



Pennsylvania Department of Environmental Protection

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April 4, 2006

Office of Energy and
Technology Deployment

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Commonwealth of Pennsylvania
Secretary's Bureau
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Docket No. L-00050174

Proposed Rulemaking Re Net Metering for
Customer-generators pursuant to Section 5 of
the Alternative Energy Portfolio Standards Act,
73 P.S. § 1648.5

Docket No. M-00051865

Implementation of the Alternative Energy
Portfolio Standards Act of 2004: Net Metering

Dear Secretary McNulty:

Enclosed please find fifteen (15) copies of the Department of Environmental
Protection's comments on the Proposed Rulemaking Order Regarding Net Metering for
Customer-generators Pursuant to Section 5 of the Alternative Energy Portfolio Standards
Act of 2004:

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Respectfully Submitted,

Eric Thumma
Director
Bureau of Energy, Innovations, and
Technology Deployment

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Enclosures

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking Re Net Metering for
Customer-generators pursuant to Section 5 of
the Alternative Energy Portfolio Standards
Act, 73 P.S. § 1648.5

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Implementation of the Alternative Energy
Portfolio Standards Act of 2004: Net Metering

Docket No. M-00051865

**Comments of the Department of Environmental Protection on Proposed
Rulemaking Order Regarding Net Metering for Customer-generators**

The Pennsylvania Department of Environmental Protection (DEP) is pleased to offer these comments on the Proposed Rulemaking Order for Net Metering of Customer-generators pursuant to the implementation of the Alternative Energy Portfolio Standards Act of 2004.

DEP is responsible for protecting and improving Pennsylvania's land, air and waterways. In 1995, the Pennsylvania Energy Office was closed and many of its duties, including promoting energy efficiency and alternative energy in the Commonwealth, were transferred to DEP. Gov. Rendell created a specific office within DEP, the Office of Energy and Technology Deployment (OETD), soon after taking office in 2003 to act as the primary point of contact for Commonwealth energy issues. One of OETD's primary goals is to promote economic development by encouraging alternative energy projects. The Pennsylvania General Assembly also charged DEP with implementing the Alternative Energy Portfolio Standards Act (AEPS) in conjunction with the PUC.

DEP's role in implementing AEPS combined with our interest in encouraging the deployment of alternative energy projects makes this Proposed Rulemaking Order particularly important to DEP.

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ON PUBLIC UTILITIES

The Department commends the Commission for developing proposed rules, which at large encourage alternative energy projects by providing a method of compensation for surplus kWhs that benefits most customer-generators. The economic success of alternative energy projects is contingent upon the removal of rate-based barriers and penalties, and an equitable return for electricity exported by a customer-generator.

The Department observes that some details of the proposed rules maintain barriers to the implementation of various alternative energy projects. Therefore, we offer the following comments addressing our concerns with the proposed rules and in response to the Commissions request for comments as noted in the Discussion section of the Order.

General Provisions of Chapter 75 of the Public Utility Code

During our review of the Proposed Rules we became aware that the definition for customer generator as written in the Act presents a barrier to net metering for non-electric utilities. At water and wastewater facilities there exist opportunities for distributed generation systems using alternative energy sources such as in-pipe micro-hydro and anaerobic digestion of wastewater. The problem is; Act 213 defines customer-generator as “A nonutility owner or operator of a net metered distributed generation system...” this definition could be interpreted to exclude water utilities from participating in net metering. Understanding that Act 213 was developed to promote the generation of electricity from renewable and environmentally beneficial sources by entities other than electric utilities we believe that the definition of customer-generator may have the unintentional result of preventing non-electric utilities from taking advantage of net

metering. We recommend that the Commission make a clarifying statement that will remove this barrier to non-electric utilities wanting to participate in net metering.

