

COMMONWEALTH OF PENNSYLVANIA



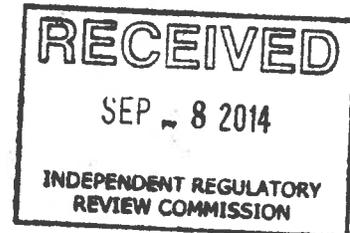
OFFICE OF CONSUMER ADVOCATE

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September 3, 2014



Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

Re: Proposed Rulemaking Re: Implementation  
of the Alternative Energy Portfolio  
Standards Act of 2004  
Docket No. L-2014-2404361

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments, in the above-captioned proceeding.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Lauren M. Burge".

Lauren M. Burge  
Assistant Consumer Advocate  
PA. Attorney ID# 311570

Enclosures

cc: Kriss Brown/Law Bureau  
Scott Gebhardt/TUS  
Sherri Delbiondo/Law Bureau

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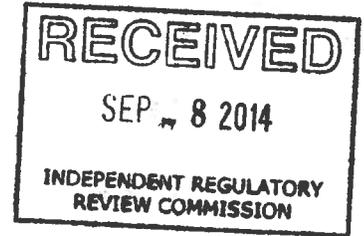
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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking Re: Implementation  
of the Alternative Energy Portfolio Standards  
Act of 2004

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Docket No. L-2014-2404361



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COMMENTS OF THE  
OFFICE OF CONSUMER ADVOCATE

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**I. INTRODUCTION**

On July 5, 2014, the Commission’s proposed rulemaking order amending its existing regulations regarding implementation of the Alternative Energy Portfolio Standards Act of 2004, as amended by Act 35 of 2007, was published in the *Pennsylvania Bulletin* for comment. The Commission proposes to revise its regulations pertaining to net metering, interconnection and portfolio standards provisions as well as to clarify certain issues of law, administrative procedure and policy. The OCA appreciates the Commission’s efforts to provide the necessary guidance regarding the implementation of the Alternative Energy Portfolio Standards Act. Establishing clear guidance will provide certainty in the development of alternative energy projects and will aid in carrying out the intent of the Act.

The Commission has proposed numerous revisions and clarifications to its regulations particularly concerning net metering for customer generators. The OCA will address some of the proposed revisions that may have an impact on the development of residential net metered projects. In particular, the Commission has proposed a new subsection 75.13(a) to clarify when net metering must be offered. As part of this proposal, the Commission has

established a size limit of 110% of the customer-generator's annual electric consumption at the interconnection meter and all qualifying virtual meter aggregation locations. While the OCA takes no position on the necessity of this size limit for non-residential installations, the OCA questions whether it is necessary or reasonable for residential installations. As discussed more below, the OCA submits that the 110% limit for residential customers may unnecessarily limit the expansion of residential solar installations.

The OCA is also concerned that some of the language included in new subsection 75.13(a) and the revisions regarding virtual meter aggregation may be interpreted to preclude the development of new residential homes that incorporate solar as part of the new construction. The OCA requests that the Commission clarify that the requirement to "have electric load" found in subsection 75.13(a)(1) and the requirement the customer generation "must be receiving retail electric service and have measurable electric load independent of the alternative energy system" found in the definition of "virtual meter aggregation" in subsection 75.12 is not intended to preclude new residential construction from incorporating solar as part of the initial home construction.

The OCA also submits that it would be reasonable to allow residential customers to utilize virtual net metering for their own properties. It is the OCA's understanding that the proposed revisions may preclude a residential customer from locating solar panels on their property if that location required a separate meter but had no independent load at that location. This limitation may also unnecessarily curtail the installation of residential alternative energy systems.

Finally, the Commission proposes additional revisions and clarifications as to which entities can qualify for net metering and the compensation that they may receive. The

OCA recognizes that the Commission must continually balance the value of distributed generation with the cost to customers on the system. Important to this consideration in the OCA's view is that customers should not be required to pay more than the value received from the distributed generation. For residential customers, it is also important that residential customer-generators receive appropriate compensation for the generation from their projects. A careful analysis of the value of distributed generation, particularly solar installations, may be necessary to achieve the right balance. In addition, the OCA is aware that many residential customer-generators would also like to take advantage of the retail choice market. As such, the OCA supports the Commission's efforts to encourage electric generation suppliers to offer net metering to residential customers.

