

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 80** Session of
2009

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MAHONEY, BARBIN, SEIP, WALKO AND CALTAGIRONE, MARCH 12, 2009

AS AMENDED ON HOUSE FLOOR, PRIOR TO SECOND CONSIDERATION, JULY
2, 2009

AN ACT

1 Amending the act of November 30, 2004 (P.L.1672, No.213),
2 entitled, "An act providing for the sale of electric energy
3 generated from renewable and environmentally beneficial
4 sources, for the acquisition of electric energy generated
5 from renewable and environmentally beneficial sources by
6 electric distribution and supply companies and for the powers
7 and duties of the Pennsylvania Public Utility Commission,"
8 further providing for definitions and for alternative energy
9 portfolio standards; and providing for sequestration facility
10 permitting and for title to carbon dioxide, immunity and
11 transfer of liability; establishing the Carbon Dioxide
12 Indemnification Fund; providing for carbon dioxide
13 sequestration facility and transportation pipeline on
14 Commonwealth State forest lands; and providing for
15 application of the Public Utility Code to transporters of
16 carbon dioxide.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The definition of "alternative energy sources"
20 and "Tier II alternative energy source" in section 2 of the act
21 of November 30, 2004 (P.L.1672, No.213), known as the
22 Alternative Energy Portfolio Standards Act, are amended by

1 adding paragraphs and the section is amended by adding
2 definitions to read:

3 Section 2. Definitions.

4 The following words and phrases when used in this act shall
5 have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 * * *

8 "Alternative energy sources." The term shall include the
9 following existing and new sources for the production of
10 electricity:

11 * * *

12 (14) Advanced coal combustion with limited carbon
13 emissions, which means the production of electric power from
14 a generation facility that is fueled by coal, waste coal or
15 gas derived from an advanced coal gasification plant or a
16 plant that is retrofitted to capture carbon that:

17 (i) Begins commercial operation after January 1,
18 2009, and captures, either in the advanced coal
19 gasification plant or in the electrical generation
20 facility, and delivers to a carbon dioxide sequestration
21 facility in this Commonwealth for permanent sequestration
22 at least the following amount of all carbon dioxide
23 produced:

24 (A) 40% from June 1, 2015, to May 31, 2019.

25 (B) 60% from June 1, 2019, to May 31, 2024.

26 (C) 90% from June 1, 2024, and thereafter.

27 (D) The requirement under clause (C) shall be
28 waived if commercially proven and project-financeable
29 technology is not available as determined by the
30 department.

1 (ii) Has been designed to accommodate the required
2 additional processing equipment to produce power with a
3 maximum of 1,000 pounds of carbon dioxide emissions per
4 megawatt hour or begins commercial operation before
5 January 1, 2009, and captures and delivers to a carbon
6 dioxide sequestration facility in this Commonwealth for
7 permanent sequestration no less than the following amount
8 of carbon dioxide produced:

9 (A) 40% from June 1, 2015, to May 31, 2019.

10 (B) 60% from June 1, 2019, to May 31, 2024.

11 (C) 90% from June 1, 2024, and thereafter. The
12 requirement under this clause shall be waived if
13 commercially proven and project-financeable
14 technology is not available, as determined by the
15 department.

16 (15) ~~Additional~~ INCREMENTAL NUCLEAR ENERGY, WHICH MEANS ←
17 ADDITIONAL energy generated by an existing nuclear unit as a
18 result of an extended power uprate that has been completed
19 after the effective date of this paragraph and increases a
20 plant's nameplate capacity by more than 7% or by 100
21 megawatts and has a capital cost of more than \$150,000,000
22 and has been permitted by the United States Nuclear
23 Regulatory Commission.

24 * * *

25 "Carbon dioxide." Anthropogenically generated carbon dioxide
26 of sufficient purity and quality as to not compromise the
27 ability of the carbon dioxide transportation pipeline or
28 sequestration facility to safely and effectively transport and
29 sequester the carbon dioxide.

30 "Carbon dioxide sequestration facility." Geological

1 subsurface formations within this Commonwealth with suitable cap
2 rock, sealing faults and anticline for the permanent storage of
3 carbon dioxide from advanced coal combustion with limited carbon
4 emissions facilities or other sources within this Commonwealth
5 along with the facilities necessary to transport the carbon
6 dioxide from the surface to the subsurface formations and
7 monitor the permanent storage of the carbon dioxide in
8 subsurface formations. The term shall not include use of the
9 carbon dioxide for enhanced resource recovery or the carbon
10 dioxide transportation pipelines used to transport the carbon
11 dioxide to the sequestration facility.