Currently, there are customers generating electricity using eligible Tier I and Tier II alternative energy sources who are covered by existing tariffs. These customers may or may not fit the definition of "customer-generator" as defined in Act 213 and may be net metering. It can be assumed that existing generators who meet the definition of customer-generator will be subject to this proposed rulemaking once it is finalized. For the sake of clarity, we suggest that the commission add language indicating how existing "customer-generators" will be treated after the proposed rulemaking is implemented.

Net Metering Definitions

We applaud the Commissions efforts in moving forward with the idea of meter aggregation in the proposed rules. However, changes to the definitions for "meter aggregation" "physical meter aggregation" and "virtual meter aggregation" found in §75.12, will likely ruin the economic viability of numerous alternative energy projects by limiting aggregation to "within a particular rate class..." We are most familiar with the detrimental impact this limitation puts on farm manure digester projects but negative impacts may also occur in other types of alternative energy projects located on farms and other businesses.

PA Department of Agriculture conducted a brief survey of farm operations that have an operating digester, are constructing a digester or are in the blueprint stage of a digester project. Twenty-one farms responded to the survey and the results show: the average number of meters per farm operation is 7, the average number of rate classes per farm operation is 3, the highest number of meters on one farm is 20, the lowest number of

meters is 1, and 18 of the 21 farming operations have multiple farms location which are not all contiguous. The results of this survey clearly indicate that limiting meter aggregation to a particular rate class can easily negate the benefits originally sought by the idea aggregation. If a farming operation can not aggregate all the meters as originally proposed in the strawman, then the limited amount of aggregation allowed in the proposed rulemaking may disqualify a digester project from net metering because electricity produced by the renewable energy generating system may greatly exceed the customer-generator's electricity requirements on the limited number of meters. We strongly recommend that the Commission remove the words "within a particular rate class" from the definitions of "meter aggregation", "physical meter aggregation" and "virtual meter aggregation". The proposed wording of "within a particular rate class" unintentionally assigns an inappropriate narrow limitation to the definition of net meter, which includes the words "offset part or all of the customer-generator's requirements for electricity".

The afore mentioned survey also points out that it is common for a farming operation to have electric meters at locations that extend beyond land that is adjacent or contiguous. In reality the farming operations of a customer-generator may occur on property that is leased and not contiguous or adjacent. Therefore we request that the Commission reevaluate the language specifying that aggregation be confined to property that is owned and contiguous or adjacent. When looking at the definition for net metering in Act 213, "Net metering" "The means of measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator, when the renewable energy generating system is intended primarily to offset

part or all of the customer-generator's requirements for electricity." We believe that the farming operation is the customer-generator and the customer-generator's requirements for electricity may include electric meters within different rate classes and on property that is not limited to being owned and contiguous or adjacent. We propose the following definitions as replacements:

Meter aggregation – The combination of readings from and billings for all meters within a single EDC's service territory regardless of rate class on properties owned and / or operated by a customer generator. Meter aggregation may be completed through physical or virtual meter aggregation.

Physical meter aggregation – The physical rewiring of all meters within a single EDC's service territory regardless of rate class on properties owned and / or operated by a customer generator to provide a single point of contact for a single meter to measure electric service for that customer-generator.

Virtual meter aggregation – the combination of readings from and billings for all meters within a single EDC's service territory regardless of rate class on properties owned and / or operated by a customer generator by means of the EDC's billing process, rather than through physical rewiring of the customer-generator's property for a physical, single point of contact.

As noted in the discussion section of the order, there may be difficulty in deciding which rate class an aggregated facility belongs to. We suggest that generation first be applied to the meter through which the customer-generator facility connects to the EDC and then apply excess generation equally to all other meters measuring the customer-generator's requirements for electricity.

