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September 3, 2014

VIA UPS OVERNIGHT MAIL

Rosemary Chiavetta, Esq., Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, Pennsylvania 17120

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004
Docket No. L-2014-2404361**

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Proposed Rulemaking Order relating to the implementation of the Alternative Energy Portfolio ("AEPS") Act of 2004 at the above-referenced docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna M. J. Clark", written in a cursive style.

Donna M. J. Clark
Vice President and General Counsel

Enclosure

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SEP 03 2014

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Implementation of the Alternative Energy : L-2014-2404361
Portfolio Standards Act of 2004 :

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA
TO PROPOSED RULEMAKING ORDER**

I. INTRODUCTION

The Alternative Energy Portfolio Standards Act of 2004 (“AEPS Act” or “the Act”) promotes the development of alternative energy in Pennsylvania in two fundamental ways. First, the AEPS Act establishes a 15 year schedule pursuant to which electric distribution companies (“EDCs”) and electric generation suppliers (“EGSs”) must purchase discrete amounts of electric energy generated by alternative energy sources for resale to retail customers. 73 P.S. §1648(b) and (c). Second, the AEPS Act encourages customer-generators to obtain electric power through small onsite alternative energy systems which can be net-metered and interconnected to the electric utility grid. 73 P.S. §1648.5.

The Pennsylvania Public Utility Commission (“PUC” or “Commission”), which is charged with implementing the AEPS Act together with the Department of Environmental Protection, promulgated a series of regulations concerning net-metering and interconnection for customer-generators and portfolio standards between 2006 and 2008. Based on its experience with those

regulations, the Commission proposed specific revisions in an Order entered on February 20, 2014 (“February Order”) which was subsequently published in the Pennsylvania Bulletin on July 5, 2014. The initial due date for comments, August 4, 2014, was extended until September 3, 2014 pursuant to a Commission Secretarial Letter. The proposed revisions contained in the current rulemaking proceeding involve changes to regulations addressing portfolio standards, interconnection, and net metering.

As a trade association that represents and promotes the interests of regulated electric and natural gas distribution companies operating in the Commonwealth, the Energy Association of Pennsylvania (“EAP” or “Association”) respectfully submits these comments to supplement those filed individually by its member EDCs.¹

II. COMMENTS

A. Definition Changes

a. Distributed Generation System

The Commission has proposed a more targeted definition of the elements that comprise the definition for distributed generation systems, which is currently defined as “the small-scale power generation of electricity and useful thermal energy.” *See* Proposed Rulemaking Annex A at p. 3. Specifically, EAP supports the addition of a definition for “useful thermal energy” which provides a significant contribution to the energy efficiency of the generation system. Currently, a customer-generator producing minimal thermal energy in connection with electric generation can qualify for net metering status and enjoy the benefits of compensation for any excess energy at a retail rate

¹ Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc.(Electric Division); Wellsboro Electric Company; and, West Penn Power Company.

without necessarily using the thermal energy to offset use of another fuel. In such instances, non-net metering customers pay the difference between the wholesale rate for energy otherwise paid by the EDC and the retail rate paid to the net metering customer without receiving any additional benefits. EAP agrees with the Commission that the proposed definition captures the intent of the Act that any waste heat from the generation of electricity be dedicated to offset the use of another fuel source to generate heat before the customer-generator can receive the benefits of net-metering.

b. Grid Emergency and Microgrids

EAP generally supports the proposed definitions for “grid emergencies” and “microgrid” as set forth in the revised regulations and agrees that reliance upon the standards established by PJM Interconnection, LLC (“PJM”) for “grid emergencies” and by the Institute of Electrical and Electronic Engineers for “microgrids” is reasonable. EAP suggests further clarification with respect to the definition of “grid emergencies”, noting that the term is not specifically defined in either PJM Manual 35 (Definitions and Acronyms) nor in PJM Manual 13.

c. Year and yearly

Presently, the term “year and yearly” refer to the planning year as determined by PJM. The Commission notes in its February Order that this time period was initially selected to align with the current AEPS Act compliance year, which runs from June 1 of one year through May 31 of the following year. Based on its experience in implementing the current regulations, the Commission determined that the “vast majority of net metered customer-generators are solar photovoltaic systems” and that these “systems produce their peak outputs during the months of May through September”. Thus, the Commission proposes to shift the definition of “year and yearly” to a period of time beginning May 1 and ending on April 30 of the next year.² The

² See Proposed Rulemaking Order, p. 19

Commission has postulated that this will more likely provide customer-generators with a credit toward their subsequent billing periods as opposed to a payment just prior to the summer cooling period. EAP understands the reasoning but asks that the implications for EDCs/DSPs of this modification be determined, quantified and considered prior to changing the time period. For example, the proposed disassociation of the net metering cash-out period from both the PJM planning period and the price-to-compare reconciliation would create information technology (IT) as well as billing system changes for EDCs, the costs of which have not been explored by this or any other proposed rulemaking. EAP recommends that the Commission refrain from *modifying the current definition.*

B. General Provisions

EAP supports the Commission’s proposed changes to the current net metering regulation at 52 Pa. Code § 75.13 related to all of the conditions for customer-generators; specifically, the first (Independent Load) and the third (110% Rule) requirements.

