Ohio because the transmission owner belongs to a different  
12 RTO. The rule creates an artificial boundary that excludes geographically closer  
13 plants.

14  
15 **Q. Was anyone able to see information pertaining to the RTO in either of the**  
16 **systems used?**

17 A. Yes, apparently a limited number of Commission employees were able to see the  
18 RTO where facilities are located. In Vice Chairman Christy's dissent of June 3,  
19 2010 in the Evaluation of Proposals to Select the Alternative Energy Credits  
20 Administrator, he relayed the following:

21 In addition to inaccurate information in the registry, CPM (Clean Power  
22 Markets) has elected to keep some of the facility information in a  
23 "regulator only read" section of the website. Only two Commission  
24 employees, the Director of CEEP and one of his employees, have  
25 passwords to access this section of the registry. In fact, the  
26 Commissioners and their staffs were not informed of the creation of the

1 "regulator only read" section of the website in October 2008 until two  
2 weeks ago, when the Commission sent follow-up data requests to CPM  
3 during review of its contract proposal. At that time we learned that the  
4 "regulator only read" section lists the RTO (PJM or MISO) where an  
5 AEPS facility is located. CPM's explanation of the unavailability of a  
6 facility's RTO in the public registry is that CEEP had not asked them to  
7 include it.

8  
9 The inability to view this RTO information of credits, at the time of our purchase  
10 and filing, especially given the fact that the Cadillac credits were certified as  
11 Pennsylvania qualified, created the problem for Duquesne. Since there are EDCs  
12 in PJM and MISO, this information is vital in deciding which AECs to purchase,  
13 and being able to view such information would have prevented the purchase of  
14 the Cadillac credits in the first place.

15  
16 **Q. Is there anything further you would like to discuss regarding Duquesne**  
17 **Light's compliance with the AEPS Act?**

18 **A.** Yes. It is important to note that the Duquesne Light Company 2008/2009 AEPS  
19 compliance period was the first full reporting period for Duquesne Light, which  
20 was before the first full reporting period of many other Pennsylvania utilities.

21  
22 **Q. Why was Duquesne Light one of the first EDCs subject to compliance with**  
23 **the AEC requirements of the AEPS Act?**

24 **A.** Duquesne Light's rate caps ended for most customers in 2004, which in turn  
25 started the clock for the cost-recovery period defined in the AEPS statute, so  
26 Duquesne Light's first full compliance period was for 2008/2009.

27

1 **Q. How is being one of the first EDCs required to comply with the AEPS Act**  
2 **relevant to this proceeding?**

3 A. Being one of the first EDCs required to comply with the AEPS Act involved  
4 unanticipated obstacles, such as timing and confusion surrounding the systems in  
5 place that were relied upon to view, report and purchase credits.

6 I feel this fact is relevant to this proceeding because the system used to view and  
7 procure credits not only had a few “kinks” to work out, but was relied on by  
8 Duquesne in assessing credits to use. The system’s “obvious problems” were  
9 noted by Vice Chairman Christy in his Dissent of the Commission’s Selection for  
10 an Alternative Energy Credits Administrator. Vice Chairman Christy states, “The  
11 registry of facilities that have been qualified to sell AECs is the foundation of the  
12 AEPS program, and is relied upon by EDCs and EGSs that are subject to the  
13 AEPS requirements.” See Exhibit AFP-2. I recommend that all pertinent  
14 information needed to determine compliance with the AEPS Act be made  
15 publically available to all in the AEPS Registry to help insure compliance. Gary  
16 Page will discuss how these “obvious problems” affected Duquesne.

17

18 **Q. Please elaborate on the report filed by Duquesne evidencing compliance.**

19 A. Duquesne successfully logged the credits into GATS in the end of August 2009.  
20 Duquesne Light received an assessment on October 2, 2009, stating that  
21 Duquesne Light and its affiliates met their obligations for the 2008/2009 AEPS  
22 compliance period. See GSP-2. It is important to note that at the time of the  
23 filing and at all times thereafter, Duquesne Power had an inventory of Tier I

1 AECs in excess of the 2008/2009 requirements and that if Duquesne Power had  
2 been aware that these AEC were non-compliant, it could have easily substituted  
3 other credits it had in its inventory and liquidated the Cadillac credits before they  
4 expired. Two and a half months later, on December 23, 2009, Duquesne Light  
5 received a second notice from CPM that Duquesne Light was not compliant for  
6 the 2008/2009 AEPS compliance period.

