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800 North Third Street, Suite 301, Harrisburg, Pennsylvania 17102
Telephone (717) 901-0600 • Fax (717) 901-0611 • www.energypa.org

April 5, 2006

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OFFICE OF U.L.C.P.
PUBLIC UTILITY COMMISSION

James J. McNulty, Esquire, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265

PA PUC
SECRETARY'S BUREAU

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**COMMENTS of the ENERGY ASSOCIATION of PENNSYLVANIA
on IMPLEMENTATION of the ALTERNATIVE ENERGY PORTFOLIO STANDARDS
ACT of 2004: NET METERING - NOTICE of PROPOSED RULEMAKING
DOCKET NO. M-00051865**

Dear Mr. McNulty:

Enclosed for filing please find the original and fifteen (15) copies of the Comments of the Energy Association of Pennsylvania on the above-captioned Docket.

Please do not hesitate to contact the undersigned with any questions.

Cordially,

A handwritten signature in cursive script, appearing to read "Donna M. J. Clark".

Donna M. J. Clark
Vice President and General Counsel

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Implementation of the Alternative	:	
Energy Portfolio Standards Act of 2004:	:	Docket No. M-00051865
Net Metering – Notice of Proposed	:	
Rulemaking	:	

Comments of the Energy Association of Pennsylvania

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. Introduction

At Public Meeting on November 10, 2005, the Public Utility Commission ("PUC" or the "Commission") adopted a proposed rulemaking order on net metering as mandated under the Alternative Energy Portfolio Standards Act ("Act") at 73 P.S. Section 1648.5. The proposed rulemaking was published in the Pennsylvania Bulletin on February 4, 2006 with comments due 60 days after publication or on April 5, 2006.

The Energy Association of Pennsylvania ("EAPA" or "Association") represents the interests of the Commonwealth's PUC-regulated electric and natural gas distribution companies.¹ EAPA has been an active participant in the stakeholder process that the Commission has established to address issues relevant to the implementation of the Act. EAPA previously filed comments on matters related to net

¹ PECO Energy Company does not join in these comments.

metering on June 17, 2005 in response to the Issues List issued by the Commission on June 2, 2005 and on August 26, 2005 in response to the Commission's final draft proposal for net metering regulations issued on August 3, 2005. The Association also addressed issues related to net metering in its comments at the Commission's January 19, 2005 Technical Conference and in its Reply Comments filed on February 9, 2005.

In its earlier comments, EAPA proposed a two meter protocol to address the net metering requirements of the Act. The Association's earlier comments describe, at length, why the Association believes the two meter approach to be superior to the other approaches. The Association still believes the two meter approach to be a superior approach and incorporates its earlier comments here by reference.

EAPA acknowledges that, in this proposed rulemaking, the Commission has incorporated a number of improvements suggested by EAPA; however, the rulemaking outlines what is fundamentally a single meter approach. While the Association continues to advocate the two meter approach, the Association also does not wish to lose the opportunity to offer comments that it believes will improve the proposed single meter approach. Accordingly, EAPA offers the comments below on the implementation of a single meter approach while still maintaining that the two meter protocol is the superior approach. EAPA appreciates the opportunity to provide comments on the above-captioned draft regulation and looks forward to continuing to work with the Commission and all other stakeholders to address issues associated with net metering.

II. Comments

For the sake of efficiency, EAPA's comments follow the headings and numbering of the proposed rulemaking.

Section 75.12 Definitions.

- **Avoided cost of wholesale power**

EAPA believes that, as described in more detail in its comments at Section 75.13(c), customer-generators should be compensated for any surplus generation at the end of each billing cycle. Accordingly, the definition would change to, "The average locational marginal price of energy, or its successor, over the billing period in the applicable EDC's transmission zone." (Recommended addition underlined.)

- **Equipment package**

EAPA believes that it would be helpful to clarify that the equipment package is owned by the customer-generator. Accordingly, the Association recommends that the definition change to, "A group of components, owned by the customer-generator, connecting an electric generator with an electric delivery system...". (Recommended addition underlined.)

- **Meter Aggregation**

EAPA believes that, as described in more detail in its comments at Section 75.14(e), virtual meter aggregation should not be permitted.

Accordingly, the definition should change to, "The aggregation of all meters on contiguous and adjacent properties whose electric service accounts identify the customer-generator as the rate payer. Meter aggregation may be completed by physically rewiring together the properties represented by such accounts in order to provide a single point of contact."