The “independent load” requirement is an important condition which should be defined to exclude certain general service loads, i.e. lighting, HVAC and security systems since these are not considered process loads. Furthermore, the independent load should be permanent and present at the customer-generator location to maintain net metering status and application of the Virtual Metering provisions of the Net Metering Tariff.

The third proposed condition requires that “the alternative energy system be sized to generate no more than 110 percent of the customer-generator’s annual electric consumption at the interconnection meter and all qualifying virtual meter aggregation locations.”³ Limiting the size of the system through application of the 110 percent cap helps to avoid installation of an oversized

³ Proposed Rulemaking Order, p. 12. See also, Annex A, p.7 at § 75.13(a)(3).

system and circumstances leading to increased cost-shifting to customers within the class who do not participate in net metering scenarios.

Further, establishing the size of the alternative energy system upfront where a third party owner/operator is treated as a customer-generator for purposes of net metering will simplify the role of the EDC in monitoring generation and will limit the opportunity for abuse wherein the third party operator is in effect a merchant generator obtaining retail rate subsidies for annual excess generation contrary to the intent of the AEPS Act.

C. PTC Weighting at Cash-out

EAP generally supports the proposed changes to 52 Pa. Code § 75.13(e) regarding excess generation calculation at the end of the year and the manner in which compensation for the excess is to be computed. EAP appreciates the clarification that the EDC/DSP is to use a weighted average of the price-to-compare (“PTC”) rate based on the rate in effect when the excess generation was delivered. This methodology more accurately reflects the true value of the excess.

EAP, however, requests further clarification on this matter relative to the exact methodology or formula that is to be used. EAP recommends that whatever the method is, it should be both easily understandable to the net metering customer, uniform across EDCs/DSPs in the state and cost-effective to implement.

D. PUC Review of Generator Projects

EAP supports the Commission’s proposal to require that all alternative energy systems with a nameplate capacity of 500 kilowatts or greater obtain Commission approval for net metering. EAP believes that the 500 kilowatt threshold is an appropriate starting point for defining a large generator and agrees with the Commission that the total number of systems applying for

net metering that would meet this threshold will remain relatively low so as not to burden either the EDCs or the Commission itself.

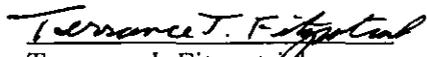
E. Other considerations

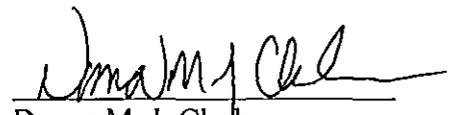
There are a number of additional concerns which EAP asks the Commission to consider in the context of these regulatory revisions, particularly as it relates to the grandfathering of *existing facilities*. *As these proposed changes are being vetted and discussed among stakeholders, potential net metering customers are pushing to develop projects and to gain plan approval under current AEPS regulations. The Order notes that while the Commission declined previously to extend the application of the 100 percent limitation of systems owned or operated by a customer-generator, it is now reasonable to adopt this approach and apply it to all new customer-generators as it more appropriately supports the intent of the AEPS Act. See, Proposed Rulemaking Order at p. 12.*

While the explicit use of the word *new* in the proposed change is clear, EAP asks the Commission to clarify the circumstances under which a facility involving a third party operator or owner will be grandfathered for purpose of obtaining net metering status. In the absence of further guidance, this situation will not work to slow the growth of significant non-net metering customer subsidization of net metering projects. EAP suggests a solution by which a net metering site should be operational by the date of the final regulation, with “operational” defined as the completion of both an Interconnection Agreement and the issuance of a Certificate of Completion.

EAP respectfully requests that the Commission consider these suggestions and comments along with those of its individual member EDCs in finalizing revisions to the current regulations addressing net-metering, interconnection and portfolio standards under the AEPS Act.

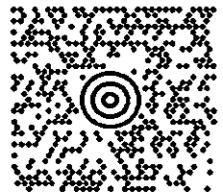
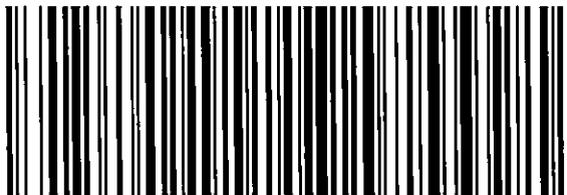
Respectfully submitted,


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Date: September 3, 2014

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