



Electric Power Supply Association  
*Advocating the power of competition*

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November 14, 2013

Honorable Ron Miller, Majority Chair  
Environmental Resources & Energy Committee  
Pennsylvania House of Representatives  
115 Ryan Office Building  
P.O. Box 202093  
Harrisburg, PA 17120-2093

Honorable Greg Vitali, Democratic Chair  
Environmental Resources & Energy Committee  
Pennsylvania House of Representatives  
38B East Wing  
P.O. Box 202166  
Harrisburg, PA 17120-2166

Subject: House Bill 1699, Regulation of Internal Combustion Engines

Dear Representatives Miller and Vitali:

The Electric Power Supply Association (EPSA) appreciates this opportunity to write in strong support of House Bill 1699 concerning appropriate regulation of behind-the-meter generation used for non-emergency purposes as part of demand response programs. House Bill 1699 is urgently needed to protect public health and the environment as well as the integrity of the wholesale power market on which Pennsylvanians depend for reliable and affordable electricity.

EPSA is the national trade association for competitive wholesale electricity suppliers, including generators and marketers. EPSA members are among the largest owners of power generation assets nationwide with a particular emphasis on regional transmission organizations such as the PJM Interconnection (PJM). Over half of all EPSA company assets are in PJM including power plants within the Commonwealth of Pennsylvania.

EPSA members must comply with strong federal and state environmental rules. Given the competitive markets in PJM and Pennsylvania, it is important that those rules also apply to other forms of power generation with which EPSA members compete, including behind-the-meter generation used in for-profit demand response programs. Under these programs, third-party companies aggregate a large number of smaller diesel-fired generators as "virtual power plants" equal in size to conventional power plants. The third-party firms then bid "virtual power plants" into PJM's annual capacity auction that procures resources three years in advance to ensure reliability.

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Earlier this year the U.S. Environmental Protection Agency issued a final rule on National Emissions Standards for Hazardous Air Pollutants for Reciprocal Internal Combustion Engines of the type involved in demand response programs (RICE NESHAPS). EPSA and its members were major participants in the EPA rulemaking process. EPSA was proud to join leading public health and environmental organizations along with many state policymakers in opposing exemptions from Clean Air Act standards for behind-the-meter engines. While we were unsuccessful at EPA, senior EPA officials and the final rule's preamble stressed that States have the authority to regulate emissions from these engines. Thus, House Bill 1699 is critically important to fill the gaping regulatory loophole created by the U.S. EPA in this case.

In the absence of the registration requirements and emissions standards in House Bill 1699, conventional power generators that comply with federal and state environmental rules are forced to compete in the annual PJM capacity auctions with those that do not. U.S. EPA mistakenly believes that because the behind-the-meter generators may not operate very often the environmental effects are not significant. Unfortunately, EPA does not fully understand how wholesale power markets operate. There is detailed analytical evidence in the EPA docket from expert sources that uncontrolled dirty diesel behind-the-meter generators displace cleaner sources of conventional power generation in the annual capacity auctions. Failure to clear the capacity auction makes it much more likely that displaced cleaner power plants will not be developed or will retire if already constructed. This is neither good economics nor smart environmental policy.

Thus, this is not a question of how often or how infrequently the diesel engines actually run, as the demand response firms aggregating the dirty diesel engines argue. The environmental and economic damage occurs each year when the dirty diesel engines displace cleaner forms of power generation in the PJM capacity auction. On this the power sector, environmental groups and public health organizations are in agreement. The next PJM capacity auction will be in May 2014 to procure resources to serve consumers for the 2017-2018 delivery year. EPSA strongly urges you and your colleagues to pass House Bill 1699 into law well before May 2014 to avoid further environmental damage and to preserve the economic integrity of the PJM wholesale market. Thank you for your consideration of EPSA's views on House Bill 1699.

Sincerely,



John E. Shelk  
President and CEO  
Electric Power Supply Association (EPSA)