

## **Advanced Energy Portfolio Standard**

Providing for the sale of electric energy generated from advance energy sources, for the acquisition of this power by electric distribution and supply companies and for the powers and duties of the Pennsylvania Public Utility Commission and the Pennsylvania Department of Environmental Protection; and imposing penalties.

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

Section 1. Short Title. This act shall be known and may be cited as the Advanced Energy Portfolio Standards Act.

Section 2. Definitions. The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Advanced energy credit.” A tradable instrument that may be used to track and verify compliance with the provisions of this act.

“Advanced Energy Portfolio Standard.” Standards establishing that a certain amount of electricity sold to retail customers within the Commonwealth is generated from advanced energy resources.

“Advanced Energy Resources.” Any of the following:

- Tier I advanced energy resources.
- Tier II advanced energy resources.

“Carbon sequestration.” The process of increasing the carbon content of a carbon reservoir.

"Carbon reservoir." A component of the biological or geological environment, other than atmosphere, that has the capacity to store or accumulate carbon.

“Commission.” The Pennsylvania Public Utility Commission.

“Department.” The Department of Environmental Protection.

“Electric distribution company.” The term shall have the same meaning given to it in the Electricity Generation Customer Choice and Competition Act, act of December 3, 1996 (P.L. 802, No. 138).

“Electric generation supplier.” The term shall have the same meaning given to it in the Electricity Generation Customer Choice and Competition Act, act of December 3, 1996 (P.L. 802, No. 138).

"Eligible waste coal combustion." Combustion of waste coal and reclamation of the land associated with the waste coal in either of the following situations:

- (1) Combustion of waste coal which was disposed or abandoned prior to July 31, 1982 or disposed thereafter in a permitted coal refuse disposal site and, regardless of when disposed, comprises at least 75 percent of the total energy input at the facility where it is used to generate electricity; or
- (2) other waste coal combustion meeting alternate eligibility requirements established by regulations.

"Emission offsets." Any of the following:

- (1) Energy conservation measures.
- (2) Energy efficiency measures in the generation of power.
- (3) Carbon sequestration.
- (4) The recovery of energy in municipal, industrial or commercial facilities for the purpose of generating distributed electric power or the economically useful production of thermal energy.

“Energy conservation measures.” Those identifiable and quantifiable measures that reduce the demand or need for electricity on a long-term basis and that meet the requirements in Section 3(d)(1).

“Energy efficiency measures in the generation of power.” Those identifiable and quantifiable measures that increase the energy efficiency of existing facilities generating

electricity and that meet the requirements in Section 3(d)(2). The term does not include measures that involve fuel switching for increased energy efficiency.

"Solid waste." The term shall have the same meaning given to it in the Solid Waste Management Act, Act of July 17, 1980 (P.L. 380, No. 97).

"Tier I Advanced energy resources." Any of the following:

- (1) Solar photovoltaic energy.
- (2) Solar thermal energy.
- (3) Wind power.
- (4) Low-impact hydropower.
- (5) Geothermal energy.
- (6) Biologically derived methane gas and fugitive coal mine methane that is collected.
- (7) Biomass energy.
- (8) Energy from solid waste except, the term does not include solid waste, burned for the generation of electric energy.
- (9) Fuel cells that are fueled by Tier I advanced energy resources in paragraphs (1) – (8).

"Tier II Advanced energy resources." Any of the following:

- (1) Electricity generated from eligible waste coal combustion.
- (2) Emission offsets.
- (3) Fuel cells that are fueled by resources other than Tier I advanced energy resources.

### Section 3. Advanced energy portfolio standard.

(a) General rule. In the tenth year after the effective date of this section and each year thereafter, at least 10% of the electric energy sold by an electric distribution company or electric generation supplier to retail customers in this Commonwealth shall be generated from advanced energy resources. At least 7% of the electric energy shall be generated from Tier I energy resources. No more than 3% shall be generated from the Tier II advanced energy resources. Such electric energy generated from advanced energy resources shall be generated at facilities within the geographic limits of an independent system operator that operates a

transmission system and interstate power pool delivering electric energy to retail customers in this Commonwealth. Any portion of an advanced energy resource that is used to meet an advanced energy or renewable energy portfolio standard in another state may not be used to meet the requirements of this section.

