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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Comments Of
Citizens for Pennsylvania's Future
(PennFuture)**

Regarding

**Net Metering and Interconnection Regulations at 52 Pa. Code §§ 75.1 et seq.
to Conform with the Language of Act 35 of 2007.**

Docket Nos. M-00051865, L-00050174 and L-00050175

**Submitted by:
Citizens for Pennsylvania's Future
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Introduction

PennFuture is a statewide public interest membership organization, working to enhance Pennsylvania's environment and economy, with offices in Harrisburg, West Chester, Philadelphia and Pittsburgh. We appreciate the opportunity to provide comments on revisions to the Net Metering and Interconnection Regulations at 52 Pa. Code §§ 75.1 et seq. to Conform with the Language of Act 35 of 2007 (Docket Nos. M-00051865, L-00050174 and L-00050175) as published in the Pennsylvania Bulletin on Saturday, October 20, 2007.

PennFuture has been involved in all aspects of the implementation of Alternative Energy Portfolio Standards Act of 2004 (Act 213), assisting the Commission's rulemaking process so that it reflects the legislative intent of the Act. We helped shape the Energy-Efficiency and Demand Side Management rules for Act 213; provided comments to the net metering and interconnection working groups; and submitted comments to the Commission on all past Act 213 rulemakings including: Implementation of the Alternative Energy Portfolio Standards Act of 2004; Interconnection Standards for Customer-generators; Net Metering; and Standards and Processes for Alternative Energy System Qualification and Alternative Energy Credit Certification.

PennFuture has been hard at work with both customer-generators and the renewable energy industry to fully develop the net metering benefits enabled by Act 213. Dr. Thomas Tuffey, Director of PennFuture's Center for Energy, Enterprise and the Environment is a member of the Governor's Agriculture Renewable Energy Council and Chairman of the Economic Development and Finance Committee of the Council. Through the Council we have worked with the farm community to address issues pertaining to their attempts to net meter manure biodigester generation projects.

PennFuture is also working on distributed generation net metered projects for community scale wind energy in Hazelton and solar energy for the Turkey Hill processing center in Lancaster. Our comments are informed by hands-on project experience.

As a result of our work in policy, regulation and markets, PennFuture understands what policy makers intended Act 213 to accomplish and how viable net metering regulations will help to fulfill the goals of the Act.

On July 19, 2007, Governor Rendell signed Act 35 of 2007 into law, amending several important provisions within Act 213 regarding net metering, particularly to clarify language interpretation. In response to the required regulatory changes, the Commission poses a set of questions regarding how to interpret and implement several aspects of Act 35 into the existing Act 213 regulations (52 Pa. Code §§ 75.1, et seq). PennFuture provides answers to these questions and recommended draft regulatory language below.

General Overview and Recommendations

Net metering is commonly understood across the country and by the Pennsylvania legislature as an important incentive for consumer investment in alternative energy generation. Since the

passage of Act 213, there have been numerous discussions between the Commission, the legislature, the agricultural and solar industries to clarify the exact definition and concept of net metering. Additionally, Act 35 was past in the last legislative session to clarify any confusion regarding how Act 213 should be interpreted, particularly in regards to net metering.

Based on these previous discussions, it is widely understood that the concept of net metering applies to grid-connected on-site power generation that meets the requirements of Act 213. When a customer-generator produces power to meet on-site demand, that generation performs outside the meter, just like an energy conservation project. Power conserved saves the customer-generator the full retail cost of that power, including generation, transmission and distribution. During times when the customer-generator produces excess power, the meter essentially runs backward, crediting the customer for the power generated. If more power is produced than is consumed during a month, it is banked and served as a credit for the next billing period. Credits are trued-up annually as specified in Act 35 at the full retail rate.

Renewable energy technologies still cost more than conventional equipment. Additionally, these projects are on a much smaller scale when compared to utility power generation. Therefore, the cost per kilowatt-hour is considerably higher. To be economically viable, as was the intent of Act 213, these projects must receive the full benefits of net metering as commonly understood.

