

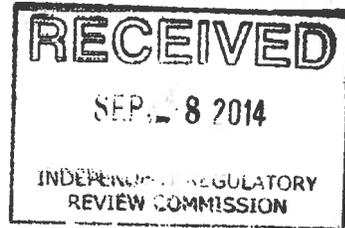


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September 3, 2014

VIA FEDERAL EXPRESS

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

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0308
SEP 02 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary Chiavetta:

Enclosed please find the Comments of PECO Energy Company to the February 20, 2014 Proposed Rulemaking Order in the above-captioned docket.

Kindly return a time-stamped copy of this letter in the self-addressed envelope that is enclosed. Please do not hesitate to contact me at 215-841-4220 should you have any questions regarding this filing.

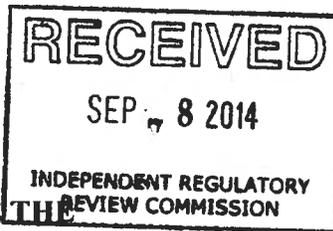
Very truly yours,

Michael Swerling cr

Michael S. Swerling

Enclosure

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SEP 03 2014

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

IMPLEMENTATION OF THE :
ALTERNATIVE ENERGY : DOCKET NO. L-2014-2404361
PORTFOLIO STANDARDS ACT OF :
2004 :

COMMENTS OF PECO ENERGY COMPANY TO THE PROPOSED RULEMAKING ORDER

Pursuant to the Proposed Rulemaking Order entered in the above-captioned docket on February 20, 2014, PECO Energy Company (“PECO” or the “Company”) hereby submits its comments to the proposed amendments to Chapter 75 of the Pennsylvania Public Utility Commission’s (the “Commission’s”) regulations, 52 Pa. Code §§ 75.1 et seq. (“AEPS Regulations”). According to the Commission, the proposals are intended to increase clarity and address changes to the Alternative Energy Portfolio Standards Act (“AEPS Act”) resulting from the enactment of Act 35 of 2007 (“Act 35”) and Act 129 of 2008 (“Act 129”).

I. INTRODUCTION

PECO appreciates the opportunity to comment on the Proposed Rulemaking Order and commends the Commission on its efforts to improve the clarity of the AEPS Regulations and ensure their consistency with Act 35 and Act 129. The Proposed Rulemaking Order demonstrates the Commission’s continued commitment to implementing alternative energy policy through inclusive processes that build on lessons learned in Pennsylvania and other jurisdictions. PECO strongly supports the majority of the Commission’s proposed net metering improvements, including the proposal to extend the existing 110% system sizing/output

limitation from third-party owner/operator systems¹ to all alternative energy systems. The Company provides specific comments below where additional language or further clarification is warranted.²

While the Proposed Rulemaking Order makes important progress in net metering policy, the Company believes that the Commission should initiate a separate, comprehensive proceeding to review net metering and interconnection policies, and inter-related AEPS policies and costs, in order to fully address such key issues as net metering rate design, distribution revenues, the impacts of distributed generation, and customer cross-subsidization.

Commission policy should ensure that, to the greatest extent possible, customers pay for the services they receive through rate designs that match cost causation. Even with the changes proposed by the Commission in this proceeding, Pennsylvania's net metering framework will continue to facilitate a shift of the costs of distribution service from net metering customers to other distribution customers and the magnitude of this subsidization is likely to increase in the future. The Company expects that increasing AEPS obligations will continue to drive the development of new distributed generation and increase both the number of customer-generators and volume of customer-generated electricity.

Legislative and regulatory policymakers in diverse jurisdictions throughout the country also are developing a range of approaches to ensure that customer-generated electricity can play an increasing role in meeting future electricity demand while at the same time ensuring sufficient

¹ See *Net Metering – Use of Third Party Operators*, Docket No. M-2011-2249441 (Final Order entered on March 29, 2012) (“Third Party Operator Order”).

² For the convenience of the Commission, PECO has attached a “blackline” showing its specific suggested revisions to the Commission’s proposed amendments. See Appendix A.

revenues to maintain a secure, reliable and universally available grid that fairly allocates costs to customer-generators and non-customer-generators.

