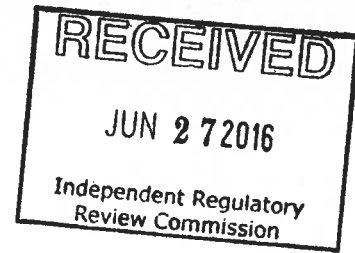




3061



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

IRRC #3061
PUC Docket #L-2014-2404361

June 27, 2016

IRRC Commissioners:

This letter is in response to the PUC's recently revised final form rule, which was submitted to the IRRC on June 13, 2016. The PUC began this rulemaking 2 ½ years ago with a misinformation campaign; a story that they knew was not true (or at least should have known). Now the PUC's story has unraveled, and we have clear evidence that their ratepayer harm theory was a red herring all along. Here is what we know for certain.

- The PUC admits in internal e-mails from 2014 that they do not audit net metering costs and they never have (see attachment). That means they began the rulemaking without any evidence to support their claims.
- In the ensuing time they could have gathered the information they lacked, but they have failed to do it.
- The PUC's annual report on the status of the renewable energy industry is silent on the alleged dangers of net metering. The report has been published for eight years now, with no mention of this topic.
- When faced recently with open records requests seeking to shed light on the extent of the alleged problem, the PUC has refused to comply; maintaining that the information is confidential.
- Even when faced with a statutory mandate (via the IRRC) to provide evidence in support of their regulation, they have refused to comply.
- When presented with clear evidence refuting their claims, they still have refused to stand down.

Taken as a whole, these are indicators of a rogue agency that has lost sight of its mission. The PUC will stop at nothing to achieve their goal, and something must be done about that. The legislature gave the IRRC tools to deal with situations like this. The Regulatory Review Act grants subpoena powers to the IRRC and allows them to compel appearances, along with the production of evidence. Commonwealth Court is authorized to enforce the subpoenas. We believe that these powers were granted for exactly this sort of situation.

If the IRRC is willing to use it, a purpose-built tool is available to stop the PUC from moving any further until they comply. It is our sincere hope that the IRRC will decide to make use of it. If it does, one of two things will happen. Either the PUC staff will produce the requested evidence, or they will admit that they never had any. Either way, much needed light will be shown on what they have done. It is time for accountability.

As always, Sunrise Energy is appreciative of the important work done by the IRRC in support of the regulatory review process. We need your help now more than ever, and hope you'll strongly consider this request.

Regards,

David N. Hommrich
President
Sunrise Energy, LLC

The Myth of Net Metering Cost Shifting

The AEPS Act requires that EDCs must purchase any excess net metered energy. The price is set at the default service rate (the price to compare). The PUC maintains that when an EDC makes such a purchase, they incur a financial loss, which must be recovered from ratepayers. The AEPS Act allows for cost recovery, so if there were a loss the PUC would be correct. But as you will see below, EDCs do not suffer losses as the PUC has led everyone to believe. Their flawed argument shows a basic misunderstanding of how EDCs purchase and sell energy (post deregulation).

How EDCs Purchase Default Service

EDCs purchase their default service energy via an auction. The bidders take into account the load profile for the time period in question, and then they bid a price / kwh. Winning bidders will provide the energy needed during the term of the contract. In this system of purchasing, it is important to know that the EDC does not take on any risk as far as under or over purchasing energy. In other words, it is not possible for the EDC to buy too much energy and be "stuck" with it. Nor can they under purchase, and be forced to the spot market. All of that risk is borne by the energy supplier.

The Interplay of Renewable Energy

So now we introduce a renewable energy system into the mix. Let's assume that on a given day, an EDC would need 1 million kilowatt-hours. Absent the presence of a renewable energy system, the EDC would purchase 1 million kilowatt-hours from one of the winning bidders. Now we introduce the presence of a solar power system (for example). Let's assume that the solar power system generates 100,000 kilowatt-hours that day. What it has done is displace that amount of energy, which would have been provided by an energy company. The energy company instead provides only 900,000 kilowatt-hours.

The EDC has a meter on the renewable energy system, which tracks the amount of power that is delivered to the grid. The EDC has free use of this energy throughout the year. It is an interest-free loan to the EDC. Meantime, they sell the renewable energy (along with the energy purchased from the energy companies) to their retail customers.

IMPORTANT NOTE: *At the time that the renewable energy is produced, the EDC sells it to their retail customers and makes 100% profit on the transaction (since they are borrowing the energy).*

End of Year True-up

On June 1st, each EDC must pay the customer-generators for the power that they have borrowed (and then sold) throughout the year. Keep in mind that up until this point, the EDC has been borrowing energy and selling it for 100% profit. Once the EDC pays for the energy they borrowed (also at the default service rate), the transaction becomes a wash. Actually, the EDC benefits since they were able to borrow a year's worth of energy at 0% interest.