12 "Carbon dioxide transportation pipeline." A pipeline within
13 this Commonwealth used to transport carbon dioxide from a
14 facility within this Commonwealth to a carbon dioxide
15 sequestration facility.

16 * * *

17 "DCNR." The Department of Conservation and Natural Resources
18 of the Commonwealth.

19 * * *

20 "Enhanced resource recovery." The use of carbon dioxide
21 injection or other techniques for increasing the amount of oil,
22 natural gas or coal bed methane extracted from geologic
23 formations.

24 * * *

25 "Person." An individual, corporation, partnership,
26 association or other entity recognized by law as the subject of
27 rights, duties or obligations. The term includes the United
28 States, a Federal agency, the Commonwealth, an agency or
29 instrumentality of the Commonwealth and a political subdivision.

30 * * *

1 "Solar thermal energy." Technology utilizing solar energy
2 for water heating or for generating electricity.

3 * * *

4 "Tier II alternative energy source." Energy derived from:

5 * * *

6 (8) Advanced coal combustion with limited carbon
7 emissions.

8 "Tier III alternative energy source." Energy derived from:

9 (1) Solar photovoltaic and solar thermal energy.

10 (2) Wind power.

11 (3) Low-impact hydropower.

12 (4) Geothermal energy.

13 (5) Biologically derived methane gas.

14 (6) Fuel cells.

15 (7) Biomass energy.

16 (8) Coal mine methane.

17 (9) Advanced coal combustion with limited carbon
18 emissions.

19 (10) Incremental nuclear ENERGY, as defined in paragraph ←
20 (15) of the definition of "alternative energy sources."

21 * * *

22 Section 2. Section 3(a), (b), (c), ~~(e)(6) and (7)~~ (E) (6), ←
23 (7) AND (12), (f) and (g) of the act, amended July 17, 2007
24 (P.L.114, No.35), are amended and the section is amended by
25 adding subsections to read:

26 Section 3. Alternative energy portfolio standards.

27 (a) General compliance and cost recovery.--

28 (1) From the effective date of this act through and
29 including the 15th year after enactment of this act and each
30 year thereafter, the electric energy sold by an electric

1 distribution company or electric generation supplier to
2 retail electric customers in this Commonwealth shall be
3 comprised of electricity generated from alternative energy
4 sources and in the percentage amounts as described under
5 subsections [(b) and (c)] (b), (c), (c.1) and (i).

6 (2) Electric distribution companies and electric
7 generation suppliers shall satisfy both requirements set
8 forth in subsections [(b) and (c)] (b), (c), (c.1) and (i),
9 provided, however, that an electric distribution company or
10 an electric generation supplier shall be excused from its
11 obligations under this section to the extent that the
12 commission determines that force majeure exists.

13 (3) All costs for:

14 (i) the purchase of electricity generated from
15 alternative energy sources, including the costs of the
16 regional transmission organization, in excess of the
17 regional transmission organization real-time locational
18 marginal pricing, or its successor, at the delivery point
19 of the alternative energy source for the electrical
20 production of the alternative energy sources; and

21 (ii) payments for alternative energy credits, in both
22 cases that are voluntarily acquired by an electric
23 distribution company during the cost recovery period on
24 behalf of its customers shall be deferred as a regulatory
25 asset by the electric distribution company and fully
26 recovered, with a return on the unamortized balance,
27 pursuant to an automatic energy adjustment clause under
28 66 Pa.C.S. § 1307 (relating to sliding scale of rates;
29 adjustments) as a cost of generation supply under 66
30 Pa.C.S. § 2807 (relating to duties of electric

1 distribution companies) in the first year after the
2 expiration of its cost-recovery period. After the cost-
3 recovery period, any direct or indirect costs for the
4 purchase by electric distribution of resources to comply
5 with this section, including, but not limited to, the
6 purchase of electricity generated from alternative energy
7 sources, payments for alternative energy credits, cost of
8 credits banked, payments to any third party
9 administrators for performance under this act and costs
10 levied by a regional transmission organization to ensure
11 that alternative energy sources are reliable, shall be
12 recovered on a full and current basis pursuant to an
13 automatic energy adjustment clause under 66 Pa.C.S. §
14 1307 as a cost of generation supply under 66 Pa.C.S. §
15 2807.

