PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held July 11, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman
Kimberly Barrow, Vice Chair
Ralph V. Yanora
Kathryn L. Zerfuss
John F. Coleman, Jr.

Petition of Williams Companies, Inc. for
Declaratory Order M-2022-3041485

OPINION AND ORDER

BY THE COMMISSION:

Before the Commission for review and consideration is the Petition for Reconsideration of Williams Companies Inc.'s (Williams) (Petition for Reconsideration). In this Petition for Reconsideration, Williams seeks reconsideration of the Commission's Final Order entered in the above-captioned matter on April 4, 2024 (*Declaratory Order*), which declared that the solar photovoltaic (PV) project proposed in Williams' Petition for Declaratory Order (Petition) was eligible for Tier II Alternative Energy Credits (AEC) but not eligible for Solar Renewable Energy Credits (SREC).

On June 26, 2023, Williams filed its Petition seeking a determination that Williams' behind-the-meter solar photovoltaic systems qualifies for the generation of SRECs under the Alternative Energy Portfolio Standards Act (AEPS Act), 73 P.S. § 1648.1, et seq. According to the Petition, Williams' system would consist of two solar photovoltaic systems of 11 megawatts (MW) each, too large to net meter.[1]

Notice of the Petition was published in the *Pennsylvania Bulletin* on February 17, 2024 wherein a comment period for the public was opened until March 8, 2024. 54 Pa.B. 904. No comments were filed, and the Commission entered its *Declaratory Order* on April 4, 2024. On April 19, 2024, Williams subsequently filed the instant Petition for Reconsideration. On April 25, 2024, the Commission entered a short-form order granting reconsideration within the meaning of Pa.R.A.P. Rule 1701(b)(3), pending review of, and consideration on, the merits of the Petition for Reconsideration to retain jurisdiction over possible new arguments made within the Petition for Reconsideration.

BACKGROUND

Williams is an energy company with a primary focus on natural gas infrastructure. Williams owns a subsidiary, Transcontinental Gas Pipe Line Company, LLC (Transco), that operates the Transco natural gas pipeline, a major interstate pipeline system that transports approximately 15% of the nation's natural gas. Transco operates multiple natural gas compressor stations along the pipeline. Transco plans to construct two large solar-PV energy projects, each with a nameplate capacity of approximately 11 MW, to provide electricity to two of its natural gas compressor stations in Pennsylvania. One of the solar-PV projects is going to be constructed at a Transco compressor station located in Wyoming County, Pennsylvania and the other will be constructed at a Transco compressor station located in Columbia County, Pennsylvania. Petition ¶¶ 2-4.

[1] 73 P.S. § 1648.2 (definition of customer-generator).

The two compressor stations at issue receive electric service from PPL Electric Utilities (PPL), and Transco is the customer of record with PPL at both the Wyoming County and Columbia County compressor station locations. For each solar-PV project, the solar arrays will be located on land adjacent to the compressor station and be physically connected to the compressor station's existing internal electric system. The power from these solar-PV arrays will flow directly into the compressor stations' internal electric system to support the stations' operations, and the entirety of the solar generation is expected to be consumed by the compressor stations, reducing the electrical load supplied by PPL. Petition ¶¶ 5-7.

Williams is seeking to have its solar-PV projects qualify for SRECs. To qualify for SRECs, Williams must register a project with the AEPS Act Program Administrator, InClime. Williams shared summaries and its views of its projects with InClime. Petition ¶ 14. InClime informed Williams that it was not certain whether Transco's solar-PV projects would qualify for SRECs because the projects **would not be directly interconnected** with an Electric distribution company's (EDC) distribution system or a regional transmission organization's (RTO) transmission system. Petition ¶ 15. InClime directed Williams to obtain direction from the Commission on the projects' qualification to generate SRECs under the AEPS Act. Petition ¶ 15. Williams contends in its Petition that pursuant to the plain language of the AEPS Act, Act 40 of 2017, and the Commission's Final Implementation Order related to Act 40 of 2017,[2] its planned, two solar-PV projects should qualify to generate SRECs since they will be physically connected to an EDC customer's internal electric system. Petition ¶¶ 14-16.

[2] *Implementation of Act 40 of 2017*, Docket No. M-2017-2631527 (Order entered April 19, 2018) (*Final Implementation Order*)).