Therefore, a comprehensive Commission-led investigation of net metering and related AEPS issues in the near future is important to ensure that the legal framework in Pennsylvania appropriately balances support for alternative energy and distributed generation, allocation of costs between net-metering and non-net metering customers on a fair and reasonable basis, and rate designs that generate sufficient revenues for EDCs to continue to develop and operate the reliable electric distribution networks on which all customers rely.

II. COMMENTS ON THE PROPOSED RULEMAKING ORDER AND PROPOSED REGULATIONS

A. § 75.1 Definitions

1. Grid Emergencies

PECO supports including the definition of “grid emergencies” to help clarify the meaning of “customer-generator.” The Company understands that the Commission’s proposed definition of “grid emergencies” was taken from the definition of “Emergency Operations” in the Emergency Operations manual (“Manual 13”) published by PJM Interconnection, L.L.C. (“PJM”). Manual 13 provides guidance, instructions, rules and procedures for operating during an Emergency Condition as defined in PJM’s Open Access Transmission Tariff (“OATT”), which is approved by the Federal Energy Regulatory Commission (“FERC”).³ In light of the

³ The PJM OATT defines an Emergency Condition as:

1.11.01 Emergency Condition:

A condition or situation (i) that in the judgment of any Interconnection Party is imminently likely to endanger life or property; or (ii) that in the judgment of the Interconnected Transmission Owner or Transmission Provider is imminently likely (as determined in a non-discriminatory manner) to cause a material adverse effect on the security of, or damage to, the Transmission System, the Interconnection Facilities, or the transmission systems or distribution systems to which the Transmission System is directly or indirectly connected; or (iii) that in the judgment of Interconnection Customer is imminently likely (as determined in a non-discriminatory manner) to

fact that the OATT is the authoritative document for PJM grid operations, PECO believes that the definition of “grid emergencies” should be based on and incorporate the OATT’s complete definition of “Emergency Condition” for clarity and to avoid potential conflicts with FERC-approved provisions. PJM Manual 13 should only be referenced as the document that provides guidance on how PJM Members are expected to respond to emergency conditions.

2. Default Service Provider

PECO believes that the definition of “Default Service Provider” proposed in the Proposed Rulemaking Order should be replaced with a reference to the statutory definition provided in Section 2803 of the Pennsylvania Public Utility Code (the “Code”), 66 Pa.C.S. § 2803. Use of this statutory definition will be consistent with the use of the same statutory provision in the Commission’s default service regulations at 52 Pa. Code § 54.182 and will, therefore, avoid any confusion.

3. Moving Water Impoundments

The Commission has proposed a definition of “moving water impoundments” to clarify that electric turbines placed in rivers or streams without a dam qualify as hydropower under the AEPS Act. *See Proposed Rulemaking Order, p. 9.* PECO agrees with this provision, but would also expand the language to make it clear that systems that do not directly involve naturally flowing water (in rivers and streams), such as systems that generate electricity by removing water from the natural flow, placing it in a containment tank and then using pressure reducing valves, would **not** qualify as “moving water impoundments.”

cause damage to the Customer Facility or to the Customer Interconnection Facilities. System restoration and black start shall be considered Emergency Conditions, provided that a Generation Interconnection Customer is not obligated by an Interconnection Service Agreement to possess black start capability. Any condition or situation that results from lack of sufficient generating capacity to meet load requirements or that results solely from economic conditions shall not constitute an Emergency Condition, unless one or more of the enumerated conditions or situations identified in this definition also exists.

4. Useful Thermal Energy

In the Proposed Rulemaking Order, the Commission explains that its proposed definition of “useful thermal energy . . . *does not* include common merchant generation facilities such as combined-cycle electric generation facilities.” Proposed Rulemaking Order, p. 6 (emphasis added). The actual language of the proposed definition, however, states that the term “*may not* apply to the use of thermal energy used in combined-cycle electric generation facilities.” See 52 Pa. Code § 75.1 (emphasis added). To avoid any ambiguity, the Company recommends that “may not” be changed to “does not.”

