



Via Electronic Mail and Electronic Filing

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265
ra-RMI@pa.gov

**Re: Comments on the Tentative Order on the Investigation of Pennsylvania's Retail Electricity Market:
End State of Default Service, Docket No. I-2011-2237952**

Dear Secretary Chiavetta,

The Sierra Club on behalf of its membership, and the Pennsylvania Chapter of the Sierra Club, respectfully submit the following comments concerning the Tentative Order on the Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service, Docket No. I-2011-2237952 (Tentative Order). Thank you for your consideration.

I. Introduction

The Sierra Club is the oldest and largest non-profit environmental advocacy organization in the United States, with approximately 24,000 members in Pennsylvania. The Sierra Club's goals include the promotion of clean renewable energy and energy efficiency which have many associated public benefits, including decreased air and water pollution and reduced greenhouse gas emissions. Our primary interest in this docket is to ensure the continued success of Pennsylvania's policies related to renewable energy and efficiency, namely the Act 129 Energy Efficiency and Conservation (EE&C) Programs, and the Alternative Energy Portfolio Standard. Specifically, we argue that Electric Distribution Companies (EDCs) should continue to offer EE&C programs to everyone in their territories, that there should be minimum requirements for long-term alternative energy contract procurement, and that there should be clear net metering disclosure requirements for Electricity Generation Suppliers (EGSs).

II. EDCs should provide EE&C programs.

The Commission has stated that it believes that EDCs are the appropriate entity to administer EE&C programs. Tentative Order at 33. The Sierra Club supports this position. EDCs have the broadest customer base, and therefore can provide programs throughout a region with a consistency that EGSs would not be able to match. Such consistency is critical to achieving the core objective of Act 129, which is designed to save customers money on electricity by reducing waste. Consistent and widespread programs allow for greater participation of private sector efficiency providers, which assist utility customers in identifying and implementing more complex and long-lasting efficiency upgrades to their buildings.

Keeping EE&C programs the responsibility of EDCs will also make implementation of Act 129 simpler and more likely to achieve its targets. It will result in fewer plans to be filed and reviewed, and less oversight responsibility on the part of the Commission. Also, experience has shown that EDCs are able to lower costs as they gain experience in EE&C implementation, and are able to take advantage of administrative economies of scale. This means that EDCs likely will be able to achieve their Act 129 goals at a lower cost on average than EGSs.

III. Long term Alternative Energy Credit (AEC) contracts are critical to successful implementation of the Alternative Energy Portfolio Standard (AEPS).

A. The need for long-term AEC contracts

The Commission has stated its position that in general, a "least cost over time" approach to energy procurement that includes long term contracts results in higher prices than the spot market because long term contracts include risk premiums. Tentative Order at 12. This is largely due to the fact that the cost of conventional generation varies significantly with fuel prices over time. The risk premiums represent uncertainty of future fuel prices, and the Commission argues that paying spot market prices eliminates this risk premium by removing the uncertainty about the future variable costs. The Sierra Club does not dispute this reasoning with respect to wholesale conventional electricity sources.

However, many Tier I alternative energy sources such as wind and solar are fundamentally different from conventional energy sources, as the alternative sources use no fuel. Since the variable costs of these sources are minimal and predictable, the risk in developing wind and solar power derive instead from whether future demand for their power will be sufficient to cover the capital cost of development. Therefore, long term contracts for these resources will actually lower costs of development by removing this uncertainty. With contracts in place, developers can get financing at lower interest rates, which lowers their revenue requirements, in turn lowering AEPS compliance costs. While such low-interest financing is important to any energy project, it is particularly critical to wind and solar projects since capital cost is a much larger percentage of the levelized cost of energy.

Conversely, if long term contracts are not available for alternative sources, new development will be much more difficult to finance. In the short term, cost-effective compliance with AEPS requirements will be possible with AECs from existing sources. As the AEPS requirements increase, the cost of AECs will also increase as no new generation is available. But even higher short term AEC prices are unlikely to stimulate sufficient new development of alternative energy generation, as the risk of not meeting the revenue requirement over time remains. Therefore, without the ability to enter long term contracts, either ratepayers in the Commonwealth will be forced to pay sustained higher prices than necessary for short term AECs, or the AEPS policy mandated by the legislature will simply be impossible to meet at some point in the future. Clearly, neither outcome is desirable.

The Sierra Club therefore advocates that the Commission adopt a policy that allows for the use of long term contracts for Tier I AECs sufficient to stimulate and maintain a market for new development of these resources.

B. Existing long-term AEC contracts

The Sierra Club supports the Commission's position that existing long term contracts should remain in place regardless of the outcome of this proceeding, and be dealt with on a case-by-case basis.

