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PDMP
Professional Dairy Managers of Pennsylvania
500 North 3rd Street • 9th Floor • Harrisburg • PA 17101 • 717-889-1065 • Fax: 717-234-0122 • www.pdmp.org

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SECRETARY'S BUREAU

August 27, 2014

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

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SEP 8 2014
INDEPENDENT REGULATORY
REVIEW COMMISSION

RE: Docket L-2014-2404361
Proposed Net Metering Changes
Amended from letter dated July 31, 2014

Dear Commissioners:

The Professional Dairy Managers of Pennsylvania (PDMP) appreciates the Commission's extension of the comment period on the proposed Rulemaking limiting net metering and changing the economics of anaerobic digesters used on dairies to manage manure and meet environmental compliance. The extension has enabled our farmers to learn more about the proposed order and its consequences on their manure management systems, as we were made aware of it only a week prior to the initial deadline. As you might have guessed, we were caught unaware of the PUC actions as farmers, who are in the business of food production, have never had a reason to follow the public dockets or activities of a utility regulatory body. While our dairies are heavily regulated, they are done so by food and environmental agencies. In fact, it is this environmental compliance that our dairies are trying to meet that has prompted them to install, or consider installing, anaerobic digesters.

As stated in our previous comments submitted on behalf of the Professional Dairy Managers of Pennsylvania, this Order, if adopted will have grave consequences for dairy farms that have, or might consider in the future, installing Anaerobic Digesters (AD) to meet their environmental regulatory compliance, particularly within the Chesapeake Bay Watershed.

The purpose of on-farm anaerobic digesters (AD) is the need to manage manure. AD are a solution to a food production problem, not a new business. The technology enables farmers to continue farming, not switch occupations away from farming. In fact, the amount of on-farm energy generation could not possibly be a viable business model, even if a farmer wanted to be an energy tycoon.

Agriculture, especially food production agriculture, is Pennsylvania's number one industry and the driver of our economy. Dairy production is the largest segment of our state's agricultural economy.

Dairy farms are in the milk production business, not the energy business. The dairy farm business model is a multi-generational family farm, not a publicly traded business, or a business

with investors and venture capitalists. The average size of a Pennsylvania farm is much smaller than the other top 5 agriculture producing states in the nation and there is a lot less land available for manure application and storage. For the 30 or so farms in PA that have installed anaerobic digesters, the AD technology has enabled them to efficiently manage manure, reduce odor and pay for its costs. For many, the digester has saved the dairy business and ensured its future for the next generation of that farm family.

Dairy farms are in the food production business, not the energy business. AD are developed, built and operated at great cost to the farm operation and with considerable debt load to solve its environmental compliance obligations and not to replace the dairy business with a new business of energy production.

Dairy farms have a constant supply of manure and therefore a constant need to manage it and constantly, and predictably, operate their on-farm AD. The capacity of on-farm AD is directly related to the size of the dairy herd and the amount of manure from the herd is a limiting factor in the capacity of AD which are permitted by DEP.

Allowing dairy farms to net meter their excess energy provides the essential revenue stream to pay for the heavy financing load and is the only way a dairy farm with a digester can positively cash flow the expenses of its AD.

We have, in the past couple of weeks, learned that most states have carved out on-farm energy generation from wholesale energy suppliers in their Rulemaking. While we are cognizant of the use of the word 'farm' by some of the wholesale energy companies; 'solar farm', 'wind farm', we believe identifying production agriculture for exemption should be just as easy for the PUC as it has been for all other rulemaking and regulatory entities and laws.

We recommend that the PUC exempt on-farm generation of alternative energy from any limitations related to net metering using the definition of "normal agricultural operation" that has been 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.

To this end, we ask 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 would enable the PUC to make a clear 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".

We hope that if the Commission does not find this language acceptable, it would reach out to us to further discuss other alternatives to address the unique nature of on-farm alternative energy production that separate it from other forms of energy production before formal adoption of the Rulemaking is completed.

Sincerely,

Alan Novak

Alan Novak
Executive Director