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November 19, 2007

VIA HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**Re: Request for Comments on Revisions to Net Metering and Interconnection
Regulations at 52 Pa Code §§ 75.1 *et seq.* To Conform with the Language of
Act 35 Of 2007; Docket Nos. M-00051865 L-00050174 L-00050175**

Dear Secretary McNulty:

Enclosed for filing with the Commission are an original and fifteen (15) copies of the Comments on behalf of Industrial Energy Consumers of Pennsylvania; Duquesne Industrial Intervenors; Met-Ed Industrial Users Group; Penelec Industrial Customer Alliance; Philadelphia Area Industrial Energy Users Group; Penn Power Users Group; PP&L Industrial Customer Alliance; and West Penn Power Industrial Intervenors (collectively, "IECPA, et al.") concerning the above-captioned proceedings.

Please date stamp the extra copy of this letter and kindly return it to us for our filing purposes. Thank you.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By

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Group, PP&L Industrial Customer Alliance, and West Penn
Power Industrial Intervenors

CM/lhi
Enclosures

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Request for Comments on Revisions to	:	
Net Metering and Interconnection	:	Docket Nos. M-00051865
Regulations at 52 Pa Code §§ 75.1 <i>et seq.</i>	:	L-00050174
To Conform with the Language of Act 35	:	L-00050175
Of 2007	:	

**COMMENTS OF INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA,
DUQUESNE INDUSTRIAL INTERVENORS, MET-ED INDUSTRIAL USERS GROUP,
PENELEC INDUSTRIAL CUSTOMER ALLIANCE, PENN POWER USERS GROUP,
PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP, PP&L INDUSTRIAL
CUSTOMER ALLIANCE, AND WEST PENN POWER INDUSTRIAL INTERVENORS**

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Industrial Energy Users Group, PP&L Industrial
Customer Alliance, and West Penn Power Industrial
Intervenors

Dated: November 19, 2007

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1. INTRODUCTION

On July 17, 2007, Governor Edward Rendell signed Act 35 of 2007 into law, thereby amending several sections of the Alternative Energy Portfolio Standards Act ("AEPS"). On October 4, 2007, the Pennsylvania Public Utility Commission ("PUC" or "Commission") issued a Secretarial Letter requesting comments from interested parties on issues raised by Act 35 that had not been previously considered by the Commission. These Comments respond to several of the questions presented in the Commission's October 4 Letter.

Industrial Energy Consumers of Pennsylvania ("IECPA") is an association of energy-intensive industrial companies operating facilities across Pennsylvania. IECPA's members annually consume in excess of 25% of the industrial electricity in Pennsylvania and employ approximately 75,000 workers at nearly 120 facilities across the Commonwealth. Also sponsoring these Comments are coalitions of industrial customers receiving service from most of the Commonwealth's Electric Distribution Companies ("EDCs"): Duquesne Industrial Intervenors ("DII"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Penn Power Users Group ("PPUG"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "IECPA, *et al.*").

IECPA, *et al.*, has participated in numerous proceedings and rulemakings that the PUC has sponsored regarding the implementation of AEPS. IECPA, *et al.*, offers these Comments to address three questions raised in the PUC's October 4 Secretarial Letter. Specifically, IECPA, *et al.*, submits that: (1) in determining the level of compensation to be provided to customer generators for excess generation, "full retail value for all energy produced" should be interpreted as being limited to the generation component of the retail rate; (2) any residual stranded cost

An EDC will not avoid distribution or transmission costs due to a customer generator operating in its service territory. Moreover, expanding this interpretation beyond the generation component, while potentially providing additional incentives to the customer generator, could result in unjust and unreasonable cost shifts to customers on the EDC's system that do not have

is appropriate.

to the generation component of the retail rate. IECPA, *et al.*, submits that the latter interpretation the Legislature's use of the terms "excess generation" and "energy," this term should be limited generation, transmission, distribution, and any applicable transition charges" or whether, given questioned whether this phrase should be interpreted as "meaning the fully bundled retail rate for Letter, the PUC noted that Act 35 does not define this terminology, and the Commission compensated at the "full retail value for all energy produced." In the October 4 Secretarial wholesale cost rate. Act 35 modified this provision to require that customer generators be excess generation on an annual basis would be compensated based upon the EDC's avoided Prior to the passage of Act 35, AEP's provided that any customer generator producing

A. Compensation Provided to Customer Generators for the Production of Excess Energy Should Be Limited to the Generation Component of the Retail Rate.

II. COMMENTS

address these issues:

adjustment for the probability of outages at peak times. These Comments more thoroughly services paid by customer generators should be modified to a cost-of-service basis with an ("Competition Act"); and (3) the demand charges for distribution, transmission, and generation Section 2808(a) of the Electricity Generation Customer Choice and Competition Act charges stemming from customer generators should be treated pursuant to the requirements of

such generation. In addition, the PUC is correct in recognizing that the Legislature obviously intended for this phrase to be limited to the generation component of the retail rate by specifically indicating that excess "generation" should be compensated based upon the full retail value for all "energy" produced. Accordingly, the PUC must ensure that the Legislature's intent in Act 35 is correctly recognized in any resulting regulations.

