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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1030** Session of  
2004

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INTRODUCED BY ERICKSON, CONTI, WAUGH, ORIE, KUKOVICH, SCHWARTZ,  
MUSTO, EARLL, PIPPY, BOSCOLA, RAFFERTY, M. WHITE AND STACK,  
MARCH 15, 2004

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AS AMENDED ON THIRD CONSIDERATION, NOVEMBER 17, 2004

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AN ACT

1 Providing for the sale of electric energy generated from  
2 renewable and environmentally beneficial sources, for the  
3 acquisition of electric energy generated from renewable and  
4 environmentally beneficial sources by electric distribution  
5 and supply companies and for the powers and duties of the  
6 Pennsylvania Public Utility Commission.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Alternative  
11 Energy Portfolio Standards Act.

12 Section 2. Definitions.

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

16 "Alternative energy credit." A tradable instrument that is  
17 used to establish, verify and monitor compliance with this act.  
18 A unit of credit shall equal one megawatt hour of electricity  
19 from an alternative energy source.

1 "Alternative energy portfolio standards." Standards  
2 establishing that a certain amount of energy sold from  
3 alternative energy sources is included as part of the sources of  
4 electric generation by electric utilities within this  
5 Commonwealth.

6 "Alternative energy sources." The term shall include the  
7 following EXISTING AND NEW sources for the production of  
8 electricity: <—

9 (1) Solar photovoltaic OR OTHER SOLAR ELECTRIC energy. <—

10 (2) Solar thermal energy.

11 (3) Wind power.

12 (4) Large-scale hydropower, WHICH SHALL MEAN THE <—  
13 PRODUCTION OF ELECTRIC POWER BY HARNESSING THE HYDROELECTRIC  
14 POTENTIAL OF MOVING WATER IMPOUNDMENTS, INCLUDING PUMPED  
15 STORAGE THAT DOES NOT MEET THE REQUIREMENTS OF LOW-IMPACT  
16 HYDROPOWER UNDER PARAGRAPH (5).

17 (5) Low-impact hydropower, consisting of any technology  
18 that produces ~~less than 50 megawatts of~~ electric power and <—  
19 that harnesses the hydroelectric potential of moving water  
20 impoundments, provided such incremental hydroelectric  
21 development:

22 (i) does not adversely change existing impacts to  
23 aquatic systems;

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

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

29 (iv) protects against erosion; and

30 (v) protects cultural and historic resources.

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

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

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

15 (ii) any solid nonhazardous, cellulosic waste  
16 material that is segregated from other waste materials, <—  
17 ~~by products of the pulping process and wood manufacturing~~  
18 ~~process including bark, wood chips, sawdust and lignin in~~  
19 ~~spent pulping liquors,~~ SUCH AS waste pallets, crates and <—  
20 landscape or right-of-way tree trimmings or agricultural  
21 sources, including orchard tree crops, vineyards, grain,  
22 legumes, sugar and other crop by-products or residues.

23 (8) Biologically derived methane gas, which shall  
24 include methane from the anaerobic digestion of organic  
25 materials from yard waste, such as grass clippings and  
26 leaves, food waste, animal waste and sewage sludge. The term  
27 also includes landfill methane gas.

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

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

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

16 (12) Demand side management consisting of the management  
17 of customer consumption of electricity or the demand for  
18 electricity through the implementation of:

19 (i) energy efficiency technologies, management  
20 practices or other strategies in residential, COMMERCIAL, <—  
21 institutional or government customers that reduce  
22 electricity consumption by those customers;

23 (ii) load management or demand response  
24 technologies, management practices or other strategies in  
25 residential, commercial, industrial, institutional and  
26 government customers that shift electric load from  
27 periods of higher demand to periods of lower demand, <—  
28 ~~including pump storage technologies;~~ or

29 (iii) industrial by-product technologies consisting  
30 of the use of a by-product from an industrial process,

1 including the reuse of energy from exhaust gases or other  
2 manufacturing by-products that are used in the direct  
3 production of electricity at the facility of a customer.