- **Net Metering**

As described in the Association's comments regarding fair and non-discriminatory treatment (see EAPA's comments at Section 75.13(j)) and change from annual to monthly payment for surplus generation (see EAPA's comments at Section 1.3(c)), parts (i) and (ii) of the definition should read as follows:

"(i) The EDC credits a customer-generator for each kilowatt-hour produced by a Tier I or Tier II resource installed on the customer-generator's side of the electric revenue meter, up to the total amount of electricity used by that customer during a billing cycle. The customer-generator's bill is calculated based on the resultant net kilowatt-hours in a nondiscriminatory manner consistent with the provisions of the rate schedule under which the customer takes service. If the net generation for the billing period is less than zero, the customer-generator's bill will be calculated for a usage of zero kilowatt-hours.

(ii) The EDC compensates the customer-generator at the end of the billing cycle for any remaining credits, at a rate equal to the supplier/provider's avoided cost of wholesale power."

- **Virtual Meter Aggregation**

EAPA believes that, as described in more detail in its comments at Section 75.14(e), virtual meter aggregation should not be permitted. Accordingly, this definition should be deleted.

Section 75.13. General provisions.

(b) EGSs offering net metering

While EAPA believes that EGSs should be permitted to net the purchases and generation of customer-generators relative to unbundled competitive retail generation service that they may provide, the provision of the draft regulations that permits EGSs to offer net metering service raises a number of practical concerns. These include:

- **The impact of EGS net metering on EDCs distribution charges.**

The Association believes that EGS net metering programs should have no impact on the collection of distribution charges. To do otherwise would be to permit EGSs to offer programs that are funded by the regulated rates charged to non-participants for a distinct service being offered by the EGS. The Association also believes that the stranded cost provisions of Section 75.15 of the proposed regulation apply to net metering programs offered by EGSs. Specific language is provided in Section 75.15 of these comments regarding this point.

- **Coordination with competitive metering rules.** EAPA believes that any net metering programs offered by EGSs must be consistent with the competitive metering rules of the EDC in whose service territory the program will be offered. The Association also believes

that EDCs must have the opportunity to revise their competitive metering rules to accommodate net metering.

- **Billing issues.** EAPA believes that it would be inefficient for EDCs to be required to modify their billing systems for an unknown variety of net metering programs that EGSs may offer. Accordingly, the Association believes that, while bill ready EDC billing may be used, only the two-bill option under rate ready billing should be available to customers electing an EGS net metering program.

To address the above concerns, the Association recommends the addition of the following language at the end of Section 75.13(b):

“EGS offered net metering will only apply to the generation and transmission services provided by the EGS, and to stranded costs as described in Section 75.15. EGS offered net metering will be limited to either bill ready billing or to the two-bill rate ready option and will conform to the tariffed competitive metering provisions of the EDC in whose service territory the program is offered. The EGS will serve a copy of the information it provides to the Commission on all EDCs in whose service territory the program is offered.”

(c), (d), (e), (g) Monthly payment for surplus generation

Sections 75.13(c), (d), (e), and (g) of the proposed regulations describe kilowatt-hour crediting activities that carry over from one billing month to the next and which are reconciled over a year. EAPA recommends that reconciliation be

accomplished on a monthly rather than annual basis. As described in the Association's earlier comments supporting the two-meter protocol for net metering, single-meter net metering inappropriately, in EAPA's opinion, compensates customer-generators for generation at a retail delivery rate that reflects components, such as distribution, that are not pertinent to generation and, typically, reflects an average rate for generation that is not consistent with the time-varying value of generation. The use of a retail delivery rate will actually harm customer-generators economically during times when loads are high, generation is scarce, and, consequently, the price of generation is high. Pricing information and metering technology exist such that this situation can be avoided. The pricing information is, in fact, necessary for the calculation of an avoided cost as required by the proposed regulation. Therefore, the only rationale for not pursuing an approach, such as the two-meter protocol, that is more consistent with market structures is the desire to avoid the cost of metering. Thus, EAPA contends there is no need to extend the reconciliation period to a full year and, thereby, introduce additional distortion to what should fundamentally be market pricing.

Accordingly, the Association recommends that sub-sections (d) and (g) be eliminated and the following language be substituted in sub-sections (c) and (e):

"(c) If a customer-generator is a generation customer of an EDC and supplies more electricity to the electric distribution system than the EDC delivers to the customer-generator in a given billing month, the EDC

shall credit the customer-generator for the excess on a kilowatt-hour for kilowatt-hour basis.