## II. COMMENTS

### A. Proposed Section 75.13(a)

#### 1. Proposed Section 75.13(a)(3) -- Limiting Size of Residential Alternative Energy System to 110% of Annual Consumption

The Commission proposes to amend 52 Pa. Code § 75.13(a) to require that, in order to qualify for net metering, a customer-generator's alternative energy system "must be sized to generate no more than 110% of the customer-generator's annual electric consumption at the interconnection meter location when combined with all qualifying virtual meter aggregation locations." Proposed Rulemaking Order, Annex A at 7 (Section 75.13(a)(3) – General Provisions). The stated reason for this change is to "limit the possibility of merchant generators posing as customer-generators." Proposed Rulemaking Order at 12. The OCA recognizes the need to strike a balance between encouraging the development of alternative energy systems while preventing possible harms to ratepayers. The OCA submits, however, that the 110% limit

for residential customers may unnecessarily limit the expansion of residential solar installations. As such, the OCA recommends that the Commission further consider whether the 110% limit should apply to residential solar installations.

The Act currently limits the size of customer-generators' alternative energy systems to 50 kW for residential customers. The OCA submits that it may be inefficient to place an additional size limitation on residential solar installations. Solar panels may be costly for residential customers to install, but the total cost per kW to the residential customer will likely decrease as additional panels are added. It may be more efficient for residential customers to install a larger number of panels that utilize the available space rather than attempting to limit the system's capacity. The 110% limit may prevent such customers from installing an alternative energy system or may not garner all of the efficiencies available at the site.

The Commission should also clarify the method of determining the customer-generator's annual electric consumption. The Proposed Rulemaking Order describes the 110% limit as "a design limit to be based on historical or estimated annual system output and customer usage . . . It is not intended to be used as a hard kilowatt-hour cap on the customer-generator's system output." Proposed Rulemaking Order at 13. It is unclear from the regulation, however, how the size limit is to be calculated and whether it can incorporate the potential for future changes in usage. This lack of clarity could be problematic for new construction where usage may not yet be known. Additionally, there are many reasons that a residential customer-generator's annual electric consumption may significantly increase or decrease over time. Additional household members, installation of more energy efficient equipment, expansion of living space, or the purchase of an electric car are but a few examples of changes that could all

have a significant impact on electrical usage. The Commission should clarify the calculation of the 110% size limit for new construction and for changes in circumstances.

2. Proposed Section 75.13(a)(1) – New Residential Construction Projects

Proposed Section 75.13(a)(1) establishes one of the conditions that must be met by a customer generator. Proposed Section 75.13(a) requires that a customer generator “have electric load” behind the meter. The OCA is concerned that this language could be interpreted to preclude solar installations and net metering for new residential construction projects. The OCA does not interpret the Commission’s intent to preclude solar in new residential construction, but the language, if strictly applied, could do so. As such, the OCA recommends that the Commission clarify the language so there is no confusion about solar installations in new residential construction projects.

B. Proposed Section 75.14(e) -- Virtual Meter Aggregation

1. Residential Application of Modified Language

The Commission proposes to change the definition of virtual meter aggregation and modify the virtual metering provisions to clarify the conditions under which customer-generators may qualify for virtual meter aggregation. Virtual meter aggregation allows for certain meters to be aggregated “by means of the EDC’s billing process, rather than through a physical rewiring of the customer-generator’s property for a physical, single point of contact.” 52 Pa. Code § 75.12. The regulations currently require that, in order to be eligible for virtual meter aggregation, the meters must be “on properties owned or leased and operated by a customer-generator and located within 2 miles of the boundaries of the customer-generator’s property and within a single electric distribution company’s service territory. . .” Id.; see also 52 Pa. Code § 75.14(e).

In this proposed rulemaking, the Commission proposes to modify the definition of virtual meter aggregation in Section 75.12 and add the requirement in Section 75.14(e) that:

[a]ll service locations to be aggregated must be receiving retail electric service from the same EDC and have measurable electric load independent of the alternative energy system. To be independent of the alternative energy system, the electric load must have a purpose other than to support the operation, maintenance or administration of the alternative energy system.

Proposed Rulemaking Order, Annex A at 6 (Section 75.12 - Definitions).

