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COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

April 10, 2006

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Re: L-00050174/57-244
Proposed Rulemaking
Net Metering for Customer-generators
52 Pa. Code Chapter 75

Dear Chairman McGinley:

Enclosed is one (1) copy of comments received regarding the above regulation as required under Section 5(10)(b.1) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19).

Very truly yours,

Karen O. Moury
Director of Operations

Comments submitted by:

PV Now

cc: Regulatory Coordinator DelBiondo
Assistant Counsel House
Mr. Birge

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REVIEW COMMISSION

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BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Alternative Energy Portfolio Standards Act of 2004
Docket No. M-00051865

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. L-00050174

Comments of PV Now in cooperation with SEIA and Penn Environment.

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PV Now, SEIA, and Penn Environment thank the Commission for this opportunity to present comments on the proposed rulemaking order of the Commission for the net metering of customer-generators, dated November 10, 2005 .

PV Now is a national solar industry advocacy group comprised of manufacturers and integrators in the solar PV industry, including Sharp Solar, Shell Solar, PowerLight Corporation, Schott Solar, SunPower Corporation, and Evergreen Solar. PV Now is affiliated with the National Solar Energy Industry Association (SEIA). Penn Environment is a non-profit, non-partisan, state-based environmental advocacy organization with more than 18,000 citizen members across Pennsylvania.

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We congratulate the Commission for crafting a well thought out and appropriate rule that will remove barriers to the implementation of alternative energy systems, and express our sentiment that promulgation of this rule, with minor modification, will bring tremendous benefit to the ratepayers of Pennsylvania. The Commission should be proud of their leadership in encouraging alternative energy.

General Comment: For the purposes of clarity, we suggest that throughout the document, the Commission change the term, "credit" when used as a noun, to "billing credit", so as not to cause any confusion with the alternative energy credits used for compliance monitoring in the AEPS.

§75.13. Net metering general provisions.

Section (a)

The tentative Commission order states that net metering will be available on a first-come first-serve basis; this seems to imply that a cumulative net metering capacity cap may be established in the future in order to mitigate potential ratepayer cost impacts. Our concern is that the solar share compliance requirement may therefore not be fulfilled if the net metering capacity cap is reached prematurely by allowing large Tier II resources to net meter. We therefore urge the Commission to take steps to ensure that capacity is available for clean distributed Tier I resources required to meet the AEPS generation percentages.

Section (c)

We believe that the Commission should reconsider the language in the sentence below:

> *"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"*

It appears to limit the offering of net metering only to those customers who remain generation customers of the EDC. This is both contrary to the plain reading of the AEPS statute and is contradicted by other sections of the tentative order which appear to offer net metering to customers of competitive generation suppliers.

Neither is the provision of excess generation a requirement. Where true net metering is implemented, a single meter electronically or electromechanically "nets" out consumption against generation. Any departure from this simple arrangement is contrary to the proposition the Commission forwards of use of a single bi-directional meter and to the extent of the departure, does not comport with the general concept of net metering.

Section (e)

For reasons of administrative efficiency, we suggest that the Commission offer Customer Generators and EDCs the option of continuing to carry the billing credits forward even at the end of the annualized period.

Issuing a check at the end of the annualized period would require the EDC to establish the appropriate wholesale price, calculate remaining credits, delete the credits from the billing program and mail a check with its associated documentation. While the annualized period does offers a potentially attractive reconciliation mechanism, equivalent transparency is achieved under the option of rolling credits from month to month and from year to year.

Additionally, never having the option to receive cash for surplus generation will discourage customer-generators from oversizing their system to exceed annual load. This will automatically provide substantial self-enforcement for the intent of section (i) under the Net Metering definition in the Commission's tentative order.

Section (i)

While we applaud the Commission's determination, pursuant to our comments and others, that RECs vest with the generator rather than the utility unless explicitly transferred, there is a slight distinction to be made. The necessity of this distinction arises from the fact that the default owner of the alternative energy credits, which must

be the system *owner* of the customer-generator facility, may *not* necessarily be the *user* or *operator* of the system, or the one whose bill reflects net metering.

For example, a house with a solar PV system on the roof may be a rental property; in this case, the renter will most likely have their own electric utility account and realize the benefits of net metering.

However, it should be the owner of the solar PV system - the one who invested in the technology - who should be the default owner of the solar renewable energy credits that the system produces. Otherwise, the title holder of the solar renewable energy credits would need to change every time a new renter moves into the house. A lack of clarity on this point could potentially stifle exchange in these solar renewable energy credits.

(Again, this in no way prevents the affirmative transfer of attributes or credits through an attestation agreement between the owner of the customer-generator facility and a third party, such as a financer, funding entity or utility for due consideration. In fact, the ability to obtain this consideration - independently of any metering agreement – is absolutely critical to the development of viable behind the meter generation.)