7 Again, Duquesne is the first major EDC that is required to comply with the AEPS  
8 Act and therefore this is the first time that the Commission's regulatory  
9 framework for verifying compliance has been put to the test. It is apparent to me  
10 that the system has some "kinks" that need to be ironed out.

11  
12 **Q. Please explain.**

13 A. First, as noted above, presently neither the Commission's AEPS Registry nor  
14 GATS provides information relative to limitations on the use of credits certified in  
15 Pennsylvania due the geographic location of the facility. As this information is  
16 readily known by the Commission and pertinent for compliance with the AEPS  
17 Act, the information should be made publically available. Second, the  
18 Commission's current process for assessing EDC and EGS compliance with the  
19 AEPS Act is not working as it should. Under the Commission's regulations, the  
20 program administrator was required to provide Duquesne with an initial  
21 assessment of its compliance with the AEPS Act. The first communication  
22 received by Duquesne relative to that status of its compliance was on October 2,  
23 2009. The Commission's regulations are set up to assess an EDC's compliance

1 with its obligations under the AEPS Act. Absent a process that ensures that such  
2 a thorough review is completed, the statutorily provided “true-up” period, that  
3 enables an EDC to respond to any identified deficiencies, was not provided.

4 Based upon Duquesne’s experiences, Duquesne recommends that the  
5 Commission evaluate the process by which the Commission verifies compliance  
6 to ensure that the statutorily provided “true-up” period is available so that parties  
7 have an opportunity to remedy any non-compliance with the AEPS Act within a  
8 reasonable period of time after receiving notice from the Commission.  
9 Duquesne is working diligently to comply with the all the AEPS requirements but  
10 more work is necessary and will require that the Commission and its program  
11 administrator to work together to improve the current framework.

12  
13 **Q. Finally, Mr. Pekny, do you believe any penalty should be imposed on**  
14 **Duquesne Light based on the facts presented here?**

15 A. No, I do not. Duquesne Power acted in good faith to procure the appropriate  
16 AECs for Duquesne Light Company. Duquesne realizes that the Pennsylvania  
17 Commission staff and the credit administrator are starting a new program and  
18 there will be problems encountered. There is no dispute that the credits from the  
19 Cadillac facility are valid credits produced by a partial wood burning facility. The  
20 only argument is that they were produced 30 miles from the PJM border in  
21 Michigan rather than within PJM itself. In this particular instance, based on the  
22 start-up status of the program, the problems encountered, including late notice to  
23 Duquesne Light of non-compliance, and the obvious efforts made by Duquesne

1           Power to comply, the credits should be accepted as part of the 2008-2009  
2           reporting period. The credits are of a 2007 vintage and have expired, so they  
3           cannot be reused by anyone. For those valid renewable credits that were actually  
4           produced and certified to be renewably produced to go totally unutilized based on  
5           these circumstances would be wasteful and unproductive.

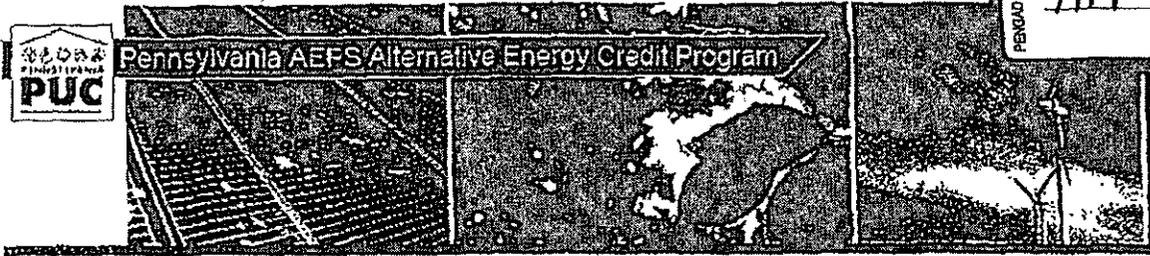
6

7   **Q.**    **Does this complete your direct testimony?**

8   **A.**    Ycs.

9

EXHIBIT  
AFP-1



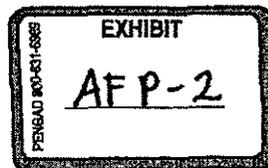
Qualified Generation Facilities Summary

Abbreviations

Facility Info  
594 Items found, displaying all items.