B. Net Metering

1. 110% Size Limitation

PECO strongly supports the Commission’s proposal to extend the 110% size limitation policy (applicable to the customer-generator’s annual electric consumption at the interconnection meter and all qualifying virtual net metering locations) from third party owner/operator systems⁴ to all systems. The proposed 110% rule is consistent with the intent of the AEPS Act, which defines net metering as a means to offset part or all of the customer-generator’s requirements for electricity. These requirements are for “non-generational load,” meaning there must be usage or load that exists independent of the alternative energy system itself.⁵ The Company also agrees with the Commission that the 110% rule would reduce the potential for merchant generators to use net-metering to “gain excessive retail rate subsidies” at the expense of other retail rate customers. Proposed Rulemaking Order, p. 12.

⁴ See Third Party Operator Order, pp. 8-9.

⁵ *Larry Moyer v. PPL Electric Utilities Corporation*, Docket No. 2014 WL 651815, Penn. P.U.C., 2014 (Opinion and Order issued on February 14, 2014).

The Commission carefully considered the intent of the AEPS Act and the impacts of system oversizing when it established the 110% rule for third party owned/operated systems. In the Tentative Order proposing that rule, the Commission stated:

We are proposing the system size limitation of 110% of a customer-generator's prior year electricity consumption to prevent the installation of oversized alternative energy systems that are more accurately described as merchant generation posing as customer-generators. The Commission believes that not allowing merchant generation to net meter is reasonable and consistent with the intent of the AEPS Act. We note that the definition of net metering contained in the AEPS Act makes it clear that the intent of net metering is to provide electric utility customers with a reasonable means to offset their electric consumption without having to install expensive and potentially hazardous electric storage devices. We do not believe the AEPS Act intended net metering as an avenue for merchant generators to circumvent the wholesale electric market in an attempt to avoid Federal Energy Regulatory Commission jurisdiction. Furthermore, we do not believe it was the intent of the AEPS Act to provide retail rate subsidies to merchant generation facilities at retail customer expense that may result in cross-class subsidization.⁶

In its Final Order adopting the rule for third party owned/operated systems, the Commission noted comments from a broad range of stakeholders, including those filed by EDCs and environmental and renewable advocacy groups, "support[ed] the 110% design limit as a reasonable and balanced approach to supporting the intent of the AEPS Act and limiting the potential for merchant generators to use net metering as a way to circumvent the wholesale electric market and gain excessive retail rate subsidies at retail customer expense."⁷

PECO believes that extending the 110% rule to all renewable energy systems would continue to be a "reasonable and balanced approach" to carry out the intent of the AEPS Act and

⁶ *Net Metering – Use of Third Party Operators*, Docket No. M-2011-2249441 (Tentative Order entered on July 28, 2011), p. 5.

⁷ Third Party Operator Order, pp. 7-8. Duquesne Light Company, Interstate Renewable Energy Council, PECO, PennFuture, the Solar Alliance, SunRun, Inc., and the Vote Solar Initiative each filed comments supporting the 110% rule.

would provide greater protection to customers. The protections of the 110% rule (prevention of system oversizing, avoidance of merchant generators posing as customer generators, establishment of clear jurisdictional boundaries between FERC and the Commission, and containment of cost shifting) should apply regardless of who owns or operates a renewable energy system. PECO also notes that there are several examples of neighboring PJM states and other states with aggressive renewable goals that have either proposed or adopted generation limitations at the distribution level to appropriately differentiate true customer-generators from merchant generation facilities while at the same time balancing the interests of customer-generators and non-customer-generators, as shown in the following table:

State	System Limit
Maryland	200% of customer's base line annual electricity use
Delaware	110% of customer's aggregated annual electricity consumption
Nevada	The lesser of 1 megawatt ("MW") or 100% of the customer's annual requirements for electricity
California	Intended primarily to offset part or all of the customer's own electrical requirements. Systems that are sized larger than the customer's electrical requirements would not be eligible for net energy metering
Arizona	125% of customer's total connected load
Massachusetts	Proposed - No larger than 100% of expected future load
Colorado	120% of annual consumption

While the Company recognizes that the Commission would apply the 110% rule to new systems and not retroactively to existing customer-generator systems, PECO recommends that the rule be applied where an existing customer-generator wants to increase the size of its system in accordance with the Additional General Requirements set forth at 52 Pa. Code § 75.36(2) for increasing capacity to an existing facility. Application of the 110% rule at the time of any

increase in system size would help the Commission prevent any potential abuse of grandfathered status in the future.

