

**Secretary
Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265.**

RE: Comments on Docket No. L-2014-2404361

(Implementation of the Alternative Energy Portfolio Standards Act of 2004)

Date: July 23, 2014

COMMENTS - PART C INTENT OF THE AEPS ACT

To the Public Utility Commission

In its Proposed Rulemaking Order, published on July 5, 2014, the Commission says, “We have revised and clarified several definitions to conform with the amendments to and the intent of the AEPS Act” (Order, p. 5). The comments below will show that the Proposed Rulemaking Order contravenes the clear intent of the AEPS Act.

The Commission, for example, exceeds its mandate for “implementation and enforcement”, when it speaks of “our intent to permit a limited amount of virtual meter aggregation” (Proposed Rulemaking Order at 19). In advancing its own intent, the Commission has usurped the role of legislators who define the intent of a law.

Such an “intent” is nowhere evident in the AEPS Act and, furthermore, contradicts the Commission’s own previous statements. The PUC itself has repeatedly held that the intent of the Law is to expand sources of renewable energy.

“the principal objective of the Act’s net metering provision is to provide incentives to small customer-generators to use alternative energy sources” (Final Rulemaking Order, adopted June 22, 2006, p12)

“...the clear intent of the Act 35 amendment was to facilitate the research, development and deployment of small alternative energy resources by providing monthly credits consistent with the full retail value...” (Final Omitted Rulemaking Order, Implementation of Act 35 of 2007, May 22, 2008, p. 14)

“... it should be the policy of the Commission to support access to alternative systems to as broad an array of consumers as possible.” PUC motion, June 22, 2011

The language in the statute is unambiguous, and confers on virtual net metering the same status as physical net metering. Virtual meter aggregation, in fact, offers the greatest potential for expanding PV solar generation to residential customers. Under virtual net metering, installations of PV solar are not confined to the roof or to the immediate site of electric use.

The proposal to limit virtual metering, and other changes in the Proposed Rulemaking Order, will not promote any expansion of renewable energy! Instead, the proposed changes would put the law on a leash. If adopted as written, the proposed changes will restrain the AEPS Act and undermine the Law’s intent to expand access to renewable energy.

In a series of alarming steps, the Proposed Rulemaking Order

- 1) limits the sources of renewable generation
- 2) Narrows the definition of “customer-generator”
- 3) Creates “Merchant Generators”, a new sub-set of customer-generators, which are not specified in the statute, only to exclude them from net metering.
- 4) fetters net metering with seven new “conditions”
- 5) Places a strangle-hold on virtual meter aggregation , which offers the greatest potential for expanding residential solar

In 2006, the Commission considered the issue of virtual metering and implemented a broad application of the provision, saying that “the definition of “meter aggregation” should be changed to allow aggregation regardless of rate class on properties owned and/or leased and operated by a customer-generator (Final Rulemaking Order adopted June 22, 2006, at 22).

The clear position of the Commission at that time is now being undermined by the restrictive conditions being proposed. The Commission was unequivocal at the time, saying, “The fundamental intent of Act [AEPS Act] is the expansion and increased use of alternative energy systems and energy efficiency practices” (Ibid. p. 21). Certainly the intent of the Act has not changed in the intervening years.

Instead of restricting net metering, or deleting virtual metering completely, as some urged (Ibid p. 20), the Commission expanded the opportunities and supported the inclusion of “other types of projects which could meet the requirements for customer-generator net metering, but would be unable to avail themselves of virtual meter aggregation under the regulations as proposed” (Ibid.).

Many of the changes in the current proposal, including the “first condition” for net metering, are regressive, would reverse previous policy, would severely limit the goal of expanding renewable generation, and defy the clear intent of the AEPS Act.

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