I. The Commission's Declaratory Order

On April 4, 2024, the Commission determined that Williams' proposed solar-PV systems would not qualify for SRECs because they would not be interconnected with an EDC's distribution system or an RTO's transmission system. Specifically, the Commission determined that the definition of "alternative energy system" was dispositive in this matter in that it specifically identified an alternative energy source as generating and delivering the electricity it generates to the EDC's distribution system or to an RTO's transmission system. *Declaratory Order* at 6. The Commission found the "alternative energy system" definition controlling because the AEPS Act contemplates that all alternative energy sources that qualify for AECs and/or SRECs will deliver some portion of the electricity they generate to the EDC's distribution system or the RTO's transmission system. *Declaratory Order* at 7.

In conformance with this interpretation, the Commission recognized that since Williams' proposed solar-PV system would not deliver any electricity to the grid, but instead only reduce demand on the grid, it would qualify as a Tier II alternative energy source as a demand-side management resource. *Declaratory Order* at 12. We noted that the General Assembly expressly recognized that demand-side management resources do not deliver electricity to the grid but instead conserve electricity. As such, the General Assembly tasked the Commission with promulgating regulations to measure the electricity demand-side management resources conserved so as to certify AECs for each megawatt hour (MWh) of electricity. *Declaratory Order* at 12-13, *citing* 73 P.S. § 1648.3(e)(10)-(11). We noted that the Commission's regulations acknowledge alternative energy sources that conserve electricity may be certified by the Commission for AECs. *Declaratory Order* at 13, *citing* 52 Pa. Code § 75.63(b). As such, the Commission held in the *Declaratory Order* that Williams' proposed solar-PV system was

eligible for Tier II AECs as a demand-side management resource but not eligible for SRECs since it was not interconnected with an EDC's distribution system or RTO's transmission system.

II. Williams' Petition For Reconsideration

On April 19, 2024, Williams filed its Petition for Reconsideration asking the Commission to reconsider its *Declaratory Order*. Williams contends that the Commission erred in not declaring that its proposed solar-PV projects would qualify for SRECs for several reasons. First, Williams argues that the Commission incorrectly relied upon the AEPS Act's definition of "alternative energy system" and that the language "deliver the electricity it generates to a retail customer" in Act 40 of 2017 should supersede the language in definition of "alternative energy system" set forth in the AEPS Act. Specifically, Williams asserts that the Commission erred in finding that the AEPS Act contemplates that all alternative energy sources that qualify for AECs and/or SRECs will deliver some portion of the electricity to the distribution system of an EDC or transmission system of an RTO. Petition for Reconsideration ¶ 17a.

Williams also contends that the Commission erred in assuming that EDCs and EGSs purchase renewable energy to meet their AEPS requirements, and that electricity from an alternative energy source that is not connected to an EDC's distribution system or an RTO's transmission system is not available to EDCs or EGSs to sell to a retail customer. Williams argues that this analysis is incorrect because EDCs and EGSs do not physically sell electricity from alternative energy sources in order to meet their AEPS obligations but simply purchase and retire alternative energy credits to meet their AEPS obligations. Petition for Reconsideration ¶ 17b.

Finally, Williams contends that the Commission erred when it allegedly conflated the definition of a customer-generator in the context of net metering with the generation of SRECs. Williams contends that the Commission's overall interpretation of the AEPS Act would limit the ability to generate SRECs to only customers that qualify as customer-generators. Petition for Reconsideration ¶ 17c.

DISCUSSION

We note that any issues we do not specifically address herein have been duly considered and will be denied without further discussion. It is well settled that the Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. Pub. Util. Comm'n*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pa. v. Pa. Pub. Util. Comm'n*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

I. Legal Standards

Following the issuance of a final decision, relief may be sought pursuant to Sections 703(f) and (g) of the Public Utility Code, relating to rehearings, as well as the rescission and amendment of orders. 66 Pa.C.S. § 703(f)-(g). Requests for such relief must comply with Section 5.572 of the Commission's regulations, relating to petitions for relief following the issuance of a final decision. 52 Pa. Code § 5.572.