Thus, for EDCs that currently have generation rate caps in place, any customer generator should be compensated for excess generation based upon the EDC's current shopping credit. For EDCs that have an expired generation rate cap, the customer generator should be compensated based upon the Provider of Last Resort ("POLR") price for the customer generator's equivalent rate schedule. Under this construction, the customer generator will receive reasonable compensation that will also provide incentive for other customers to examine the opportunities available through distributed generation. More importantly, while still providing such incentive, this determination will also ensure that inappropriate cost-shifting does not occur within and among the various customer classes.

B. Any Residual Stranded Cost Charges Should Be Treated Pursuant to the Requirements of Section 2808(a) of the Competition Act.

Under AEPS, customer generators can supply as much generation as they choose, which could result in some customers self-supplying their full generation requirements, as well as producing excess generation for compensation by the EDC. The PUC's October 4 Secretarial Letter questions how the customer generator's stranded costs should be treated when this scenario occurs. In this instance, Section 2808(a) of the Competition Act should govern.

The Competition Act, which was implemented over a decade before AEPS, recognizes that some customers might choose to supply their own generation. Under Section 2808(a), if a customer installs on-site generation "which significantly reduces the customer's purchases of

electricity through the transmission and distribution network, the customer's fully allocated share of transition or stranded costs shall be recovered from the customer through a competitive transition charge." 66 Pa. C.S. § 2808(a). In order to ensure that no intra or interclass cost shifting occurred, the Competition Act determined that customer generators must continue to be responsible for their share of stranded costs regardless of the implementation of generation.

EDCs have recognized this requirement, with some EDCs determining that a "significant reduction" occurs when the on-site generation reduces the customer's purchases of electricity from the EDC's transmission and distribution network by 10% or more. See PPL Electric Tariff – Pa. PUC No. 201, First Revised Page No. 10A.1; see also PECO Tariff Electric – Pa. PUC No. 3, Third Revised Page No. 30. When this occurs, the customer's fully allocated shares of any transition or stranded costs are recovered from the customer through the competitive transition charge. Id.

In order to prevent any inappropriate intra or interclass cost-shifting that may occur through a customer generator producing the majority of their generation needs pursuant to Act 35, the PUC should determine that, if a customer's on-site generation reduces their purchases by 10% or more, the customer must remit their fully allocated share of any stranded costs through the applicable EDC's competitive transition charge. Once the EDC's stranded or transition costs are fully collected, the customer generator will no longer be responsible for this charge, and, in the interim, the PUC can assure that customer generators are not given more favorable treatment than those customers on an EDC's system that do not have generation.¹

¹ In the Commission's previous net metering rulemaking, the Commission also recognized such treatment as appropriate. See Final Rulemaking Re Net Metering for Customer-Generators Pursuant to Section 5 of the Alternative Energy Portfolio Standards Act; Docket No. L-00050174, Final Rulemaking Order (June 23, 2006), pp. 22-24.

C. The Demand Charges for Customer Generators Should Be Based upon Cost of Service with an Adjustment for the Probability of Outages at Peak Times.

The PUC's October 4 letter raises the question of whether the demand charges for distribution, transmission, and generation services paid by customer generators should be adjusted. Guidance for such an issue is provided by the adjustments applied by EDCs for projects built after the implementation of the Public Utility Regulatory Policies Act ("PURPA"). Utilizing this template, customer generators' demand charges should be based upon cost of service with an adjustment for the probability of outages at peak times.

Pursuant to the implementation of PURPA, some customers with their own generation were classified as Qualifying Facilities ("QFs") or Small Power Producers ("SPP"). While these customers were able to produce a large portion of their own generation, they often required supplemental supply or back-up supply for emergency periods. In this instance, the EDC modified the demand charge for these customers to account for this arrangement.

For example, PECO Energy Company ("PECO") maintains an Auxiliary Service Rider applicable to customers whose electrical requirements are partially or wholly provided by facilities not owned by PECO and which operate in parallel with PECO. Under this Rider, for customers requiring either firm or interruptible back-up power, PECO applies a variable distribution demand service charge, a competitive transition demand charge, and an energy and capacity demand charge. These demand charges utilize a cost-of-service basis with an adjustment for probability of outages at peak times.

In implementing Act 35, the PUC should modify the demand charges of customer generators to a cost-of-service basis with an adjustment for the probability of outages at peak time. This modification is consistent with that used for PURPA projects that are analogous to the customer generators at issue herein. Moreover, through this proposed adjustment, the PUC

will provide just and reasonable demand charges for these customer generators, while also ensuring that all customers on an EDC's system are treated on a non-discriminatory basis. Accordingly, the PUC should adopt this proposal.

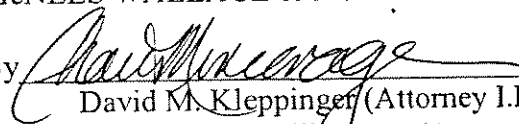
III. CONCLUSION

WHEREFORE, Industrial Energy Consumers of Pennsylvania, Duquesne Industrial Intervenors, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Penn Power Users Group, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors respectfully request that the Pennsylvania Public Utility Commission consider and adopt, as appropriate, the foregoing Comments.

Respectfully submitted,

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