Section (j)

We believe this section accurately conveys the concept of true net metering as delivering compensation for the full economic value of energy. The Commission did an

excellent job articulating the "one to one" valuation of each kilowatt-hour at retail rates, reflecting the substantial excess value of distributed, and in the case of solar, largely peaking generation. We cite here the appendices to our previous comments on net metering and interconnection, which demonstrate ratepayer value per kilowatt-hour well in excess of retail rates.

§ 75.14. Meters and metering.

Section (a)

We feel the last sentence in this section should be modified to,

> *"If the customer-generator agrees, a dual meter arrangement may be substituted for a single bi-directional meter at the EDC's expense."*

Sections (c) and (d)

We appreciate the Commission's finding that the customer-generator has the principal ownership interest in any alternative energy credits produced. However, the regulations should make clear that the customer retains these rights even should they not elect to install additional metering equipment sufficient for PJM-GATS participation or credit transfer.

Many customer-generators have a substantial commercial or personal interest in these attributes independent of the AEPS (as for corporate environmental initiatives or "green marketing" claims,) and this ownership must remain clear and valid independently of whether or not a customer chooses to participate in the AEPS or match its metering requirements.

It is inconceivable that any customer's inaction would result in their transferring these attributes without compensation as a windfall to their utility, and it must be made absolutely clear that there is no provision for the customer to implicitly renounce or abandon their interest in these valuable credits through any other means than an explicit attestation and transfer for due compensation.

Additionally, we feel that the inclusion of these regulations in the net metering regulations may foster confusion, and would recommend that these regulations be contained instead within the general rules for all AEPS credits. This would also provide greater consistency with practice in other states.

Section (e)

We believe that the "virtual meter aggregation" section is an excellent inclusion. The Commission is to be congratulated on their innovative thinking in applying net metering rules in the most cost-effective manner for alternative energy.

We have, however, some recommendations for improving the language. Firstly, meter aggregation should be applied to customer meters, even if those meters have different rate classes. In this case, a prescribed kWh charge would be applied to cover both rate classes.

Cross-class net metering could be particularly useful in farm applications, as typically, the farm residence would be on the residential class and the farm operation would be in the commercial class. Another example would be a small apartment building with several residential accounts, in addition to a common area under a commercial account.

In order to effect this change, the original language,

> *"Meter aggregation within a particular rate class on contiguous and adjacent properties..."*,
>
> could either be changed to remove,
>
> *"within a particular rate class"*,
>
> Or be changed to read:
>
> *"Meter aggregation regardless of rate class on contiguous and adjacent properties..."*

Treatment of stranded costs

We feel that the Commission was very wise to entirely exclude residential customer generators from this requirement, but feel that they should consider increasing the generation percentage at which in the requirement is activated for other customer classes.

Generation amounting to just 10% of demand is more equivalent to an energy efficiency upgrade than a "significant reduction" in purchased energy. As we have stated before, for most alternative energy systems, this charge is going to be administratively expensive to collect, in fact very likely more expensive to administer and collect than would be offset by any additional revenue.

Additionally, on the customer side, this will tend to distort the market, placing an arbitrary 10% cap beyond which large distributed generation systems (including megawatt-scale rooftop PV systems) are disincentivized with additional costs. This administrative decision will constrict the resource base available for compliance with the Act, and effectively limit customer-generators only to systems that do not provide significant benefits in the form of distributed generation and peak load reduction – surely an outcome at odds with the intent of the statute.

With the incremental cost of customer-sited renewable resources being financed by alternative energy credits, these stranded cost charges will simply become an "adder"

onto the cost of the alternative energy credit. So instead of requiring the customer to pay these charges, then having the customer re-collect the same amount in an "adder" to their needed REC price, we recommend the Commission allow parties to a purchase to stipulate that the cost includes the required stranded cost charges.

Since this level is effectively arbitrary and subject to the judgment of Staff and the Commission, we feel that the 10% threshold should be raised to a level more reflective of significant customer generation in accordance with real – world system parameters and technical requirements. We also note that the requirement to pay into stranded costs ends as rate caps are removed. If this language is included, then the sunset language should be included in the rule as well.

Suggestions for an additional section:

We strongly recommend that the ruling require each EDC to designate a contact person from whom information on the net metering and the EDC's billing system can be obtained through informal requests regarding a proposed project. More importantly, this contact person would serve as a single point of contact address any net metering billing issues which might arise after the project is in operation. The contact information should be clearly posted on the utilities' website and be available through a utility directory.

Experience in other states has shown that meter and billing issues often arise in the application of net metering. When these issues are not resolved, the customer generators are not receiving the value of the net metering; they are being overcharged for electricity.

The EDCs need to be responsive in resolving these issues and compensating customer generators for any overpayment. Language should be included in the net metering rule that defines what will happen in the event of any metering/billing issue - including how it will be resolved, who is responsible for resolving the issue, how the customer generator will receive repayment, and in the event that the EDC is non-responsive appropriate penalties that would incentivize expedient resolution. As a last resort, some method for seeking Commission relief should be included..

Conclusion

We appreciate the opportunity to comment on this proceeding, and hope that the Commission will make those critical decisions that will turn a promising proposal into a successful policy.