(e) At the end of each monthly billing period, the EDC shall compensate the customer-generator for any excess kilowatt hours generated at the EDC's avoided cost of wholesale power."

(i) Customer-generator ownership of Credits

EAPA believes that the net metering protocols that are established in the proposed regulation result in customer-generators being subsidized by regulated rates. Accordingly, the Association believes that ownership of Credits created through an EDC net metering program should rest with the EDC on behalf of its regulated rate payers. To permit the customer-generator to retain ownership would result in the ratepayers having to pay a second time to acquire the Credit for compliance purposes. EDC ownership of the Credits, on behalf of its regulated ratepayers, can be thought of as the quid pro quo for customer-generators receiving a full retail credit for electricity. Furthermore, permitting the customer-generator to retain ownership of the Credit bars the EDC from using the automatic energy adjustment clause established by the Act to recover costs associated with net metering and interconnection as the EDC would own no Credit with which the costs can be associated. Accordingly, the Association recommends that Section 75.13(i) be revised to read as follows:

"Alternative Energy Credits associated with electricity generated by a customer-generator pursuant to a Commission-approved EDC net

metering tariff are owned by the EDC and will be used or sold to the benefit of its regulated generation service customers."

In the alternative, if the final rules continue to vest ownership of Credits with customer-generators, EAPA recommends that the following language be added at the end of proposed section (i):

"Ownership of the alternative energy credits by the customer-generator or any entity other than the EDC does not bar the EDC from recovering the cost of metering and interconnecting the customer-generator through the automatic energy adjustment clause provided in the Act."

Section 75.14. Meters and metering.

(a) Single-meter net metering

EAPA continues to recommend that the Public Utility Commission adopt net metering rules that conform to the two-meter net metering protocol proposed by the Association in comments filed previously at this docket. The proposed regulations instead follow a single-meter protocol. The key distinction between these two approaches is not how many meters there are, but how the customer-generator is billed for delivery service and compensated for generation he produces. In the Association's two-meter approach, the customer is billed for delivery service in the same way that any other customer taking service on the same Rate Schedule is billed. The customer-generator is compensated for generation, Credits, and any other attributes separately in a manner that is consistent with the structure of the wholesale generation market and of markets

for the trading of Credits. There is therefore no subsidization of customer-generators by ratepayers and no discriminatory treatment issues raised thereby. The single-meter approach described in the proposed regulations involves the netting of kilowatt-hours delivered to the customer and kilowatt-hours generated by the customer to produce a single bill calculated using delivery rates. If this net bill is calculated in the same manner as that of any other customer taking service on the same Rate Schedule is billed, the result will be a saving of only about 80% of the customer's normal delivery bill in jurisdictions in which stranded costs continue to be collected – a result confirmed by the rate calculations of member companies.

Additionally, the Commission should allow each EDC the flexibility to configure the metering to best meet the particular needs of the EDC and the customer-generator under the Act. Moreover, as metering technologies evolve, the EDCs should be afforded the flexibility to change their standard configuration as necessary. This will provide an opportunity to minimize costs and best meet the needs of both customers and customer-generators.

Accordingly, the Association recommends that the language of Section 75.14(a) be revised to read:

"A customer-generator facility used for net metering shall be equipped with metering equipment configured by the EDC capable of separately recording energy delivered to the facility and energy generated by the facility."

(b), (c), (d) Recovery of EDC costs

Both Sections 75.14(b) and 75.14(d) discuss the installation of metering equipment "at the EDC's expense". EAPA believes that such costs are recoverable expenses under the Act. Accordingly, the Association recommends that this be revised to read "at the EDC's expense and recoverable by the EDC through the automatic energy adjustment clause established by the Act."

(e) Meter aggregation

EAPA believes that there is no basis within the language of the Act for the aggregation of electric accounts or the conjunctive billing of those accounts beyond what is permitted under the current rules for electric service. Under those rules, customers can accomplish the aggregation of accounts (consistent with rate schedule eligibility requirements) and achieve the benefits of a single bill by re-wiring their premises so that there is a single point of service rather than multiple points of service. This is the "Physical Meter Aggregation" referenced in the proposed regulations. However, cost collection, cost allocation, and rate design are all affected by the number and cost of services, and the number of accounts within a rate schedule. Therefore, changes that are beneficial to a single customer or group of customers will have the affect of shifting costs to other customers. Such changes, therefore, necessarily raise questions of fairness and discrimination.