16 (b) Tier I and solar [photovoltaic] shares.--

17 (1) [Two years after the effective date of this act, at
18 least 1.5% of the electric energy sold by an electric
19 distribution company or electric generation supplier to
20 retail electric customers in this Commonwealth shall be
21 generated from Tier I alternative energy sources. Except as
22 provided in this section, the minimum percentage of electric
23 energy required to be sold to retail electric customers from
24 alternative energy sources shall increase to 2% three years
25 after the effective date of this act. The minimum percentage
26 of electric energy required to be sold to retail electric
27 customers from alternative energy sources shall increase by
28 at least 0.5% each year so that at least 8% of the electric
29 energy sold by an electric distribution company or electric
30 generation supplier to retail electric customers in that

1 certified territory in the 15th year after the effective
2 date of this subsection is sold from Tier I alternative
3 energy resources.] The minimum percentage of electric energy
4 required to be sold to retail electric customers from Tier I
5 alternative energy sources is:

6 (i) 1.5013% for June 1, 2006, through May 31, 2007.

7 (ii) 1.503% for June 1, 2007, through May 31, 2008.

8 (iii) 2.0063% for June 1, 2008, through May 31,
9 2009.

10 (iv) 2.512% for June 1, 2009, through May 31, 2010.

11 (v) 3.0203% for June 1, 2010, through May 31, 2011.

12 (vi) 3.5504% for June 1, 2011, through May 31, 2012.

13 (vii) 4.0752% for June 1, 2012, through May 31,
14 2013.

15 (viii) 4.6218% for June 1, 2013, through May 31,
16 2014.

17 (ix) 5.7016% for June 1, 2014, through May 31, 2015.

18 (x) 6.80% for June 1, 2015, through May 31, 2016.

19 (xi) 7.91% for June 1, 2016, through May 31, 2017.

20 (xii) 9.00% for June 1, 2017, through May 31, 2018.

21 (xiii) 10.12% for June 1, 2018, through May 31,
22 2019.

23 (xiv) 11.25% for June 1, 2019, through May 31, 2020.

24 (xv) 12.47% for June 1, 2020, through May 31, 2021.

25 (xvi) 13.85% for June 1, 2021, through May 31, 2022.

26 (xvii) 15.40% for June 1, 2022, through May 31,
27 2023.

28 (xviii) 16.95% for June 1, 2023, through May 31,

29 2024.

30 (xix) 18.00% for June 1, 2024, and thereafter.

1 (1.1) The commission shall comply with the requirements
2 of 66 Pa.C.S. § 2814 (relating to additional alternative
3 energy sources) by annually increasing the percentage share
4 of Tier I alternative energy sources required to be sold by
5 an electric distribution company or electric generation
6 supplier under paragraph (1) to reflect any new alternative
7 energy source provided for by 66 Pa.C.S. § 2814. Any annual
8 increase will be applied to the next compliance year
9 requirement.

10 (2) The total percentage of the electric energy sold by
11 an electric distribution company or electric generation
12 supplier to retail electric customers in this Commonwealth
13 that must be sold from solar photovoltaic and solar thermal
14 energy technologies is:

15 (i) 0.0013% for June 1, 2006, through May 31, 2007.

16 (ii) 0.0030% for June 1, 2007, through May 31, 2008.

17 (iii) 0.0063% for June 1, 2008, through May 31,
18 2009.

19 (iv) 0.0120% for June 1, 2009, through May 31, 2010.

20 (v) 0.0203% for June 1, 2010, through May 31, 2011.

21 [(vi) 0.0325% for June 1, 2011, through May 31,
22 2012.

23 (vii) 0.0510% for June 1, 2012, through May 31,
24 2013.

25 (viii) 0.0840% for June 1, 2013, through May 31,
26 2014.

27 (ix) 0.1440% for June 1, 2014, through May 31, 2015.

28 (x) 0.2500% for June 1, 2015, through May 31, 2016.

29 (xi) 0.2933% for June 1, 2016, through May 31, 2017.

30 (xii) 0.3400% for June 1, 2017, through May 31,

1 2018.
2 (xiii) 0.3900% for June 1, 2018, through May 31,
3 2019.
4 (xiv) 0.4433% for June 1, 2019, through May 31,
5 2020.
6 (xv) 0.5000% for June 1, 2020, and thereafter.]
7 (vi) 0.0504% for June 1, 2011, through May 31, 2012.
8 (vii) 0.0752% for June 1, 2012, through May 31,
9 2013.
10 (viii) 0.1218% for June 1, 2013, through May 31,
11 2014.
12 (ix) 0.2016% for June 1, 2014, through May 31, 2015.
13 (x) 0.3% for June 1, 2015, through May 31, 2016.
14 (xi) 0.41% for June 1, 2016, through May 31, 2017.
15 (xii) 0.5% for June 1, 2017, through May 31, 2018.
16 (xiii) 0.62% for June 1, 2018, through May 31, 2019.
17 (xiv) 0.75% for June 1, 2019, through May 31, 2020.
18 (xv) 0.97% for June 1, 2020, through May 31, 2021.
19 (xvi) 1.35% for June 1, 2021, through May 31, 2022.
20 (xvii) 1.9% for June 1, 2022, through May 31, 2023.
21 (xviii) 2.45% for June 1, 2023, through May 31,
22 2024.
23 (xix) 3% for June 1, 2024, and thereafter.