The wording of the proposed regulation appears to require independent load at each meter. As the OCA reads this language, it may preclude a residential customer from locating solar panels on their property if that location required a separate meter but had no independent load at that location. In the Proposed Rulemaking Order, the Commission explains that virtual meter aggregation “was initially proposed in this regulation for the purpose of facilitating the development of distributed generation in the agricultural setting, particularly for systems referred to as anaerobic or methane biodigesters,” and expresses concern that virtual meter aggregation is being used in a broader range of situations. Proposed Rulemaking Order at 17-19. The OCA appreciates this concern but submits that the language may preclude installations that are sized to support sufficient independent load but require a separate location apart from the load.

When the virtual meter aggregation regulations were promulgated, the Commission noted that commenters had “directed [the Commission’s] attention to other types of projects” that would be unable to qualify for virtual meter aggregation under the regulations as originally proposed. Final Rulemaking Order (June 23, 2006), supra note 1, at 21. In response, the Commission drafted the regulations with broader language that would “help alternative generation expand as envisioned by the Act.” Id. at 22. This indicates that, while the

Commission did originally propose these regulations to accommodate certain agricultural facilities, the language was crafted broadly to allow for a variety of qualifying projects to use virtual meter aggregation to expand the use of alternative energy systems.

Requiring load behind each meter location for residential installations could limit the development of residential alternative energy systems. There are many reasons that a customer-generator may need to locate an alternative energy system at some distance from meters that would have the independent load. For example, a residential customer's home may be shaded or poorly oriented to accommodate the installation of solar panels on their roof. The customer may instead choose to install the panels in another area of their property which does have the proper conditions for such a system. If a separate meter is required by the utility for the installation but there is no load independent of the system, it appears as if this residential installation would not qualify for net metering even if all other requirements were met. These residential customers should not be penalized for the orientation of their homes and should be allowed to install an alternative energy system as long as the requirements contained in the current regulations are met. This would allow for expansion of alternative energy facilities as the Act intended.

## 2. Virtual Meter Aggregation For Residential New Construction

Proposed Sections 75.12 and 75.14(e) state that service locations to be aggregated "must be receiving retail electric service from the same EDC and have measurable electric load..." This language, along with the language in subsection 75.13(a)(1) establishing the requirements for customer generators could be read to preclude the installation of net metering and solar facilities in new construction projects. New construction provides an excellent opportunity for developers and future residential customers to plan and install solar facilities that

meet their needs. The OCA does not interpret the Commission's intent to restrict net metering in new construction, but the language could be interpreted to do so. As such, the OCA recommends that the Commission clarify the language so there is no confusion about solar installations in new residential construction projects.

C. Proposed Section 75.13(e) -- Miscellaneous Corrections

There is a typographical error in the proposed changes to Section 75.13(e). At the beginning of that section, the term "EDC" is removed and replaced with "DSP." These terms, however, are not used consistently throughout the section. The edited first sentence should read as follows (with the OCA's correction in strikethrough and bold type):

"At the end of each year the [EDC] DSP shall compensate the customer-generator, that were not previously credited against the customer-generator's usage in prior billing periods [over the amount of kilowatt hours delivered by the EDC during the same year] at the ~~EDC's~~ **DSP's** price to compare rate."

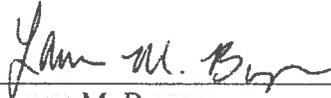
D. Additional Comments – Billing Practices Relating to Net Metering

It is the OCA's understanding that billing practices for customer-generators enrolled in net metering or virtual meter aggregation vary among utilities. The OCA submits that the Commission may wish to consider providing guidance concerning billing practices for customers enrolled in these programs. Specifically, monthly bills should clearly state the total amount of generation produced during the billing period by the customer-generator's alternative energy system, the full retail rate at which the customer-generator is being compensated for the electricity generated, any excess credits being rolled forward, and any other calculations used in reaching the bill's total amount due. This will allow customer-generators to understand their bills by explaining how any credits associated with net metering were calculated and allow customers to verify the accuracy of their bills.

### III. CONCLUSION

In conclusion, the OCA appreciates the Commission's efforts to provide the necessary guidance regarding the implementation of the Alternative Energy Portfolio Standards Act. The OCA respectfully suggests that the Commission further consider the proposed regulatory changes and whether they advance the Act's goal of promoting the use of alternative energy in Pennsylvania.

Respectfully Submitted,



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September 3, 2014

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