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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 767 Session of  
2019

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INTRODUCED BY ORTITAY, BERNSTINE, GROVE, PYLE AND KEEFER,  
MARCH 8, 2019

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 8, 2019

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AN ACT

1 Repealing 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 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The act of November 30, 2004 (P.L.1672, No.213),  
11 known as the Alternative Energy Portfolio Standards Act, is  
12 repealed:

13 [AN ACT

14 Providing for the sale of electric energy generated from  
15 renewable and environmentally beneficial sources, for the  
16 acquisition of electric energy generated from renewable and  
17 environmentally beneficial sources by electric distribution  
18 and supply companies and for the powers and duties of the  
19 Pennsylvania Public Utility Commission.

20 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Short title.

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

5 Section 2. Definitions.

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

9 "Alternative energy credit." A tradable instrument that is  
10 used to establish, verify and monitor compliance with this act.  
11 A unit of credit shall equal one megawatt hour of electricity  
12 from an alternative energy source. The alternative energy credit  
13 shall remain the property of the alternative energy system until  
14 the alternative energy credit is voluntarily transferred by the  
15 alternative energy system.

16 "Alternative energy portfolio standards." Standards  
17 establishing that a certain amount of energy sold from  
18 alternative energy sources is included as part of the sources of  
19 electric generation by electric utilities within this  
20 Commonwealth.

21 "Alternative energy sources." The term shall include the  
22 following existing and new sources for the production of  
23 electricity:

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

25 (2) Solar thermal energy.

26 (3) Wind power.

27 (4) Large-scale hydropower, which shall mean the  
28 production of electric power by harnessing the hydroelectric  
29 potential of moving water impoundments, including pumped  
30 storage that does not meet the requirements of low-impact

1 hydropower under paragraph (5).

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

6 (i) does not adversely change existing impacts to  
7 aquatic systems;

8 (ii) meets the certification standards established  
9 by the Low Impact Hydropower Institute and American  
10 Rivers, Inc., or their successors;

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

13 (iv) protects against erosion; and

14 (v) protects cultural and historic resources.

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

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

21 (i) organic material from a plant that is grown for  
22 the purpose of being used to produce electricity or is  
23 protected by the Federal Conservation Reserve Program  
24 (CRP) and provided further that crop production on CRP  
25 lands does not prevent achievement of the water quality  
26 protection, soil erosion prevention or wildlife  
27 enhancement purposes for which the land was primarily set  
28 aside; or

29 (ii) any solid nonhazardous, cellulosic waste  
30 material that is segregated from other waste materials,

1 such as waste pallets, crates and landscape or right-of-  
2 way tree trimmings or agricultural sources, including  
3 orchard tree crops, vineyards, grain, legumes, sugar and  
4 other crop by-products or residues.

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

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

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

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

28 (12) Demand-side management consisting of the management  
29 of customer consumption of electricity or the demand for  
30 electricity through the implementation of:

1 (i) energy efficiency technologies, management  
2 practices or other strategies in residential, commercial,  
3 institutional or government customers that reduce  
4 electricity consumption by those customers;

5 (ii) load management or demand response  
6 technologies, management practices or other strategies in  
7 residential, commercial, industrial, institutional and  
8 government customers that shift electric load from  
9 periods of higher demand to periods of lower demand; or

10 (iii) industrial by-product technologies consisting  
11 of the use of a by-product from an industrial process,  
12 including the reuse of energy from exhaust gases or other  
13 manufacturing by-products that are used in the direct  
14 production of electricity at the facility of a customer.

15 (13) Distributed generation system, which shall mean the  
16 small-scale power generation of electricity and useful  
17 thermal energy.

18 "Alternative energy system." A facility or energy system  
19 that uses a form of alternative energy source to generate  
20 electricity and delivers the electricity it generates to the  
21 distribution system of an electric distribution company or to  
22 the transmission system operated by a regional transmission  
23 organization.

24 "Commission." The Pennsylvania Public Utility Commission.

25 "Cost-recovery period." The longer of:

26 (1) the period during which competitive transition  
27 charges under 66 Pa.C.S § 2808 (relating to competitive  
28 transition charge) or intangible transition charges under 66  
29 Pa.C.S. § 2812 (relating to approval of transition bonds) are  
30 recovered; or

1 (2) the period during which an electric distribution  
2 company operates under a Pennsylvania Public Utility  
3 Commission-approved generation rate plan that has been  
4 approved prior to or within one year of the effective date of  
5 this act, but in no case shall the cost-recovery period under  
6 this act extend beyond December 31, 2010.