4 (13) Distributed generation system, which shall mean the  
5 small-scale power generation of electricity ~~using an~~ ←  
6 ~~alternative energy source at a site that does not use the~~  
7 ~~facilities of an electric distribution company or a regional~~  
8 ~~transmission organization to supply an end user.~~ AND USEFUL ←  
9 THERMAL ENERGY.

10 "Alternative energy system." A facility or energy system  
11 that uses a form of alternative energy source to generate  
12 electricity and delivers the electricity it generates to the  
13 distribution system of an electric distribution company or to  
14 the transmission system operated by a regional transmission  
15 organization.

16 "Commission." The Pennsylvania Public Utility Commission.

17 ~~"Cost recovery period." The period during which competitive~~ ←

18 "COST RECOVERY PERIOD." THE LONGER OF: ←

19 (1) THE PERIOD DURING WHICH COMPETITIVE transition  
20 charges under 66 Pa.C.S § 2808 (relating to competitive  
21 transition charge) or intangible transition charges under 66  
22 Pa.C.S. § 2812 (relating to approval of transition ~~bonds~~) are ←  
23 ~~recovered or the period during which an electric BONDS) ARE~~ ←  
24 RECOVERED; OR

25 (2) THE PERIOD DURING WHICH AN ELECTRIC distribution  
26 company operates under a Pennsylvania Public Utility  
27 Commission-approved generation rate plan that has been  
28 approved PRIOR TO OR within one year of the effective date of ←  
29 this act, but in no case shall the cost recovery period under  
30 this act extend beyond December 31, 2010.

1 "Customer-generator." A nonutility owner or operator of a  
2 net metered distributed generation system with a nameplate  
3 capacity of not greater than 50 kilowatts if installed at a  
4 residential service or not larger than 1,000 kilowatts at other  
5 customer service locations, except for customers whose systems  
6 are above one megawatt and up to two megawatts who make their  
7 systems available to operate in parallel with the electric  
8 utility during grid emergencies as defined by the regional  
9 transmission organization, or where a microgrid is in place for  
10 the purpose of maintaining critical infrastructure, such as  
11 homeland security assignments, emergency services facilities,  
12 hospitals, traffic signals, wastewater treatment plants or  
13 telecommunications facilities, provided that technical rules for  
14 operating generators interconnected with facilities of an  
15 electric distribution company, electric cooperative or municipal  
16 electric system have been promulgated by the Institute of  
17 Electrical and Electronic Engineers and the Pennsylvania Public  
18 Utility Commission.

19 "Department." The Department of Environmental Protection of  
20 the Commonwealth.

21 "Electric distribution company." The term shall have the  
22 same meaning given to it in 66 Pa.C.S. Ch. 28 (relating to  
23 restructuring of electric utility industry).

24 "Electric generation supplier." The term shall have the same  
25 meaning given to it in 66 Pa.C.S. Ch. 28 (relating to  
26 restructuring of electric utility industry).

27 ~~"Force majeure." An extended period for compliance which may~~ ←  
28 ~~be granted by the commission, if the commission determines that~~  
29 ~~additional response time is needed because of extreme deviations~~  
30 ~~in expected renewable generation resulting from events that are~~

1 ~~impossible to control.~~

2 ~~"Large scale hydropower." The production of at least 51~~  
3 ~~megawatts of electric power by harnessing the hydroelectric~~  
4 ~~potential of moving water impoundments.~~