24 (3) Upon commencement of the beginning of the 6th
25 reporting year, and every five years thereafter, the
26 commission shall undertake a review of the compliance by
27 electric distribution companies and electric generation
28 suppliers with the requirements of this act. The review shall
29 also include the status of alternative energy technologies
30 within this Commonwealth and the capacity to add additional

1 alternative energy resources. The commission shall use the
2 results of this review to recommend to the General Assembly
3 additional compliance goals beyond year [15] 21. The
4 commission shall work with the department in evaluating the
5 future alternative energy resource potential.

6 (4) Electric energy from solar photovoltaic and solar
7 thermal energy technologies supplied to retail customers
8 shall be generated from solar photovoltaic and solar thermal
9 energy systems located within this Commonwealth in meeting
10 the requirements of paragraph (2).

11 (5) Notwithstanding the other provisions of this act,
12 credits generated from solar photovoltaic and solar thermal
13 energy technologies outside this Commonwealth may be used to
14 demonstrate compliance under this act provided the credit was
15 acquired prior to the effective date of this subsection.

16 (c) Tier II share.--Of the electrical energy required to be
17 sold from alternative energy sources identified in Tier II, the
18 percentage that must be from these technologies is for:

19 (1) Years 1 through 4 - 4.2%.

20 (2) Years 5 through 9 - 6.2%.

21 (3) Years 10 through 14 - [8.2%] 11.2%.

22 (4) Years 15 and thereafter - [10.0%] 13.0%.

23 (c.1) Retail sales from advanced coal combustion.--The total
24 electric energy sold by an electric distribution company or
25 electric generation supplier to retail electric customers in
26 this Commonwealth that shall be sold from advanced coal
27 combustion with limited carbon emissions is all of the electric
28 energy available from advanced coal combustion with limited
29 carbon emissions up to a maximum of 3.0% of the total electric
30 energy sold by an electric distribution company or electric

1 generation supplier to retail electric customers in this
2 Commonwealth for the reporting period which begins June 1, 2015,
3 and for each reporting period thereafter pursuant to subsection
4 (c). If at any time on or after June 1, 2015, a carbon dioxide
5 sequestration facility permitted to permanently sequester carbon
6 dioxide in this Commonwealth, is not operating and capable of
7 receiving carbon dioxide for sequestration through no fault of
8 an advanced coal combustion with limited carbon emissions
9 facility, a facility need not sequester carbon dioxide in order
10 to generate alternative energy credits provided:

11 (1) The facility is capable of capturing to the
12 department's satisfaction the amount of carbon dioxide
13 required by paragraph (14) of the definition of "alternative
14 energy sources" in section 2.

15 (2) The total value of the alternative energy credits
16 sold by the advanced coal combustion with limited carbon
17 emissions facility during times when the carbon dioxide
18 emissions from the facility are not sequestered shall not
19 exceed the costs that the facility incurred in installing
20 carbon capture equipment, equipment necessary to process coal
21 for carbon capture purposes, equipment necessary to transport
22 the carbon dioxide to the carbon dioxide sequestration
23 facility and costs incurred in connection with the operation
24 of the facility that are due to the capture and
25 transportation of carbon dioxide, as determined by the
26 department. Costs incurred by an advanced coal combustion
27 with limited carbon emissions facility shall not include
28 Federal or State financial assistance received by the
29 facility.

30 (c.2) Force majeure.--On or after December 31, 2015, if the

1 commission determines that ~~construction of an advanced coal~~ ←
2 ~~combustion with limited carbon emissions facility has not been~~ ←
3 ~~commenced~~ IS NOT OPERATING AND CAPABLE OF CAPTURING THE AMOUNT ←
4 OF CARBON DIOXIDE REQUIRED BY PARAGRAPH (14) OF THE DEFINITION
5 OF "ALTERNATIVE ENERGY SOURCES" IN SECTION 2 during a reporting
6 period, this determination shall constitute force majeure, and
7 electric distribution companies and electric generation
8 suppliers shall be excused from all or part of their obligation
9 under subsection (c.1) during that reporting period, provided
10 the requirements in the definition of "force majeure" in section
11 2 have been met, as determined by the commission. SHOULD FORCE ←
12 MAJEURE BE DECLARED PURSUANT TO THIS SUBSECTION, THEN SUBSECTION
13 (C.1) (2), LIMITING THE TOTAL VALUE OF CREDIT SOLD IN THE EVENT
14 THAT CARBON DIOXIDE IS NOT BEING SEQUESTERED, SHALL REMAIN IN
15 FULL FORCE AND EFFECT TO THE EXTENT THAT ANY SUCH CREDITS REMAIN
16 AVAILABLE UNDER THIS ACT.

