

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL****No. 2405** Session of  
2010

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AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND  
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 8, 2010

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## 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; providing for solar photovoltaic and  
10 solar thermal energy system requirements; further providing  
11 for interagency responsibilities; providing for sequestration  
12 facility permitting and for title to carbon dioxide, immunity  
13 and transfer of liability; establishing the Carbon Dioxide  
14 Indemnification Fund; providing for carbon dioxide  
15 sequestration facility and transportation pipeline on  
16 Commonwealth State forest lands; and providing for  
17 application of the Public Utility Code to transporters of  
18 carbon dioxide.

19 The General Assembly of the Commonwealth of Pennsylvania  
20 hereby enacts as follows:

21 Section 1. The definitions of "alternative energy sources"  
22 and "force majeure" in section 2 of the act of November 30, 2004  
23 (P.L.1672, No.213), known as the Alternative Energy Portfolio  
24 Standards Act, amended July 17, 2007 (P.L.114, No.35), are

1 amended, the definition of "Tier II alternative energy source"  
2 is amended by adding paragraphs and the section is amended by  
3 adding definitions to read:

4 Section 2. Definitions.

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

8 \* \* \*

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

12 (1) Solar photovoltaic or other solar electric energy.

13 (2) Solar thermal energy.

14 (3) Wind power.

15 (4) Large-scale hydropower, which shall mean the  
16 production of electric power by harnessing the hydroelectric  
17 potential of moving water impoundments, including pumped  
18 storage that does not meet the requirements of low-impact  
19 hydropower under paragraph (5).

20 (5) Low-impact hydropower consisting of any technology  
21 that produces electric power and that harnesses the  
22 hydroelectric potential of moving water impoundments,  
23 provided such incremental hydroelectric development:

24 (i) does not adversely change existing impacts to  
25 aquatic systems;

26 (ii) meets the certification standards established  
27 by the Low Impact Hydropower Institute and American  
28 Rivers, Inc., or their successors;

29 (iii) provides an adequate water flow for protection  
30 of aquatic life and for safe and effective fish passage;

1 (iv) protects against erosion; and

2 (v) protects cultural and historic resources.

3 (6) Geothermal energy, which shall mean electricity  
4 produced by extracting hot water or steam from geothermal  
5 reserves in the earth's crust and supplied to steam turbines  
6 that drive generators to produce electricity.

7 (7) Biomass energy, which shall mean the generation of  
8 electricity utilizing the following:

9 (i) organic material from a plant that is grown for  
10 the purpose of being used to produce electricity or is  
11 protected by the Federal Conservation Reserve Program  
12 (CRP) and provided further that crop production on CRP  
13 lands does not prevent achievement of the water quality  
14 protection, soil erosion prevention or wildlife  
15 enhancement purposes for which the land was primarily set  
16 aside; or

17 (ii) any solid nonhazardous, cellulosic waste  
18 material that is segregated from other waste materials,  
19 such as waste pallets, waste utility poles and railroad  
20 ties used by facilities in operation within this  
21 Commonwealth as of the effective date of this act, so  
22 long as the facility employs the best available  
23 technology to reduce or control emissions of air  
24 pollutants under the act of January 8, 1960 (1959  
25 P.L.2119, No.787), known as the Air Pollution Control  
26 Act, crates and landscape or right-of-way tree trimmings  
27 or agricultural sources, including orchard tree crops,  
28 vineyards, grain, legumes, sugar and other crop by-  
29 products or residues.

30 (8) Biologically derived methane gas, which shall

1 include methane from the anaerobic digestion of organic  
2 materials from yard waste, such as grass clippings and  
3 leaves, food waste, animal waste and sewage sludge. The term  
4 also includes landfill methane gas.

5 (9) Fuel cells, which shall mean any electrochemical  
6 device that converts chemical energy in a hydrogen-rich fuel  
7 directly into electricity, heat and water without combustion.

8 (10) Waste coal, which shall include the combustion of  
9 waste coal in facilities in which the waste coal was disposed  
10 or abandoned prior to July 31, 1982, or disposed of  
11 thereafter in a permitted coal refuse disposal site  
12 regardless of when disposed of, and used to generate  
13 electricity, or such other waste coal combustion meeting  
14 alternate eligibility requirements established by regulation.  
15 Facilities combusting waste coal shall use at a minimum a  
16 combined fluidized bed boiler and be outfitted with a  
17 limestone injection system and a fabric filter particulate  
18 removal system. Alternative energy credits shall be  
19 calculated based upon the proportion of waste coal utilized  
20 to produce electricity at the facility.

21 (11) Coal mine methane, which shall mean methane gas  
22 emitting from abandoned or working coal mines.

23 (12) Demand-side management consisting of the management  
24 of customer consumption of electricity or the demand for  
25 electricity through the implementation of:

26 (i) energy efficiency technologies, management  
27 practices or other strategies in residential, commercial,  
28 institutional or government customers that reduce  
29 electricity consumption by those customers;

30 (ii) load management or demand response

1 technologies, management practices or other strategies in  
2 residential, commercial, industrial, institutional and  
3 government customers that shift electric load from  
4 periods of higher demand to periods of lower demand; or

5 (iii) industrial by-product technologies consisting  
6 of the use of a by-product from an industrial process,  
7 including the reuse of energy from exhaust gases or other  
8 manufacturing by-products that are used in the direct  
9 production of electricity at the facility of a customer.

10 (13) Distributed generation system, which shall mean the  
11 small-scale power generation of electricity and useful  
12 thermal energy.

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

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

26 (A) 40% from June 1, 2020, to May 31, 2024.

27 (B) 60% from June 1, 2024, to May 31, 2029.

28 (C) 90% from June 1, 2029, and thereafter.

29 (D) The requirement under clause (C) shall be  
30 waived if commercially proven and project-financeable

1 technology is not available as determined by the  
2 department.

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

11 (A) 40% from June 1, 2020, to May 31, 2024.

12 (B) 60% from June 1, 2024, to May 31, 2029.

13 (C) 90% from June 1, 2029, and thereafter. The  
14 requirement under this clause shall be waived if  
15 commercially proven and project-financeable  
16 technology is not available, as determined by the  
17 department.