Furthermore, without such physical rewiring, i.e., "virtual aggregation", the customer-generator is effectively utilizing the EDC's distribution system without compensation, but at ratepayer's expense, amounting to retail wheeling. In effect, the customer-generator acts as a utility, subsidized by the EDC ratepayers, and outside the jurisdiction of the Commission.

In fact, the proposed regulations, specifically, require that customer-generators be treated on a fair and nondiscriminatory basis (see comments at Section 75.13(i) and 75.13(j)). Commission-approved tariffs of the EDC's generally do not identify customers or groups of customers who are permitted to take advantage of conjunctive billing. Therefore, to permit customer-generators served on the same rate schedules to be billed conjunctively would be inconsistent with Sections 75.13(i) and 75.13(j) as proposed. Accordingly, EAPA strongly recommends the last two sentences of Section 75.14(e) should be deleted. These sentences, as proposed, read as follows:

"If the customer-generator requests virtual meter aggregation, it shall be provided by the EDC at the customer-generator's expense. The customer-generator shall be responsible only for any incremental expense entailed in processing his account on a virtual meter aggregation basis."

EAPA recommends the above sentences be deleted.

Section 75.15. Treatment of Stranded Costs.

EAPA concurs with the intent of the provisions in the proposed regulation regarding the treatment of stranded costs. The Association recommends that the following language be added at the end of Section 75.15 as it is currently proposed to make clear that the stranded cost treatment applies regardless of whether the customer-generator is participating in an EDC or EGS net metering program:

"These provisions apply whether the customer-generator is participating in an EDC or EGS net metering program."

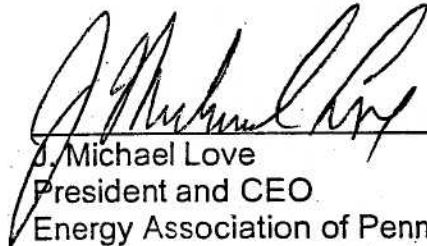
III. Conclusion

EAPA continues to recommend that the Public Utility Commission adopt net metering rules that conform to the two-meter net metering protocol proposed by the Association in comments filed previously at this docket. The proposed regulations issued by Staff instead follow a single-meter protocol. The key distinction between these two approaches is not how many meters there are, but how the customer-generator is billed for delivery service and compensated for generation he produces. In the Association's two-meter approach, the customer is billed for delivery service in the same way that any other customer taking service on the same Rate Schedule is billed. As described in previous comments and as demonstrated in

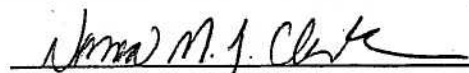
the comments of member companies, the proposed single meter approach produces an economic result that is less beneficial for the customer-generator than can be achieved using the two-meter protocol and moreover, unnecessarily discriminates against certain customers.

Nevertheless, the Company has provided recommendations and specific language that it believes can improve the single meter approach and looks forward to working with the Commission and other stakeholders to finalize and implement net metering rules that will further the objectives of the Act.

Respectfully submitted,



J. Michael Love
President and CEO
Energy Association of Pennsylvania
800 North Third St., Suite 301
Harrisburg, PA. 17102



Donna M. J. Clark
Vice President and General Counsel
Energy Association of Pennsylvania
800 North Third St., Suite 301
Harrisburg, PA 17102

Dated: April 5, 2006
at Harrisburg, Pennsylvania

CERTIFICATE of SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the persons listed below, by means of hand-delivery or first-class mail, as indicated:

By Hand-Delivery:

Hon. Wendell F. Holland, Chairman
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Hon. Bill Shane, Commissioner
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Hon. Terrance J. Fitzpatrick, Commissioner
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Hon. James H. Cawley, Vice Chairman
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Hon. Kim Pizzigrilli, Commissioner
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

By First-Class Mail Delivery:

Irwin A. Popowsky
Office of the Consumer Advocate
555 Walnut Street
Forum Place, Fifth Floor
Harrisburg, PA 17101-1923

J. Edward Simms, Esq.
Office of Trial Staff
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17101-3265

William R. Lloyd, Jr., Esquire
Small Business Advocate
Suite 1102, Commerce Building
300 North Second Street
Harrisburg, PA 17101

Eric Thumma, Director
Dept. of Environmental Protection
RCSOB, 15th Floor
400 Market Street
Harrisburg, PA 17101-2301

Electronic Mail:

cbirge@state.pa.us
hhouse@state.pa.us

April 5, 2006
Date

Donna M. J. Clark
Donna M. J. Clark
Vice President and General Counsel