5 "FORCE MAJEURE." UPON ITS OWN INITIATIVE OR UPON A REQUEST <—  
6 OF AN ELECTRIC DISTRIBUTION COMPANY OR AN ELECTRIC GENERATOR  
7 SUPPLIER, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, WITHIN 60  
8 DAYS, SHALL DETERMINE IF ALTERNATIVE ENERGY RESOURCES ARE  
9 REASONABLY AVAILABLE IN THE MARKETPLACE IN SUFFICIENT QUANTITIES  
10 FOR THE ELECTRIC DISTRIBUTION COMPANIES AND ELECTRIC GENERATION  
11 SUPPLIERS TO MEET THEIR OBLIGATIONS FOR THAT REPORTING PERIOD  
12 UNDER THIS ACT. IF THE COMMISSION DETERMINES THAT ALTERNATIVE  
13 ENERGY RESOURCES ARE NOT REASONABLY AVAILABLE IN SUFFICIENT  
14 QUANTITIES IN THE MARKETPLACE FOR THE ELECTRIC DISTRIBUTION  
15 COMPANIES AND ELECTRIC GENERATION SUPPLIERS TO MEET THEIR  
16 OBLIGATIONS UNDER THIS ACT, THEN THE COMMISSION SHALL MODIFY THE  
17 UNDERLYING OBLIGATION OF THE ELECTRIC DISTRIBUTION COMPANY OR  
18 ELECTRIC GENERATION SUPPLIER OR RECOMMEND TO THE GENERAL  
19 ASSEMBLY THAT THE UNDERLYING OBLIGATION BE ELIMINATED.

20 "Municipal solid waste." This will include energy from  
21 existing waste to energy facilities which the Department of  
22 Environmental Protection has determined are in compliance with  
23 current environmental standards, including, but not limited to,  
24 all applicable requirements of the Clean Air Act (69 Stat. 322,  
25 42 U.S.C. § 7401 et seq.) and associated permit restrictions,  
26 and all applicable requirements of the act of July 7, 1980  
27 (P.L.380, No.97), known as the Solid Waste Management Act.

28 "Net metering." The means of measuring the difference  
29 between the electricity supplied by an electric utility and the  
30 electricity generated by a customer-generator, when the

1 renewable energy generating system is intended primarily to  
2 offset part or all of the customer-generator's requirements for  
3 electricity.

4 "Regional transmission organization." An entity approved by  
5 the Federal Energy Regulatory Commission (FERC) that is created  
6 to operate and manage the electrical transmission grids of the  
7 member electric transmission utilities as required under FERC  
8 Order 2000, Docket No. RM99-2-000, FERC Chapter 31.089 (1999) or  
9 any successor organization approved by the FERC.

10 "Reporting period." The 12-month period from June 1 through  
11 May 31. A reporting year shall be numbered according to the  
12 calendar year in which it begins and ends.

13 "Retail electric customer." The term shall have the same  
14 meaning given to it in 66 Pa.C.S Ch. 28 (relating to  
15 restructuring of electric utility industry).

16 "Tier I alternative energy source." Energy derived from:

- 17 (1) Solar photovoltaic energy.
- 18 (2) Wind power.
- 19 (3) Low-impact hydropower.
- 20 (4) Geothermal energy.
- 21 (5) Biologically derived methane gas.
- 22 (6) Fuel cells.
- 23 (7) Biomass energy.
- 24 (8) COAL MINE METHANE. ←

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

- 26 (1) Waste coal.
- 27 (2) Distributed generation systems.
- 28 (3) Demand-side management.
- 29 ~~(4) Coal mine methane.~~ ←
- 30 ~~(5) Large scale hydropower.~~





1 PROVIDED, HOWEVER, THAT AN ELECTRIC DISTRIBUTION COMPANY OR  
2 AN ELECTRIC GENERATION SUPPLIER SHALL BE EXCUSED FROM ITS  
3 OBLIGATIONS UNDER THIS SECTION TO THE EXTENT THAT THE  
4 COMMISSION DETERMINES THAT FORCE MAJEURE EXISTS.