18 \* \* \*

19 "Carbon dioxide." Anthropogenically generated carbon dioxide  
20 of sufficient purity and quality as to not compromise the  
21 ability of the carbon dioxide transportation pipeline or  
22 sequestration facility to safely and effectively transport and  
23 sequester the carbon dioxide.

24 "Carbon dioxide sequestration facility." The term shall  
25 include the following:

26 (1) geological subsurface formations within this  
27 Commonwealth with suitable cap rock, sealing faults and  
28 anticline for the permanent storage of carbon dioxide from  
29 advanced coal combustion with limited carbon dioxide  
30 emissions plants or other sources within this Commonwealth

1 along with the facilities necessary to transport the carbon  
2 dioxide from the surface to the subsurface formations and  
3 monitor the permanent storage of the carbon dioxide in  
4 subsurface formations; or

5 (2) facilities that convert captured carbon dioxide to a  
6 stable form that will safely and permanently sequester the  
7 carbon dioxide; or

8 (3) other capture and sequestration processes that  
9 permanently sequester carbon dioxide.

10 The term shall not include use of the carbon dioxide for  
11 enhanced resource recovery or the carbon dioxide transportation  
12 pipelines used to transport the carbon dioxide to the  
13 sequestration facility.

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

18 \* \* \*

19 "DCNR." The Department of Conservation and Natural Resources  
20 of the Commonwealth.

21 \* \* \*

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

26 "Force majeure." Upon its own initiative or upon a request  
27 of an electric distribution company or an electric generator  
28 supplier, the Pennsylvania Public Utility Commission, within 60  
29 days, shall determine if alternative energy resources are  
30 reasonably available in the marketplace in sufficient quantities

1 for the electric distribution companies and electric generation  
2 suppliers to meet their obligations for that reporting period  
3 under this act. The commission shall declare a force majeure for  
4 any reporting period if it determines the price of available  
5 alternative energy credits exceeds the cost of applicable  
6 alternative energy compliance payments established under this  
7 act. The commission shall not declare a force majeure for any  
8 reporting period based solely on the price of alternative energy  
9 credits if the alternative energy credit prices are less than  
10 the cost of applicable alternative compliance payments  
11 established under this act. In making this determination, the  
12 commission shall consider whether electric distribution  
13 companies or electric generation suppliers have made a good  
14 faith effort to acquire sufficient alternative energy to comply  
15 with their obligations. Such good faith efforts shall include,  
16 but are not limited to, banking alternative energy credits  
17 during their transition periods, seeking alternative energy  
18 credits through competitive solicitations and seeking to procure  
19 alternative energy credits or alternative energy through long-  
20 term contracts. In further making its determination, the  
21 commission shall assess the availability of alternative energy  
22 credits in the Generation Attributes Tracking System (GATS) or  
23 its successor and the availability of alternative energy credits  
24 generally in Pennsylvania and other jurisdictions in the PJM  
25 Interconnection, L.L.C. regional transmission organization (PJM)  
26 or its successor. The commission may also require solicitations  
27 for alternative energy credits as part of default service before  
28 requests of force majeure can be made. If the commission further  
29 determines that alternative energy resources are not reasonably  
30 available in sufficient quantities in the marketplace for the



1 electric distribution companies and electric generation  
2 suppliers to meet their obligations under this act, then the  
3 commission shall modify the underlying obligation of the  
4 electric distribution company or electric generation supplier or  
5 recommend to the General Assembly that the underlying obligation  
6 be eliminated. Commission modification of the electric  
7 distribution company or electric generation supplier obligations  
8 under this act shall be for that compliance period only.  
9 Commission modification shall not automatically reduce the  
10 obligation for subsequent compliance years. If the commission  
11 modifies the electric distribution company or electric  
12 generation supplier obligations under this act, the commission  
13 may require the electric distribution company or electric  
14 generation supplier to acquire additional alternative energy  
15 credits in subsequent years equivalent to the obligation reduced  
16 due to a force majeure declaration if the commission determines  
17 that sufficient alternative energy credits exist in the  
18 marketplace.

19 \* \* \*

20 "Person." An individual, corporation, partnership,  
21 association or other entity recognized by law as the subject of  
22 rights, duties or obligations. The term includes the United  
23 States, a Federal agency, the Commonwealth, an agency or  
24 instrumentality of the Commonwealth and a political subdivision.

25 \* \* \*

26 "Solar thermal energy." Technology utilizing solar energy  
27 for water heating or for generating energy.

28 \* \* \*

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

30 \* \* \*

1           (8) Advanced coal combustion with limited carbon dioxide  
2           emissions.

3           \* \* \*

4           Section 2. Section 3(a), (b), (c), (e)(6), (7) and (12),  
5 (f), (g) and (h) of the act, amended July 17, 2007 (P.L.114,  
6 No.35), are amended and the section is amended by adding  
7 subsections to read:

8 Section 3. Alternative energy portfolio standards.

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

10           (1) From the effective date of this act through and  
11 including the 15th year after enactment of this act and each  
12 year thereafter, the electric energy sold by an electric  
13 distribution company or electric generation supplier to  
14 retail electric customers in this Commonwealth shall be  
15 comprised of electricity generated from alternative energy  
16 sources and in the percentage amounts as described under  
17 subsections [(b) and (c)] (b), (c) and (c.1).

18           (2) Electric distribution companies and electric  
19 generation suppliers shall satisfy both requirements set  
20 forth in subsections [(b) and (c)] (b), (c) and (c.1),  
21 provided, however, that an electric distribution company or  
22 an electric generation supplier shall be excused from its  
23 obligations under this section to the extent that the  
24 commission determines that force majeure exists.

25           (3) All costs for:

26           (i) the purchase of electricity generated from  
27 alternative energy sources, including the costs of the  
28 regional transmission organization, in excess of the  
29 regional transmission organization real-time locational  
30 marginal pricing, or its successor, at the delivery point

1 of the alternative energy source for the electrical  
2 production of the alternative energy sources; and

3 (ii) payments for alternative energy credits, in both  
4 cases that are voluntarily acquired by an electric  
5 distribution company during the cost recovery period on  
6 behalf of its customers shall be deferred as a regulatory  
7 asset by the electric distribution company and fully  
8 recovered, with a return on the unamortized balance,  
9 pursuant to an automatic energy adjustment clause under  
10 66 Pa.C.S. § 1307 (relating to sliding scale of rates;  
11 adjustments) as a cost of generation supply under 66  
12 Pa.C.S. § 2807 (relating to duties of electric  
13 distribution companies) in the first year after the  
14 expiration of its cost-recovery period. After the cost-  
15 recovery period, any direct or indirect costs for the  
16 purchase by electric distribution of resources to comply  
17 with this section, including, but not limited to, the  
18 purchase of electricity generated from alternative energy  
19 sources, payments for alternative energy credits, cost of  
20 credits banked, payments to any third party  
21 administrators for performance under this act and costs  
22 levied by a regional transmission organization to ensure  
23 that alternative energy sources are reliable, shall be  
24 recovered on a full and current basis pursuant to an  
25 automatic energy adjustment clause under 66 Pa.C.S. §  
26 1307 as a cost of generation supply under 66 Pa.C.S. §  
27 2807.

