Secretary
Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265.

RE: Comments on Docket No. L-2014-2404361

(Implementation of the Alternative Energy Portfolio Standards Act of 2004)

Date: July 23, 2014

COMMENTS – PART B
THE NARRATIVE OF THE PROPOSED RULEMAKING ORDER

To the Public Utility Commission:

A. General Provisions: § 75.1: Definitions

4. Customer generator and utility

The Proposed Rulemaking Order strains (p. 7) to re-classify certain customer-generators as utilities or "merchant generators". The Order is clearly misguided when it says (p. 8) that "A customer-generator is one who is not in the business of providing electric power to the grid or other electric users". This is in direct conflict with the AEPS Act, since the opening pre-amble describes the statute as…. "Providing for the sale of electric energy generated from renewable and environmentally beneficial sources, …". The PUC would have us believe that by creating excess energy, a customer-generator is "gaming the system". In fact, under the statute, customer-generators retain the right to the electricity that they generate, and the plain language of the statute shows that the sale of energy is precisely what the PA legislature had in mind.

B. Net Metering:

1. § 75.13(a)

In Section B.1, the Proposed Rulemaking Order makes a case for new "conditions" that would "limit" net metering. Here (p. 10) as elsewhere, The Order usurps the role of legislators and effectively attempts to amend the law. The Order is misleading when it states that "The current

regulation is silent as to which customer-generators can net meter" (Proposed Rulemaking Order, p. 10).

If the regulation is silent, the statute clearly is not. The AEPS Act is unambiguous about who can net meter, as shown above. In the Act's own definition, the two are inseparable. A "customer-generator" is "a nonutility owner or operator of a net metered distributed generation system…" 52 PA § 75.1. (emphasis added).

The Order then proceeds to a series of untenable assertions, each building on, and compounding the previous one. Nothing in the statute suggests that the customer-generator must have load "behind the meter and point of interconnection" (p. 11). Nothing in the statute suggests that "the electric load must have a purpose other than to support the operation" (Ibid.). These conditions are neither stated nor "implied" in the Law. It says only that there must be "requirements for electricity".

Next, the Order begs the question, asserting that "if there is no independent load behind the meter and point of interconnection for the alternative energy system, by definition, the customer-generator has no requirement for electricity to offset". The statute includes no such condition, stated or implied! The "requirements for electricity" are wherever the customer-generator needs electricity!

Finally, the Commission defends this untenable requirement, saying that "this requirement is implied in the current regulations, where it states that EDCs shall offer net metering to customer-generators that generate electricity on the customer-generator's side of the meter". This claim is simply indefensible and contradicts logic. The cited passage has nothing to do with having usage ("electricity to offset") (Order, p. 11). The passage refers to generation, and is completely unrelated to usage or "load".

The statute is clear and needs no emendation. 75.13(a) is explicit:

> *"EDCs shall offer net metering to customer-generators that generate electricity on the customer-generator's side of the meter…".*

Net metering is available to all customer-generators who request it and qualify, and the proposed restriction has no basis.

"Customer-generator" and "net metering" are inseparable. They are two parts of one identity. One does not exist without the other. All customer-generators participate in net metering. It is part of the definition.

> *Customer-generator*—A nonutility owner or operator of a net metered distributed generation system" (75.1)

This unilateral effort to declare some of them ineligible is contrary in the Act.

(NOTE: a lone exception is specifically identified in the definition: "except for customers whose systems are above three megawatts and up to five megawatts who make their systems available to operate in parallel with the electric utility during grid emergencies …" (52 PA § 75.1)

In choosing to further restrict net metering, the Commission exceeds its authority. The attempt to impose an arbitrary "first condition" on net metering beyond those stipulated in the Law has no justification.

The "first condition" has no basis in the statute and should be deleted from the proposed changes.

75.13(k)

The Proposed Rulemaking Order contends that 75,13(e) "conflicts" with 75.13(k).

The proposed, and re-lettered, subsection k "now allows EDCs to charge a fee that is specifically authorized under this chapter or by order of the Commission" (Order, p. 17)

The revision is unacceptable. It authorizes the Commission to impose any [unspecified] fee at any time and at its own discretion. If there is a "conflict" in the statute, it should be resolved by the legislature, not by unilateral "tinkering" with the statute.

The Commission's analysis also fails to clarify the two types of "fees" inherent in the statute. Section 75.14(e) is clearly distinguishing two different kinds of "fee" or expense.

The first type of expense is tied to installation, and applies to both the physical metering and virtual metering systems. In either case, this is a one-time cost related to "necessary equipment" (75.14(e). (NOTE: this cost will often be greater for virtual metering systems, since the optimal location --for a solar array – will be a sunny spot, often at some distance from the grid. Solar generation must follow the sun, and cannot be restricted to those sites which happen to have electric service! The customer-generator incurs the cost of lines and poles which connect the array to a point of interconnection.)

The second kind of expense should not be confused with the first. This second "incremental expense" is distinctly associated with "billing" and it applies specifically to virtual metering: "The customer-generator shall be responsible only for any incremental expense entailed in processing his account on a virtual meter aggregation basis" (74.14(e). As for regulating that fee, however, the Commission has offered no guidance, either "under this chapter" or "by order of the Commission". Consequently, nothing has been clarified. The public is ill-served by this half-measure.

It is essential that the Commission establish uniform guidelines for "incremental fees" that shall be applied consistently. This "incremental fee" must also correlate directly with the "expense entailed in processing his account".

One solution to the "conflict" which the Order laments is to create two separate classes of customer-generators: those who install physical net metering and those who elect virtual net metering. Any such "incremental expense" (i.e. billing fee) would then be limited to virtual net metering and would be tied to the customer-generator's intended use (residential, small business, etc.)

75.14(e) (Annex-p. 10)

To comport with the AEPS Act, the Order should refer to "meters to be aggregated", not "properties to be aggregated". The statute is clear in specifying "meter aggregation", not parcel aggregation, property aggregation, or account aggregation.

75.72 (Annex-p. 22)

The Reporting Requirements appear to apply to all "non-solar" Tier I Renewable energy systems, including low-impact hydropower. The monthly requirements are onerous for small-scale systems, such as micro-hydro systems, residential wind turbines, and some fuel cells. Accordingly, small-scale generation systems should be exempted.

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July 23, 2014