17 (c.3) Long-term contracts.--Upon review and approval of the
18 commission, an electric distribution company may enter into a
19 long-term contract of up to 25 years to purchase the energy,
20 capacity or alternative energy credits of an advanced coal
21 combustion with limited carbon emissions facility. The contract
22 shall provide for the recovery of costs associated with carbon
23 capture, including, but not limited to, any fees charged by the
24 owner or operator of the carbon dioxide sequestration facility
25 or a carbon dioxide transportation pipeline. The commission
26 shall determine whether the contract is reasonable, taking into
27 consideration the following:

28 (1) The price of the energy purchased under the long-
29 term contract. The contract shall provide that if the carbon
30 dioxide sequestration facility is not operating and capable

1 of receiving carbon dioxide for sequestration for a period of
2 no less than 90 days, the price of energy under the contract
3 shall be reduced to account for the advanced coal combustion
4 with limited carbon emissions facility's reduced operating
5 costs.

6 (2) The price of capacity purchased under the long-term
7 contract.

8 (3) The price of alternative energy credits, provided
9 that the cost of an alternative energy credit purchased from
10 advanced coal combustion with limited carbon emissions shall
11 not exceed \$45 per megawatt hour (MWh).

12 (4) Prior to the effective date of the contract, the
13 value of any carbon emission credits or other credits that
14 the seller obtains from the advanced coal combustion with
15 limited carbon emissions facility.

16 (5) After the effective date of the contract, the value
17 of any additional Federal or State carbon credits, allowances
18 or other financial benefits shall be reflected in the price
19 of the resource in a manner which recognizes savings to
20 customers and does not reduce the economic return to the
21 seller, provided that the seller demonstrates that it has
22 made a commercially reasonable effort to distribute any
23 economic incentives it has realized to electric distribution
24 companies. A contract approved by the commission under this
25 subsection shall be deemed to meet the requirements of 66
26 Pa.C.S. § 2807(e) (relating to duties of electric
27 distribution companies).

28 * * *

29 (e) Alternative energy credits.--

30 * * *

1 (6) An electric distribution company and electric
2 generation supplier may bank or place in reserve alternative
3 energy credits produced in one reporting year for compliance
4 in [either or both] any OR ALL of the [two] four subsequent ←
5 reporting years, subject to the limitations set forth in this
6 subsection and provided that the electric distribution
7 company and electric generation supplier are in compliance
8 for all previous reporting years. In addition, the electric
9 distribution company and electric generation supplier shall
10 demonstrate to the satisfaction of the commission that such
11 credits:

12 (i) were in excess of the alternative energy credits
13 needed for compliance in the year in which they were
14 generated and that such excess credits have not
15 previously been used for compliance under this act;

16 (ii) were produced by the generation of electrical
17 energy by alternative energy sources and sold to retail
18 customers during the year in which they were generated;
19 and

20 (iii) have not otherwise been nor will be sold,
21 retired, claimed or represented as part of satisfying
22 compliance with alternative or renewable energy portfolio
23 standards in other states.

24 (7) An electric distribution company or an electric
25 generation supplier with sales that are exempted under
26 subsection (d) may bank credits for retail sales of
27 electricity generated from Tier I and Tier II sources made
28 prior to the end of the cost-recovery period and after the
29 effective date of this act. Bankable credits shall be limited
30 to credits associated with electricity sold from Tier I and

1 Tier II sources during a reporting year which exceeds the
2 volume of sales from such sources by an electric distribution
3 company or electric generation supplier during the 12-month
4 period immediately preceding the effective date of this act.
5 All credits banked under this subsection shall be available
6 for compliance with subsections (b) and (c) for no more than
7 [two] four reporting years following the conclusion of the
8 cost-recovery period.

9 * * *

10 (12) (I) UNLESS A CONTRACTUAL PROVISION EXPLICITLY ←
11 ASSIGNS ALTERNATIVE ENERGY CREDITS IN A DIFFERENT MANNER,
12 THE OWNER OF THE ALTERNATIVE ENERGY SYSTEM OR A CUSTOMER-
13 GENERATOR OWNS ANY AND ALL ALTERNATIVE ENERGY CREDITS
14 ASSOCIATED WITH OR CREATED BY THE PRODUCTION OF ELECTRIC
15 ENERGY BY SUCH FACILITY OR CUSTOMER, AND THE OWNER OR
16 CUSTOMER SHALL BE ENTITLED TO SELL, TRANSFER OR TAKE ANY
17 OTHER ACTION TO WHICH A LEGAL OWNER OF PROPERTY IS
18 ENTITLED TO TAKE WITH RESPECT TO THE CREDITS.

