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## **Comments for consideration by the IRRC:**

### **RE: Final Rulemaking Order of the Public Utility Commission (Docket No. L-2014-2404361)**

It is apparent that, in its Amended Final Rulemaking Order of the PUC (Docket No. L-2014-2404361), the PUC has removed only one of the offending problems.

Among the remaining concerns are these:

1. The IRRC's concern about PUC's authority to limit net metering remains: The IRRC, in its comments, states clearly that "any deviation from the intent of the AEPS Act would represent a policy decision that requires legislative review". (Disapproval at 3) The PUC has repeatedly affirmed that the "principal intent" of the AEPS Act is the expansion of renewable energy. In this rulemaking, however, the PUC explicitly subverts that intent when it declares "our intent to permit a limited amount of virtual meter aggregation" (AFRO at 77; FRO at 81). The PUC "independent load" requirement in 75.13(a)(1) remains as a stark example of the PUC's unyielding effort to restrict virtual meter aggregation. The "independent load" requirement will permit virtual meter aggregation only on sites that already have a meter in operation. Nothing in the AEPS Act or the Code justifies this restriction on net metering. Thousands of customers have "sunny parcels" (removed from buildings, but within two miles) that are ideal for interconnection to the grid. This requirement deprives all such customers from access to net metering. Unless and until the legislature authorizes such a limit, the "independent load" condition cannot be justified.

What is new in the Final Rulemaking Order is that the Public Utility Commission now claims that “independent load” is a “statutory requirement” (Regulatory Analysis Form at 8). It makes the claim, however, without citing any passage in the law itself. This assertion is without basis.

The Commission reads into the AEPS Act the false assertion that “requirements for electricity” must occur at the generating site. This is how the Commission portrays the necessity:

*“If there is no independent load behind the meter and point of interconnection for the alternative energy system, by definition, the customer-generator has no requirement for electricity to offset.” (AFRO at 34)*

The Commission’s claim ignores the indisputable fact that, by definition, under “virtual meter aggregation”, the “requirements for electricity” occur at a different location and not at the generating site. “Independent load of the generating facility” (FRO at 32-33) is not written or even “implied” in the AEPS Act, as the Commission claims (FRO at 29).

The Commission also contends that “there would be no need for a customer’s electric meter if there was no independent demand for electricity” (FRO at 29). This is a glaring misstatement that further ignores the meter’s essential function at the generating site, which is for tracking generation.

The Department of Environmental Protection has spoken on this issue, as well. In its own words, the DEP “disagrees” with the PUC, saying that requiring independent load “will add additional costs or disqualify systems unnecessarily”. (Comments on 75.14(e). Even PPL Electric has reversed its position on this question. In its comments on the Final

Rulemaking Order, the Company concluded that “PPL Electric believes that applying the requirement for independent load to the host account is inconsistent with the purpose of virtual meter aggregation and would render virtual meter aggregation essentially meaningless” (PPL Comments Regarding the “Advance Notice of Final Rulemaking Order” at 8)

The Independent Regulatory Review Commission has an opportunity to dispel this persistent and unjustified claim of an “independent load” requirement. Among the many issues deserving review, it is clear that, on this issue alone, there is ample basis for disapproval of the Amended Final Rulemaking Order.

2. The IRRC, in its comments states clearly that “the PUC had not established the overall need for the changes being offered.” (Disapproval at 3). That “overall need” has not been established in the Amended Final Rulemaking, and The IRRC’s concern about need for the Regulations remains. I urge the IRRC to disapprove the Amended Final Rulemaking order.

Larry Moyer  
June 11, 2016