

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 715 Session of 2007

INTRODUCED BY MUSTO, FUMO, BOSCOLA, WASHINGTON, C. WILLIAMS, COSTA, FONTANA, MELLOW, KITCHEN, STACK AND FERLO, APRIL 9, 2007

SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS AMENDED, JUNE 13, 2007

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 the definition of "force majeure," for
9 alternative energy portfolio standards, for portfolio
10 requirements in other states and for interconnection
11 standards for customer-generator facilities.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The definition of "force majeure" in section 2 of
15 the act of November 30, 2004 (P.L.1672, No.213), known as the
16 Alternative Energy Portfolio Standards Act, is amended to read:

17 Section 2. Definitions.

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

21 \* \* \*

1 "Force majeure." Upon its own initiative or upon a request  
2 of an electric distribution company or an electric generator  
3 supplier, the Pennsylvania Public Utility Commission, within 60  
4 days, shall determine if alternative energy resources are  
5 reasonably available in the marketplace in sufficient quantities  
6 for the electric distribution companies and electric generation  
7 suppliers to meet their obligations for that reporting period  
8 under this act. In making this determination the commission  
9 shall consider whether electric distribution companies or  
10 electric generation suppliers have made a good faith effort to  
11 acquire sufficient alternative energy to comply with their  
12 obligations. Such good faith efforts shall include, but are not  
13 limited to, banking alternative energy credits during their  
14 transition periods, seeking alternative energy credits through  
15 competitive solicitations and seeking to procure alternative  
16 energy credits or alternative energy through long-term  
17 contracts. In further making its determination the commission  
18 shall assess the availability of alternative energy credits in  
19 the Generation Attributes Tracking System (GATS) or its  
20 successor, and the availability of alternative energy credits  
21 generally in Pennsylvania and other jurisdictions in the PJM  
22 Interconnection, L.L.C. regional transmission organization (PJM)  
23 or its successor. The commission may also require solicitations  
24 for alternative energy credits as part of default service before  
25 requests of force majeure can be made. If the commission further  
26 determines that alternative energy resources are not reasonably  
27 available in sufficient quantities in the marketplace for the  
28 electric distribution companies and electric generation  
29 suppliers to meet their obligations under this act, then the  
30 commission shall modify the underlying obligation of the

1 electric distribution company or electric generation supplier or  
2 recommend to the General Assembly that the underlying obligation  
3 be eliminated.

4 \* \* \*

5 Section 2. ~~Sections 3(b) and (f), 4 and 5 of the act are~~ <—  
6 ~~amended to read:~~ SECTION 3(B) AND (F) OF THE ACT ARE AMENDED AND <—  
7 SUBSECTION (E) IS AMENDED BY ADDING A PARAGRAPH TO READ:

8 Section 3. Alternative energy portfolio standards.

9 \* \* \*

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

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

28 (2) [Of the electric energy required to be sold from <—  
29 Tier I sources, the total percentage that must be sold from  
30 solar photovoltaic technologies is ~~{for}~~:] FOR:] THE TOTAL <—

PERCENTAGE OF THE ELECTRIC ENERGY SOLD BY AN ELECTRIC  
DISTRIBUTION COMPANY OR ELECTRIC GENERATION SUPPLIER TO  
RETAIL ELECTRIC CUSTOMERS IN THIS COMMONWEALTH THAT MUST BE  
SOLD FROM SOLAR PHOTOVOLTAIC TECHNOLOGIES IS:

[(i) Years 1 through 4 - 0.0013%.

(ii) Years 5 through 9 - 0.0203%.

(iii) Years 10 through 14 - 0.2500%.

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

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

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

(iii) 0.0063% for June 1, 2008, through May 31,

2009.

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

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

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

(vii) 0.0510% for June 1, 2012, through May 31,

2013.

(viii) 0.0840% for June 1, 2013, through May 31,

2014.

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

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

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

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

2018.

(xiii) 0.3900% for June 1, 2018, through May 31,

2019.

(xiv) 0.4433% for June 1, 2019, through May 31,

2020.

(xv) 0.5000% for June 1, 2020, through May 31, 2021. <—

The percentages in this paragraph shall apply to all retail

1 ~~electricity sales in this Commonwealth.~~ AND THEREAFTER. <—

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 \* \* \*

14 (E) ALTERNATIVE ENERGY CREDITS.-- <—

15 \* \* \*

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

25 (II) THIS PARAGRAPH SHALL APPLY TO ALL ALTERNATIVE  
26 ENERGY CREDITS WHICH WERE CREATED PURSUANT TO THIS ACT  
27 PRIOR TO THE EFFECTIVE DATE OF THIS PARAGRAPH AND WHICH  
28 WILL BE CREATED AFTER THE EFFECTIVE DATE OF THIS  
29 PARAGRAPH, REGARDLESS OF WHEN ANY UNDERLYING CONTRACT FOR  
30 THE PURCHASE OF ELECTRIC ENERGY OR OTHER PRODUCTS FROM

1           THE GENERATOR THAT QUALIFIES AS AN ALTERNATIVE ENERGY  
2           SYSTEM WAS EXECUTED.

3           (f) Alternative compliance payment.--

4           (1) At the end of each program year, the program  
5 administrator shall provide a report to the commission and to  
6 each covered electric distribution company showing their  
7 status level of alternative energy acquisition.