28 (b) Tier I and solar photovoltaic and solar thermal energy  
29 shares.--

30 (1) [Two years after the effective date of this act, at

1 least 1.5% of the electric energy sold by an electric  
2 distribution company or electric generation supplier to  
3 retail electric customers in this Commonwealth shall be  
4 generated from Tier I alternative energy sources. Except as  
5 provided in this section, the minimum percentage of electric  
6 energy required to be sold to retail electric customers from  
7 alternative energy sources shall increase to 2% three years  
8 after the effective date of this act. The minimum percentage  
9 of electric energy required to be sold to retail electric  
10 customers from alternative energy sources shall increase by  
11 at least 0.5% each year so that at least 8% of the electric  
12 energy sold by an electric distribution company or electric  
13 generation supplier to retail electric customers in that  
14 certificated territory in the 15th year after the effective  
15 date of this subsection is sold from Tier I alternative  
16 energy resources.] The minimum percentage of electric energy  
17 required to be sold to retail electric customers from Tier I  
18 alternative energy sources is:

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

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

21 (iii) 2.0063% for June 1, 2008, through May 31,  
22 2009.

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

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

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

26 (vii) 4.0752% for June 1, 2012, through May 31,  
27 2013.

28 (viii) 4.6218% for June 1, 2013, through May 31,

29 2014.

30 (ix) 5.4516% for June 1, 2014, through May 31, 2015.

1 (x) 6.05% for June 1, 2015, through May 31, 2016.

2 (xi) 6.66% for June 1, 2016, through May 31, 2017.

3 (xii) 7.25% for June 1, 2017, through May 31, 2018.

4 (xiii) 7.87% for June 1, 2018, through May 31, 2019.

5 (xiv) 8.75% for June 1, 2019, through May 31, 2020.

6 (xv) 9.72% for June 1, 2020, through May 31, 2021.

7 (xvi) 10.85% for June 1, 2021, through May 31, 2022.

8 (xvii) 12.15% for June 1, 2022, through May 31,  
9 2023.

10 (xviii) 13.45% for June 1, 2023, through May 31,  
11 2024.

12 (xix) 15.00% for June 1, 2024, and thereafter.

13 (1.1) The commission shall comply with the requirements  
14 of 66 Pa.C.S. § 2814 (relating to additional alternative  
15 energy sources) by annually increasing the percentage share  
16 of Tier I alternative energy sources required to be sold by  
17 an electric distribution company or electric generation  
18 supplier under paragraph (1) to reflect any new alternative  
19 energy source provided for by 66 Pa.C.S. § 2814. Any annual  
20 increase will be applied to the next compliance year  
21 requirement.

22 (2) The total percentage of the electric energy sold by  
23 an electric distribution company or electric generation  
24 supplier to retail electric customers in this Commonwealth  
25 that must be sold from solar photovoltaic and solar thermal  
26 energy technologies is:

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

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

29 (iii) 0.0063% for June 1, 2008, through May 31,  
30 2009.

1 (iv) 0.0120% for June 1, 2009, through May 31, 2010.  
2 (v) 0.0203% for June 1, 2010, through May 31, 2011.  
3 [(vi) 0.0325% for June 1, 2011, through May 31,  
4 2012.  
5 (vii) 0.0510% for June 1, 2012, through May 31,  
6 2013.  
7 (viii) 0.0840% for June 1, 2013, through May 31,  
8 2014.  
9 (ix) 0.1440% for June 1, 2014, through May 31, 2015.  
10 (x) 0.2500% for June 1, 2015, through May 31, 2016.  
11 (xi) 0.2933% for June 1, 2016, through May 31, 2017.  
12 (xii) 0.3400% for June 1, 2017, through May 31,  
13 2018.  
14 (xiii) 0.3900% for June 1, 2018, through May 31,  
15 2019.  
16 (xiv) 0.4433% for June 1, 2019, through May 31,  
17 2020.  
18 (xv) 0.5000% for June 1, 2020, and thereafter.]  
19 (vi) 0.0504% for June 1, 2011, through May 31, 2012.  
20 (vii) 0.0752% for June 1, 2012, through May 31,  
21 2013.  
22 (viii) 0.1218% for June 1, 2013, through May 31,  
23 2014.  
24 (ix) 0.2016% for June 1, 2014, through May 31, 2015.  
25 (x) 0.3% for June 1, 2015, through May 31, 2016.  
26 (xi) 0.41% for June 1, 2016, through May 31, 2017.  
27 (xii) 0.5% for June 1, 2017, through May 31, 2018.  
28 (xiii) 0.62% for June 1, 2018, through May 31, 2019.  
29 (xiv) 0.75% for June 1, 2019, through May 31, 2020.  
30 (xv) 0.97% for June 1, 2020, through May 31, 2021.

1 (xvi) 1.35% for June 1, 2021, through May 31, 2022.

2 (xvii) 1.9% for June 1, 2022, through May 31, 2023.

3 (xviii) 2.45% for June 1, 2023, through May 31,  
4 2024.

5 (xix) 3% for June 1, 2024, and thereafter.

6 (3) Upon commencement of the beginning of the 6th  
7 reporting year, and every five years thereafter, the  
8 commission shall undertake a review of the compliance by  
9 electric distribution companies and electric generation  
10 suppliers with the requirements of this act. The review shall  
11 also include the status of alternative energy technologies  
12 within this Commonwealth and the capacity to add additional  
13 alternative energy resources. The commission shall use the  
14 results of this review to recommend to the General Assembly  
15 additional compliance goals beyond year [15] 21. The  
16 commission shall work with the department in evaluating the  
17 future alternative energy resource potential.