Net Metering General Provisions

In general we support the proposed net metering general provisions, and ardently agree with the proposed method of crediting customer-generators for surplus kWhs month to month with an annual true-up. Also, we concur with the Commission that Tier II resources should be included in net metering and with the provision that a customer-

generator owns the alternative energy credits. We do have comments regarding a couple of the provisions and note them below:

§75.13(b) should specify when EDCs should file tariffs that provide for net metering to avoid delays in implementation. We suggest that the words "and encourage" be added to the second sentence so that it reads "An EDC shall file a tariff providing net metering protocols that enable and encourage EGSs to offer net metering...". We are concerned that EDCs may develop a tariff with protocols that meet the enabling requirement but in a manner that is disadvantageous to the customer-generator.

§75.13(d) for clarity, consider adding "kilowatt-hour" prior to the word "credits" in both sentences so that it reads:

§75.13(d) An EDC shall carry over kilowatt-hour credits earned by a customer-generator from billing month to successive billing months. Any unused kilowatt-hour credits shall accumulate until the end of the annualized period.

§75.13(k) does not allow an EDC to impose insurance requirements on a customer-generator that would not apply to other customers. We agree with this provision and encourage the Commission to follow the MADRI model. The interconnection agreement form should include language that strongly recommends and explains why a customer-generator should consider obtaining the appropriate insurance coverage.

Meters and Metering

We endorse the proposed use of a single bi-directional meter. However, we are concerned that the wording of §75.14(a) could be interpreted to mean that the bi-directional meter must be equipped to provide separate measurements of the electricity generated as well as the electricity purchased by the customer-generator. Believing that

the intent of the provision is for a meter capable of accurately measuring the flow of electricity in both directions and providing a reading at end of the billing month which can be used to determine if there was a net consumption or production of electricity by the customer-generator during the billing cycle. The Commission should adjust the wording of this provision to avoid misinterpretation, consider removing the words "and record" from the provision. Also, we recommend that Commission consider adding language that specifies the degree of accuracy a meter must meet when measuring the electricity produced by the customer-generator, New Jersey regulations (N.J.A.C. 14:4-9.4(b)2.) specifies "The meter is accurate to within plus or minus 5 percent when measuring electricity flowing from the customer-generator facility to the electric distribution system." Lastly, the provision should indicate who is responsible for meter costs if a customer-generator agrees to a dual meter substitution arrangement.

§75.14(e) contains the same limiting language that we addressed in our previous comments regarding the definitions for meter aggregation, physical meter aggregation and virtual meter aggregation. For reasons explained above, this provision should not limit aggregation to a particular rate class or to geographic locations owned by the customer-generator and are contiguous or adjacent. We also object to the language that removes the competitive advantage a customer-generator could realize from having the ability to acquire physical aggregation equipment from providers other than the EDC. We agree that a customer-generator should be responsible for the incremental cost differences incurred for virtual aggregation but suggest that the incremental costs be reasonable and justifiable. Lastly, we believe that virtual aggregation should be available whenever a customer-generator's operations include multiple meters and without the

aggregation of those meters the customer-generator would be precluded from net metering. We suggest the following replacement language for §75.14(e):

(e) Meter aggregation regardless of rate class and on properties owned and / or operated by a customer generator shall be allowed for the purposes of net metering. Physical meter aggregation shall be at the customer-generator's expense. The EDC shall provide specifications for the necessary equipment to complete physical aggregation and the customer-generator shall have the equipment installed by the EDC or a qualified service provider. When a customer-generator requests virtual aggregation, it shall be provided by the EDC at the customer-generator's expense. The customer-generator shall be responsible only for any reasonable and justifiable incremental expense entailed in processing the accounts on a virtual meter aggregation basis. Virtual aggregation shall be available all customer-generators with multiple meters.

Stranded Costs

Regarding the issue of stranded costs, we appreciate that the commission recognized the impracticality of recovering stranded costs from customer-generators in the residential rate class. However, we do not believe that the proposed regulations thoroughly promote onsite generation by customer-generators and suggest that the Commission should consider extending its reasoning regarding stranded costs toward customer-generators in the residential class to all customer-generators regardless of rate class.

We commend the Commission for the work done on this proposed rulemaking and for giving consideration to our comments.