8           (2) The commission shall conduct a review of each  
9 determination made under subsections (b) and (c). If, after  
10 notice and hearing, the commission determines that an  
11 electric distribution company or electric generation supplier  
12 has failed to comply with subsections (b) and (c), the  
13 commission shall impose an alternative compliance payment on  
14 that company or supplier.

15           (3) The alternative compliance payment, with the  
16 exception of the solar photovoltaic share compliance  
17 requirement set forth in subsection (b)(2), shall be \$45  
18 times the number of additional alternative energy credits  
19 needed in order to comply with subsection (b) or (c).

20           (4) The alternative compliance payment for the solar  
21 photovoltaic share shall be 200% of the average market value  
22 of solar renewable energy credits sold during the reporting  
23 period within the service region of the regional transmission  
24 organization, including, where applicable, the levelized up-  
25 front rebates received by sellers of solar renewable energy  
26 credits in other jurisdictions in the PJM Interconnection,  
27 L.L.C. transmission organization (PJM) or its successor.

28           (5) The commission shall establish a process to provide  
29 for, at least annually, a review of the alternative energy  
30 market within this Commonwealth and the service territories

1 of the regional transmission organizations that manage the  
2 transmission system in any part of this Commonwealth. The  
3 commission will use the results of this study to identify any  
4 needed changes to the cost associated with the alternative  
5 compliance payment program. If the commission finds that the  
6 costs associated with the alternative compliance payment  
7 program must be changed, the commission shall present these  
8 findings to the General Assembly for legislative enactment.

9 \* \* \*

10 SECTION 3. SECTIONS 4 AND 5 OF THE ACT ARE AMENDED TO READ: <—

11 Section 4. Portfolio requirements in other states.

12 If an electric distribution supplier or electric generation  
13 company provider sells electricity in any other state and is  
14 subject to renewable energy portfolio requirements in that  
15 state, they shall list any such requirement and shall indicate  
16 how it satisfied those renewable energy portfolio requirements.  
17 To prevent double-counting, the electric distribution supplier  
18 or electric generation company shall not satisfy Pennsylvania's  
19 alternative energy portfolio requirements using alternative  
20 energy used to satisfy another state's portfolio requirements[.  
21 Energy derived only from alternative energy sources inside the  
22 geographical boundaries of this Commonwealth or within the  
23 service territory of any regional transmission organization that  
24 manages the transmission system in any part of this Commonwealth  
25 shall be eligible to meet the compliance requirements under this  
26 act.] or alternative energy credits already purchased by  
27 individuals, businesses, or government bodies that do not have a  
28 compliance obligation under this act unless the individual,  
29 business or government body sells those credits to the electric  
30 distribution company or electric generation supplier. Energy

1 derived from alternative energy sources inside the geographical  
2 boundaries of this Commonwealth shall be eligible to meet the  
3 compliance requirements under this act. Energy derived from  
4 alternative energy sources located outside the geographical  
5 boundaries of this Commonwealth but within the service territory  
6 of a regional transmission organization that manages the  
7 transmission system in any part of this Commonwealth shall only  
8 be eligible to meet the compliance requirements of electric  
9 distribution companies or electric generation suppliers located  
10 within the service territory of the same regional transmission  
11 organization. For purposes of compliance with this act,  
12 alternative energy sources located in the PJM Interconnection,  
13 L.L.C. regional transmission organization (PJM) or its successor  
14 service territory shall be eligible to fulfill compliance  
15 obligations of Pike County Light and Power Company and  
16 Pennsylvania Power Company. Energy derived from alternative  
17 energy sources located outside the service territory of a  
18 regional transmission organization that manages the transmission  
19 system in any part of this Commonwealth shall not be eligible to  
20 meet the compliance requirements of this act. Electric  
21 distribution companies and electric generation suppliers shall  
22 document that this energy was not used to satisfy another  
23 state's renewable energy portfolio standards.

24 Section 5. Interconnection standards for customer-generator  
25 facilities.

26 Excess generation from net-metered customer-generators shall  
27 be "trued-up" on an annual basis. The commission shall develop  
28 technical and net metering interconnection rules for customer-  
29 generators intending to operate renewable onsite generators in  
30 parallel with the electric utility grid, consistent with rules



1 defined in other states within the service region of the  
2 regional transmission organization that manages the transmission  
3 system in any part of this Commonwealth. The commission shall  
4 convene a stakeholder process to develop Statewide technical and  
5 net metering rules for customer-generators. The commission shall  
6 develop these rules within nine months of the effective date of  
7 this act.

8 Section 3 4. This act shall take effect immediately.

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