5 (3) ALL COSTS FOR:

6 (I) THE PURCHASE OF ELECTRICITY GENERATED FROM  
7 ALTERNATIVE ENERGY SOURCES, INCLUDING THE COSTS OF THE  
8 REGIONAL TRANSMISSION ORGANIZATION, IN EXCESS OF THE  
9 REGIONAL TRANSMISSION ORGANIZATION REAL-TIME LOCATIONAL  
10 MARGINAL PRICING, OR ITS SUCCESSOR, AT THE DELIVERY POINT  
11 OF THE ALTERNATIVE ENERGY SOURCE FOR THE ELECTRICAL  
12 PRODUCTION OF THE ALTERNATIVE ENERGY SOURCES; AND

13 (II) PAYMENTS FOR ALTERNATIVE ENERGY CREDITS, IN  
14 BOTH CASES THAT ARE VOLUNTARILY ACQUIRED BY AN ELECTRIC  
15 DISTRIBUTION COMPANY DURING THE COST RECOVERY PERIOD ON  
16 BEHALF OF ITS CUSTOMERS

17 SHALL BE DEFERRED AS A REGULATORY ASSET BY THE ELECTRIC  
18 DISTRIBUTION COMPANY AND FULLY RECOVERED, WITH A RETURN ON  
19 THE UNAMORTIZED BALANCE, PURSUANT TO AN AUTOMATIC ENERGY  
20 ADJUSTMENT CLAUSE UNDER 66 PA.C.S. § 1307 (RELATING TO  
21 SLIDING SCALE OF RATES; ADJUSTMENTS) AS A COST OF GENERATION  
22 SUPPLY UNDER 66 PA.C.S. § 2807 (RELATING TO DUTIES OF  
23 ELECTRIC DISTRIBUTION COMPANIES), IN THE FIRST YEAR AFTER THE  
24 EXPIRATION OF ITS COST RECOVERY PERIOD. AFTER THE COST  
25 RECOVERY PERIOD, ANY DIRECT OR INDIRECT COSTS FOR THE  
26 PURCHASE BY ELECTRIC DISTRIBUTION OF RESOURCES TO COMPLY WITH  
27 THIS SECTION, INCLUDING, BUT NOT LIMITED TO, THE PURCHASE OF  
28 ELECTRICITY GENERATED FROM ALTERNATIVE ENERGY SOURCES,  
29 PAYMENTS FOR ALTERNATIVE ENERGY CREDITS, COST OF CREDITS  
30 BANKED, PAYMENTS TO ANY THIRD PARTY ADMINISTRATORS FOR

1 PERFORMANCE UNDER THIS ACT AND COSTS LEVIED BY A REGIONAL  
2 TRANSMISSION ORGANIZATION TO ENSURE THAT ALTERNATIVE ENERGY  
3 SOURCES ARE RELIABLE, SHALL BE RECOVERED ON A FULL AND  
4 CURRENT BASIS PURSUANT TO AN AUTOMATIC ENERGY ADJUSTMENT  
5 CLAUSE UNDER 66 PA.C.S. § 1307 AS A COST OF GENERATION SUPPLY  
6 UNDER 66 PA.C.S. § 2807.

7 (b) Tier I and solar photovoltaic shares.--

8 (1) Two years after the effective date of this act, at  
9 least 1.5% of the electric energy sold by an electric  
10 distribution company or electric generation supplier to  
11 retail electric customers in this Commonwealth shall be  
12 generated from Tier I alternative energy sources. Except as  
13 provided in this section, the minimum percentage of electric  
14 energy required to be sold to retail electric customers from  
15 alternative energy sources shall increase to 2% three years  
16 after the effective date of this act. The minimum percentage  
17 of electric energy required to be sold to retail electric  
18 customers from alternative energy sources shall increase by  
19 at least 0.5% each year so that at least ~~10%~~ 8% of the ←  
20 electric energy sold by an electric distribution company or  
21 electric generation supplier to retail electric customers in  
22 that certificated territory in the 15th year after the  
23 effective date of this subsection is sold from Tier I  
24 alternative energy resources.

