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August 25, 2016

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Senior Deputy Attorney General
Legal Review Section
Pennsylvania Office of Attorney General
16th Floor, Strawberry Square
Harrisburg, PA 17120

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RE: Implementation of the Alternative Energy Portfolio Standards Act of 2004
Pa. PUC Docket No. L-2014-2404361)
Independent Regulatory Review Commission ("IRRC") No. 3061

Dear Attorney Elliot:

As a participant in the Commonwealth's AEPS and net metering program through our solar energy project, we remain very concerned as previously expressed to the PAPUC and IRRC with the final revised ruling passed by the PAPUC on June 9, 2016. We ask your Office disapprove this final revised rulemaking, as the IRRC has now twice done.

The proposed legal definition of what is considered a "utility" which says "A person or entity that provides electric generation, transmission or distribution services, at wholesale or retail, to other persons or entities" is so broad that it appears to negate and, in effect, disqualify from net-metering any party involved in providing any form of electricity production or distribution to anyone else. It is setting a precedent by declaring that any alternative energy producer that provides power to anyone else is a "utility". The Public Utility Code specifically excludes Electric Generation Suppliers (non-PAPUC regulated suppliers) from the definition of a public utility.

A utility is traditionally considered a provider of services for the good of the general public. A small, on-site, non-regulated alternative energy system is simply not a utility by any definition. This new utility definition in conjunction with the revised customer-generator definition (which goes beyond the statutory language) does not support the AEPS Act's intent to promote renewable generation.

The results of these changes means 30% to 50% (assuming PA market penetration mimics the national market share) of solar projects on houses who have third party providers would no longer be eligible for net metering – severely impeding existing

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project economics and the development of new alternative energy systems. The same remains true for larger systems that rely on partnerships with other parties.

Our understanding is that the net metering rules were established to promote the use of renewable energy in the Commonwealth under the AEPS Act which "was designed to foster economic development, encourage reliance on more diverse and environmentally friendly sources of energy". In our opinion, however, the proposed legal changes to the intent of the Act will undermine these objectives and slow the acceptance of these environmentally responsible technologies.

Significant investments were and are being made, benefiting both the environment and the local communities, relying on this understanding. Changing the rules after the fact is unfair to current and new net metering participants and threatens the viability of their businesses. In addition, it undermines public trust in the PAPUC, the Commonwealth and its existing laws. Certainly, this action is contrary to the mission of the IRRC. Pennsylvania will have difficulty attracting future investment, if its announced long term policies are subject to regular revision.

Thank you for your consideration of our comments.

Respectfully Submitted,



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cc: Pennsylvania Public Utility Commission
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Attn.: Chairman Gladys M. Brown

Independent Regulatory Review Commission by email irrc@irrc.state.pa.us

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