The standards for granting a petition for amendment were set forth in *Duick v. Pa. Gas and Water Co.*, 56 Pa. PUC 553 (1982) (*Duick*):

> A petition for reconsideration, under the provisions of 66 Pa.C.S. § 703(g), may properly raise any matters designed to convince the Commission that it should exercise its discretion under this code section to rescind or amend a prior order in whole or in part. In this regard we agree with the court in the Pennsylvania Railroad Company case, wherein it was stated that "[p]arties . . . cannot be permitted by a second motion to review and reconsider, to raise the same questions which were specifically decided against them …." *What we expect to see raised in such petitions are new and novel arguments, not previously heard, or considerations which appear to have been overlooked by the commission*. Absent such matters being presented, we consider it unlikely that a party will succeed in persuading us that our initial decision on a matter or issue was either unwise or in error.

Id. at 559 (emphasis added). Under the standards of *Duick*, a petition for amendment is likely to succeed only when it raises "new and novel arguments" not previously heard by the Commission or considerations which appear to have been overlooked or not addressed by the Commission. *Id*.

The Commission has administrative discretion regarding whether to grant or deny a petition for amendment of an order filed under Section 703(g). *West Penn Power Co. v. Pa. Pub. Util. Comm'n*, 659 A.2d 1055, 1065 (Pa. Cmwlth. 1995). Such a petition, however, should only be granted judiciously and under appropriate circumstances because such action results in the disturbance of a final order. *Id.* (citing *City of Pittsburgh v. Pa. Dep't of Transportation*, 416 A.2d 461 (Pa. 1980)).

II. Disposition

With *Duick* controlling matters on reconsideration, we begin with first determining whether Williams has offered new and novel arguments or identified considerations that appear to have been overlooked or not addressed by the Commission in its previous order. Then, we must evaluate the new and novel argument or overlooked consideration in order to determine whether to modify our previous decision. The Commission will not necessarily modify a prior decision just because a party offers a new and novel argument or identifies a consideration that was overlooked by the Commission in its prior order. The Commission may exercise its discretion as to whether a rehearing on petition should be held. *See* 66 Pa.C.S. § 703 and *SME Bessemer Cement, Inc. v. Pa. Pub. Util. Comm'n*, 540 A.2d 1006 (Pa. Cmwlth. 1988).

The Commission finds that Williams has raised new and novel arguments. Williams did not address the definition of "alternative energy system" in its initial petition which it now addresses and presents a new argument for our consideration. Williams also raises a new and novel argument that the AEPS Act's intent is for the creation and trading of AECs rather than the actual composition and delivery of electricity from renewable energy sources to customers. Finally, Williams also raises an argument with respect to the Commission's interpretation of customer-generator and net metering within the AEPS Act which was not previously addressed. As these arguments were not raised in Williams' initial petition for declaratory order, we find that Williams is entitled to reconsideration, and we now address the merits of Williams' arguments on reconsideration.

A. The Term "Deliver The Electricity It Generates To A Retail Customer" In Act 40 Of 2017 Is Reconcilable With The AEPS Act's Definition Of "Alternative Energy System" And Can Be Interpreted To Give Effect To Both

In response to the Commission's interpretation of Act 40 of 2017 relying on the definition of "alternative energy system" in the AEPS Act, Williams now submits that the language "deliver the electricity it generates to a retail customer" in Act 40 of 2017 is not reconcilable with the definition of "alternative energy system" and that the Rules of Statutory Construction dictate that the subsequent law's provisions must prevail. Petition for Reconsideration ¶¶ 22-30.

In general, the AEPS Act only allows "alternative energy systems" to qualify to create credits of any type.[3] An "alternative energy system" is defined as a "facility or energy system that uses a form of alternative energy source to generate electricity and delivers the electricity it generates to the distribution system of an electric distribution company or to the transmission system operated by a regional transmission organization."[4] The AEPS Act creates two specific exceptions for resources that may create credits and be connected directly to load, customer-generators and demand-side management.[5] Williams contends that Act 40 of 2017 modified this general rule, and now allows non-customer-generator solar facilities to create SRECs even if directly connected to load, rather than being connected to the distribution system. However, Williams relies only on an ambiguous portion of Act 40, and Williams' interpretation does not give full effect to all of its provisions.

[3] 73 P.S. § 1648.3(e)(3).
[4] 73 P.S. § 1648.2 (definition of alternative energy system).
[5] 73 P.S. § 1648.2 (definition of demand-side management).

