

# 3061

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U.S. Department of Justice  
Memorandum  
Federal Bureau of Prisons

*Federal Correctional Complex, Allenwood*

*United States Penitentiary  
P.O. Box 3500  
White Deer, PA 17887*

2016 MAY -6 AM 10: 04

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May 3, 2016

Independent Regulatory Review Commission  
333 Market Street  
Harrisburg, PA 17101  
Attention: Chairman George D. Bedwick

RE: Implementation of the Alternative Energy Portfolio Standards (AEPS) Act of 2004  
Pennsylvania Public Utility Commission Regulation No. 57-304  
Independent Regulatory Review Commission ("IRRC") No. 3061

Dear Chairman Bedwick:

As a participant in the Commonwealth's AEPS and net metering program through our landfill gas project, we again read with concern the final ruling passed by the PAPUC on February 11, 2016.

While we appreciate the PAPUC commissioners' consideration of all comments provided by many parties, the outcome of the final proposed rule appears unchanged from its April 2015 version. We believe this will result in substantial harm to the implementation of the AEPS Act and its benefits to the Commonwealth's environment and local economy. For this reason, we request the IRRC to disapprove this final rulemaking.

One significant issue is the new definition of what is considered a "utility" which says "A person or entity that provides electric generation, transmission or distribution services, at wholesale or retail, to other persons or entities." As newly defined, it is so broad that it appears to negate any chance of third party ownership for any installation. It is setting a precedent by declaring any alternative energy producer that basically provides power to anyone else as a "utility." A utility is traditionally considered a provider of services for the good of the general public and therefore subject to substantial regulations and reporting requirements. A small, on-site alternative energy system is simply not a utility by any definition. This new utility definition in conjunction with the revised customer-generator definition (which goes beyond the statutory language) does not support the AEPS Act's intent to promote renewable generation.

Another concern remains with the establishment of a 200% generation cap when the AEPS Act already has clearly established and specific kilowatt caps (50 kW, 3 MW or 5 MW) for specified systems. How can a secondary cap that limits the plain language in the Act be justified? This secondary cap in conjunction with the new and revised definitions above again does not promote alternative energy resources.

Our understanding is that the net metering rules were established to promote the use of renewable energy in the Commonwealth under the AEPS Act which “was designed to foster economic development, encourage reliance on more diverse and environmentally friendly sources of energy.” In our opinion, however, the proposed changes to the Act will undermine these objectives and slow the acceptance of these environmentally responsible technologies.

Significant investments were made, benefiting both the environment and the local communities, relying on this understanding. Changing the rules after the fact is unfair to current net metering participants and threatens the viability of their businesses. In addition, it undermines public trust in the Commonwealth and its existing laws. Pennsylvania will have difficulty attracting future investment, if its announced long term policies are subject to regular revision.

**Executive Order 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management**, signed into law by the President, states in Section 2, subset (b) ensure that (i) at least half of the statutorily required renewable energy consumed by the agency in a fiscal year comes from new renewable sources, and (ii) to the extent feasible, the agency implements renewable energy generation projects on agency property for agency use. Our landfill gas project enables the Federal Bureau of Prisons in the North East Region to meet this mandate.

Thanks for your consideration of our comments.

Respectfully Submitted,



L. J. Oddo  
Complex Warden  
FCC Allenwood