2. Applying Charges To Customer-Generators

PECO supports the Commission's proposed revisions to Section 75.13, which, among other things, confirm that an EDC may charge customer-generators a fee that is "specifically authorized under this chapter or by order of the Commission." See proposed 52 Pa. Code § 75.13(k).

While the focus of the Commission's discussion in the Proposed Rulemaking Order is on the recovery of incremental costs incurred to process virtual net metering applications, PECO endorses the Commission's consideration, pursuant to the proposed provision, of other reasonable charges for net metering customers. In this regard, the Company notes that allowing net metering customers to avoid transmission and distribution costs paid to net metering customers not only increases the amounts that non-net metering customers pay to subsidize costs those customers pay for distribution facilities, but also results in non-net metering customers paying an inequitable portion of the costs of programs for which the Commission has determined that all customers should pay (including non-bypassable surcharges associated with such programs such as smart meter deployment, customer education, universal service and energy efficiency programs).

The extent to which proposed Section 75.13(k) could be utilized to develop fair and reasonable charges for net metering customers should be adequately and fully considered. Accordingly, the general nature and structure of future net metering charges should be addressed as part of the separate, comprehensive review of net metering and interconnection policies and related AEPS issues which PECO has recommended.

3. The Definition of “Year and Yearly”

Under the existing AEPS Regulations, at the end of each June 1-May 31 period (which corresponds to the PJM planning year and the annual AEPS compliance period for EDCs and EGSs), any remaining excess kilowatt-hours are compensated at the weighted average of the price-to-compare rate based on the rate in effect when the excess generation was actually delivered. *See* 52 Pa. Code § 75.13; Proposed Rulemaking Order, p. 15. In the Proposed Rulemaking Order (p. 19), the Commission states that the “vast majority” of net-metered customer-generators are solar photovoltaic systems that produce their peak output during the months of May through September. In order to maximize compensation paid for excess energy, the Commission proposed to revise the terms “year and yearly”, as they apply to net metering, from the PJM planning year and AEPS compliance year of June 1 through May 31 to May 1 through April 30.

PECO disagrees with the proposed change for several reasons. First, the proposal would misalign the net metering program with existing regulatory and operational frameworks for PJM and implementation of the AEPS Act and default service. By shifting the net metering year one month from the well-established PJM planning and AEPS compliance year, customer confusion is likely and EDC operations to implement AEPS requirements will become more complex. In addition, departing from the PJM planning year could complicate future interactions between net metering customers and PJM. Second, the change would likely increase cost-shifting for net metering customers at the expense of other distribution customers. As the Commission states, the change would allow the “vast majority” of net metering customers to increase the amount of excess energy that is credited at the “full” retail rate and decrease the amount paid at the price to compare. Finally, the Company would have to incur additional costs to implement IT changes to

accommodate a different net metering calendar. For these reasons, the net metering year should not be changed.

4. Large Customer-Generator Requirements

In proposed Section 75.16, the Commission provides additional detail regarding standards for the participation of customer-generators who own systems with capacity exceeding 3 MW but less than 5 MW (“large customer-generators”). Among other proposed requirements, the system of a large-customer generator would have to be able to “increase and decrease generation delivered to the distribution system in parallel with the EDC’s operation of the distribution system during the grid emergency.” See proposed § 75.16(b)(3). PECO believes that a “Standby System”, such as the following examples defined in IEEE Standard 446-1995, could meet this and other proposed requirements and therefore be eligible for large customer-generator status.

Emergency Power System

An independent reserve source of electric energy that, upon failure or outage of the normal source, automatically provides reliable electric power within a specified time to critical devices and equipment whose failure to operate satisfactorily would jeopardize the health and safety of personnel or result in damage to property;

or

Standby Power System

An independent reserve source of electric energy that, upon failure or outage of the normal source, provides electric power of acceptable quality so that the user’s facilities may continue in satisfactory operation.

PECO requests clarification from the Commission, however, regarding the extent to which a system that operates continuously or is powered by wind or solar energy could satisfy the large customer-generator requirement of proposed Section 75.16(b)(3).