Act 40 of 2017 states, in relevant part:

> Section 2804. Alternative Energy Portfolio Standards.--The following shall apply: (l) Notwithstanding section 4 of the act of November 30, 2004 (P.L.1672, No.213), known as the "Alternative Energy Portfolio Standards Act," in order to qualify as an alternative energy source eligible to meet the photovoltaic share of this Commonwealth's compliance requirements under the "Alternative Energy Portfolio Standards Act" and to qualify for solar renewable alternative energy portfolio credits, each solar photovoltaic system must do one of the following:
>
> > (i) Directly deliver the electricity it generates to a retail customer of an electric distribution company or to the distribution system operated by an electric distribution company operating within this Commonwealth and currently obligated to meet the compliance requirements contained under the "Alternative Energy Portfolio Standards Act." (emphasis added).

71 P.S. § 714 (Adm. Code § 2804).

By its text alone, Section 2804 is unclear and ambiguous[6] as to whether it creates a new *sufficient* condition for the interconnection set up of qualified systems or whether it only creates a further *necessary* condition to be qualified to create SRECs.

It is well-accepted that the overriding object of all statutory interpretation "is to ascertain and effectuate the intention of the General Assembly" in enacting the statute under review. 1 Pa.C.S. § 1921(a).

[6] "A statute is ambiguous or unclear if its language is subject to two or more reasonable interpretations." *Bethenergy Mines, Inc. v. Com., Dep't of Env't Prot.*, 676 A.2d 711, 715 (Pa. Cmwlth. 1996) (*citing* 1 Pa.C.S. § 1921).

Looking at these principles regarding statutory interpretation, Williams is essentially contending that there is a conflict between the plain language of Act 40 of 2017 and the AEPS Act. Accordingly, since it is unclear from the plain language of Act 40 of 2017 as to whether solar-PV systems are exempt from interconnection to an EDC's distribution system or an RTO's transmission system, the effect of which would void the definition of "alternative energy system" within the AEPS Act, we rely on the factors outlined in Section 1921(c) of the Statutory Construction Act in order to determine the General Assembly's intent when it enacted both Act 40 of 2017 as well as the AEPS Act. *See* 1 Pa.C.S. § 1921(c).

In situations where the words of a statute "are not explicit," the legislature's intent may be determined by considering any of the factors enumerated in Section 1921(c). *McKelvey v. Pa. Dep't of Health*, 255 A.3d 385, 397-98 (Pa. 2021). As such, we rely on the factors outlined in Section 1921(c) of the Statutory Construction Act to ascertain the intention of the General Assembly. Those factors are as follows:

> (1) The occasion and necessity for the statute.
>
> (2) The circumstances under which it was enacted.
>
> (3) The mischief to be remedied.
>
> (4) The object to be attained.
>
> (5) The former law, if any, including other statutes upon the same or similar subjects.
>
> (6) The consequences of a particular interpretation.
>
> (7) The contemporaneous legislative history.
>
> (8) Legislative and administrative interpretations of such statute.

1 Pa.C.S. § 1921(c). In ascertaining the General Assembly's intent, the Rules of Statutory Construction also take into consideration the title and preamble of a statute in its construction. 1 Pa.C.S. § 1924.

Reading Section 2804 in full context and combined with legislative history, the best reading of Section 2804 is that it adds the new *necessary* condition that a project qualified for SRECs must be located in Pennsylvania and that all other necessary conditions existing under the AEPS Act still remain. The best evidence of this interpretation is the introductory clause of Section 2804, which Williams all but reads out of Act 40. That is, Section 2804 clearly states "notwithstanding Section 4 of the AEPS Act." This indicates that the AEPS Act is being modified as to Section 4, and Section 4 alone.

Pennsylvania law treats the term "notwithstanding" as providing express indication that the new law is intended to preempt the referenced law, essentially meaning "regardless" of what the other law provides. *Pleasant Hills Const. Co. v. Pub. Auditorium Auth.*, 784 A.2d 1277, 1282 (Pa. 2001). Typically, "notwithstanding" is used to broadly preempt other law. *Abington Heights Sch. Dist. v. Pennsylvania Lab. Reis. Bd.*, 274 A.3d 775 (Pa. Cmwlth. 2022) (unreported) (listing cases). In the present case however, the General Assembly chose to preempt just one provision of the AEPS Act, not the entire structure. The Commission must give effect to that choice.