19 (II) THIS PARAGRAPH SHALL APPLY TO ALL ALTERNATIVE
20 ENERGY CREDITS CREATED PURSUANT TO THIS ACT.

21 (f) Alternative compliance payment.--

22 (1) At the end of each program year, the program
23 administrator shall provide a report to the commission and to
24 each covered electric distribution company showing their
25 status level of alternative energy acquisition.

26 (2) The commission shall conduct a review of each
27 determination made under subsections [(b) and (c)] (b), (c),
28 (c.1) and (i). If, after notice and hearing, the commission
29 determines that an electric distribution company or electric
30 generation supplier has failed to comply with subsections

1 [(b) and (c)] (b), (c), (c.1) and (i), the commission shall
2 impose an alternative compliance payment on that company or
3 supplier.

4 (3) The alternative compliance payment, with the
5 exception of the solar [photovoltaic] share compliance
6 requirement set forth in subsection (b)(2), shall be \$45
7 times the number of additional alternative energy credits
8 needed in order to comply with subsection (b) or (c).

9 (4) [The alternative compliance payment for the solar
10 photovoltaic share shall be 200% of the average market value
11 of solar renewable energy credits sold during the reporting
12 period within the service region of the regional transmission
13 organization, including, where applicable, the levelized up-
14 front rebates received by sellers of solar renewable energy
15 credits in other jurisdictions in the PJM Interconnection,
16 L.L.C. transmission organization (PJM) or its successor.] The
17 alternative compliance payment for the solar alternative
18 share shall be established by the commission in an amount and
19 for a period of years necessary to promote the market for
20 solar alternative energy credits. The alternative compliance
21 payment for the solar share may vary over the time period
22 established by the commission but shall be at least 200% of
23 the average market value for solar alternative energy credits
24 sold within the service region of the PJM Interconnection,
25 L.L.C. transmission organization in the year prior to the
26 establishment of the alternative compliance payment schedule.
27 The commission shall review the solar alternative compliance
28 payment schedule at least once per year and shall establish
29 an alternative compliance payment schedule for additional
30 years as needed to promote the market for solar alternative

1 energy credits.

2 (5) The commission shall establish a process to provide
3 for, at least annually, a review of the alternative energy
4 market within this Commonwealth and the service territories
5 of the regional transmission organizations that manage the
6 transmission system in any part of this Commonwealth. The
7 commission will use the results of this study to identify any
8 needed changes to the cost associated with the alternative
9 compliance payment program. If the commission finds that the
10 costs associated with the alternative compliance payment
11 program must be changed, the commission shall present these
12 findings to the General Assembly for legislative enactment.

13 (g) Transfer to sustainable development funds.--

14 (1) Notwithstanding the provisions of 66 Pa.C.S. §§ 511
15 (relating to disposition, appropriation and disbursement of
16 assessments and fees) and 3315 (relating to disposition of
17 fines and penalties), alternative compliance payments imposed
18 pursuant to this act shall be paid into Pennsylvania's
19 Sustainable Energy Funds created under the commission's
20 restructuring orders under 66 Pa.C.S. Ch. 28 (relating to
21 restructuring of electric utility industry). Alternative
22 compliance payments shall be paid into a special fund of the
23 Pennsylvania Sustainable Energy Board, established by the
24 commission under Docket M-00031715, and made available to the
25 Regional Sustainable Energy Funds under procedures and
26 guidelines approved by the Pennsylvania Energy Board.

27 (2) The alternative compliance payments shall be
28 utilized solely for projects that will increase the amount of
29 electric energy generated from alternative energy resources
30 for purposes of compliance with subsections [(b) and (c)]

1 (b), (c), (c.1) and (i).

2 * * *

3 (i) Tier III share.--The requirements of this subsection are
4 separate and additional to the requirements of subsections (b),
5 (c) and (c.1).

6 (1) The percentage of the electric energy required to be
7 sold by an electric distribution company or electric
8 generation supplier to retail electric customers in this
9 Commonwealth that shall be sold from alternative energy
10 sources identified in Tier III is:

11 (i) 3% for June 1, 2015, through May 31, 2016.

12 (ii) 3.5% for June 1, 2016, through May 31, 2017.

13 (iii) 4% for June 1, 2017, through May 31, 2018.