25 (2) Of the electric energy required to be sold from Tier  
26 I sources, the TOTAL percentage that must be sold from solar ←  
27 photovoltaic technologies is for:

- 28 (i) Years 1 through 4 - 0.0013%.  
29 (ii) Years 5 through 9 - 0.0203%.  
30 (iii) Years 10 through 14 - 0.2500%.

1 (iv) Years 15 and thereafter - 0.5000%.

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

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

16 ~~(1) Years 1 through 4 - 2.2%.~~ <—

17 ~~(2) Years 5 through 9 - 3.2%.~~

18 ~~(3) Years 10 through 14 - 4.2%.~~

19 ~~(4) Years 15 and thereafter - 5.0%.~~

20 (1) YEARS 1 THROUGH 4 - 4.2%. <—

21 (2) YEARS 5 THROUGH 9 - 6.2%.

22 (3) YEARS 10 THROUGH 14 - 8.2%.

23 (4) YEARS 15 AND THEREAFTER - 10.0%.

24 (d) Exemption during cost-recovery period.--Compliance with  
25 subsections (a), (b) and (c) shall not be required for any  
26 electric distribution company that has not reached the end of  
27 its cost-recovery period or for electric generation supplier  
28 sales in the service territory of an electric distribution  
29 company that has not reached the end of its cost-recovery  
30 period. At the conclusion of an electric distribution company's

1 cost-recovery period, this exception shall no longer apply, and  
2 compliance shall be required at the percentages in effect at  
3 that time. Electric distribution companies and electric  
4 generation suppliers whose sales are exempted under this  
5 subsection and who voluntarily sell electricity generated from  
6 Tier I and Tier II sources during the cost-recovery period may  
7 bank credits consistent with subsection (e)(7).

8 (e) Alternative energy credits.--

9 (1) The commission shall establish an alternative energy  
10 credits program as needed to implement this act. The  
11 provision of services pursuant to this section shall be  
12 exempt from the competitive procurement procedures of 62  
13 Pa.C.S. (relating to procurement).

14 (2) The commission shall approve an independent entity  
15 to serve as the alternative energy credits program  
16 administrator. The administrator shall have those powers and  
17 duties assigned by commission regulations. Such powers and  
18 duties shall include, but not be limited to, the following:

19 (i) To create and administer an alternative energy  
20 credits certification, tracking and reporting program.  
21 This program should include, at a minimum, a process for  
22 qualifying alternative energy systems and determining the  
23 manner credits can be created, accounted for, transferred  
24 and retired.

25 (ii) To submit reports to the commission at such  
26 times and in such manner as the commission shall direct.

27 (3) All qualifying alternative energy systems must  
28 include a qualifying meter to record the cumulative electric  
29 production to verify the advanced energy credit value.  
30 Qualifying meters will be approved by the commission as

1 defined in paragraph (4).

2 (4) (i) An electric distribution company or electric  
3 generation supplier shall comply with the applicable  
4 requirements of this section by purchasing sufficient  
5 alternative energy credits and submitting documentation  
6 of compliance to the program administrator.

7 (ii) For purposes of this subsection, one  
8 alternative energy credit shall represent one megawatt  
9 hour of qualified alternative electric generation,  
10 whether self-generated, purchased along with the electric  
11 commodity or separately through a tradable instrument and  
12 otherwise meeting the requirements of commission  
13 regulations and the program administrator.

14 (5) The alternative energy credits program shall include  
15 provisions requiring a reporting period as defined in section  
16 2 for all covered entities under this act. The alternative  
17 energy credits program shall also include a true-up period as  
18 defined in section 2. The true-up period shall provide  
19 entities covered under this act the ability to obtain the  
20 required number of alternative energy credits or to make up  
21 any shortfall of the alternative energy credits they may be  
22 required to obtain to comply with this act. A force majeure  
23 provision shall also be provided for under the true-up period  
24 provisions.