Section 4 of the AEPS Act relates solely to the location of the facilities that may be qualified to produce AECs, so long as they fulfill all the other requirements to produce AECs. The original version of Section 4, unmodified by Act 40, states that any resource located within the P JM region may qualify to produce credits under the AEPS Act. By modifying Section 4 alone, Act 40 limited those resources that could create credits to those that were interconnected to the Pennsylvania grid itself. In order to modify the general rule that "alternative energy systems" must be connected to a distribution system,

the law would have needed to displace section 2 (definitions) or section 3 (qualifications) of the AEPS Act, or the AEPS Act as a whole, but the General Assembly did not do that. Act 40 did not seek to expand the types of interconnections that could qualify for credits. It only sought to limit geographic qualification.

This interpretation is further supported by extensive references in legislative history. In the co-sponsorship memo of the introducing senators, they said:

> Pennsylvania remains at a competitive disadvantage when compared to our neighboring states. Pennsylvania currently allows out-of-state systems to sell SRECs in the Commonwealth.
>
> Our legislation will essentially "close the borders" of the Commonwealth on SREC purchases, similar to many neighboring states. Electric distributors will have to purchase their credits from within the Commonwealth, thereby limiting the available supply of these SRECs. Our legislation would protect Pennsylvania-based solar and put us in line with many of our neighboring states.[7]

Likewise, when the Commission interpreted Act 40, legislators involved in its passage, as well as the Governor, filed comments with the Commission indicating that the purpose of this section of Act 40 was to "close the borders." The Governor's comments in particular were repeatedly clear that the "clear purpose" of Section 2804 was to amend "the Administrative Code to establish geographical limits on solar photovoltaic systems that qualify for the solar share requirement of the Alternative

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[7] https://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=S&SPick=20170&cosponid=2123.

Energy Portfolio Standards (AEPS) Act."[8] No mention was made of any expansion of the interconnection requirements in order to be qualified to create SRECs. The sole purpose of the section was to provide geographic limitation.

The language in Act 40 of 2017 should not be read or interpreted as negating an "interconnection" requirement but rather that the object to be attained is to establish solar-PV energy and emphasize that only solar-PV systems located within the borders of the Commonwealth are eligible for SRECs. In particular, Act 40 of 2017 clearly recognizes the definitions of the AEPS Act as it references the definitions of "alternative energy source" and "electric distribution company". Act 40 of 2017, however, made no explicit reference to "alternative energy system" as being repealed or disregarded in any way. From this, we weigh the General Assembly's intent of Act 40 of 2017 as in favor of leaving intact the definition of "alternative energy system" in the AEPS Act and thus making an interconnection requirement also applicable to solar-PV systems in the Commonwealth in order to qualify for SRECs.

We next look at the consequences of Williams' interpretation of Act 40 of 2017. In addressing the consequences of Williams' proposed interpretation of Act 40 of 2017, it is relevant to consider the language the General Assembly used in subsequent legislation, Act 114 of 2020, which Williams' Petition for Reconsideration does not address and weighs heavily against Williams' interpretation of Act 40 of 2017. In particular, Williams is contending that the General Assembly made a special exception for SRECs when it excluded the term "alternative energy system" and simply identified direct

[8] February 5, 2018, comments of the Pennsylvania Department of Environmental Protection, Docket No. M-2017-2631527 (with accompanying letter by Governor Wolf, endorsing the comments).

delivery of generation to the retail customer of an EDC in Act 40 of 2017. However, this interpretation would completely nullify the AEPS Act's definition of "alternative energy system" which would also seemingly apply to Act 114 of 2020 since it also uses the same language as Act 40 of 2017.[9]

Act 114 of 2020 mimics Act 40 of 2017's language except it applies to Tier II AECs. Act 114 provides in relevant part:

> (1) Notwithstanding section 4 of the act of November 30, 2004 (P.L. 1672, No. 213),[ ] known as the Alternative Energy Portfolio Standards Act, in order to qualify as an alternative energy source eligible to meet the Tier II share of this Commonwealth's compliance requirements under section 3(c)2 of the Alternative Energy Portfolio Standards Act and to qualify for Tier II alternative energy portfolio credits, each Tier II source must do one of the following:
>
> > (i) *Directly deliver the electricity it generates to a retail customer of an electric distribution company or to the distribution system operated by an electric distribution company* operating within this Commonwealth and currently obligated to meet the compliance requirements contained under the Alternative Energy Portfolio Standards Act.