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

25 "Department." The Department of Environmental Protection of  
26 the Commonwealth.

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

30 "Electric generation supplier." The term shall have the same

1 meaning given to it in 66 Pa.C.S. Ch. 28 (relating to  
2 restructuring of electric utility industry).

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

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

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

26 "Net metering." The means of measuring the difference  
27 between the electricity supplied by an electric utility and the  
28 electricity generated by a customer-generator when any portion  
29 of the electricity generated by the alternative energy  
30 generating system is used to offset part or all of the customer-



1 generator's requirements for electricity. Virtual meter  
2 aggregation on properties owned or leased and operated by a  
3 customer-generator and located within two miles of the  
4 boundaries of the customer-generator's property and within a  
5 single electric distribution company's service territory shall  
6 be eligible for net metering.

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

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

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

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

20 (1) Solar photovoltaic and solar thermal energy.

21 (2) Wind power.

22 (3) Low-impact hydropower.

23 (4) Geothermal energy.

24 (5) Biologically derived methane gas.

25 (6) Fuel cells.

26 (7) Biomass energy.

27 (8) Coal mine methane.

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

29 (1) Waste coal.

30 (2) Distributed generation systems.

- 1 (3) Demand-side management.
- 2 (4) Large-scale hydropower.
- 3 (5) Municipal solid waste.
- 4 (6) Generation of electricity utilizing by-products of
- 5 the pulping process and wood manufacturing process, including
- 6 bark, wood chips, sawdust and lignin in spent pulping
- 7 liquors.
- 8 (7) Integrated combined coal gasification technology.

9 "True-up period." The period each year from the end of the  
10 reporting year until September 1.

11 Section 3. Alternative energy portfolio standards.

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

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

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

28 (3) All costs for:

29 (i) the purchase of electricity generated from  
30 alternative energy sources, including the costs of the

1 regional transmission organization, in excess of the  
2 regional transmission organization real-time locational  
3 marginal pricing, or its successor, at the delivery point  
4 of the alternative energy source for the electrical  
5 production of the alternative energy sources; and

6 (ii) payments for alternative energy credits, in  
7 both cases that are voluntarily acquired by an electric  
8 distribution company during the cost recovery period on  
9 behalf of its customers shall be deferred as a regulatory  
10 asset by the electric distribution company and fully  
11 recovered, with a return on the unamortized balance,  
12 pursuant to an automatic energy adjustment clause under  
13 66 Pa.C.S. § 1307 (relating to sliding scale of rates;  
14 adjustments) as a cost of generation supply under 66  
15 Pa.C.S. § 2807 (relating to duties of electric  
16 distribution companies) in the first year after the  
17 expiration of its cost-recovery period. After the cost-  
18 recovery period, any direct or indirect costs for the  
19 purchase by electric distribution of resources to comply  
20 with this section, including, but not limited to, the  
21 purchase of electricity generated from alternative energy  
22 sources, payments for alternative energy credits, cost of  
23 credits banked, payments to any third party  
24 administrators for performance under this act and costs  
25 levied by a regional transmission organization to ensure  
26 that alternative energy sources are reliable, shall be  
27 recovered on a full and current basis pursuant to an  
28 automatic energy adjustment clause under 66 Pa.C.S. §  
29 1307 as a cost of generation supply under 66 Pa.C.S. §  
30 2807.

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

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

19 (2) The total percentage of the electric energy sold by  
20 an electric distribution company or electric generation  
21 supplier to retail electric customers in this Commonwealth  
22 that must be sold from solar photovoltaic technologies is:

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

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

25 (iii) 0.0063% for June 1, 2008, through May 31,  
26 2009.

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

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

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

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

1 2013.

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

3 2014.

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

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

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

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

8 2018.

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

10 2019.

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

12 2020.

13 (xv) 0.5000% for June 1, 2020, and thereafter.