25 (6) An electric distribution company and electric  
26 generation supplier may bank or place in reserve alternative  
27 energy credits produced in one reporting year for compliance  
28 in either or both of the two subsequent reporting years,  
29 subject to the limitations set forth in this subsection and  
30 provided that the electric distribution company and electric

1 generation supplier are in compliance for all previous  
2 reporting years. In addition, the electric distribution  
3 company and electric generation supplier shall demonstrate to  
4 the satisfaction of the commission that such credits:

5 (i) were in excess of the alternative energy credits  
6 needed for compliance in the year in which they were  
7 generated and that such excess credits have not  
8 previously been used for compliance under this act;

9 ~~(ii) do not exceed 30% of the credits needed by the~~ ←  
10 ~~electric distribution company and electric generation~~  
11 ~~supplier for compliance in the year they were generated;~~

12 ~~(iii)~~ (II) were produced by the generation of ←  
13 electrical energy by alternative energy sources and sold  
14 to retail customers during the year in which they were  
15 generated; and

16 ~~(iv)~~ (III) have not otherwise been nor will be sold, ←  
17 retired, claimed or represented as part of satisfying  
18 compliance with alternative or renewable energy portfolio  
19 standards in other states.

20 (7) An electric distribution company or an electric  
21 generation supplier with sales that are exempted under  
22 subsection (d) may bank credits for retail sales of  
23 electricity generated from Tier I and Tier II sources made  
24 prior to the end of the cost-recovery period and after the  
25 effective date of this act. Bankable credits shall be limited  
26 to credits associated with electricity sold from Tier I and  
27 Tier II sources during a reporting year which exceeds the  
28 volume of sales from such sources by an electric distribution  
29 company or electric generation supplier during the 12-month  
30 period immediately preceding the effective date of this act.

1 All credits banked under this subsection shall be available  
2 for compliance with subsections (b) and (c) for no more than  
3 two reporting years following the conclusion of the cost-  
4 recovery period.

5 (8) The commission or its designee shall develop a  
6 registry of pertinent information regarding all available  
7 alternative energy credits, credit transactions among  
8 electric distribution companies and electric generation  
9 suppliers, the number of alternative energy credits sold or  
10 transferred and the price paid for the sale or transfer of  
11 the credits. The registry shall provide current information  
12 to electric distribution companies, electric generation  
13 suppliers and the general public on the status of alternative  
14 energy credits created, sold or transferred within this  
15 Commonwealth.

16 (9) The commission may impose an administrative fee on  
17 an alternative energy credit transaction. The amount of this  
18 fee may not exceed the actual direct cost of processing the  
19 transaction by the alternative energy credits administrator.  
20 The commission is authorized to utilize up to 5% of the  
21 alternative compliance fees generated under subsection (f)  
22 for administrative expenses directly associated with this  
23 act.

24 (10) The commission shall establish regulations  
25 governing the verification and tracking of energy efficiency  
26 and demand-side management measures pursuant to this act,  
27 which shall include benefits to all utility customer classes.  
28 When developing regulations, the commission must give  
29 reasonable consideration to existing and proposed regulations  
30 and rules in existence in the regional transmission



1 organizations that manage the transmission system in any part  
2 of this Commonwealth. All verified reductions shall accrue  
3 credits starting with the passage of this act.

4 (11) The commission shall within 120 days of the  
5 effective date of this act develop a depreciation schedule  
6 for alternative energy credits created through demand side  
7 management, energy efficiency and load management  
8 technologies and shall develop standards for tracking and  
9 verifying savings from energy efficiency, load management and  
10 demand-side management measures. The commission shall allow  
11 for a 60-day public comment period and shall issue final  
12 standards within 30 days of the close of the public comment  
13 period.