72 P.S. § 1799.10-E (emphasis added).

[9] We also note that the Section 1 of Act 114 of 2020 further indicates that it was enacted for the implementation of the Commonwealth budget in 2020-2021 just as Act 40 of 2017 was enacted for budgetary purposes. *See* PA LEGIS 2020-114, 2020 Pa. Legis. Serv. Act 2020-114 (H.B. 2536) (PURDON'S).

Here, Act 114 of 2020 completely contradicts Williams' theory that its interpretation of Act 40 of 2017 only affects SREC qualification and would leave intact "alternative energy system" for the rest of the AEPS Act. Petition for Reconsideration ¶¶ 21-22. Williams' Petition for Reconsideration does not address Act 114 of 2020 and views the language "deliver the electricity it generates to a retail customer" in Act 40 of 2017 in a vacuum. Williams' interpretation would require the Commission to also interpret Act 114 of 2020 as nullifying the requirements for a retail electric customer to deliver electricity to an EDC's distribution system or an RTO's transmission system under the definition of an "alternative energy system." In essence, Williams' statutory interpretation of Act 40 of 2017 carries the unintended consequence of allowing solar-PV systems, Tier I, and Tier II alternative energy sources to qualify for their respective credits while delivering none of the electricity to either the distribution or transmission system available for use by EDCs or EGSs. If this interpretation prevails, it would upend the purpose of the AEPS Act, which was enacted by the General Assembly to provide energy from qualifying alternative energy systems to retail customers equal to or greater than the percentages required. As this interpretation of Act 40 of 2017 would fail to give effect to all of the language in the AEPS Act and further thwart the objective of the AEPS Act, Williams' interpretation of Act 40 of 2017 must be rejected.

B. A Solar-PV System Must Be Interconnected With An EDC's Distribution System Or RTO's Transmission System To Qualify For SRECs

Williams also argues that the Commission erred in the *Declaratory Order* when we found as significant that the AEPS Act only references electricity EDCs and EGSs sell to customers. *Declaratory Order* at 8. Williams proposes that the term "alternative energy system" should be disregarded with respect to SRECs because it was never the intent that EDCs and EGSs actually acquire electricity from alternative energy sources but to simply buy, sell, trade, and retire AECs. Petition for Reconsideration ¶¶ 31-32. Williams relies on Section 3(e)(4)(i) of the AEPS Act which provides in relevant part that

"an EDC or EGS shall comply with the applicable requirements of this section by purchasing sufficient alternative energy credits and submitting documentation of compliance to the program administrator." 73 P.S. § 1648.3(e)(4)(i).

We previously noted in the *Declaratory Order* that Section 3 of the AEPS Act set forth that EDCs must be *comprised* of electricity generated from alternative energy sources. *Declaratory Order* at 8 citing 73 P.S. § 1648.3(a)(1). Williams essentially asks the Commission to read Section 3(e)(4)(i) in a vacuum in order to wholly disregard the rest of the AEPS Act. In fact, subsection (e) expressly references "alternative energy systems" in addressing AECs. Section 3(e) provides in relevant part:

> (2) The commission shall approve an independent entity to serve as the alternative energy credits program administrator. The administrator shall have those powers and duties assigned by commission regulations. Such powers and duties shall include, but not be limited to, the following:
>
> > (i) To create and administer an alternative energy credits certification, tracking and reporting program. This program should include, at a minimum, *a process for qualifying alternative energy systems* and determining the manner credits can be created, accounted for, transferred and retired.
> >
> > (ii) To submit reports to the commission at such times and in such manner as the commission shall direct.
>
> (3) *All qualifying alternative energy systems* must include a qualifying meter to record the cumulative electric production to verify the advanced energy credit value. Qualifying meters will be approved by the commission as defined in paragraph (4).

73 P.S. § 1648.3(e) (emphasis added). Williams' argument that Section 3(e)(4)(i) envisions only the trading of AECs among EDCs and EGSs fails to read and give effect to the entirety of Section 3 of the AEPS Act.

Furthermore, the General Assembly made clear in the AEPS Act's preamble:

> AN ACT Providing for the sale of electric energy generated from renewable and environmentally beneficial sources, for the *acquisition of electric energy generated from renewable and environmentally beneficial sources by electric distribution and supply companies* and for the powers and duties of the Pennsylvania Public Utility Commission.