Alternative Fuel Certification	Plant Name	Facility Type	Nameplate Capacity (MW)
PA-10001-LFG-I, PA-10002-OBG-I	Edge Moor	Landfill Gas, Coal, Other Biomass Gas	698
PA-10003-LFG-I	Ameresco Delaware - Central	Landfill Gas	3.2
PA-10004-LFG-I	Ameresco Delaware - South	Landfill Gas	4.2
PA-15003-LFG-I	Westchester Landfill	Landfill Gas	3.5
PA-15004-LFG-I	Des Plaines Landfill	Landfill Gas	3.5
PA-15005-LFG-I	Beecher	Landfill Gas	2.14
PA-15006-LFG-I	Avon Energy Partners, LLC	Landfill Gas	3.3
PA-15007-LFG-I	Brickyard Energy Partners, LLC	Landfill Gas	3.3
PA-15008-LFG-I	Countyside Genco, LLC	Landfill Gas	8.4
PA-15009-LFG-I	Devonshire Power Partners	Landfill Gas	5.5
PA-15010-LFG-I	Dixon/Lee Energy Partners, LLC	Landfill Gas	4.4
PA-15011-LFG-I	Morris Genco, LLC	Landfill Gas	4.2
PA-15012-LFG-I	Riverside Resource Recovery System, LLC	Landfill Gas	1.1
PA-15013-LFG-I	Roxana Resource Recovery, LLC	Landfill Gas	3.3
PA-15014-LFG-I	Streator Energy Partners, LLC	Landfill Gas	1.1
PA-15015-LFG-I	Upper Rock Energy Partners, LLC	Landfill Gas	3.3
PA-15016-LFG-I	Zion Power Station	Landfill Gas	5.456
PA-15017-LFG-I	Kankakee Gas Recovery	Landfill Gas	1.6
	Greene Valley Gas		

Alternative Fuel Certification ID	Plant Name	Fuel Type / Facility	Normalized GCS
PA-15018-LFG-I	Recovery	Landfill Gas	9.9
PA-15019-LFG-I	CID Gas Recovery	Landfill Gas	6
PA-15020-LFG-I	Lake Gas Recovery	Landfill Gas	9
PA-15021-LFG-I	Woodland Landfill Gas Recovery	Landfill Gas	1.6
PA-15022-LFG-I	Settlers Hill Gas Recovery	Landfill Gas	6
PA-15023-LFG-I	Mollard Lake Electric	Landfill Gas	15
PA-15024-LFG-I	Rockford Electric	Landfill Gas	2
PA-15025-LFG-I	South Barrington Electric	Landfill Gas	1.6
PA-15026-WND-I	Com High Trail 1 Wind	Wind	198
PA-15027-WND-I	GSG, LLC	Wind	80
PA-16007-BFG-II	Indiana Harbor Works	Blast Furnace Gas	144.444
PA-16008-WH-II	Heat Recovery Coke Facility	Waste Heat	94.6
PA-16009-LFG-I	Jay County Plank	Landfill Gas	3.2
PA-21006-BLQ-II	Luke Mill Paper	Coal, Black Liquor	65
PA-21007-BFG-II	Sparrows Point	Blast Furnace Gas	120
PA-21008-MSW-II	Montgomery County Resource Recovery Facility P	Municipal Solid Waste	78
PA-23008-WDS-I	Cadillac Renewable Energy	Wood/Wood Waste Solids	44
PA-32014-LFG-I	Middlesex Generating Facility	Landfill Gas	20
PA-32015-WND-I	Jersey-Atlantic Wind Farm	Wind	7.5
PA-32016-FC-I	Starwood Parsippany	Fuel Cell	0.25
PA-32017-FC-I	Starwood Edison	Fuel Cell	0.25
PA-32018-OBG-I	Ocean County Utilities Authority - Northern	Other Biomass Gas	0.54
PA-32019-OBG-I	Ocean County Utilities Authority - Central	Other Biomass Gas	0.99
PA-32020-LFG-I	Lafayette Energy Partners, LLC	Landfill Gas	1.2
PA-36006-LFG-I	Energy Developments Model Power Station	Landfill Gas	2.728
PA-46033-CMG-I	Buchanan County Generating Facility	Natural Gas, Coal Mine Methane/Gas	88
PA-46035-WAT-II	Holcomb Rock Hydro	Conventional Hydro	5
PA-46036-LFG-I	I-95 Landfill I	Landfill Gas	3.2
PA-46037-LFG-I	I-95 Landfill	Landfill Gas	3.2



PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17105-3265

Evaluation of Proposals to Select the  
Alternative Energy Credits  
Administrator

Public Meeting – June 3, 2010  
2172251-BAS

DISSENT OF VICE CHAIRMAN TYRONE J. CHRISTY

Today the Commission is selecting a contractor, Clean Power Markets, (CPM) to serve as the Administrator of the Commission's Alternative Energy Credit (AEC) Program under the Alternative Energy Portfolio Standards (AEPS) Act of 2004. The initial term of the contract extends from July 1, 2010 through December 31, 2013, a period of 42 months, with an option for two one-year extensions through December 31, 2015. That is a long time. The cost of this contract is anticipated to be over \$2.7 million. That is a lot of money.

There are two reasons why I am voting against awarding this contract to CPM. First is CPM's poor performance under the current contract. CPM has served as the AEC Administrator since March 2007. In March 2007, CPM inherited a registry of approximately 200 "legacy" facilities that previously had been certified by PJM and subsequently by DEP during the first two years of the AEPS program. The registry that CPM inherited was inaccurate, with missing and erroneous information for many of the legacy facilities. To date, the efforts of CPM to correct the AEPS registry have been inadequate. As recently as August of 2009, the registry included 23 plants totaling 1,589 MW using "bituminous coal" as their fuel source. Bituminous coal does not qualify under the AEPS. The registry included 8 plants totaling at least 3,092 MW using natural gas as their fuel source, which also does not qualify under the AEPS. The size of two of the natural gas plants was listed as "can't be determined." There were eight plants totaling 928.1 MW whose fuel source was listed as "unknown" that had been qualified and listed in the registry as AEPS facilities. There were two additional facilities totaling 297.8 MW whose fuel source was listed as partially unknown. A landfill gas facility of 193.0 MW, which would dwarf the size of any known landfill gas project, was listed in the registry. All but one of the waste coal facilities in the registry were listed as bituminous coal plants.

Despite the obvious problems with the accuracy of AEPS registry, CPM did not receive the box of registration forms for the legacy facilities from DEP until 2009, two years into the current contract, presumably because CPM did not ask for it. Just last month, it finally was decided to send a questionnaire to the legacy facilities to update and correct the information in the registry. CPM stated that it has not previously sent a questionnaire to the legacy facilities because it does not have sufficient contact information for many of them. The claimed inability to contact some of the largest qualifying facilities in the AEPS registry in over a three year period (2007 through 2010) is inexcusable. The registry of facilities that have been qualified to sell AECs is the foundation of the AEPS program, and is relied upon by EDCs and EGSs that are subject to the AEPS requirements. In my view, CPM should have made correction of the registry one of its first priorities when it assumed the role of the AEC Administrator in 2007.

In addition to inaccurate information in the registry, CPM has elected to keep some of the facility information in a "regulator only read" section of the website. Only two Commission employees, the Director of CEEP and one of his employees, have passwords to access this section of the registry. In fact, the Commissioners and their staffs were not informed of the creation of the "regulator only read" section of the website in October 2008 until two weeks ago, when the Commission sent follow-up data requests to CPM during review of its contract proposal. At that time we learned that the "regulator only read" section lists the RTO (PJM or MISO) where an AEPS facility is located. CPM's explanation of the unavailability of a facility's RTO in the public registry is that CEEP had not asked them to include it.

The second reason why I am opposed to awarding a second contract to CPM is one of cost. We had several options available to us other than awarding another contract to CPM, including bringing this work in-house. The work required to administer the AEPS requires diligence and organizational skills, but it is not overly complex. Two employees could have performed the work at much less cost than a private contractor. Assuming each employee's annual salary and benefit package was \$100,000, this work could be done at a cost to the Commission of approximately \$1.0 million for five years, or roughly 35% of the cost of the CPM contract. As governmental agencies across the country are forced to tighten their belts, I believe that the Commission has missed a significant opportunity to reduce its own operations budget.

6-3-10  
DATE

Tyrone J. Christy  
TYRONE J. CHRISTY, VICE CHAIRMAN