18 (4) Electric energy and alternative energy credits from  
19 solar photovoltaic and solar thermal energy technologies  
20 supplied to retail customers shall be generated from solar  
21 photovoltaic and solar thermal energy systems located within  
22 this Commonwealth in meeting the requirements of paragraph  
23 (2). This paragraph shall apply to all contracts or short-  
24 term purchases made after December 31, 2010.

25 (5) Notwithstanding the other provisions of this act,  
26 credits purchased or contracted for prior to the effective  
27 date of this subsection may be used to demonstrate compliance  
28 under this subsection.

29 (c) Tier II share.--Of the electrical energy required to be  
30 sold from alternative energy sources identified in Tier II, the

1 percentage that must be from these technologies is for:

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

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

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

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

6 (c.1) Retail sales from advanced coal combustion.--The total  
7 electric energy sold by an electric distribution company or  
8 electric generation supplier to retail electric customers in  
9 this Commonwealth that shall be sold from advanced coal  
10 combustion with limited carbon dioxide emissions is all of the  
11 electric energy available from advanced coal combustion with  
12 limited carbon dioxide emissions up to a maximum of 3.0% of the  
13 total electric energy sold by an electric distribution company  
14 or electric generation supplier to retail electric customers in  
15 this Commonwealth for the reporting period which begins June 1,  
16 2020, and for each reporting period thereafter pursuant to  
17 subsection (c). If at any time on or after June 1, 2020, a  
18 carbon dioxide sequestration facility permitted to permanently  
19 sequester carbon dioxide in this Commonwealth is not operating  
20 and capable of receiving carbon dioxide for sequestration  
21 through no fault of an advanced coal combustion with limited  
22 carbon dioxide emissions plant, then an advanced coal combustion  
23 with limited carbon dioxide emissions plant shall not be  
24 eligible to generate alternative energy credits. A coal  
25 combustion plant existing as of the effective date of this  
26 subsection, however, that has been retrofitted by installing  
27 carbon capture technology need not sequester carbon dioxide  
28 until the sequestration facility is capable of receiving carbon  
29 dioxide in order to generate alternative energy credits,  
30 provided that:



1           (1) The plant is capable of capturing the amount of  
2 carbon dioxide required by paragraph (14) of the definition  
3 of "alternative energy sources" in section 2.

4           (2) The total value of the alternative energy credits  
5 sold by the advanced coal combustion with limited carbon  
6 dioxide emissions plant during times when the carbon dioxide  
7 emissions from the plant are not sequestered shall not exceed  
8 the costs that the plant incurred in installing carbon  
9 capture equipment, equipment necessary to process coal for  
10 carbon capture purposes, equipment necessary to transport the  
11 carbon dioxide to the carbon dioxide sequestration facility  
12 and costs incurred in connection with the operation of the  
13 plant that are due to the capture and transportation of  
14 carbon dioxide, as determined by the department. Costs  
15 incurred by an advanced coal combustion with limited carbon  
16 dioxide emissions plant shall not include Federal or State  
17 financial assistance received by the plant.

18       (c.2) Force majeure.--On or after December 31, 2020, if the  
19 commission determines that an advanced coal combustion with  
20 limited carbon dioxide emissions plant is not operating and  
21 capable of capturing the amount of carbon dioxide required by  
22 paragraph (14) of the definition of "alternative energy sources"  
23 in section 2 during a reporting period, this determination shall  
24 constitute force majeure, and electric distribution companies  
25 and electric generation suppliers shall be excused from all or  
26 part of their obligation under subsection (c.1) during that  
27 reporting period, provided the requirements in the definition of  
28 "force majeure" in section 2 have been met, as determined by the  
29 commission. Should force majeure be declared pursuant to this  
30 subsection, then subsection (c.1)(2) shall remain in full force

1 and effect to the extent that any such credits remain available  
2 under this act.

3 (c.3) Long-term contracts.--Upon review and approval of the  
4 commission, an electric distribution company may enter into a  
5 long-term contract of up to 25 years to purchase the energy,  
6 capacity or alternative energy credits of an advanced coal  
7 combustion with limited carbon dioxide emissions plant. The  
8 contract shall provide for the recovery of costs associated with  
9 carbon capture, including, but not limited to, any fees charged  
10 by the owner or operator of the carbon dioxide sequestration  
11 facility or a carbon dioxide transportation pipeline. The  
12 commission shall determine whether the contract is reasonable,  
13 taking into consideration the following:

14 (1) The price of the energy purchased under the long-  
15 term contract. The contract shall provide that if the carbon  
16 dioxide sequestration facility is not operating and capable  
17 of receiving carbon dioxide for sequestration for a period of  
18 no less than 90 days, the price of energy under the contract  
19 shall be reduced to account for the advanced coal combustion  
20 with limited carbon dioxide emissions plant's reduced  
21 operating costs.

22 (2) The price of capacity purchased under the long-term  
23 contract.

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

28 (4) Prior to the effective date of the contract, the  
29 value of any carbon dioxide emission credits or other credits  
30 that the seller obtains from the advanced coal combustion

1 with limited carbon dioxide emissions plant.

2 (5) After the effective date of the contract, the value  
3 of any additional Federal or State carbon credits, allowances  
4 or other financial benefits shall be reflected in the price  
5 of the resource in a manner which recognizes savings to  
6 customers and does not reduce the economic return to the  
7 seller, provided that the seller demonstrates that it has  
8 made a commercially reasonable effort to distribute any  
9 economic incentives it has realized to electric distribution  
10 companies. A contract approved by the commission under this  
11 subsection shall be deemed to meet the requirements of 66  
12 Pa.C.S. § 2807(e) (relating to duties of electric  
13 distribution companies).

14 \* \* \*

15 (e) Alternative energy credits.--

16 \* \* \*

17 (6) An electric distribution company and electric  
18 generation supplier may bank or place in reserve alternative  
19 energy credits produced in one reporting year for compliance  
20 in [either or both] any or all of the [two] four subsequent  
21 reporting years, subject to the limitations set forth in this  
22 subsection and provided that the electric distribution  
23 company and electric generation supplier are in compliance  
24 for all previous reporting years. In addition, the electric  
25 distribution company and electric generation supplier shall  
26 demonstrate to the satisfaction of the commission that such  
27 credits:

28 (i) were in excess of the alternative energy credits  
29 needed for compliance in the year in which they were  
30 generated and that such excess credits have not

1 previously been used for compliance under this act;

2 (ii) were produced by the generation of electrical  
3 energy by alternative energy sources and sold to retail  
4 customers during the year in which they were generated;  
5 and

6 (iii) have not otherwise been nor will be sold,  
7 retired, claimed or represented as part of satisfying  
8 compliance with alternative or renewable energy portfolio  
9 standards in other states.