5. Approval Process For Alternative Energy Systems Of 500 kW Or Greater

Under the current AEPS Regulations, an EDC has 10 business days after the receipt of an interconnection request from a system that is 2 MW or less to determine whether its application is complete. Once the request is deemed complete, the EDC has an additional 20 business days to complete its evaluation. *See* 52 Pa. Code § 75.38(c). Under the Commission’s proposed Section 75.17(b), for systems that are 500 kW or more, an EDC would have to submit a recommendation to the Commission’s Bureau of Technical Utility Services (“TUS”) within 20 days of receiving a completed application.

PECO believes that Section 75.17(b) should be revised so that it provides an adequate review timeframe, consistent with the existing process. In particular, EDCs should be given 10 *business days* to determine whether an application is complete and then 20 *business days* to evaluate the completed application and communicate that evaluation to TUS. As reflected in PECO’s proposed revision to this section, provision of additional information to complete an application would not restart the initial 10-day period but would only extend that period to the extent necessary for an EDC to evaluate the additional information for completeness.

C. AEPS Requirements

1. Retiring Alternative Energy Credits For Non-Compliant Alternative Energy Systems

The Company appreciates the Commission’s desire to clarify the authority of the program administrator with respect to non-compliant alternative energy systems. *See* 52 Pa.Code § 75.64. However, PECO has significant concerns regarding the Commission’s proposal to authorize retirement of past or current alternative energy credits (“AECs”) which are deemed to have been generated from non-compliant systems after they have been qualified. If the AECs at issue have already been qualified and transferred to a third party, the unexpected retirement of those AECs

would not only punish the non-compliant system but also the current owner of the AECs. If an EDC or EGS is holding AECs that are unexpectedly retired, for example, they would incur additional costs to replace those AECs (which will ultimately be borne by customers) and may be subject to additional AEPS penalties since the compliance of that EDC or EGS with various AEPS obligations could be jeopardized. In addition, if AECs that have already been transferred to a third party are “at risk” for unexpected retirement, PECO expects that the market price of AECs would increase to cover this risk.

PECO believes that the simplest solution would be to provide that the program administrator has authority to take action only with respect to AECs that have not been sold or otherwise transferred to a third party. The administrator would still be able to address non-compliance by suspending or revoking system status and withholding or retiring AECs that are still owned by the owner of the non-compliant system. The Commission could also use its general penalty authority (under 66 Pa. C.S. § 3301) to fashion other appropriate sanctions to penalize a non-compliant system owner for prior sales or transfers of non-compliant AECs.

2. Initial Compliance Assessment During True Up Period

Under the proposed Section 75.64(c), the AEPS program administrator would notify EDCs and EGSs of their compliance obligations within 45 days of the end of the reporting period and verify compliance at the end of the 90-day true up period. PECO recommends that an initial compliance assessment by the program administrator between day 46 and day 75 of the true up period be added to the current assessment process. This initial assessment would alert EDCs and EGSs of any impending AEC shortfall and also offer an opportunity for EDCs and EGSs to adjust their retirement portfolios in the last 15 days of the true up period to reduce the risk of an alternative compliance payment. The Company notes that this initial assessment would

formalize an information exchange that is already occurring between the program administrator and EDCs and EGSs regarding their compliance obligations.

D. Miscellaneous

1. References to “EDC and DSP”

The Company understands that the proposed addition of “DSP” in various regulatory provisions is intended to separately account for the generation-related net metering obligations assumed by a default service supplier and the distribution-related net metering obligations assumed by the EDC. Consistent with that intent, PECO believes that “EDC’s price to compare rate” in proposed section 75.13(e) should be changed to “DSP’s price to compare rate.”

2. The Reference To Stranded Cost Recovery in Section 75.15 is No Longer Required

According to 52 Pa. Code §75.15, net metering customers must pay a competitive transition charge (“CTC”) for stranded costs associated with a 10% or more reduction in their purchase of electricity through the EDC’s transmission and distribution network for an annualized period (under 66 Pa.C.S. § 2808(a)). PECO recommends that this section be removed from the Code because: 1) the transition to a deregulated market has been completed; 2) all applicable stranded costs have been recovered; and 3) all CTCs have been discontinued.

3. Batteries and Flywheels

PECO requests that the Commission clarify that batteries and flywheels do not qualify for net metering because they are distributed storage devices, not distributed generation devices.

