

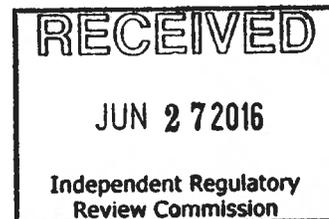
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Pennsylvania Farm Bureau

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June 27, 2016

Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101



RE: Regulation #57-304 (IRRC #3061)
Pennsylvania Public Utility Commission (PUC Docket # L-2014-2404361)
Implementation of the Alternative Energy Portfolio Standards Act of 2004

VIA ELECTRONIC MAIL

Dear Members of the Commission:

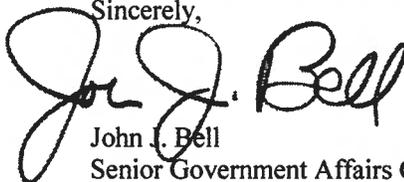
Pennsylvania Farm Bureau offers these general comments to the draft revision in final-form regulation to the aforementioned proposed rulemaking offered by the Pennsylvania Public Utility Commission (PUC) in response to the Commission's recent disapproval.

Although the revised final-form regulation proposed by the PUC is an improvement to what was originally offered, we agree with several other commenters that the language chosen by the PUC — particularly, the proposed definition of “utility” — may still cause substantial problems in the ability of persons constructing or expanding electrical generation systems on farms to qualify for net metering if a literal reading and interpretation of the PUC's proposed language is applied. Section 75.13(a)(2) of the proposed regulations would prohibit an owner or operator of an alternative energy system from qualifying for net metering if it is a “utility.” The PUC's revised definition of “utility” would include within the definition's scope a “person or entity that provides electric generation, transmission or distribution services, at wholesale or retail, to other persons or entities.” While the PUC's revised final-form regulation struck all language referencing the 200% cap in eligibility of systems to qualify for net metering (which we strongly support), the PUC also struck language that expressly recognized an owner and operator of an alternative energy system (such as those commonly operated on farms) would not be considered a “utility.” Removal of this exemption language in the revised definition of “utility” could be read and interpreted to deny qualification of all alternative energy systems operated on farms for net metering as “utility” operations.

We highly believe the amendments proposed in the revised final-form regulation were offered by the PUC in good faith to address the particular concerns raised by the Commission in disapproving the language originally submitted, and the PUC did not intend to achieve the result discussed above. Such a result would not only be wholly unresponsive to the Commission's concerns per its disapproval. It would also run counter to the very purpose of net metering. In the event litigation in court would ever arise, we believe that a reviewing court would reject such an interpretation and conclusion on absurd-result grounds. *See* 1 Pa.C.S. § 1922(1). However, to avoid needless litigation, Pennsylvania Farm Bureau recommends that the Commission insist that the PUC make additional changes in the definition of “utility” to only include within the definition's scope those individuals or entities whose primary business involves electric generation, transmission, or distribution. Indeed, such a definition is in line with the intent proffered by the PUC. *See* Amended Final Rulemaking Order at 17 (“[W]e have defined a utility in this context as a person or entity whose primary business is electric generation, transmission, or distribution services, at wholesale or retail, to other persons or entities.”).

As always, we thank the Commission for the opportunity to provide comments on this important topic.

Sincerely,

A handwritten signature in black ink that reads "John J. Bell". The signature is fluid and cursive, with the first and last names being more prominent.

John J. Bell
Senior Government Affairs Counsel