14 (f) Alternative compliance payment.--

15 (1) At the end of each program year, the program  
16 administrator shall provide a report to the commission and to  
17 each covered electric distribution company showing their  
18 status level of alternative energy acquisition.

19 (2) The commission shall conduct a review of each  
20 determination made under subsections (b) and (c). If, after  
21 notice and hearing, the commission determines that an  
22 electric distribution company or electric generation supplier  
23 has failed to comply with subsections (b) and (c), the  
24 commission shall impose an alternative compliance payment on  
25 that company or supplier.

26 (3) The alternative compliance payment, with the  
27 exception of the solar photovoltaic share compliance  
28 requirement set forth in subsection (b)(2), shall be \$45  
29 times the number of additional alternative energy credits  
30 needed in order to comply with subsection (b) or (c).

1 (4) The alternative compliance payment for the solar  
2 photovoltaic share shall be 200% of the average market share <—  
3 ~~of the solar photovoltaic credits sold during the reporting~~  
4 ~~period.~~ VALUE OF SOLAR RENEWABLE ENERGY CREDITS SOLD DURING <—  
5 THE REPORTING PERIOD WITHIN THE SERVICE REGION OF THE  
6 REGIONAL TRANSMISSION ORGANIZATION.

7 (5) The commission shall establish a process to provide  
8 for, at least annually, a review of the alternative energy  
9 market within this Commonwealth and the service territories  
10 of the regional transmission organizations that manage the  
11 transmission system in any part of this Commonwealth. The  
12 commission will use the results of this study to identify any  
13 needed changes to the cost associated with the alternative  
14 compliance payment program. ~~The commission may raise the cost <—~~  
15 ~~of the alternative compliance payments to maintain the~~  
16 ~~integrity of the payments program and to ensure that it is~~  
17 ~~not used to meet compliance with this act in lieu of~~  
18 ~~acquiring energy from actual alternative energy sources as~~  
19 ~~defined in this act.~~ If the commission finds that the costs  
20 associated with alternative compliance payment program must  
21 be lowered CHANGED, the commission shall present these <—  
22 findings to the General assembly for legislative enactment.

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

24 (1) Notwithstanding the provisions of 66 Pa.C.S. §§ 511  
25 (relating to disposition, appropriation and disbursement of  
26 assessments and fees) and 3315 (relating to disposition of  
27 fines and penalties), alternative compliance payments imposed  
28 pursuant to this act shall be paid into the sustainable <—  
29 ~~development funds, created under the commissions~~  
30 ~~restructuring orders under 66 Pa.C.S. Ch. 28 (relating to~~

~~restructuring of electric utility industry). Alternative  
compliance payments will be paid into the appropriate fund  
based upon which electric distribution company or electric  
generation supplier incurred the alternative compliance  
payment.~~ PENNSYLVANIA'S SUSTAINABLE ENERGY FUNDS, CREATED  
UNDER THE COMMISSION'S RESTRUCTURING ORDERS UNDER 66 PA.C.S.  
CH. 28 (RELATING TO RESTRUCTURING OF ELECTRIC UTILITY  
INDUSTRY). ALTERNATIVE COMPLIANCE PAYMENTS SHALL BE PAID INTO  
A SPECIAL FUND OF THE PENNSYLVANIA SUSTAINABLE ENERGY BOARD,  
ESTABLISHED BY THE COMMISSION UNDER DOCKET M-00031715, AND  
MADE AVAILABLE TO THE REGIONAL SUSTAINABLE ENERGY FUNDS UNDER  
PROCEDURES AND GUIDELINES APPROVED BY THE PENNSYLVANIA ENERGY  
BOARD.

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

(H) NONSEVERABILITY.--THE PROVISIONS OF SUBSECTION (A) ARE  
DECLARED TO BE NONSEVERABLE. IF ANY PROVISION OF SUBSECTION (A)  
IS HELD INVALID, THE REMAINING PROVISIONS OF THIS ACT SHALL BE  
VOID.

