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James Mulhern, *President & Chief Executive Officer* | Randy Mooney, *Chairman*

Agri-Mark, Inc.  
Associated Milk Producers Inc.  
Bongards' Creameries  
Cooperative Milk Producers Association  
Cortland Bulk Milk Producers Cooperative  
Dairy Farmers of America, Inc.  
Dairymen's Marketing Cooperative, Inc.  
Ellsworth Cooperative Creamery  
Farmers Cooperative Creamery  
FarmFirst Dairy Cooperative  
First District Association  
Foremost Farms USA  
Land O'Lakes, Inc.  
Lone Star Milk Producers  
Maryland & Virginia Milk Producers Cooperative Association  
Michigan Milk Producers Association  
Mid-West Dairymen's Company  
Mount Joy Farmers Cooperative Association  
Northwest Dairy Association  
Oneida-Madison Milk Producers Cooperative Association  
Prairie Farms Dairy, Inc.  
Premier Milk Inc.  
Scioto County Cooperative Milk Producers' Association  
Select Milk Producers, Inc.  
Southeast Milk, Inc.  
St. Albans Cooperative Creamery, Inc.  
Swiss Valley Farms Company  
Tillamook County Creamery Association  
United Dairymen of Arizona  
Upstate Niagara Cooperative, Inc.  
Zia Milk Producers, Inc.

May 26, 2015

Pennsylvania Public Utility Commission  
Attn: Secretary  
P.O. Box 3265  
Harrisburg, Pennsylvania 17120-3265

**Re: Document Number: L-2014-2404361**

Dear Sir/Madam:

The National Milk Producers Federation (NMPF), based in Arlington, VA, develops and carries out policies that advance the well-being of dairy producers and the cooperatives they own. The members of NMPF's cooperatives produce the majority of the U.S. milk supply, making NMPF the voice of more than 32,000 dairy producers on Capitol Hill and with government agencies. Visit [www.nmpf.org](http://www.nmpf.org) for more information.

NMPF submits these comments in response to the Commission's proposed rulemaking related to the Alternative Energy Portfolio Standards (AEPS) Act of 2004. NMPF has grave concerns that the proposed rule will negatively impact the adoption of anaerobic digesters and nutrient removal technologies on dairy farms in the state of Pennsylvania. Digesters and related technology are critically important to the dairy industry and help reduce greenhouse gas emissions and nutrient losses. We must encourage their use, not discourage them. Digesters are very expensive to install and operate and despite the environmental benefits they produce, they are difficult to make work economically. Selling electricity to the grid at a fair rate is the primary means by which a digester can be feasible, limiting that ability will be counterproductive. NMPF and the Innovation Center for U.S. Dairy, as well as our member cooperatives, have been striving to encourage the adoption of digester technology for a variety of reasons which include, among other things, helping to meet our industry's goal of a 25% reduction of greenhouse gas (GHG) emissions by 2020.<sup>1</sup> This rule, as proposed, is a disincentive. If the Public Utility Commission chooses to cap customer-generated electricity at 200% of the customer-generated annual consumption, that disincentive will almost certainly end the adoption of digester technology in Pennsylvania. We do not believe that is in the best interests of the state of Pennsylvania, its citizens and the dairy industry, nor the intention of the Commission.

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<sup>1</sup> <http://www.usdairy.com/~media/usd/public/usdaandinnccensusdairyannagrenhsuscutindustrygrhsegas25.pdf>

While we note that the Commission provides for an exemption from the 200% cap if the Department of Environmental Protection confirms that such a system is used to comply with the Department's Pennsylvania Chesapeake Watershed Implementation Plan or in the alternative is an integral element for compliance with the Nutrient Management Act at 3 Pa.C.S. §§501, et seq., there is no clear description of what that would entail and therefore the exemption is uncertain at best. Is it the Commission's intent that the Department visit each and every digester and review the practices, parameters and idiosyncrasies of each installation? What are the criteria used to score a digester? Who will pay for that review? How long will it take to review all the existing digesters? With respect to future digesters, what process will be used to make such a determination? Note, that such a determination will need to be made well in advance of breaking ground, or ground will never be broken. A decision to utilize and install digester technology is risky in many cases and adding uncertainty where there is already risk will spell disaster. Instead of the approach taken in the proposal, NMPF urges an outright exemption from the 200% cap for anaerobic digesters due to the well-established recognition of the fact that they deliver enormous environmental benefits, including already existing confirmation from the Pennsylvania Department of Environmental Protection.<sup>2</sup>

NMPF also believes the definitions of *utility* and *customer-generator* need additional language to provide greater clarity. In the preamble of the proposed rule the Commission states that a customer-generator is one who is not in the business of providing electric power to the grid or other electric users. NMPF notes that anytime a customer-generator produces power in excess of their own immediate needs they are in fact providing electric power to the grid or other electric users. We believe that providing that power to the grid is not equivalent to being *in the business of providing electric power*, and a dairy farm that has a digester that provides power to the grid is not in the business of providing power but rather in the business of producing milk. One way to clarify the different could be to insert the phrase "which is primarily in the business of providing electric power to the grid or other electric users" to the end of proposed §75.13 (a)(2) after the word *utility* and before the period.

NMPF appreciates the opportunity that the Commission has provided for consideration of our comments. We are pleased to answer any questions you may have or to provide any additional information which you may require.

Sincerely,



Clay Detlefsen  
Senior Vice President, Regulatory and Environmental Affairs & Staff Counsel

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<sup>2</sup> <http://www.puc.pa.gov/pcdocs/1306066.pdf>