



Pennsylvania Department of Environmental Protection

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November 19, 2007

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Office of Energy and
Technology Deployment

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Commonwealth of Pennsylvania
Secretary's Bureau
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Docket Nos. M-00051865, L-00050174 and L-00050175	Net Metering and Interconnection Regulations at 52 Pa. Code §§ 75.1 et seq. to Conform with the Language of Act 35 of 2007
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Dear Secretary McNulty:

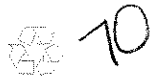
Enclosed please find fifteen (15) copies of the Department of Environmental Protection's comments on the revisions to the Net Metering and Interconnection Regulations at 52 Pa. Code §§ 75.1 et seq. to conform with the language of Act 35 of 2007.

Respectfully Submitted,

Scott Perry
Assistant Counsel
Department of Environmental Protection

Enclosures

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION
COMMENTS OF THE PENNSYLVANIA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

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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
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By Secretarial Letter dated October 4, 2007 and published in the *Pennsylvania Bulletin* on October 20, 2007, the Commission requested comments on several issues pertaining to the Act 35 amendments. The Pennsylvania Department of Environmental Protection thanks the Commission for the opportunity to provide comments on the 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.

Definitions

Act 35 amended the definitions of “alternative energy credit”, “customer-generator”, “force majeure” and “net metering”. The Department agrees with the Commission’s assertion that (relevant to this request for comments) these amendments will only require changes to the regulatory definitions.

The amendments to the term “alternative energy credit” are similar to the provisions of new paragraph 1648.3(e)(12) which address alternative energy credit ownership. These amendments essentially codify existing regulations at 52 Pa. Code §§ 75.13(h) and 75.14(d). Although the definition of alternative energy credit found at 52 Pa. Code § 75.1 should be amended to be consistent with Act 35, the Department does not believe that any other change is needed.

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Amendments to the definitions of “customer-generator” and “net metering” delete the requirement that the primary purpose of the generation system must be to offset part or all of the customer-generator’s electricity needs and raise the capacity limits for generation systems at non-residential customer service locations. The amendments also codify the concept of virtual meter aggregation in 52 Pa. Code 75 Subchapter B.

While these amendments will increase the number of customer-generators that can participate in net metering and resolve current disputes between certain EDC’s and customer-generators, the Department does not believe that any change other than revising existing regulatory definitions is required.

Full Retail Value

Act 35 amended AEPS section 5 to state: “Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis”. As a result of this new sentence, the Commission poses several questions which the Department will address.

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.

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?

To address these issues, it is important to recognize three things. The first is that Act 35 did not change the requirement that Pennsylvania's net metering rules must be consistent with net metering rules in other MISO and PJM states. The second is that the legislature was aware of the existing regulations governing compensation for excess generation. Finally, the new sentence should be read in its entirety and that individual words and phrases should not be pulled out of context.

After considering these issues, it is clear that the amendatory language requires electric distribution company's to credit electricity produced by a customer-generator in one month at the fully bundled retail rate, carry over any excess generation as a credit against the next month's bill at the fully bundled retail rate, and after a 12 month period, compensate the customer-generator at the generation rate for any excess credits remaining at the end of the year.

The current net metering regulations provide that customer-generators be credited at the "full retail rate" for each kilowatt-hour produced up to the total amount of electricity used by that customer during the billing period. 52 Pa. Code § 75.13(c). Being credited at the fully bundled retail rate up to the total amount of electricity used by that customer during the billing period is consistent with every net metering regulation that the Department is aware of. Rolling this standard backward such that customer-generators are only credited for the generation component of their bill would be inconsistent with rules defined in other states within the PJM and MISO service territory. Further, nothing within the sentence "Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis" can possibly be construed to limit the credit customer-generators receive for the electricity

they generate up to the total amount of electricity used by that customer during the billing period to only the generation portion of their bill. This sentence plainly addresses how *excess* generation is treated over an *annual basis*.

In this regard, it is clear that the amendment to section 5 is intended to address 52 Pa. Code § 75.13(d) which requires EDCs to compensate customer-generators for excess kilowatt-hours at the end of the billing cycle at the EDC's avoided cost of wholesale power. With the exception of Ohio, this regulation differs from the net metering regulations in neighboring states in that it does not apply a credit for excess generation at the fully bundled retail rate from one month to the next over a 12 month period. The legislature was no doubt aware of this difference and, in keeping with the goals of AEPS of promoting alternative energy sources through net metering, acted to correct the regulation in a way that advances those goals consistent with the net metering rules of other PJM states. Therefore, in order for customer-generators to receive "full retail value" for "excess generation" for all energy produced "on an annual basis" in a manner that is consistent with the net metering rules in other PJM states, the regulations must be amended so that excess generation is credited at the fully bundled retail rate from one month to the next over a 12 month period.

The only issue left to address is how customer-generators should be compensated for the credits that remain at the end of the year. It is clear that the legislature recognized that excess generation produced by the customer-generator has value that must be properly recognized. Nothing in the sentence "Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual

basis” indicates that the customer-generator should forfeit credits that remain at the end of the year – indeed just the opposite is true.

However, the Department does not believe that it was the intent of the legislature to compensate customer-generators at the fully bundled retail rate for credits that exist at the end of the year. If that were the case, there would have been no need to codify virtual meter aggregation (and limit it to properties within a two mile radius of the customer-generator) because compensating the generation credits that remain at the end of the year at the fully bundled retail rate accomplishes the same result but on an even wider scale. Therefore, in order to properly compensate customer-generators for the excess generation credits that remain at the end of the year in a manner, the Department believes that the Commission should follow New Jersey’s lead and require EDC’s to compensate customer-generators at the avoided cost of wholesale power.

In order to address the issues discussed above, the Department offers the following amendments to 52 Pa. Code §75.13(c) and (d).

(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.

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

The Department does not believe the Act 35 amendments necessitate any change in the way residual stranded cost charges are treated in the annual reconciliation.

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?

The Department believes that the applicable "annual basis" should be the calendar year. This provides a simple, uniform tracking mechanism for EDCs and customer-generators alike, is consistent with other state programs and is consistent with a customer's tax year.

Should demand charges for distribution, transmission and generation services paid by net metered customers be adjusted? If so, should each component of the demand charge be adjusted to reflect the net flow of energy through a net meter? How should the adjustment(s) be calculated?

The Department believes that to the extent an alternative energy system directly reduces demand, demand charges will necessarily be lower.

The Department thanks the Commission for the opportunity to provide these comments and looks forward to working with the Commission and the other stakeholders to continue the successful implementation of the AEPS.