10 (7) An electric distribution company or an electric  
11 generation supplier with sales that are exempted under  
12 subsection (d) may bank credits for retail sales of  
13 electricity generated from Tier I and Tier II sources made  
14 prior to the end of the cost-recovery period and after the  
15 effective date of this act. Bankable credits shall be limited  
16 to credits associated with electricity sold from Tier I and  
17 Tier II sources during a reporting year which exceeds the  
18 volume of sales from such sources by an electric distribution  
19 company or electric generation supplier during the 12-month  
20 period immediately preceding the effective date of this act.  
21 All credits banked under this subsection shall be available  
22 for compliance with subsections (b) and (c) for no more than  
23 [two] four reporting years following the conclusion of the  
24 cost-recovery period.

25 \* \* \*

26 (12) (i) Unless a contractual provision explicitly  
27 assigns alternative energy credits in a different manner,  
28 the owner of the alternative energy system or a customer-  
29 generator owns any and all alternative energy credits  
30 associated with or created by the production of electric

1 energy by such facility or customer, and the owner or  
2 customer shall be entitled to sell, transfer or take any  
3 other action to which a legal owner of property is  
4 entitled to take with respect to the credits.

5 (ii) This paragraph shall apply to all alternative  
6 energy credits created pursuant to this act.

7 (f) Market Development and Long-Term Contracting.--

8 (1) The commission shall promote the development of  
9 alternative energy through the adoption of alternative energy  
10 credit procurement ~~rules~~ POLICIES that ensure market ←  
11 diversity, competition and a reliable supply of alternative  
12 energy credits to all electric distribution companies and  
13 electric generation suppliers. These ~~rules~~ POLICIES shall ←  
14 include, but are not limited to, long-term contracts for  
15 alternative energy credits and electric distribution company  
16 procurement of alternative energy credits at the request of  
17 competitive retail suppliers.

18 (2) These ~~rules~~ POLICIES shall require that each winning ←  
19 bid be selected solely on the least cost alternative energy  
20 credit offered and shall award contracts on a pay-as-bid  
21 basis. For purposes of this subsection, the term "pay-as-bid"  
22 shall mean winning bidders are paid according to their bid  
23 price and not a single clearing price.

24 (3) The commission shall determine that each procurement  
25 under this subsection is competitive based on its standard  
26 protocols for determining competitiveness. If it is  
27 determined that a procurement event was not competitive, the  
28 commission shall set a date for another procurement event  
29 which, in the case of the first procurement event, shall take  
30 place no later than 180 days after the initial procurement

1 event and, in the case of the second procurement event, shall  
2 take place no later than one year after the initial  
3 procurement event.

4 (4) The commission shall require procurement of  
5 qualifying Tier I alternative energy credits, other than  
6 solar energy credits, subject to the following terms:

7 (i) The first procurement for 25% of the following  
8 compliance year obligations under subsection (b), for a  
9 contract period of at least ten years, shall be conducted  
10 no later than 120 days after the effective date of this  
11 subsection.

12 (ii) The second procurement for an additional 25% of  
13 the following compliance year obligations under  
14 subsection (b), for a contract period of at least ten  
15 years, shall be conducted no later than December 31,  
16 2011.

17 (iii) Alternative energy credits from resources  
18 eligible to participate under these procurement ~~rules~~ ←  
19 POLICIES shall have an in-service date as of the ←  
20 effective date of this section or later and shall be  
21 located in this Commonwealth.

22 (5) The commission shall require procurement of  
23 qualifying solar energy alternative energy credits subject to  
24 the following terms:

25 (i) The process shall recognize that different  
26 procurement approaches are necessary based on the size of  
27 the solar energy systems used to serve residential,  
28 commercial and government customers.

29 (ii) Aggregation of solar energy resources shall be  
30 used for solar energy systems with a nameplate capacity

1 of no greater than 200 kilowatts and may be used for  
2 other resources.

3 (iii) Financial security requirements imposed on  
4 solar developers and other sellers not render solar  
5 energy projects financially infeasible.

6 (iv) Contract periods for procurement mandated under  
7 this subsection shall be at least ten years and shall be  
8 subject to the following:

9 (A) The first procurement for at least 55% of  
10 the following compliance year obligation under  
11 subsection (b) shall be conducted no later than 120  
12 days after the effective date of this subsection.

13 (B) The second procurement for at least 45% of  
14 the compliance obligation under subsection (b) for  
15 the following compliance year shall be conducted no  
16 later than December 31, 2011.

17 (C) The third procurement for at least 30% of  
18 the compliance obligation under subsection (b) for  
19 the following compliance year shall be conducted no  
20 later than December 31, 2012.

21 (D) The fourth procurement for at least 25% of  
22 the compliance obligation under subsection (b) for  
23 the following compliance year shall be conducted no  
24 later than December 31, 2013.

25 (E) The fifth procurement for at least 20% of  
26 the compliance obligation under subsection (b) for  
27 the following compliance year shall be conducted no  
28 later than December 31, 2014.

29 (F) For each compliance year commencing with  
30 June 1, 2015, the procurement of at least 15% of the

1 compliance obligation under subsection (b) shall be  
2 conducted no later than December 31 of the year  
3 preceding that compliance year.

4 (v) Upon commencement of the compliance year ending  
5 May 31, 2015, and thereafter in conjunction with the  
6 reviews required under subsection (b)(3), the commission  
7 shall undertake a review of the procurement processes  
8 under this subsection, the compliance by electric  
9 distribution companies and electric generation suppliers  
10 with the requirements of this act and the overall market  
11 conditions. The commission shall use the results of this  
12 review to determine whether to modify the procurement  
13 processes established in accordance with this subsection.

