



Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building, 2nd Floor
Harrisburg, Pennsylvania 17120

July 22, 2014

Docket Number: L-2014-2404361

The PUC is attempting to bar certain customer-generators from net metering under the premise that they are in reality “*merchant generators posing as customer-generators*”. The Commission’s position is that a renewable energy system should exist primarily to offset a customer-generator’s requirements for electricity in order to be eligible for net metering. As a result, they believe that all systems must have an inherent “non-generation load”, or be ineligible for net metering. The AEPS Act makes no mention of this, so the PUC’s burden of proof is quite high. In fact, in 2007 the definition of net metering was broadened to allow even more uses.

The AEPS Act used to only allow net metering “...when the energy generating system is intended primarily to offset part or all of the customer-generator’s requirements for electricity.” This constraint of primarily offsetting load was eliminated in 2007, and was replaced with “...when any portion of the electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator’s requirements for electricity.” The PUC promulgated this change in their Final Omitted Rulemaking Order (Docket # L-00050174), and they stated that “...the Commission has deleted the requirement that the system be intended to primarily offset the customer’s electricity requirements.” No mention of a non-generation load requirement was made by the PUC at that time.

Net metering is allowed under the AEPS Act when “*any portion*” of the electricity generated is serving the “*customer-generator requirements for electricity*”. A simple logic test reveals the flaw in the newly proposed rule. One must first compile a list of the individual loads at a site. These individual loads, when summed together, comprise the customer-generator’s requirements for electricity. Here is an example of a residential customer-generator electric requirements.

- Microwave oven
- Lighting
- **Alternative energy system**
- Washer / Dryer
- Air conditioning

This list will of course vary depending on the customer-generator in question, but it will always include the load necessary to run the alternative energy system. Without it, there would be no customer-generation. The presence of that load on the list makes it by definition “...part or all of the customer-generator’s requirement for electricity”. To argue otherwise is illogical, and in conflict with the plain language of the AEPS Act. If a customer-generator has any measurable need for electricity at their site, then they are eligible for net metering by definition.

The Commission’s argument in favor of a non-generation load requirement relies on painful and tortuous “word engineering” and it still ultimately fails. The PUC even claims that a customer-generator may at times achieve the status of a utility, while still being within the statutory limits of a net-metered system. It is doubtful that the legislature ever intended such a regulatory “Catch 22” to exist; one in which a facility is eligible for net metering until it is activated, at which point it becomes a utility and is no longer eligible.

The requirement for non-generation load is in conflict with the underlying AEPS Act, and should be removed.

Regards,

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