According to the definition contained in Section 75.12, net metering is:

The means of measuring the difference between the electricity supplied by an electric utility or EGS and the electricity generated by a customer-generator when any portion of the electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator’s requirements for electricity.

Batteries and flywheel do not themselves offset part or all of the customer's requirements for electricity. A battery allows a customer to store an amount of the electricity generated and release a lesser portion thereof in the not-too-distant future. A flywheel similarly stores and releases rotational energy. In addition, these devices require more electricity to operate than they release back into the grid. For these reasons, the Commission should clarify that batteries and flywheels *do not qualify for net metering*.

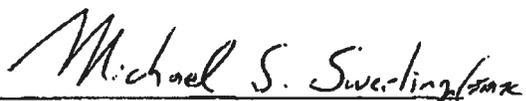
4. Cost Recovery

Some of the changes in the Proposed Rulemaking Order, such as changing the net metering calendar year, would require PECO to incur additional costs. EDCs should be *permitted to recover all reasonable costs incurred to implement the final changes to the AEPS Regulations on a full and current basis*.

III. CONCLUSION

PECO appreciates the opportunity to comment on the Proposed Rulemaking Order and asks that the Commission consider the foregoing recommendations. PECO looks forward to working with the Commission and other stakeholders as the implementation of the AEPS Act progresses.

Respectfully submitted,



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Date: September 3, 2014

Counsel for PECO Energy Company

RECEIVED

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

SEP. 03 2014

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**IMPLEMENTATION OF THE :
ALTERNATIVE ENERGY : DOCKET NO. L-2014-2404361
PORTFOLIO STANDARDS ACT OF :
2004**

**APPENDIX A TO THE COMMENTS OF PECO ENERGY COMPANY

TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 75: ALTERNATIVE ENERGY PORTFOLIO STANDARDS**

Subchapter A: General Provisions

§ 75.1. Definitions.

* * * * *

~~DSP – Default service provider – [An EDC within its certified service territory or an alternative supplier approved by the Commission that provides generation service when one of the following conditions occurs:] **The term as defined in 66 Pa.C.S. § 2803.**~~
~~[(i) When a contract for electric power, including energy and capacity, and the chosen electric generation supplier does not supply the service to a retail electric customer.]~~
~~[(ii) When a retail electric customer does not choose an alternative electric generation supplier.]~~

* * * * *

~~Grid emergencies – [One of the following abnormal system conditions:] **Emergency Condition, as defined in PJM Interconnection, LLC's Open Access Transmission Tariff or successor document.**~~

~~[(i) Manual or automatic action to maintain system frequency to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property.]~~

~~[(ii) Capacity deficiency or capacity excess conditions.]~~

~~[(iii) A fuel shortage requiring departure from normal operating procedures in order to minimize the use of such scarce fuel.]~~

~~[(iv) An abnormal natural event or man-made threat that would require conservative operations to posture the system in a more reliable state.]~~

~~[(v) An abnormal event external to the PJM service territory that may require PJM action.]~~

* * * * *

Moving water impoundment – A physical feature that confines, restricts, diverts or channels the flow of surface water, including in-stream hydroelectric generating technology and equipment. The definition does not include a physical feature that entirely removes water from its natural flow.

* * * * *

Useful thermal energy – Thermal energy created from the production of electricity and which would otherwise be wasted if not used for other non-electric generation, beneficial purposes. The definition ~~[may]~~**does** not apply to the use of thermal energy used in combined-cycle electric generation facilities.

Subchapter B: Net Metering

* * * * *

§ 75.12. Definitions.

* * * * *

Year and yearly – ~~[The period of time from May 1 through April 30.]~~ **Planning year as determined by the PJM Interconnection, LLC regional transmission organization.**

* * * * *

§ 75.13. General provisions.

* * * * *

(e) At the end of each year, the DSP shall compensate the customer-generator for any remaining excess kilowatt-hours generated by the customer-generator, that were not previously credited against the customer-generator's usage in prior billing periods at the ~~[EDC]~~ **DSP's** price to compare rate. In computing the compensation, the DSP shall use a weighted average of the price to compare rate, with the weighting based on the rate in effect when the excess generation was actually delivered by the customer-generator to the DSP.

