



Todd S. Stewart  
717.703.0800  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

Regulation is a maze. We can show you the way!

---

501 Corporate Circle, Suite 302, Harrisburg, PA 17110 Phone: 717.236.1300 Fax: 717.236.4841 [www.hmslegal.com](http://www.hmslegal.com)

October 17, 2025

**VIA ELECTRONIC FILING**

Matthew L. Homsher, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, Filing Room  
Harrisburg, PA 17120

RE: Pennsylvania Public Utility Commission v. Citizens' Electric Company of Lewisburg, PA; Docket No. R-2025-3054394; **SOLAR PROJECTS OBJECTIONS TO NON-UNANIMOUS JOINT PETITION FOR SETTLEMENT**

Dear Secretary Homsher:

Enclosed for filing with the Commission is Solar Projects' Objections to Non-Unanimous Joint Petition for Settlement in the above-captioned matter. Copies of the Objections have been served in accordance with the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact my office.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Todd S. Stewart", is written over the closing text.

Todd S. Stewart  
*Counsel for Kelly Road Solar, LLC,  
Lancaster Avenue Solar, LLC and Twilight  
Renewables, LLC (collectively "Solar  
Projects")*

TSS/jld/das  
Enclosure

cc: Administrative Law Judge Mary D. Long (via electronic mail – [malong@pa.gov](mailto:malong@pa.gov))  
Per Certificate of Service



customer-generators' use of the distribution system and ignoring the substantial benefits customer-generators provide to the system as a whole; and,

2. Use of peak bi-directional energy demand as the basis for segregating a customer-generator into procurement class Generation Supply Service Rate – 1 (“GSSR-1”) or Generation Supply Service Rate – 2 (“GSSR-2”), which thus determines the level of compensation for the excess energy the customer-generator produces.

## **I. Objections**

Solar Projects object to paragraph 30 of the Settlement and each of its subparts.

Paragraph 30 provides as follows:

30. The Company's proposals for the distribution charges and net metering of customer-generators are modified as follows:
  - a. The Company shall use the peak bi-directional demand in place of the originally-proposed Gross Generator Capacity.
  - b. The Company shall establish the placement of the account on the GSSR-1 or GSSR-2 in June of each year based on the peak bi-directional demand for the prior June to May period, with the account classified as GSSR-2 if the 400 kW demand threshold was achieved in any of the months during the period.
  - c. The net metering compensation for accounts on GSSR-2 shall be as stated in Citizens' Statement No. 4R.

a. As a general matter, subsection “a”, while a concession on the part of Citizens’, does not bring Citizens’ proposal into compliance with the AEPS Act or the Public Utility Code. Citizens’ now proposes to record a customer-generator’s peak generation as offset by any concurrent usage as the customer-generator’s “peak bi-directional demand.” Peak bi-directional demand, as redefined, will be the basis for a customer’s distribution charges, which are solely demand based. It will also determine a customer-generators’ classification as either GSSR-1 or GSSR-2, with the GSSR-2

compensation rate for net-metered customer-generators' excess generation being set at the wholesale Locational Marginal Price, rather than the full retail rate to which they are entitled. Additionally, with GSSR-2 being a rate that changes every 5 minutes, classifying a customer-generator with a maximum registered peak load of less than 25 kW in the last 12 months as a GSSR-2 customer would be in violation of Section 2807(e)(7) of the Code which requires that small business customers be offered a rate that changes no more frequently than quarterly. Peak demand is defined in the Code as "The highest electrical requirement occurring during a specified period. For an electric distribution company, the term shall mean the sum of the metered consumption for all retail customers over that period."<sup>2</sup> Clearly, attempting to re-purpose the notion of peak demand to include generation is contrary to this definition. The concept of "peak bi-directional demand" is the square peg not fitting in the round hole.

b. Subsection "b" requires Citizens' to determine once per year, in June, based upon the illegal peak bi-directional demand metric, to classify customers as either GSSR-1 or GSSR-2. This is a change to Citizens' default service requirements, lest we forget that this matter is a base rate case. Nonetheless, Citizens' is seeking to modify the procurement classes that are relegated to default service proceedings, and there has been no evidence placed on the record by Citizens' that suggests customer-generators will negatively impact default service procurement. The only relevant evidence is that having distributed generation on the system will lower the perceived risk of default service suppliers.<sup>3</sup>

---

<sup>2</sup> 66 Pa. C.S. § 2806.1(m).