14 (iv) 4.5% for June 1, 2018, through May 31, 2019.

15 (v) 5% for June 1, 2019, through May 31, 2020.

16 (vi) 5.5% for June 1, 2020, through May 31, 2021.

17 (vii) 6% for June 1, 2021, through May 31, 2022.

18 (viii) 6.5% for June 1, 2022, through May 31, 2023.

19 (ix) 7% for June 1, 2023, through May 31, 2024.

20 (x) 7% for June 1, 2024, and thereafter.

21 (2) Incremental nuclear energy shall supply not more
22 than 50% of the electric energy required by tier III in any
23 compliance year.

24 (3) Electric distribution companies and electric
25 generation suppliers shall be excused from their obligations
26 under this subsection to the extent that the commission
27 determines that force majeure exists, provided the
28 requirements in the definition of "force majeure" in section
29 2 have been met.

30 Section 3. The act is amended by adding sections to read:

1 Section 8.1. Sequestration facility permitting.

2 (a) Prohibition.--No person may operate a carbon dioxide
3 sequestration facility without a permit from the department.

4 (b) Facility sites.--The Environmental Quality Board shall,
5 by regulation, establish the conditions under which a carbon
6 dioxide sequestration facility may be located, developed and
7 operated. The regulations promulgated by the board shall provide
8 for the protection of public health, safety and environment and
9 shall include, but not be limited to, the following:

10 (1) Geologic site characterization.

11 (2) Sequestration facility performance standards.

12 (3) Well location restrictions and well construction
13 standards, including operation and mechanical integrity
14 testing.

15 (4) Risk assessment, corrective action and emergency
16 response requirements.

17 (5) Monitoring, recordkeeping and reporting
18 requirements.

19 (6) Facility closure, postclosure and final closure
20 certification requirements.

21 (7) Financial assurance requirements, including bonding
22 or insurance, in amounts sufficient to ensure the carbon
23 sequestration facility will be constructed, operated, closed
24 and monitored during the postclosure period in accordance
25 with regulations promulgated under this section.

26 (8) Fees in an amount sufficient to recover the
27 department's cost of administering this section.

28 (9) Fees for every ton of carbon dioxide accepted by a
29 carbon dioxide sequestration facility in an amount sufficient
30 to monitor and maintain the facility after final closure of

1 the facility and take remedial actions if necessary after
2 final closure of the facility. The fees shall be paid by the
3 operator of a carbon dioxide sequestration facility to the
4 department on a quarterly basis.

5 (10) Public notice requirements, including notification
6 of a release.

7 (11) Criteria used to determine that carbon dioxide has
8 been permanently sequestered.

9 (12) Other requirements necessary to evaluate the
10 proposed carbon dioxide sequestration facility and to ensure
11 safe and environmentally protective operation of the
12 facility.

13 (c) Powers, duties and enforcement authority of
14 department.--The department shall have the same powers, duties
15 and enforcement authority provided by the act of July 7, 1980
16 (P.L.380, No.97), known as the Solid Waste Management Act, to
17 carry out the purposes of this section. Operators of a carbon
18 dioxide sequestration facility shall have the same rights and be
19 subject to the same penalties as provided by the Solid Waste
20 Management Act; however, an administrative penalty assessed by
21 the department for a violation of this section shall not exceed
22 \$50,000 per day per violation.

23 Section 8.2. Title to carbon dioxide, immunity and transfer of
24 liability.

25 (a) Title to carbon dioxide.--The right, title and interest
26 in and to carbon dioxide delivered to a carbon dioxide
27 sequestration facility by the advanced coal combustion with
28 limited carbon emission facilities that, individually or
29 collectively, first meet the maximum requirements of section
30 3(c.1), as determined by the department, shall be transferred to

1 the carbon dioxide sequestration facility and the facility shall
2 accept and receive the right, title and interest in and to such
3 carbon dioxide, including, but not limited to, liabilities
4 associated with the carbon dioxide, current or future
5 environmental benefits, marketing claims, associated voluntary
6 or compliance-based emissions allocations or offsets, but not
7 alternative energy credits provided by section 3(e).

8 (b) Immunity.--Upon and after transfer and conveyance of
9 carbon dioxide as provided under subsection (a), the owner of an
10 advanced coal combustion plant with limited carbon emissions
11 shall be immune from liabilities regarding the storage of carbon
12 dioxide within and the release, escape or migration of carbon
13 dioxide from the carbon dioxide sequestration facility.

