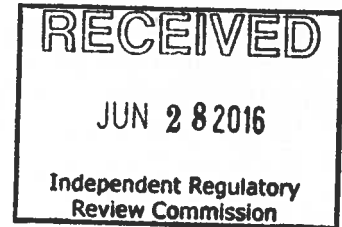


3061



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE



June 27, 2016

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

RE: IRRC #3061
PUC Docket # L-2014-2404361

IRRC Commissioners:

Thank you for taking action in May, 2016 to disapprove the Public Utility Commission's (Commission) Final-Form Regulation related to the Implementation of the Alternative Energy Portfolio Standards Act of 2004. The Department initially expressed concern with the initial version of the rulemaking about the potential negative impact of the proposed rule, which would have limited the amount of excess energy a farm can sell through net metering and potentially discourage the further deployment of anaerobic digesters (ADs) on Pennsylvania farms. The Department appreciated the steps taken by the Commission to consider our concerns and provide exemptions for agricultural operations in the second reiteration of the proposal.

It is worth reiterating that agriculture provides more than \$7.5 billion in farm gate revenue to Pennsylvania's economy. More than 7,300 of our state's 59,300 farms are dairy operations and another 14,300 farms raise swine or poultry. In many cases, the major challenge our farmers face is how to continue to grow their business in order to remain economically viable, while at the same time working to attain environmental compliance requirements.

The Department has reviewed the new language as proposed in the PUC's revised final form rule, which was submitted to the IRRC on June 13, 2016. Some of the new language is unclear and open to interpretation, and we remain concerned about what this means for future on-farm manure management initiatives. We also believe that one can interpret the new language to be even more restrictive than the previous language to the future development of renewable energy projects in the commonwealth.

A producers' use of ADs to manage the manure generated on their farm is one of the most effective means to achieve the objective of expanding their business while continuing to manage manure in an environmentally responsible manner. That being said, the Commonwealth must do everything it can to encourage farmers to adopt such technology. The adoption of AD technology on more farms is an integral element in the Chesapeake Bay Watershed Improvement Plan (WIP) adopted by the Commonwealth and approved by the US Environmental Protection Agency.

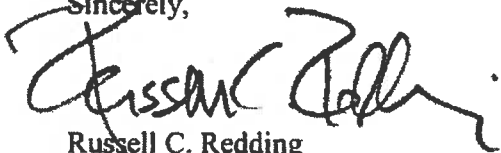
The Department offers the following comments on the revised final form rule.

1. *Section 75.13 (a) (1)* requires customer-generators to already have an electric load. We believe that this new provision may have unintended consequences on agriculture's attempt to address environmental issues in a cost-effective manner. Although currently operating dairies already have an electric load, this section would exclude a third party entity that might take manure from several farms for a digester or other innovative "manure to energy" systems. For example, new community-type facilities that receive manure from multiple smaller farms for economy of scale will become more prevalent across the commonwealth. This section of the revised final form rule would stifle the innovation that farms need in order to efficiently address their environmental obligations. The Department requests that proposed 75.13 (a) (1) be removed.
2. *75.1 Definitions.* This section defines and lists various alternative energy sources. There is another "manure to energy" technology that has a good potential for dairies and other livestock groups, called gasification. It burns the manure at a high temperature, and the main output from this process is heat which could be used to generate electricity from the steam produced. This process could have a huge benefit for the Chesapeake Bay, and is included in the Chesapeake Bay WIP. This section of the proposal is excessively restrictive of alternative energy sources including new sources such as gasification. Therefore, we suggest modifying the definition of (vii) Biomass energy to include: (D) Generation of electricity utilizing by-products from farms and including dairy manure, hog manure, poultry litter, food waste and spent mushroom substrate.
3. *75.1 Definitions.* The Department is concerned about the proposed definition of "Utility", because it potentially now includes any entity or person that generates excess electricity. Could this definition be used to include all customer-generators and thereby disqualify them from the benefits of net-metering? We suggest the following wording to be added to the definition of utility: "A person or entity that provides electric generation, transmission or distribution services, at wholesale or retail, to other persons or entities. THIS TERM EXCLUDES...OCCUPANTS OF THE BUILDING OR FACILITY, REGARDLESS OF THE FACT THAT THE BUILDING FOR FACILITY OWNER OR OPERATOR MAY BE A RETAIL ELECTRIC CUSTOMER WHO GENERATES ELECTRICITY ON THE CUSTOMER'S SIDE OF THE METER."

We appreciate the opportunity to comment on behalf of the commonwealth's agriculture industry and renewable energy sector and hope that IRRC will take our concerns under consideration.

Thank you for your consideration.

Sincerely,



Russell C. Redding
Secretary