

3061



June 23, 2016

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

Sent by email to irrc@irrc.state.pa.us

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

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Dear Chairman Bedwick:

As a participant in the Commonwealth's AEPS and net metering program through our solar energy project, we are now even more concerned with the final revised ruling passed by the PAPUC on June 9, 2016 and continue to ask the IRRC to disapprove this final revised rulemaking.

Our project was installed in 2010 by Crayola and our project partners to beneficially convert sun energy into renewable electricity. The installation fully complied with the existing regulations at that time. The project was supported by local and state agencies, including a grant from the PA Department of Environmental Protection, due to the substantial benefits to local job retention and growth. In fact, Crayola continues to promote the solar benefits internationally through its various product lines that are made with renewable energy from the sun. We believe the language as proposed puts our project (and projects for many others) in jeopardy of continuing due to diminished economics with net metering being revoked. This may result in substantial harm to our business, local jobs and the reputation of Pennsylvania's environmental efforts.

It is hard to understand how substantial changes to the law can be implemented without seeking legislative review and input to the intent of the original language. In its revisions, the PAPUC several times uses the word "presume" to indicate their interpretation of what the legislature meant and this presumption becomes the basis for their interpretation of the term *utility* and *customer-generator*. We would suggest the legislature provide written clarifications to its own bill and that presumptions are not used to re-write content that ends up being detrimental to the economy, renewable projects and the true intent of the bill itself.

With the removal of only the "200% limitation", the language that remains is now even more restrictive to the future development of renewable energy projects in the Commonwealth. Where the previous language may have grandfathered some existing projects and allowed future development under the 200% limitation, the revised language will now exclude any project deemed a "utility" whether existing or proposed.

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” is so broad that it appears to negate any chance of any party involved in any form of electricity production or distribution to anyone. It is setting a precedent by declaring any alternative energy producer that basically provides power to anyone else as a “utility”. The Public Utility Code specifically excludes Electric Generation Suppliers (non-PAPUC regulated suppliers) from the definition of a public 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, non-regulated 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.

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 revised changes to the Act will undermine these objectives and slow the acceptance of these environmentally responsible technologies. According to the website Energy.Gov Pennsylvania ranks 41st in the U.S. in renewable energy production; we can do better but not by enacting legislation that creates additional obstacles.

Significant investments were and are being made, benefiting both the environment and the local communities, relying on this understanding. Changing the rules after the fact is unfair to current and new 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.

Thank you for your consideration of our comments.

Respectfully Submitted,

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