<sup>3</sup> Solar Projects St. 2-SR at 34.

c. Subsection “c” requires that Citizens’ assign those customer-generators with more than 400 kW of peak bi-directional “demand” to GSSR-2 and those with less than that threshold to GSSR-1. The difference, of course, is that GSSR-1 customers are paid the price to compare as compensation for excess generation while GSSR-2 customers are paid a wholesale price for the same energy on the same system where all customer-generators are supposed to “receive full retail value” regardless of size. Accordingly, for these reasons and all the reasons stated in the Solar Projects’ Main and Reply Briefs, the Solar Projects object to the Settlement.

## **II. Discussion**

### **1. The Settlement Violates the Public Utility Code and the AEPS Act.**

The above-noted Settlement provisions violate several unambiguous provisions of the Code and the AEPS Act. First, the Code requires that small business customers, which the Solar Projects are, be provided a rate that changes no more frequently than quarterly and the GSSR-2 rate will change every 5 minutes.<sup>4</sup> Even beyond that, the change to measuring peak demand deviates from what the Code requires – that it be measured only on consumption, not generation.<sup>5</sup> The proposed distribution rates also discriminate by providing certain similarly situated customers with an advantage while others, customer-generators, are being subjected to a disadvantage. The distribution rates for customer-generators will increase in some cases by 400% while rates for non-customer generators of

---

<sup>4</sup> 66 Pa. C.S. § 2807(e)(7).

<sup>5</sup> 66 Pa. C.S. § 2806.1(m).

the same size will be reduced.<sup>6</sup> Such blatant discrimination violates Code Section 1304 which prohibits a utility from subjecting a customer to any unreasonable preference or disadvantage.<sup>7</sup>

In addition to violating the Code, the proposed reclassification of GSSR-1 customers to GSSR-2 violates several provisions of the AEPS Act. First, compensating excess generation at the wholesale Locational Marginal Price rate for certain customer-generators that will be reclassified under the peak bi-directional demand proposal as GSSR-2 violates the requirements that “customer generators shall receive full retail value for all energy produced on an annual basis.”<sup>8</sup> There is no effort by Citizens’ and the other parties to even address the fact that the AEPS Act does not distinguish the compensation to be paid based on nameplate capacity size – instead, it utilizes the term “customer-generator,” which was also amended to allow distributed generation systems up to 3,000 kW for non-residential customers.<sup>9</sup> The Commission has recognized that it cannot allow “full retail value” to be established at a wholesale price, which is what Citizens’ and the parties to the Settlement are proposing here.<sup>10</sup>

---

<sup>6</sup> Solar Projects Statement No. 2-SR at 27. (“... would increase distribution rates for most non-residential customer-generators by roughly 400% while providing a roughly 11% reduction for non-residential, non-customer generators ...”). This analysis was conducted prior to the change to the use of Peak Bi-directional demand but still aptly demonstrates the potential magnitude of the increase.

<sup>7</sup> 66 Pa. C.S. § 1304.

<sup>8</sup> 73 P.S. § 1648.5

<sup>9</sup> 73 P.S. § 1648.2

<sup>10</sup> Solar Projects M.B. at 50.

The Settlement violates the requirement that customer-generators “receive full retail value for all energy produced on an annual basis” in a different way – by not netting distribution charges for electricity consumed against electricity produced and then annually paying for those charges as part of the compensation that is required by the AEPS Act. There is nothing in the AEPS Act to suggest that per kilowatt charges not be compensated.<sup>11</sup> While it is true that the Commission did promulgate regulations that do not require compensation for demand charges which are based on capacity which is measured in kilowatts as opposed to kilowatt hours, those regulations willfully misread the statute to include a technical definition of “energy” as being kilowatt hour-only when considering the mandate to compensate for excess “energy.” The Commission’s interpretation is not entitled to deference because the Commonwealth Court has recently held that the Commission has no authority to redefine terms such as “full retail value.”<sup>12</sup> Without the technical definition of “energy”, which defines energy to mean only kilowatt hours, the Regulation<sup>13</sup> cannot be relied upon.

