

CITIZEN POWER

Public Policy Research Education and Advocacy

May 29, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

**Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004
Docket L-2014-2404361**

Dear Secretary Chiavetta:

Enclosed please find Citizen Power's Comments, in the above referenced proceeding.

Sincerely,

/s/ Theodore Robinson
Theodore Robinson
Counsel for Citizen Power

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

COMMENTS OF CITIZEN POWER, INC.

I. INTRODUCTION

On November 30, 2004, Governor Edward Rendell signed Act 213, the Alternative Energy Portfolio Standards Act (“AEPS Act”) into law. The AEPS Act became effective on February 28, 2005 and included two key mandates: one, greater reliance on alternative energy sources, such as solar photovoltaic, in serving Pennsylvania’s retail electric customers; and two, the opportunity for customer-generators to interconnect and net meter small alternative energy systems. The Pennsylvania General Assembly charged the Pennsylvania Public Utility Commission (“Commission”) with implementing and enforcing these mandates, with the assistance of the Pennsylvania Department of Environmental Protection.

On February 20, 2014, the Commission entered a Proposed Rulemaking Order in the above-referenced docket in order to update and revise the current regulations in order to comply with Act 129 of 2008, Act 35 of 2007, and to clarify certain ambiguities extant in the regulations. The Proposed Rulemaking Order and proposed rules were published in the *Pennsylvania Bulletin* on July 5, 2014. Comments to the Proposed Rulemaking Order were filed by the Independent Regulatory Review Commission (“IRRS”) and many other interested parties including Citizen Power, Inc. (“Citizen Power”). On April 23, 2015, the Commission entered an Advanced Notice

of Final Rulemaking Order in the above-referenced docket which revised the proposed AEPS regulations based on the comments of the IRRS and other interested parties. The Advanced Notice of Final Rulemaking was published in the *Pennsylvania Bulletin* on May 9, 2015. Citizen Power, Inc. (“Citizen Power”) respectfully submits these Comments in response to the Advanced Notice of Final Rulemaking.

II. COMMENTS

A. General Provisions: § 75.1 Definitions

Citizen Power agrees with the intent of the Commission to exclude landlords or third-party owned and operated alternative energy systems from the definition of “utility.” However, the proposed definition of “utility” may include existing systems owned by landlords or other third-parties that are exempt from the 200% consumption limitation under Proposed Section 75.13(a)(3)(III). If these existing systems were designed over the 200% limit, the owner would be a utility under the proposed definition and would therefore not qualify as a customer-generator. Citizen Power believes that the proposed definition of “utility” should explicitly exclude any system that is not subject to the 200% limit.

B. §75.13 General Provisions- 200% size limit

Citizen Power believes that the intent of the Legislature regarding the sizing of alternative energy systems is contained in the definition of “customer-generator” under the AEPS Act.¹ Specifically, the statutory limit is 50 kW for residential systems and 3 to 5 MW for other systems. However, assuming that the Commission has the statutory authority to impose additional limits, Citizen Power believes that the proposed 200% size limit, as applied to

¹73 P.S. § 1648.2

residential customers, is unnecessary. The purpose of the 200% limit is to exclude generation utilities and merchant generators from obtaining customer-generator status. However, since residential customers are already subject to the statutory 50 kW limitation, it is very unlikely that merchant generators will build a business model around taking advantage of residential customer-generator status. On the other hand, the 200% limit imposes additional costs on the installation of residential systems. Citizen Power supports the elimination of the 200% size limit for residential customers, at least until there is some evidence that such a restriction is necessary.

C. Net Metering: § 75.12 Definitions and §75.14 Meters and metering

The Advanced Notice of Final Rulemaking proposes that the definition of “virtual meter aggregation” be modified to require that each location must have measurable electric load, independent of the alternative energy system, in order for that location to be aggregated. In addition, the proposed revisions to §75.14(e) require that all service locations have measurable load independent of any alternative energy system. The basis for these proposed modifications is that the Commission intended to permit only a limited amount of virtual meter aggregation because of the agricultural history of the development of the virtual meter aggregation regulation. Citizen Power disagrees with these modifications for two reasons.

First, although much of the discussion regarding virtual meter aggregation revolved around agricultural aggregation, the definition of “net metering” in the AEPS Act did not limit the application of virtual meter aggregation to the development of anaerobic or methane biodigesters. It also didn’t limit virtual meter aggregation to agricultural uses. In fact, the AEPS Act explicitly states that all property owned or leased by a customer-aggregator within two miles of the customer-aggregator’s property shall be eligible for net metering under a virtual meter

aggregation arrangement as long as they were all in the same electric distribution company's service territory. The statutory language did not evince any preference for the agricultural application of virtual meter aggregation.

Second, the independent load requirement is inefficient in its application because a customer-generator would either have to site their generation next to existing load, even if the location is not optimal for maximizing output, or they would have to move load next to the generation, even if the location of the load is not ideal. Alternatively, a customer-generator could construct an independent load at a location that they wish to include in a virtual meter aggregation arrangement for the sole purpose of installing a meter so that they could then install an alternative energy system. In any case, the customer-generator would end up with a less than efficient outcome that was neither envisioned nor intended in the drafting of the AEPS Act.

Respectfully Submitted,

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