(b) Phase-in .

(1) One year after the effective date of this section, at least 2.5% of the electric energy sold by an electric distribution company or electric generation supplier to retail customers in this Commonwealth shall be generated from advanced energy resources.

(2) The minimum percentage of electric energy required to be generated from advanced energy resources shall increase to 3% three years after the effective date of this section and shall increase by an additional 1.00% for each succeeding year thereafter.

(3) When determining annual compliance with the advanced energy portfolio standard during the phase-in period, Tier II advanced energy resources may not exceed the maximum proportion of the overall advanced energy resources portfolio standard established in subsection (a).

(c) Credits.

(1) The Department shall establish an advanced energy tradable credits program as needed to implement this act.

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

(ii) For purposes of this subsection, one advanced energy credit shall represent one megawatt hour of qualified renewable electric energy, whether self-generated,

purchased along with the electric commodity or separately through a tradable instrument and otherwise meeting the requirements of commission regulations and the program administrator.

(3) For purposes of determining annual compliance the Department shall approve an independent entity to serve as the advanced energy credits program administrator. The administrator shall have those powers and duties assigned by Department regulations. Such powers and duties shall include, but not limited to, the following:

- (i) to create and administer a advanced energy tradable credits certification, tracking and reporting program;
- (ii) to perform audits to verify that each electric distribution company and electric generation supplier is in compliance with subsection (a) or (b); and
- (iii) to submit reports to the Department at such times and in such manner as the Department shall direct.

(d) Special requirements for Tier II advanced energy resources that are emission offsets.

(1) The Department shall, by regulation, establish standards, procedures and methods for quantifying the energy credits that a person is entitled to for energy conservation measures.

(2) The Department shall, by regulation, establish standards, procedures and methods for quantifying the energy credits that a person is entitled to for energy efficiency measures.

(3) The Department shall, by regulation, establish standards, procedures and methods for identifying and quantifying energy credits that a person is entitled to for carbon sequestration.

(e) Penalties.

(1) At the end of each program year, the program administrator shall make a determination whether each electric distribution company and electric generation supplier is in compliance with subsection (a) or (b).

(2) The Department shall conduct a review of each determination made under paragraph (1). If, after notice and hearing, the Department determines that an electric distribution company or electric generation supplier has failed to comply with subsection (a) or (b), the Department shall impose a civil penalty on that company or supplier, which penalty shall be the lesser of the following:

(i) fifty dollars times the number of additional advanced energy credits needed in order to comply with the subsection (a) or (b); or

(ii) two hundred percent of the average market value of advanced energy credits sold for the year times the number of additional energy credits required to comply with subsection (a) or (b) for that year.

(f) Transfer to Clean Air Fund.

(1) Notwithstanding the provisions of 66 Pa.C.S. §§ 511 (relating to disposition, appropriation and disbursement of assessments and fees) and 3315 (relating to disposition of fines and penalties), penalties imposed pursuant to this act shall be paid into the Clean Air Fund established by section 9.2 of the act of January 8, 1960 (1959 P.L.2119, No. 787), known as the Air Pollution Control Act and the Clean Water Fund established by section \_\_\_ of the act of June 22, 1937 (P.L. 1987, No. 394) known as the Clean Streams Law, with each fund receiving 50% of a particular penalty.

(2) A separate account is established in the Clean Air Fund to receive the penalties imposed pursuant to this act.

(3) The money in the account shall be utilized solely for projects that will increase the amount of electric energy generated from Tier I advanced energy resources for purposes of compliance with subsections (a) and (b).

(g) Coordination with the Commission. The Department shall consult with and coordinate its efforts to implement this act with the Commission. The Department shall, in particular, provide the Commission with an opportunity to review its advanced energy tradable credits program that is described in subsection 3(c).

(h) Regional coordination. The Department shall consult with and coordinate implementation of this act with other state and regional authorities that are involved in advanced energy portfolio standards programs. The Department may use or rely upon interstate or regional efforts designated by the Department, such as generation attributes tracking systems, to implement this act.

Section 4. Effective date. This act shall take effect in 90 days.