14 (3) Upon commencement of the beginning of the 6th  
15 reporting year, the commission shall undertake a review of  
16 the compliance by electric distribution companies and  
17 electric generation suppliers with the requirements of this  
18 act. The review shall also include the status of alternative  
19 energy technologies within this Commonwealth and the capacity  
20 to add additional alternative energy resources. The  
21 commission shall use the results of this review to recommend  
22 to the General Assembly additional compliance goals beyond  
23 year 15. The commission shall work with the department in  
24 evaluating the future alternative energy resource potential.

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

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

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

30 (3) Years 10 through 14 - 8.2%.

1 (4) Years 15 and thereafter - 10.0%.

2 (d) Exemption during cost-recovery period.--Compliance with  
3 subsections (a), (b) and (c) shall not be required for any  
4 electric distribution company that has not reached the end of  
5 its cost-recovery period or for electric generation supplier  
6 sales in the service territory of an electric distribution  
7 company that has not reached the end of its cost-recovery  
8 period. At the conclusion of an electric distribution company's  
9 cost-recovery period, this exception shall no longer apply, and  
10 compliance shall be required at the percentages in effect at  
11 that time. Electric distribution companies and electric  
12 generation suppliers whose sales are exempted under this  
13 subsection and who voluntarily sell electricity generated from  
14 Tier I and Tier II sources during the cost-recovery period may  
15 bank credits consistent with subsection (e) (7).

16 (e) Alternative energy credits.--

17 (1) The commission shall establish an alternative energy  
18 credits program as needed to implement this act. The  
19 provision of services pursuant to this section shall be  
20 exempt from the competitive procurement procedures of 62  
21 Pa.C.S. (relating to procurement).

22 (2) The commission shall approve an independent entity  
23 to serve as the alternative energy credits program  
24 administrator. The administrator shall have those powers and  
25 duties assigned by commission regulations. Such powers and  
26 duties shall include, but not be limited to, the following:

27 (i) To create and administer an alternative energy  
28 credits certification, tracking and reporting program.

29 This program should include, at a minimum, a process for  
30 qualifying alternative energy systems and determining the

1 manner credits can be created, accounted for, transferred  
2 and retired.

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

5 (3) All qualifying alternative energy systems must  
6 include a qualifying meter to record the cumulative electric  
7 production to verify the advanced energy credit value.  
8 Qualifying meters will be approved by the commission as  
9 defined in paragraph (4).

10 (4) (i) An electric distribution company or electric  
11 generation supplier shall comply with the applicable  
12 requirements of this section by purchasing sufficient  
13 alternative energy credits and submitting documentation  
14 of compliance to the program administrator.

15 (ii) For purposes of this subsection, one  
16 alternative energy credit shall represent one megawatt  
17 hour of qualified alternative electric generation,  
18 whether self-generated, purchased along with the electric  
19 commodity or separately through a tradable instrument and  
20 otherwise meeting the requirements of commission  
21 regulations and the program administrator.

22 (5) The alternative energy credits program shall include  
23 provisions requiring a reporting period as defined in section  
24 2 for all covered entities under this act. The alternative  
25 energy credits program shall also include a true-up period as  
26 defined in section 2. The true-up period shall provide  
27 entities covered under this act the ability to obtain the  
28 required number of alternative energy credits or to make up  
29 any shortfall of the alternative energy credits they may be  
30 required to obtain to comply with this act. A force majeure

1 provision shall also be provided for under the true-up period  
2 provisions.

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

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

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

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

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



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

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

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

29 (10) The commission shall establish regulations  
30 governing the verification and tracking of energy efficiency

1 and demand-side management measures pursuant to this act,  
2 which shall include benefits to all utility customer classes.  
3 When developing regulations, the commission must give  
4 reasonable consideration to existing and proposed regulations  
5 and rules in existence in the regional transmission  
6 organizations that manage the transmission system in any part  
7 of this Commonwealth. All verified reductions shall accrue  
8 credits starting with the passage of this act.

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

19 (12) Unless a contractual provision explicitly assigns  
20 alternative energy credits in a different manner, the owner  
21 of the alternative energy system or a customer-generator owns  
22 any and all alternative energy credits associated with or  
23 created by the production of electric energy by such facility  
24 or customer, and the owner or customer shall be entitled to  
25 sell, transfer or take any other action to which a legal  
26 owner of property is entitled to take with respect to the  
27 credits.

28 (f) Alternative compliance payment.--

29 (1) At the end of each program year, the program  
30 administrator shall provide a report to the commission and to

1 each covered electric distribution company showing their  
2 status level of alternative energy acquisition.