C. EDCs should file AEC procurement plans

The Commission has requested comment as to whether an EDC or alternative Default Service Provider (DSP) should file an AEC procurement plan with the Commission, and whether the EDC or DSP is the appropriate entity to do so. Tentative Order at 36. The Sierra Club believes that an AEC procurement plan should be filed by the EDC, regardless of whether it is the DSP. The development and review of a procurement plan will enable the Commission to determine whether the EDC has dedicated the appropriate level of resources to AEPS compliance, and will aid in identifying and correcting deficiencies before non-compliance becomes a problem. Since non-compliance could result in the payment of alternative compliance payments (ACPs) which are typically higher than the market rate of AECs, it is not only a failure to attain policy mandates as defined by the legislature; it is also detrimental to the ratepayer. The EDC is the most appropriate entity to file the plan. EDCs have the most predictable customer base from year to year, and are therefore in a better position to enter into long term contracts.

D. EDCs should be required to procure a minimum amount of AECs through long term contracts.

On pages 36-37 of the Tentative Order, the Commission requests comment regarding the future of long term contracts for AECs. The Sierra Club argues for the reasons previously stated that long term contracts for Tier I and Solar AECs are necessary. We support the concept of EDCs procuring AEC contracts to cover 50% of its zonal requirement for each year. Of these contracts, at least half should be long term (10 years or more) and the remainder should be medium-term (5 years or more). The mix of long and medium term contracts strike a balance between the need to incentivize sufficient resource development to ensure AEPS compliance, and the need to maintain flexibility to pursue the lowest cost options for compliance.

The remaining 50% of the annual AEPS requirement can be met by EDCs or EGSs, using any contract length deemed appropriate. If an EDC's AEPS requirement is less than 50% of the total requirement in its zone in a given year it can retire AECs on behalf of EGSs on a pro rata basis, and recover costs through a non-bypassable rider. There is therefore no risk to an EDC of procuring excess AECs through long or medium term contracts, even if customer migrations to EGSs exceed expectations.

IV. Net metering policies of EGSs should be more transparent.

The Tentative Order is silent on the issue of net metering, but the Sierra Club feels strongly that this issue must be addressed. Net metering is defined as a credit at the full retail rate for each kWh produced by a Tier I or Tier II alternative energy resource owned by a customer-generator, regardless of whether the energy produced exceeds the energy consumed on the premises. 52 Pa. Code §75.13. This section of the statute requires EDCs to offer net metering, but does not require EGSs to offer it.

Where net metering is not offered, some EGS customers would receive only distribution credit (not generation and transmission credit) for energy generated in excess of on-site consumption. In other cases, the customer may receive only distribution credit for all on-site generation, depending on the type of meter and the method of bill reconciliation. This has a significant adverse effect on the financial return of an alternative energy system. However, it is often not clear to customers whether or not an EGS offers net metering, which has created two problems:

1. Customers with behind-the-meter generation systems have switched to EGSs only to find out afterwards that their credits for generation are now reduced, and;
2. Customers have switched to EGSs and later decided to install a behind-the-meter generation system, only to find that they do not have access to full net-metering and must pay a penalty for early contract termination if they wish to switch back to the EDC.

Both these problems present barriers to the deployment of solar and other alternative power as required by the Alternative Energy Portfolio Standard, and may result in fewer systems being installed. This in turn can result in higher prices for solar and non-solar AECs, which translates into unnecessary expense for ratepayers.

The Sierra Club believes it would be ideal for all EGSs to offer net metering, which would allow anyone who has or is interested in installing an alternative energy system to shop for electric suppliers. However in the absence of that, two provisions are necessary to prevent these issues from occurring.

First, any entity other than an EDC should be required to offer full net metering as a precondition of designation as an alternative DSP. Second, prior to entering into any new contract, all EGSs should be required to disclose clearly and concisely whether and how it will credit customer-generators for generation in excess of monthly consumption, regardless of whether the prospective customer currently owns a generating system. This disclosure should be standardized statewide and integrated into the comprehensive statewide consumer education campaign. If done properly, this should prevent customer confusion and remove barriers to distributed generation of alternative energy, while allowing EGSs that choose to offer net metering to capture value for that offering by recruiting additional customers.

V. Conclusion

In general, the Sierra Club compliments the Commission for its attention to the impacts that retail market changes may have on clean energy and efficiency programs that have been successful thus far. We agree that these changes should not impact the responsibility of EDCs to offer EE&C programs to all its customers, regardless of whether the EDC is the DSP in the area or the generation supplier to any individual customer. We believe that the economics of renewable energy development are fundamentally different than for development of conventional sources, and that long-term contracts for Tier I and Solar AECs are not only necessary to ensure AEPS compliance, but will help drive down the cost of compliance. Finally, we believe that any entity designated as a DSP should be required to offer full net metering, and that EGSs not required to offer net-metering should adhere to standard net-metering policy disclosure requirements to avoid confusion among shopping customers who have or are considering installation of energy generating systems.

Thank you for consideration of our comments.

Sincerely,

Thomas D Schuster
Beyond Coal Campaign Representative
Sierra Club
PO Box 51
Windber, PA 15963
(814) 467-2614
tom.schuster@sierraclub.org