14 (6) THE PROCUREMENT OF ALTERNATIVE ENERGY CREDITS UNDER ←  
15 THIS ACT SHALL NOT BE USED TO SATISFY THE REQUIREMENTS OF A  
16 LONG-TERM PURCHASE CONTRACT UNDER 66 PA.C.S. § 2807(E)(3.2)  
17 (III) (RELATING TO DUTIES OF ELECTRIC DISTRIBUTION  
18 COMPANIES).

19 [(f)] (g) Alternative compliance payment.--

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

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



1 compliance payment on that company or supplier.

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

8 (4) [The alternative compliance payment for the solar  
9 photovoltaic share shall be 200% of the average market value  
10 of solar renewable energy credits sold during the reporting  
11 period within the service region of the regional transmission  
12 organization, including, where applicable, the levelized up-  
13 front rebates received by sellers of solar renewable energy  
14 credits in other jurisdictions in the PJM Interconnection,  
15 L.L.C. transmission organization (PJM) or its successor] The  
16 alternative compliance payment for the solar alternative  
17 share shall be set at \$450 per megawatt hour (MWh) per year  
18 beginning January 1, 2011, and the amount shall be reduced by  
19 3% each year thereafter.

20 (5) The commission shall establish a process to provide  
21 for, at least annually, a review of the alternative energy  
22 market within this Commonwealth and the service territories  
23 of the regional transmission organizations that manage the  
24 transmission system in any part of this Commonwealth. The  
25 commission will use the results of this study to identify any  
26 needed changes to the cost associated with the alternative  
27 compliance payment program. If the commission finds that the  
28 costs associated with the alternative compliance payment  
29 program must be changed, the commission shall present these  
30 findings to the General Assembly for legislative enactment.

1 [(g)] (h) Transfer to sustainable development funds.--

2 (1) Notwithstanding the provisions of 66 Pa.C.S. §§ 511  
3 (relating to disposition, appropriation and disbursement of  
4 assessments and fees) and 3315 (relating to disposition of  
5 fines and penalties), alternative compliance payments imposed  
6 pursuant to this act shall be paid into Pennsylvania's  
7 Sustainable Energy Funds created under the commission's  
8 restructuring orders under 66 Pa.C.S. Ch. 28 (relating to  
9 restructuring of electric utility industry). Alternative  
10 compliance payments shall be paid into a special fund of the  
11 Pennsylvania Sustainable Energy Board, established by the  
12 commission under Docket M-00031715, and made available to the  
13 Regional Sustainable Energy Funds under procedures and  
14 guidelines approved by the Pennsylvania Energy Board.

15 (2) The alternative compliance payments shall be  
16 utilized solely for projects within this Commonwealth that  
17 will increase the amount of electric energy generated from  
18 alternative energy resources within this Commonwealth for  
19 purposes of compliance with subsections [(b) and (c)] (b),  
20 (c) and (c.1).

21 [(h)] (i) Nonseverability.--The provisions of subsection (a)  
22 are declared to be nonseverable. If any provision of subsection  
23 (a) is held invalid, the remaining provisions of this act shall  
24 be void.

25 Section 3. The act is amended by adding a section to read:

26 Section 3.1. Solar photovoltaic and solar thermal energy system  
27 requirements.

28 In order for new or upgrades to existing solar photovoltaic  
29 and solar thermal energy systems to qualify for solar  
30 alternative energy credits the following requirements shall

1 apply:

2 (1) ~~A solar~~ SOLAR photovoltaic or solar thermal energy ←  
3 system WORK shall be installed COMPLETED by an approved ←  
4 participating contractor or a contractor who subcontracts  
5 with an approved participating contractor under the  
6 department's grant program administered under section 306 of  
7 the act of July 9, 2008 (1st Sp.Sess., P.L.1873, No.1), known  
8 as the Alternative Energy Investment Act.

9 (2) If the solar photovoltaic or solar thermal energy  
10 system will be installed in a municipality that licenses  
11 electrical contractors or a municipality that requires an  
12 electrical contractor be licensed, ~~the final electrical~~ ←  
13 connection of a solar photovoltaic system shall be made by an  
14 electrical contractor licensed in that municipality or a  
15 person employed by the licensed electrical contractor THEN ←  
16 THE ELECTRICAL WORK ON THE INSTALLATION SHALL BE COMPLETED BY  
17 AN ELECTRICAL CONTRACTOR LICENSED IN THAT MUNICIPALITY.

18 (3) The solar photovoltaic or solar thermal energy  
19 installation shall be completed in accordance with the  
20 applicable codes, including, but not limited to, those  
21 relating to structural integrity, electrical installation and  
22 electrical safety. INSPECTIONS, INCLUDING ELECTRICAL ←  
23 INSPECTIONS, SHALL BE PERFORMED IN ACCORDANCE WITH THE ACT OF  
24 NOVEMBER 10, 1999 (P.L.491, NO.45), KNOWN AS THE PENNSYLVANIA  
25 CONSTRUCTION CODE ACT. An electrical inspection shall be  
26 performed by an electrical inspector licensed in  
27 certification categories 10, 19 and 25. Copies of the  
28 required permits and inspection certificates shall be  
29 provided to the department.

30 (4) Credits generated from non-electricity-generating

1 solar thermal energy systems shall at a minimum be calculated  
2 based upon a formula established by the commission in  
3 consultation with the department and shall consider such  
4 things as a standard BTU to kWh equivalency.

5 Section 4. Section 7(c) of the act is amended and the  
6 section is amended by adding a subsection to read:

7 Section 7. Interagency responsibilities.

8 \* \* \*

9 (c) Cooperation between commission and department.--The  
10 commission and the department shall work cooperatively to  
11 monitor the performance of all aspects of this act [and will].  
12 The commission, in cooperation with the department, shall  
13 provide an annual report to the chairman and minority chairman  
14 of the Environmental Resources and Energy Committee of the  
15 Senate and the chairman and minority chairman of the  
16 Environmental Resources and Energy Committee of the House of  
17 Representatives. The report shall include at a minimum:

18 (1) The status of the compliance with the provisions of  
19 this act by electric distribution companies and electric  
20 generation suppliers.

21 (2) Current costs of alternative energy on a per  
22 kilowatt hour basis for all alternative energy technology  
23 types.

24 (3) Costs associated with the alternative energy credits  
25 program under this act, including the number of alternative  
26 compliance payments.

27 (4) The status of the alternative energy marketplace  
28 within this Commonwealth.

29 (5) Recommendations for program improvements.