* * * * *

§ 75.15. ~~[Treatment of stranded costs.]~~ [Reserved]

~~[If a net metering small commercial, commercial or industrial customer's self-generation results in a 10% or more reduction in the customer's purchase of electricity through the EDC's transmission and distribution network for an annualized period when compared to the prior annualized period, the net metering small commercial, commercial or industrial customer shall be responsible for its share of stranded costs to prevent interclass or intraclass cost shifting under 66 Pa.C.S. § 2808(u) (relating to competitive transition charge). The net metering small commercial, commercial or industrial customer's stranded cost obligation shall be calculated based upon the applicable "base year" as defined in this chapter.]~~

* * * * *

§ 75.17. Process for obtaining Commission approval of customer-generator status.

(a) This section establishes the process through which EDCs obtain commission approval to net meter alternative energy systems with a nameplate capacity of 500 kilowatts or greater.

(b) The EDC review of a net metering application must consist of the following:

(1) An EDC shall, within 10 business days after receipt of the net metering application, inform the applicant that the application is complete or incomplete and what materials are missing.

(2) When an EDC determines additional information is required to complete an evaluation, the EDC shall request the information. The time necessary to complete the evaluation may be extended, but only to the extent of the delay required for receipt of the additional information.

(3) An EDC shall submit a completed net metering application to the Commission's Bureau of Technical Utility Services with a recommendation on whether the alternative energy system complies with the applicable provisions of chapter 75 (relating to alternative energy portfolio standards) and the EDC's net metering tariff provisions within 20 business days of receiving a completed application. The EDC shall serve its recommendation on the applicant.

(c) *The net metering applicant has 20 days to submit to the Bureau of Technical Utility Services a response to the EDC's recommendation.*

(d) The Bureau of Technical Utility Services shall review the net metering application, the EDC recommendation and response, and make a determination as to whether the alternative energy system complies with the provisions of chapter 75 (relating to alternative energy portfolio standards) and the EDC's net metering tariff.

(e) The Bureau of Technical Utility Services shall approve or disapprove the net metering application within 30 days of submission and describe in detail the reasons for disapproval. The Bureau of Technical Utility Services shall serve its determination on the EDC and the applicant.

(f) The applicant and the EDC may appeal the determination of the Bureau of Technical Utility Services in accordance with § 5.44 (relating to petitions for appeal from actions of the staff).

Subchapter D: ALTERNATIVE ENERGY PORTFOLIO REQUIREMENT
§ 75.64. Alternative energy credit program administrator.

* * * * *

(b) The program administrator will have the following powers and duties in regard to alternative energy system qualification:

* * * * *

(6) The program administrator may suspend or revoke the qualification of an alternative energy system and withhold or retire past, current or future alternative energy credits attributed to an alternative energy system, if such alternative energy credits have not already been transferred to a third party by the owner of the alternative energy system, for non-compliance with the provisions of this chapter, including the following circumstances:

- (i) It no longer satisfies the alternative energy system qualification standards in § 75.62 (relating to alternative energy system qualification).
- (ii) The owner or aggregator of the alternative energy system provides false or incorrect information in an application.
- (iii) The owner or aggregator of the alternative energy system fails to notify the program administrator of changes to the alternative energy system that effect the alternative energy system's generation output.

(iv) The owner or aggregator of the alternative energy system fails to notify the program administrator of a change in ownership or aggregator of the alternative energy system.

(v) The owner or aggregator provides false or inaccurate information to the credit registry.

(vi) The owner or aggregator fails to respond to data and information requests from the Commission, Department or program administrator.

(c) The program administrator shall have the following powers and duties regarding the verification of compliance with this chapter:

(1) At the end of each reporting period, the program administrator shall verify EDC and EGS reported load, and provide written notice to each EDC and EGS of their compliance obligations within 45 days of the end of the reporting period.

(2) **After day 45 but before day 76 of the true up period, the program administrator shall provide an initial compliance assessment for all EDCs and EGSs for informational purposes.** At the end of each true-up period, the administrator shall verify final compliance with § 75.61 for all EDCs and EGSs. The administrator will provide written notice to each EDC and EGS of a final assessment of their compliance status within 45 days of the end of the true-up period.

* * * * *