---

<sup>11</sup> Solar Projects M.B.at 58-59.

<sup>12</sup> See *Hommrich v. Pa. Pub. Util. Comm’n*, No. 463 MD 2022, --- A. 3d ----, 2025 WL 2325316, at \*11 (Pa. Cmwlth. Aug. 13, 2025) (“*Hommrich II*”) (“As this Court held in [*Hommrich v. Commonwealth*, 231 A.3d 1027, 1036 (Pa. Cmwlth. 2020), *aff’d*, 245 A.3d 637 (Pa. 2021) (“*Hommrich I*”)] the General Assembly did not task the PUC with redefining statutory terms and eligibility standards.”)

<sup>13</sup> See, 52 Pa. Code § 75.13 (f).

## **2. There is no evidence in the record to support the terms of the settlement.**

Just because there is a non-unanimous Settlement does not mean that the requirement that a rate proposal be found to be just and reasonable no longer applies.<sup>14</sup> To the contrary, contested settlements, such as this one, in particular, must be carefully reviewed to ensure that the protesting parties are not ignored in favor of the relative ease of approving a settlement. Settlements do not relieve the party with the burden of proof of the need to satisfy that burden.<sup>15</sup> In this case the Settlement is not supported by evidence. First, the Settlement would increase distribution rates for customer-generators by dramatic percentages, without any evidence other than Mr. Johnson's unsupported speculation.<sup>16</sup> More importantly, there is ample relevant and unrefuted testimony to show that customer-generators do not impose additional costs on the "system", *i.e.*, non-generating customers, but instead reduce costs for those customers.<sup>17</sup> Mr. Johnson's only response was to point out that because of the way transmission and capacity rates are set, the benefits do not accrue until the following year. He did not deny that there are benefits.<sup>18</sup>

The lack of any hard evidence is startling. Citizens' did not perform a cost-of-service study and had no evidence other than unsupported speculation that customer-generators would impact distribution costs or default service costs at all. In fact, the evidence of record shows that bidders for Citizens' latest auction did not include a risk premium due to DERs

---

<sup>14</sup> 66 Pa. C.S. § 1301.

<sup>15</sup> 66 Pa. C.S. § 315(a).

<sup>16</sup> Solar Projects St. 2-SR at 5:11-9:25

<sup>17</sup> Solar Projects St. 2-SR at 35-43.

<sup>18</sup> Citizens' St. No. 4RJ (supplemental) at

being on the system, they actually did the opposite and offered a credit due to the low risk of the sales.<sup>19</sup> Moreover, Mr. Lucas prepared an extensive study that demonstrates that customer-generators provide net benefits to the system.<sup>20</sup>

In the face of this evidence, it was clear that Citizens' had no response other than to rely upon the UGI case which is factually and procedurally distinguishable.<sup>21</sup> First, the UGI case was a default service case and not a general rate case – pointing out the impropriety of seeking to adjust GSSR requirements in a base rate case where there is typically no evidence of energy costs or contract requirements – as it was here. Second, in the UGI case, UGI did not request to increase distribution charges by multiples, for customer-generators or any customers, which is contrary to the facts of this case. Finally, there were no active net-metered projects in the UGI service territory at the time of the default service proceeding and so there was not an issue of existing projects that we have here. Not only does this latter fact demonstrate clearly that the market is not concerned about DERs on Citizens' system, but it also demonstrates the recklessness of Citizens' actions in not addressing the real and immediate harm to operating customer-generators on its system whose projects will end up insolvent if the Settlement's changes are approved.<sup>22</sup> Not only did Citizens' not have any evidence that their customers were being harmed, they ignore the evidence of harm to customer-generators that they know is present. The Settlement should be rejected.

---

<sup>19</sup> Solar Projects M.B.at 23.