30 (6) The total megawatts installed and megawatt hours

1 generated by alternative energy systems a year prior to and  
2 since the effective date of this paragraph.

3 (7) The infrastructure needs associated with the  
4 transmission and distribution of energy generated by  
5 alternative energy systems within this Commonwealth.

6 (8) An analysis of ratepayer impacts developed in  
7 cooperation with the commission, the department and the  
8 Office of the Consumer Advocate. The analysis shall provide a  
9 balanced assessment of the costs and benefits from this act  
10 to ratepayers in this Commonwealth and shall include at a  
11 minimum:

12 (i) The total cost of compliance incurred through  
13 purchase of alternative energy credits and alternative  
14 compliance payments by each electric distribution company  
15 and electric generation supplier in this Commonwealth.

16 (ii) Quantification of the price suppression effects  
17 on the competitive wholesale electricity market from  
18 alternative energy generated for compliance with this  
19 act.

20 (iii) The amount of air and water pollution reduced  
21 and quantifications of any associated avoided cost of  
22 compliance.

23 (iv) The amount of private investment in generation  
24 leveraged by the compliance costs.

25 (d) Ratepayer notification.--The commission shall annually  
26 provide a one-page ratepayer notification summary of the cost of  
27 compliance with this act compared to the related benefits of  
28 compliance with this act as determined in the analysis required  
29 by subsection (c) (8). Electric distribution companies and  
30 electric generation suppliers shall distribute the ratepayer

1 notification summary each year.

2 Section 5. The act is amended by adding sections to read:

3 Section 8.1. Sequestration facility permitting.

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

6 (b) Facility sites.--The Environmental Quality Board shall,  
7 by regulation, establish the conditions under which a carbon  
8 dioxide sequestration facility may be located, developed and  
9 operated. The regulations promulgated by the board shall provide  
10 for the protection of public health, safety and environment.

11 (c) All carbon dioxide sequestration facilities.--For all  
12 carbon dioxide sequestration facilities, the regulations  
13 required by subsection (b) shall include, but not be limited to,  
14 the following:

15 (1) Criteria used to determine that carbon dioxide has  
16 been permanently sequestered.

17 (2) Sequestration facility performance standards.

18 (3) Monitoring, recordkeeping and reporting  
19 requirements.

20 (4) Fees in an amount sufficient to recover the  
21 department's cost of administering this section.

22 (5) Public participation in the permitting process.

23 (6) Other requirements necessary to evaluate the  
24 proposed carbon dioxide sequestration facility and to ensure  
25 safe and environmentally protective operation of the  
26 facility.

27 (d) Geologic carbon dioxide sequestration facilities.--For  
28 geologic carbon dioxide sequestration facilities the regulations  
29 required by subsection (b) shall include, but not be limited to,  
30 the following:

1           (1) Geologic site characterization.

2           (2) Well location restrictions and well construction  
3 standards, including operation and mechanical integrity  
4 testing.

5           (3) Risk assessment, corrective action and emergency  
6 response requirements.

7           (4) Facility closure, postclosure and final closure  
8 certification requirements.

9           (5) Financial assurance requirements, including bonding  
10 or insurance, in amounts sufficient to ensure the carbon  
11 dioxide sequestration facility will be constructed, operated,  
12 closed and monitored during the postclosure period in  
13 accordance with regulations promulgated under this section,  
14 including those regulations designed to ensure the safe and  
15 environmentally protective operation of the facility. The  
16 operator of the sequestration facility shall provide  
17 financial assurance for mitigation of and compensation for  
18 any damage caused by the injection and storage of carbon  
19 dioxide or the escape, release or migration of carbon dioxide  
20 from the carbon dioxide sequestration facility.

21           (6) Fees for every ton of carbon dioxide accepted by a  
22 carbon dioxide sequestration facility in an amount sufficient  
23 to monitor and maintain the facility after final closure of  
24 the facility and to take remedial actions if necessary after  
25 final closure of the facility. The fees shall be paid by the  
26 operator of a carbon dioxide sequestration facility to the  
27 department on a quarterly basis.

28           (7) Public notice requirements, including notification  
29 of a release.

30           (8) Public participation in the closure certification

1 process.

2 (e) Powers, duties and enforcement authority of  
3 department.--The department shall have the same powers, duties  
4 and enforcement authority provided by the act of July 7, 1980  
5 (P.L.380, No.97), known as the Solid Waste Management Act, to  
6 carry out the purposes of this section. Operators of a carbon  
7 dioxide sequestration facility shall have the same rights and be  
8 subject to the same penalties as provided by the Solid Waste  
9 Management Act; however, an administrative penalty assessed by  
10 the department for a violation of this section shall not exceed  
11 \$50,000 per day per violation.

12 Section 8.2. Title to carbon dioxide, immunity and transfer of  
13 liability.

14 (a) Title to carbon dioxide.--The right, title and interest  
15 in and to carbon dioxide delivered to a carbon dioxide  
16 sequestration facility by the advanced coal combustion with  
17 limited carbon dioxide emission plants that, individually or  
18 collectively, first meet the maximum requirements of section  
19 3(c.1), as determined by the department, shall be transferred to  
20 the carbon dioxide sequestration facility and the facility shall  
21 accept and receive the right, title and interest in and to such  
22 carbon dioxide, including, but not limited to, liabilities  
23 associated with the carbon dioxide, current or future  
24 environmental benefits, marketing claims, associated voluntary  
25 or compliance-based emissions allocations or offsets, but not  
26 alternative energy credits provided by section 3(e).

27 (b) Immunity.--Upon and after transfer and conveyance of  
28 carbon dioxide as provided under subsection (a), the owner of an  
29 advanced coal combustion plant with limited carbon dioxide  
30 emissions shall be immune from liabilities regarding the storage



1 of carbon dioxide within and the release, escape or migration of  
2 carbon dioxide from the carbon dioxide sequestration facility.

3 (c) Transfer of liability.--Upon final closure of a carbon  
4 dioxide sequestration facility, as determined by the department,  
5 the right, title or interest in the carbon dioxide and liability  
6 for any release from the facility shall be transferred to and  
7 accepted by the Commonwealth provided the operator of the carbon  
8 dioxide sequestration facility has paid the appropriate fees  
9 under section 8.1.