However, an issue arises when a customer-generator produces excess power over its annualized demand. One way to interpret the language of Act 35 is that it requires EDCs to provide full retail value not only for power generated by the customer-generator to offset demand, but also for any excess generation at the end of the annualized period. This interpretation would be a great benefit to the customer-generator, but we believe is beyond the legislative intent. Any excess power at the end of the annualized period should be treated as power sold to the grid by an independent power producer. It should be compensated at the conventional cost of wholesale power, but absent any tack on fees for insurance, reserve capacity or other charges.

In summary, all power produced that offsets annual demand is to be compensated at the full retail rate. Excess power on an annualized basis is to be compensated as wholesale power. This is the widely understood meaning of net metering used across the country and is what the legislature originally intended.

Issue 1. Full Retail Value

What is the meaning of "full retail value for all energy produced"? Act 35 does not specifically define this term. The term could be interpreted as meaning the fully bundled retail rate for generation, transmission, distribution, and any applicable transition charges. Alternatively, given the Legislature's use of the terms "excess generation" and "energy" it also could be interpreted as being limited to the generation component of the retail rate.

PennFuture Comment:

The Alternative Energy Portfolio Standards Act of 2004 (Act 213) was passed to provide incentives to develop clean energy resources across the Commonwealth. The intent of net

metering was and is to credit the customer-generator at the “full retail” value to promote the development of Act 213 technologies like solar, biodigesters and small-scale wind by helping to offset the cost of investing in these resources.

The current net metering regulations state that the “EDC shall credit a customer-generator at the full retail rate for each kilowatt-hour produced by a Tier I or Tier II resource installed on the customer-generator’s side of the electric revenue meter, up to the total amount of electricity used by the customer during the billing period.” The language in Act 35 affirms that the customer-generator should receive full retail value but on an annual basis.

It was never the intent of the legislation to provide the customer-generator with less than full value for the power they produce. However, if one interprets the definition of “full retail” to mean only the generation component of the retail rate, the customer-generator will in fact receive only 40% of the full retail value. For instance, if a customer-generator is paying 8 cents per kilowatt-hour for power from their EDC, they should be credited at the 8 cent rate and not just for the generation component equaling only 3 cents per kilowatt hour.

The very definition of “full” indicates “entire: constituting the full quantity or extent; complete” leads one to assume the definition of “full retail value” should contain the entirety of the customer-generators 8 cent retail rate that includes generation, transmission and distribution. It is vital to the development of alternative energy resources that customer-generators receive the fully bundled price in order to help payback the upfront costs of the project.

Act 35 clarifies that the customer-generator should be credited at the full 8 cent rate each month on their bill and then at the end of the annualized period, the customer-generator should be paid for any excess generation produced at the EDC’s avoided cost of wholesale power.

PennFuture believes that the language contained within the New Jersey net metering regulations (N.J.A.C. 14:4-9) provides a model definition for compensating customer-generators on an annual basis.

“At the end of each annualized period, the supplier/provider shall compensate the customer-generator for any excess kilowatt hours generated, at the electric power supplier’s or basic generation service provider’s avoided cost of wholesale power, as defined at N.J.A.C. 14:4-9.2.”

Proposed language:

In order to clarify the definition of “full retail value”, PennFuture believes the language in 52 Pa. Code §75.13.(c) and (d) should be amended as follows:

(c) The EDC shall credit a customer-generator at the full retail rate, WHICH SHALL INCLUDE GENERATION, TRANSMISSION AND DISTRIBUTION CHARGES, for each kilowatt-hour produced by a Tier I or Tier II resource installed on the customer-generator’s side of the electric revenue meter, up to the total amount of electricity used by that customer during the billing

period. IF A CUSTOMER-GENERATOR SUPPLIES MORE ELECTRICITY TO THE ELECTRIC DISTRIBUTION SYSTEM THAN THE EDC DELIVERS TO THE CUSTOMER-GENERATOR IN A GIVEN BILLING PERIOD, THE EDC SHALL CREDIT THE CUSTOMER-GENERATOR FOR THE EXCESS ON A KILOWATT-HOUR FOR KILOWATT-HOUR BASIS AT THE FULL RETAIL RATE. AN EDC SHALL CARRY OVER CREDITS EARNED BY A CUSTOMER-GENERATOR FROM A BILLING PERIOD TO SUCCESSIVE BILLING PERIODS. ANY UNUSED CREDITS SHALL ACCUMULATE UNTIL THE END OF THE ANNUALIZED PERIOD. For customer-generators involved in virtual meter aggregation programs, a credit shall be applied first to the meter through which the generating facility supplies electricity to the distribution system, then through the remaining meters for the customer-generator's account equally at each meter's designated rate.