<sup>20</sup> Solar Projects St. 2-SR at 35.43.

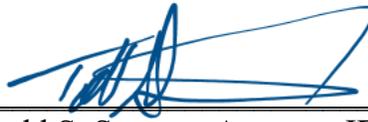
<sup>21</sup> Citizens' St. 4RJ (Supplemental) at 2:1-3:19.

<sup>22</sup> Nolt testimony

## Conclusion

Citizens and the parties to the Settlement have not supported the settlement nor have they supported the underlying rate proposal that the Settlement would modify. The Company has no evidence other than conjecture to support what it claims – that customer generators impose or will impose costs on the Citizens’ system that justify increasing distribution costs by 400% or more. Without cost information, they cannot meet the burden of proof. Likewise, the Company claims that it is justified in reducing the compensation due to customer generators, by adopting in a rate case, a change to the statutory definition of peak demand, and reassigning customer generators to a Large customer procurement class that is compensated for its excess generation at the LMP rate that changes every 5 minutes. The Settlement, insofar as it changes the requirements for customer generators is illegal, unsupported and unjustified. The Settlement must be rejected.

Respectfully submitted,



---

Todd S. Stewart, Attorney ID No. 75556  
HMS Legal LLP  
501 Corporate Circle, Suite 302  
Harrisburg, PA 17110  
(717) 236-1300  
(717) 236-4841 (fax)  
[tsstewart@hmslegal.com](mailto:tsstewart@hmslegal.com)

*Counsel for Kelly Road Solar, LLC, Lancaster Avenue Solar, LLC and Twilight Renewables, LLC (collectively “Solar Projects”)*

DATED: October 17, 2025

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

**VIA ELECTRONIC MAIL**

Adeolu A. Bakare, Esquire  
Matthew L. Garber, Esquire  
Rebecca Kimmel, Esquire  
McNees Wallace & Nurick, LLC  
100 Pine Street  
Harrisburg, PA 17101  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[mgarber@mcneeslaw.com](mailto:mgarber@mcneeslaw.com)  
[rkimmel@mcneeslaw.com](mailto:rkimmel@mcneeslaw.com)  
*Counsel for Citizens' Electric Company of  
Lewisburg, PA*

Victoria A. Geddis, Esquire  
McNees Wallace & Nurick, LLC  
170 N. Radnor-Chester Road, Suite 350  
Radnor, PA 19087  
[vgeddis@mcneeslaw.com](mailto:vgeddis@mcneeslaw.com)  
*Counsel for Citizens' Electric Company of  
Lewisburg, PA*

Steven C. Gray, Esquire  
Rebecca Lyttle, Esquire  
Office of Small Business Advocate  
555 Walnut Street  
Forum Place, 1<sup>st</sup> Floor  
Harrisburg, PA 17101  
[sgray@pa.gov](mailto:sgray@pa.gov)  
[relyttle@pa.gov](mailto:relyttle@pa.gov)

Michael Podskoch, Jr., Esquire  
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120  
[mpodskoch@pa.gov](mailto:mpodskoch@pa.gov)

Melanie Joy El Atieh, Esquire  
Ryan Morden, Esquire  
Barrett C. Sheridan, Esquire  
Office of Consumer Advocate  
55 Walnut Street  
Forum Place, 5<sup>th</sup> Floor  
Harrisburg, PA 17101-1923  
[MElAtieh@paoca.org](mailto:MElAtieh@paoca.org)  
[RMorden@paoca.org](mailto:RMorden@paoca.org)  
[BSheridan@paoca.org](mailto:BSheridan@paoca.org)  
[OCA25CWV@paoca.org](mailto:OCA25CWV@paoca.org)

Pamela Polacek  
Chief Legal & Regulatory Officer  
C&T Enterprises, Inc.  
P.O. Box 129  
Venetia, PA 15367  
[ppolacek@ctenterprises.org](mailto:ppolacek@ctenterprises.org)  
*Counsel for C&T Enterprises, Inc.*



\_\_\_\_\_  
Todd S. Stewart

DATED: October 17, 2025