14 (c) Transfer of liability.--Upon final closure of a carbon
15 dioxide sequestration facility, as determined by the department,
16 the right, title or interest in the carbon dioxide and liability
17 for any release from the facility shall be transferred to and
18 accepted by the Commonwealth provided the operator of the carbon
19 dioxide sequestration facility has paid the appropriate fees
20 under section 8.1.

21 Section 8.3. Carbon Dioxide Indemnification Fund.

22 (a) Establishment.--There is hereby established in the State
23 Treasury a nonlapsing fund to be known as the Carbon Dioxide
24 Indemnification Fund. Money collected by the department under
25 section 8.1(b)(9) shall be deposited in the fund and shall only
26 be expended by the department to monitor and maintain carbon
27 dioxide sequestration facilities after final closure and to take
28 remedial actions, if necessary, after final closure.

29 (b) Money collected under section 8.1.--Fines, civil
30 penalties and permit fees collected by the department under

1 section 9 are hereby appropriated to the department to carry out
2 the purposes of section 8.1.

3 Section 8.4. Carbon dioxide sequestration facility and
4 transportation pipeline on Commonwealth State forest
5 lands.

6 DCNR may lease State forest land owned by the Commonwealth to
7 any person, on terms and conditions as DCNR may consider
8 appropriate, for the development and operation of a carbon
9 dioxide sequestration facility and carbon dioxide transportation
10 pipeline necessary to deliver carbon dioxide to the facility. A
11 carbon dioxide sequestration facility or carbon dioxide
12 transportation pipeline developed and operated on Commonwealth
13 State forest lands shall only be utilized to store carbon
14 dioxide generated within this Commonwealth. All rents and other
15 payments from any lease of Commonwealth State forest land under
16 this section shall be deposited into the Environmental
17 Stewardship Fund established in 27 Pa.C.S. § 6104 (relating to
18 fund).

19 Section 8.5. Application of the Public Utility Code to
20 transporters of carbon dioxide.

21 Entities transporting or conveying carbon dioxide by pipeline
22 or conduit for compensation under this act shall be considered a
23 public utility under 66 Pa.C.S. § 102 (relating to definitions)
24 and subject to the provisions of 66 Pa.C.S. (relating to public
25 utilities).

26 Section 4. The provisions of this act are severable. If any
27 provision of this act or its application to any person or
28 circumstance is held invalid, the invalidity shall not affect
29 other provisions or applications of this act which can be given
30 effect without the invalid provision or application.

1 SECTION 5. REPEALS ARE AS FOLLOWS: ←

2 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
3 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE AMENDMENT OF
4 SECTION 3(E) (12) OF THE ACT.

5 (2) SECTION 3.1 OF THE ACT OF JULY 17, 2007 (P.L.114,
6 NO.35), ENTITLED "AN ACT AMENDING THE ACT OF NOVEMBER 30,
7 2004 (P.L.1672, NO.213), ENTITLED, 'AN ACT PROVIDING FOR THE
8 SALE OF ELECTRIC ENERGY GENERATED FROM RENEWABLE AND
9 ENVIRONMENTALLY BENEFICIAL SOURCES, FOR THE ACQUISITION OF
10 ELECTRIC ENERGY GENERATED FROM RENEWABLE AND ENVIRONMENTALLY
11 BENEFICIAL SOURCES BY ELECTRIC DISTRIBUTION AND SUPPLY
12 COMPANIES AND FOR THE POWERS AND DUTIES OF THE PENNSYLVANIA
13 PUBLIC UTILITY COMMISSION,' FURTHER PROVIDING FOR THE
14 DEFINITIONS OF 'ALTERNATIVE ENERGY CREDIT,' 'CUSTOMER-
15 GENERATOR,' 'FORCE MAJEURE,' 'NET METERING,' AND 'TIER I
16 ALTERNATIVE ENERGY SOURCE,' FOR ALTERNATIVE ENERGY PORTFOLIO
17 STANDARDS, FOR PORTFOLIO REQUIREMENTS IN OTHER STATES AND FOR
18 INTERCONNECTION STANDARDS FOR CUSTOMER-GENERATOR FACILITIES,"
19 IS REPEALED.

20 SECTION 6. THE AMENDMENT OF SECTION 3(E) (12) OF THE ACT
21 SHALL APPLY TO ALL ALTERNATIVE ENERGY CREDITS CREATED UNDER THE
22 ACT ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, REGARDLESS
23 OF WHEN ANY UNDERLYING CONTRACT FOR THE PURCHASE OF ELECTRIC
24 ENERGY OR OTHER PRODUCTS FROM THE GENERATOR THAT QUALIFIES AS AN
25 ALTERNATIVE ENERGY SYSTEM WAS EXECUTED.

26 Section ~~5~~ 7. This act shall take effect immediately. ←