(d) At the end of each ~~billing period~~ EACH ANNUALIZED PERIOD, the EDC shall compensate the customer-generator for ANY EXCESS kilowatt-hours generated by the customer-generator over the amount of kilowatt hours delivered by the EDC during the SAME ANNUALIZED PERIOD ~~billing period~~ at the EDC's avoided cost of wholesale power as defined at 52 PA Code §75.12.

Issue 2. Stranded Costs

How should any residual stranded cost charges be treated in the annual reconciliation?

PennFuture Comment:

Understanding that stranded costs have already been removed in several electric service territories and will end in the remaining territories as rate caps expire, PennFuture recommends that the current regulatory provision regarding treatment of stranded costs contained at 52 PA Code §75.15 remain in place as it adequately addresses the issue of stranded costs on an annualized basis.

Issue 3. Annual Basis

Act 35 does not define the phrase "annual basis." Does this phrase mean a calendar year, fiscal year or does it correspond with the AEPS compliance period of June 1 through May 31?

PennFuture Comment:

PennFuture recommends that "annual basis" be defined as the calendar year. This provides a simple, uniform tracking mechanism for EDCs and customer-generators alike.

However, understanding the need to keep transactional costs down, PennFuture could support an alternative definition so long as it was fair to customer-generators and was consistent across each EDC territory.

Issue 4. Monthly Credits for Excess Generation

Should the Commission provide monthly credits for net metered accounts, and carry over monthly excess generation to the next billing month, with any remaining excess energy (where total annual generation of energy exceeds total annual usage) cashed out at the end of the year? Alternatively, do the metering regulations only provide for annual compensation for excess generation in any month?

PennFuture Comment:

The Commission should provide monthly credits for net metered accounts, and carry over the monthly excess generation to the next billing month with remaining excess energy paid out to the customer at the end of the annualized period. Most of these alternative energy projects need to reduce their monthly electric bills to meet their cash flow requirement of debt service and to receive total compensation to achieve a financial rate of return that encourages project development.

Proposed language:

As we provided earlier in this document, language regarding the monthly crediting and carry over of excess generation should be included in 52 Pa. Code §75.13.(c) and (d) which should be amended as follows:

(c) The EDC shall credit a customer-generator at the full retail rate, WHICH SHALL INCLUDE GENERATION, TRANSMISSION AND DISTRIBUTION CHARGES, for each kilowatt-hour produced by a Tier I or Tier II resource installed on the customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during the billing period. IF A CUSTOMER-GENERATOR SUPPLIES MORE ELECTRICITY TO THE ELECTRIC DISTRIBUTION SYSTEM THAN THE EDC DELIVERS TO THE CUSTOMER-GENERATOR IN A GIVEN BILLING PERIOD, THE EDC SHALL CREDIT THE CUSTOMER-GENERATOR FOR THE EXCESS ON A KILOWATT-HOUR FOR KILOWATT-HOUR BASIS AT THE FULL RETAIL RATE. AN EDC SHALL CARRY OVER CREDITS EARNED BY A CUSTOMER-GENERATOR FROM A BILLING PERIOD TO SUCCESSIVE BILLING PERIODS. ANY UNUSED CREDITS SHALL ACCUMULATE UNTIL THE END OF THE ANNUALIZED PERIOD. For customer-generators involved in virtual meter aggregation programs, a credit shall be applied first to the meter through which the generating facility supplies electricity to the distribution system, then through the remaining meters for the customer-generator's account equally at each meter's designated rate.

(d) At the end of ~~each billing period~~ EACH ANNUALIZED PERIOD, the EDC shall compensate the customer-generator for ANY EXCESS kilowatt-hours generated by the customer-generator over the amount of kilowatt hours delivered by the EDC during the SAME ANNUALIZED PERIOD ~~billing period~~ at the EDC's avoided cost of wholesale power as defined at 52 PA Code §75.12.