



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF AGRICULTURE

RECEIVED

2014 SEP -3 AM 10:35

PA P.U.C.
SECRETARY'S BUREAU

3041

September 2, 2014

Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
P.O. Box 3265
Harrisburg, PA 17105-3265



**RE: Docket L-2014-2404361
Proposed Net Metering Changes**

Dear Commissioners:

I write today to express my serious concern about the potential negative impact of the Public Utility Commission's (Commission) proposed net metering changes, which would limit the amount of excess energy a farm can sell through net metering. This proposed rulemaking may discourage the further deployment of anaerobic digesters (ADs) on Pennsylvania farms, particularly in the dairy sector and, as a consequence, individual farms and the Commonwealth as a whole may struggle to meet environmental expectations.

Agriculture is crucial to Pennsylvania's economy, providing \$7.4 billion in farm gate revenue from over 59,300 farms. More than 7,800 of these farms are dairy operations and another 14,300 farms raise swine or poultry. Each farm operation faces many challenges as it produces food and fiber for citizens of the Commonwealth and beyond. In many cases, the major challenge is how to continue to grow their businesses in order to remain economically viable, while at the same time working to attain ever-changing, restrictive environmental compliance requirements.

A producers use of ADs to manage the manure generated on their farm is one of the most effective means, or in some cases the sole tool available, to achieve the objective of expanding their business while continuing to manage manure in an environmentally responsible manner. The decision to adopt AD technology is often driven by need to meet regulatory requirements, and the sizing of the unit is determined by the amount of manure produced currently or with projected expansion. In most cases, the result is energy production beyond the needs of the farm operation and the "sale" of this excess energy through net metering allows the farmer to finance the significant investment in an AD. Without the revenue from the sale of energy, the farm cannot afford the investment in an AD, and without the AD the farm may not be able to attain environmental compliance.

In a broader sense, 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 (EPA). As with any complex plan, removing one piece may threaten to undermine the entire plan. It is highly doubtful that the Commonwealth can achieve the Chesapeake Bay benchmarks included in the recently signed Chesapeake Bay Agreement without additional ADs being installed on Pennsylvania farms. Failure to meet these obligations can result in significant financial sanctions that are imposed by the federal government.

For the reasons outlined above, it is my recommendation that the PUC exempt all on-farm generation of alternative energy from any limitations related to net metering. To this end, I suggest that the following language be inserted into the proposed rulemaking in Sec. 75.13 and any other appropriate section of the rulemaking:

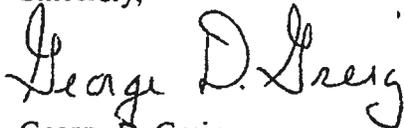
75.13(a)(3)(i) This limitation shall not apply to an alternative energy system, or multiple alternative energy systems located on and maintained and operated as part of a Normal Agricultural Operation as defined under Section 2 of the Act of June 10, 1982 (P.L.454, No. 133) entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances".

This definition of "normal agricultural operation" is the long-standing 'benchmark' definition of a "farm" that is referenced in other agricultural laws and is used in the Solid Waste Management Act, the *ACRE* law, etc. It is recognized as the legal definition which makes a clear distinction between true agricultural production of crops, livestock, dairy and other agricultural commodities and what otherwise might be merely open land. As such, I believe it useful to the PUC in making a distinction between a farm that generates excess energy when adopting technology intended to manage manure generated on the agricultural operation and a unit intended to solely generate energy that happens to be on a "farm".

Should the PUC not find this suggestion acceptable, I would welcome the opportunity to further discuss with the commission other alternatives to address the unique nature of on-farm alternative energy production that separate it from other forms of energy production.

Again, on behalf of the Commonwealth's agricultural community, thank you for your consideration of these comments.

Sincerely,



George D. Greig
Secretary