IMPORTANT NOTE: *Because the energy was bought and sold at the default service rate, there is no loss for the EDC. Therefore, there is no opportunity for cost recovery.*

Conclusion

The PUC implies that EDC are losing the difference between retail and wholesale pricing when they purchase renewable energy in this way. This implies that an EDC is entitled to make a profit on the energy they sell. But ever since deregulation, EDCs do not make a profit on energy. What the PUC failed to acknowledge is that in this instance, an EDC is only entitled to recover losses incurred when complying with the AEPS Act. Purchasing excess renewable energy falls into that category. **But since the purchase price and the sale price are identical, there can be no loss. And since there is no loss, there is no cost recovery.**

Not only does this negate the need for most of the new regulation, but it brings up the question as to whether the EDCs may have been overcharging based on this mistaken understanding. If the PUC was confused, it possible the EDCs were too. Ironically, it could be that ratepayer harm is occurring as a result of the PUC's flawed understanding of how electric distribution companies purchase power.

recommendation. It strikes me as interesting that every time a reporter calls asking for documents – we refrain from the RTK process – but Mr. Hommrich is only asking some questions – not asking for documents.

Attached is his email framing his questions – please respond to me by tomorrow NOON with the answers – then I will get back to Mr. Hommrich.

Thanks RC

From: Brown, Kriss

Sent: Monday, April 28, 2014 3:31 PM

To: Hosler, Dennis; Young, Robert F; Lion Januzzi, Elizabeth

Cc: Kocher, Jennifer R; Gill, Darren; Pankiw, Bohdan; Gebhardt, Scott; Sherrick, Joseph; Burger, Lori; Schwab, Thomas; Keen, Robert; Shuey, Brian; Charles, Thomas; Diskin, Paul; Beene, Thomas; Perry, June; Chiavetta, Rosemary; Trout, Doreen

Subject: RE: Draft response to Auditing question

I read his question as an inquiry in whether the PUC is auditing the costs EDCs are recovering from ratepayers for their payments to net metering customers. I don't believe he is asking whether the EDCs are paying the net metering customers correctly. It is a cost recovery issue. Per the AEPS Act, EDCs can recover the purchase of electricity generated from alternative energy sources, including costs of the regional transmission organization, in excess of the RTO real-time locational marginal pricing, pursuant to an automatic energy adjustment clause under 66 Pa.C.S. 1307 (relating to sliding scale of rate; adjustments). See 73 P.S. 1648.3(a)(3). So as I read his question, he is seeking who is auditing the 1307 cost recovery riders submitted by EDCs to recover their AEPS Act costs?

From: Hosler, Dennis

Sent: Monday, April 28, 2014 3:19 PM

To: Young, Robert F; Brown, Kriss; Lion Januzzi, Elizabeth

Cc: Kocher, Jennifer R; Gill, Darren; Pankiw, Bohdan; Gebhardt, Scott; Sherrick, Joseph; Burger, Lori; Schwab, Thomas; Keen, Robert; Shuey, Brian; Charles, Thomas; Diskin, Paul; Beene, Thomas; Perry, June; Chiavetta, Rosemary; Trout, Doreen

Subject: FW: Draft response to Auditing question

Bob/Kriss/Betty;

FYI – Mr. Hommrich quickly responded to my email that we were going to refer his “Auditing Question” to be treated as a RTK request. He indicates that he has asked Senator Solobay to help him get his information. It does seem that he may have a point about how to rework his request into a RTK request. If he just wants to know whose auditing/verifying what's related to the accuracy of alternative energy billings, based on what I know at this point, the answer seems to be no section or contractor of the PUC is currently doing this. Potentially, the Audit Bureau may be expanding its Default Service adj. clause audits to take a look at the net metering aspects – he has triggered us to discuss/look at this.

However, that leaves some questions – what might he do with this information? Should the PUC be verifying the accuracy or is this something the customer should be monitoring and contacting the company as necessary and then us when there is a dispute? Are net metering customers retail customers or wholesale customers/generators? How do/should we treat them? How complex are these computations? I don't think the Audit Bureau has thought that we have a roll beyond the auditing of any adj. clause revenues and expenses applicable to these customers. We audit the compilation of the expenses, but we haven't been proofing the accuracy of the bills received (or generated) for the payment of those expenses, only that the dollars included were expensed incurred by/amounts paid by the utility.

Dennis P. Hosler

Director, PUC Bureau of Audits
ph# 717-772-0312