10 Section 8.3. Carbon Dioxide Indemnification Fund ACCOUNT. ←

11 ~~(a) Establishment. There is hereby established in the State~~ ←  
12 ~~Treasury a nonlapsing fund to be known as the Carbon Dioxide~~  
13 ~~Indemnification Fund. Money collected by the department under~~  
14 ~~section 8.1(d) (6) shall be deposited in the fund and shall only~~  
15 ~~be expended by the department to monitor and maintain carbon~~  
16 ~~dioxide sequestration facilities after final closure and to take~~  
17 ~~remedial actions, if necessary, after final closure.~~

18 ~~(b) Money collected under section 8.1. Fines, civil~~  
19 ~~penalties and permit fees collected by the department under~~  
20 ~~section 8.1 are hereby appropriated to the department to carry~~  
21 ~~out the purposes of section 8.1.~~

22 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED IN THE ←  
23 GENERAL FUND AN ACCOUNT TO BE KNOWN AS THE CARBON DIOXIDE  
24 INDEMNIFICATION ACCOUNT.

25 (B) DEPOSITS.--DEPOSITS TO THE ACCOUNT SHALL INCLUDE ALL  
26 REVENUES COLLECTED BY THE DEPARTMENT PURSUANT TO THE REGULATIONS  
27 REQUIRED UNDER SECTION 8.1.

28 (C) USE OF FUNDS.--THE PER TON FEES COLLECTED UNDER SECTION  
29 8.1(D) (6) SHALL BE USED BY THE DEPARTMENT ONLY TO MONITOR AND  
30 MAINTAIN CARBON DIOXIDE SEQUESTRATION FACILITIES AFTER FINAL

1 CLOSURE AND TO TAKE REMEDIAL ACTIONS, IF NECESSARY, AFTER FINAL  
2 CLOSURE. ALL OTHER MONEYS IN THE ACCOUNT SHALL BE USED BY THE  
3 DEPARTMENT TO CARRY OUT THE ADMINISTRATIVE FUNCTIONS CONTAINED  
4 IN SECTION 8.1.

5 (D) APPROPRIATION.--ALL MONEYS IN THE ACCOUNT ARE HEREBY  
6 APPROPRIATED TO THE DEPARTMENT.

7 Section 8.4. Carbon dioxide sequestration facility and  
8 transportation pipeline on Commonwealth lands.

9 The Commonwealth may lease Commonwealth-owned lands and DCNR  
10 may lease State forest land owned by the Commonwealth to any  
11 person, on terms and conditions as DCNR may consider  
12 appropriate, if the facility is consistent with and does not  
13 interfere with the uses and purposes of the Commonwealth-owned  
14 lands, as determined by the Department of General Services or as  
15 determined by DCNR if the facility is proposed to be located on  
16 State forest land, for the development and operation of a carbon  
17 dioxide sequestration facility and carbon dioxide transportation  
18 pipeline necessary to deliver carbon dioxide to the facility. In  
19 considering the potential lease of State forest land, DCNR shall  
20 review sites of interest to persons seeking to operate a carbon  
21 dioxide sequestration facility and shall complete an  
22 environmental review prior to offering a site for lease. A  
23 carbon dioxide sequestration facility or carbon dioxide  
24 transportation pipeline developed and operated on Commonwealth  
25 State forest lands shall only be utilized to store carbon  
26 dioxide generated within this Commonwealth. All rents and other  
27 payments from any lease of Commonwealth State forest land under  
28 this section shall be deposited into the Environmental  
29 Stewardship Fund established in 27 Pa.C.S. § 6104 (relating to  
30 fund).

1 Section 8.5. Application of the Public Utility Code to  
2 transporters of carbon dioxide.  
3 Entities transporting or conveying carbon dioxide by pipeline  
4 or conduit for compensation under this act shall be considered a  
5 public utility under 66 Pa.C.S. § 102 (relating to definitions)  
6 and subject to the provisions of 66 Pa.C.S. (relating to public  
7 utilities).

8 Section 6. The provisions of this act are severable. If any  
9 provision of this act or its application to any person or  
10 circumstance is held invalid, the invalidity shall not affect  
11 other provisions or applications of this act which can be given  
12 effect without the invalid provision or application.

13 Section 7. Repeals are as follows:

14 (1) The General Assembly declares that the repeal under  
15 paragraph (2) is necessary to effectuate the amendment of  
16 section 3(e)(12) of the act.

17 (2) Section 3.1 of the act of July 17, 2007 (P.L.114,  
18 No.35), entitled "An act amending the act of November 30,  
19 2004 (P.L.1672, No.213), entitled, 'An act providing for the  
20 sale of electric energy generated from renewable and  
21 environmentally beneficial sources, for the acquisition of  
22 electric energy generated from renewable and environmentally  
23 beneficial sources by electric distribution and supply  
24 companies and for the powers and duties of the Pennsylvania  
25 Public Utility Commission,' further providing for the  
26 definitions of 'alternative energy credit,' 'customer-  
27 generator,' 'force majeure,' 'net metering,' and 'Tier I  
28 alternative energy source,' for alternative energy portfolio  
29 standards, for portfolio requirements in other states and for  
30 interconnection standards for customer-generator facilities,"

1 is repealed.

2 Section 8. The following shall apply:

3 (1) The amendment of section 3(e)(12) of the act shall  
4 apply to all alternative energy credits created under the act  
5 on or after the effective date of this section, regardless of  
6 when any underlying contract for the purchase of electric  
7 energy or other products from the generator that qualifies as  
8 an alternative energy system was executed.

9 (2) Notwithstanding 66 Pa.C.S. §§ 508 (relating to  
10 powers of the commission to vary, reform and revise  
11 contracts) and 2102 (relating to approval of contracts with  
12 affiliated interests), the commission may modify contracts or  
13 disallow costs of alternative energy credit contracts under  
14 this act only when the party seeking recovery of the costs of  
15 these contracts is, after hearing, found to be at fault for  
16 the following:

17 (i) not complying with the commission-approved  
18 alternative energy credit procurement ~~rules~~ POLICIES; or ←

19 (ii) fraud, collusion or market manipulation with  
20 regard to these contracts.

21 (3) Notwithstanding the other provisions of this act,  
22 alternative energy credits acquired or contracted for prior  
23 to the effective date of this section may be used to  
24 demonstrate compliance under this act.

25 Section 9. This act shall take effect immediately.