TRADE AND COMMERCE—ELECTRIC UTILITIES—ALTERNATIVE ENERGY SOURCES, 2004 Pa. Legis. Serv. Act 2004-213 (S.B. 1030) (PURDON'S) (emphasis added). If the Commission were to adopt Williams' interpretation of Act 40 of 2017 that reads Section 3(e)(4)(i) as controlling over the entire AEPS Act, it would wholly negate Section 3 of the AEPS Act and the General Assembly's intent that EDCs and EGSs acquire electric energy generated from renewable and environmentally beneficial alternative energy systems. 73 P.S. § 1648.3(e)(4)(i). This express intent in the AEPS Act directly contradicts Williams' assertion that the AEPS Act simply envisioned the buying, selling, transfer and retiring of SRECs and AECs among EDCs and EGSs without any regard to the actual composition of the electricity being provided to retail customers through the distribution and transmission systems. Williams has not pointed to any provision in Act 40 of 2017 that indicates that it was the General Assembly's intent to upend the AEPS Act through the simple use of the phrase "directly deliver the electricity it generates to a retail customer." As such, we reject this argument.

C. The Commission Did Not Conflate Net Metering With The Generation Of SRECs

Finally, Williams argues that the Commission conflated the requirements for customer-generators who net meter. Specifically, Williams points to the Commission's analysis where we noted that Williams cannot demonstrate that it qualifies as a customer-generator and cannot qualify to generate SRECs under the provisions of the AEPS Act. *Declaratory Order* at 9-10. However, Williams has taken this out of context. The Commission referenced customer-generators for the purpose of demonstrating that the AEPS Act expressly identified "alternative energy systems" as being eligible for net metering. Williams' interpretation of "deliver the electricity it generates to a retail customer" negating the definition of "alternative energy system" would also result in removing the requirement that customer-generators be interconnected with an EDC's distribution system or RTO's transmission system. The Commission was not referencing "customer-generator" as a requirement for receiving SRECs. The definition of "customer-generator" was referenced to demonstrate that Williams' proposed interpretation of "deliver the electricity it generates to a retail customer" would fail to give effect to all of the provisions in the AEPS Act, namely "alternative energy system," which would ultimately thwart the objectives of the AEPS Act.

Williams relies only on the plain language of Act 40 of 2017 read exclusively from the AEPS Act and Act 114 of 2020 to infer that the General Assembly intended to nullify the term "alternative energy system". However, reading Act 40 of 2017 in *pari materia* with the AEPS Act and Act 114 of 2020 we discern the General Assembly's intent to read "deliver the electricity it generates to a retail customer" as leaving intact the definition of "alternative energy system" which requires delivery of energy generated

from an alternative energy source to an EDC's distribution system or an RTO's transmission system to qualify for SRECs. It stands that solar-PV systems must be interconnected with an EDC's distribution system or an RTO's transmission system to qualify for SRECs. Therefore, the Commission reaffirms its *Declaratory Order* and reiterates that Williams' proposed projects are not eligible for SRECs when they are not interconnected to an EDC distribution system or RTO transmission system but are instead eligible for Tier II AECs as a demand-side management resource. **THEREFORE,**

IT IS ORDERED:

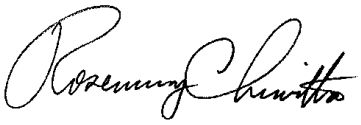
1. That Williams Companies, Inc.'s Petition for Reconsideration is denied.

2. That Williams Companies, Inc.'s proposed solar photovoltaic systems that do not deliver any electricity to the electric distribution company's distribution system or the regional transmission organization's transmission system do not meet the definition of an alternative energy system and thus do not qualify for generating Solar Alternative Energy Credits under the Alternative Energy Portfolio Standards Act.

3. That the reduced electric consumption by Williams Companies, Inc. due to the proposed solar photovoltaic systems may qualify as demand-side management and would be eligible to generate Tier II alternative energy credits under the Alternative Energy Portfolio Standards Act.

4. That a copy of this Order shall be served upon the Office of Small Business Advocate; the Office of Consumer Advocate; InClime, Inc. and the Commission's Bureau of Investigation and Enforcement.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: July 11, 2024

ORDER ENTERED: August 21, 2024