Section 4. Portfolio requirements in other states.

If an electric distribution supplier or electric generation  
company provider sells electricity in any other state and is  
subject to renewable energy portfolio requirements in that  
state, they shall list any such requirement and shall indicate  
how it satisfied those renewable energy portfolio requirements.  
To prevent double-counting, the electric distribution supplier  
or electric generation company shall not satisfy Pennsylvania's  
alternative energy portfolio requirements using alternative

1 energy used to satisfy another state's portfolio requirements.  
2 Energy derived only from alternative energy sources inside the  
3 geographical boundaries of this Commonwealth or within the  
4 service territory of any regional transmission organization that  
5 manages the transmission system in any part of this Commonwealth  
6 shall be eligible to meet the compliance requirements under this  
7 act. Electric distribution companies and electric generation  
8 suppliers shall document that this energy was not used to  
9 satisfy another state's renewable energy portfolio standards.

10 Section 5. Interconnection standards for customer-generator  
11 facilities.

12 The commission shall develop technical and net metering  
13 interconnection rules for customer-generators intending to  
14 operate renewable onsite generators in parallel with the  
15 electric utility grid, consistent with rules defined in other  
16 states within the service region of the regional transmission  
17 organization that manages the transmission system in any part of  
18 this Commonwealth. The commission shall convene a stakeholder  
19 process to develop Statewide technical and net metering rules  
20 for customer-generators. The commission shall develop these  
21 rules within nine months of the effective date of this act.

22 Section 6. Health and safety standards.

23 The department shall cooperate with the Department of Labor  
24 and Industry as necessary in developing health and safety  
25 standards, as needed, regarding facilities generating energy  
26 from alternative energy sources. The department shall establish  
27 appropriate and reasonable health and safety standards to ensure  
28 uniform and proper compliance with this act by owners and  
29 operators of facilities generating energy from alternative  
30 energy sources as defined in this act.

1 Section 7. Interagency responsibilities.

2 (a) Commission responsibilities.--The commission will carry  
3 out the responsibilities delineated within this act. The  
4 commission also shall, in cooperation with the department,  
5 conduct an ongoing alternative energy resources planning  
6 assessment for this Commonwealth. This assessment will, at a  
7 minimum, identify current and operating alternative energy  
8 facilities, the potential to add future alternative energy  
9 generating capacity, and the conditions of the alternative  
10 energy marketplace. The assessment will identify needed methods  
11 to maintain or increase the relative competitiveness of the  
12 alternative energy market within this Commonwealth.

13 (b) Department responsibilities.--The department shall  
14 ensure that all qualified alternative energy sources meet all  
15 applicable environmental standards and shall verify that an  
16 alternative energy source meets the standards set forth in  
17 section 2.

18 (c) Cooperation between commission and department.--The  
19 commission and the department shall work cooperatively to  
20 monitor the performance of all aspects of this act and will  
21 provide an annual report to the chairman and minority chairman  
22 of the Environmental Resources and Energy Committee of the  
23 Senate and the chairman and minority chairman of the  
24 Environmental Resources and Energy Committee of the House of  
25 Representatives. The report shall include at a minimum:

26 (1) The status of the compliance with the provisions of  
27 this act by electric distribution companies and electric  
28 generations suppliers.

29 (2) Current costs of alternative energy on a per  
30 kilowatt hour basis for all alternative energy technology

1 types.

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

5 (4) The status of the alternative energy marketplace  
6 within this Commonwealth.

7 (5) Recommendations for program improvements.

8 Section 8. Rural electric cooperatives.

9 Each rural electric cooperative operating within this  
10 Commonwealth shall offer to its retail customers a voluntary  
11 program of energy efficiency and demand-side management  
12 programs, as a means to satisfy compliance with the requirements  
13 of this act.

14 Section 9. Effective date.

15 This act shall take effect in 90 days.