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

10 (3) The alternative compliance payment, with the  
11 exception of the solar photovoltaic share compliance  
12 requirement set forth in subsection (b) (2), shall be \$45  
13 times the number of additional alternative energy credits  
14 needed in order to comply with subsection (b) or (c).

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

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

1 costs associated with the alternative compliance payment  
2 program must be changed, the commission shall present these  
3 findings to the General Assembly for legislative enactment.

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

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

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

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

26 Section 4. Portfolio requirements in other states.

27 If an electric distribution supplier or electric generation  
28 company provider sells electricity in any other state and is  
29 subject to renewable energy portfolio requirements in that  
30 state, they shall list any such requirement and shall indicate

1 how it satisfied those renewable energy portfolio requirements.  
2 To prevent double-counting, the electric distribution supplier  
3 or electric generation company shall not satisfy Pennsylvania's  
4 alternative energy portfolio requirements using alternative  
5 energy used to satisfy another state's portfolio requirements or  
6 alternative energy credits already purchased by individuals,  
7 businesses or government bodies that do not have a compliance  
8 obligation under this act unless the individual, business or  
9 government body sells those credits to the electric distribution  
10 company or electric generation supplier. Energy derived from  
11 alternative energy sources inside the geographical boundaries of  
12 this Commonwealth shall be eligible to meet the compliance  
13 requirements under this act. Energy derived from alternative  
14 energy sources located outside the geographical boundaries of  
15 this Commonwealth but within the service territory of a regional  
16 transmission organization that manages the transmission system  
17 in any part of this Commonwealth shall only be eligible to meet  
18 the compliance requirements of electric distribution companies  
19 or electric generation suppliers located within the service  
20 territory of the same regional transmission organization. For  
21 purposes of compliance with this act, alternative energy sources  
22 located in the PJM Interconnection, L.L.C. regional transmission  
23 organization (PJM) or its successor service territory shall be  
24 eligible to fulfill compliance obligations of all Pennsylvania  
25 electric distribution companies and electric generation  
26 suppliers. Energy derived from alternative energy sources  
27 located outside the service territory of a regional transmission  
28 organization that manages the transmission system in any part of  
29 this Commonwealth shall not be eligible to meet the compliance  
30 requirements of this act. Electric distribution companies and

1 electric generation suppliers shall document that this energy  
2 was not used to satisfy another state's renewable energy  
3 portfolio standards.

4 Section 5. Interconnection standards for customer-generator  
5 facilities.

6 Excess generation from net-metered customer-generators shall  
7 receive full retail value for all energy produced on an annual  
8 basis. The commission shall develop technical and net metering  
9 interconnection rules for customer-generators intending to  
10 operate renewable onsite generators in parallel with the  
11 electric utility grid, consistent with rules defined in other  
12 states within the service region of the regional transmission  
13 organization that manages the transmission system in any part of  
14 this Commonwealth. The commission shall convene a stakeholder  
15 process to develop Statewide technical and net metering rules  
16 for customer-generators. The commission shall develop these  
17 rules within nine months of the effective date of this act.

18 Section 6. Health and safety standards.

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

27 Section 7. Interagency responsibilities.

28 (a) Commission responsibilities.--The commission will carry  
29 out the responsibilities delineated within this act. The  
30 commission also shall, in cooperation with the department,

1 conduct an ongoing alternative energy resources planning  
2 assessment for this Commonwealth. This assessment will, at a  
3 minimum, identify current and operating alternative energy  
4 facilities, the potential to add future alternative energy  
5 generating capacity and the conditions of the alternative energy  
6 marketplace. The assessment will identify needed methods to  
7 maintain or increase the relative competitiveness of the  
8 alternative energy market within this Commonwealth.

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

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

22 (1) The status of the compliance with the provisions of  
23 this act by electric distribution companies and electric  
24 generation suppliers.

25 (2) Current costs of alternative energy on a per  
26 kilowatt hour basis for all alternative energy technology  
27 types.

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

1 (4) The status of the alternative energy marketplace  
2 within this Commonwealth.

3 (5) Recommendations for program improvements.

4 Section 8. Rural electric cooperatives.

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

10 Section 9. Effective date.

11 This act shall take effect in 90 days.]

12 Section 2. This act shall take effect in 90 days.