201 California Street, Suite 630
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September 3, 2014

Via Electronic Filing
Rosemary Chiavette, Secretary
PA Public Utilities Commission
PO Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for electronic filing, please find the Comments of SRECTrade, Inc. ("SRECTrade") to the Proposed Rulemaking Order Entered on February 20, 2014 with regard to the above-referenced matter.

Sincerely,

Steven Eisenberg
CEO, SRECTrade, Inc.

Enclosure

cc: Kriss Brown w/enc. (via email only)

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF SRECTRADE, INC. TO PROPOSED RULEMAKING ORDER ENTERED FEBRUARY 20, 2014

I. INTRODUCTION

The Pennsylvania Public Utility Commission's ("Commission") regulations regarding the Alternative Energy Portfolio Standards Act of 2004 ("AEPS Act"), 73 P.S. § 1648.1, et. seq., are codified at 52 Pa. Code §§ 75.1-75.70 of the Pennsylvania Code. In its Proposed Rulemaking Order entered February 20, 2014, the Commission proposes revisions to the existing regulations regarding the portfolio standard, interconnection and net metering rules.[1] Notice of the Proposed Rulemaking was published on July 5, 2014 at 44 Pa.B. 4179 with comments to be filed by August 4, 2014. On August 1, 2014, the Commission extended the comment deadline to September 3, 2014.[2]

Pursuant to the Pennsylvania's Public Utility Commission's Rules at 52 Pa. Code 1.21(c)(2), I respectfully submit these comments as a bona fide officer of SRECTrade, Inc. ("SRECTrade").[3] SRECTrade is an online brokerage platform for Solar Renewable Energy Credits (SRECs), a key component of Pennsylvania's Renewable Portfolio Standard. SRECTrade helps solar facility owners obtain the proper approval to sell SRECs, facilitates the buying and selling of SRECs, provides software to track account and transaction histories, and offers the leading market research in the industry. Our client base ranges from residential homeowners to large commercial solar facilities to leasing companies, and we serve over 1,515 facilities in Pennsylvania alone. We are supportive of the homeowners and business owners who have made the financial commitment to clean energy; moreover, we are supportive of a thriving solar industry for the Commonwealth of Pennsylvania.

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[1] *See Proposed Rulemaking: Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. L-2014-2404361, Order entered February 20, 2014 ("Proposed Rulemaking Order"); Notice; Proposed Rulemaking; Implementation of the Alternative Energy Portfolio Standards Act of 2004, 44 Pa.B. 4157, 4179 (Saturday, July 5, 2014).

[2] *See Secretarial Letter granting 30 day comment period extension re: Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Docket No. L-2014-2404361, Granted August 1, 2014.

[3] 52 Pa. Code 1.21(c)(2).

II. COMMENTS AND PROPOSED REVISIONS

A. Proposed Language for 52. Pa. Code 52. Pa. Code § 75

SRECTrade supports the addition of the definition of "Aggregator" under § 75.1. Given the valuable role that aggregators fill between the program administrator and system owners, or between buyers and sellers, SRECTrade supports a formal designation of parties as "aggregators" for the purpose of differentiating such entities from entities that do not provide the services defined under § 75.1.

With the addition of this definition, however, the Commission or the AEPS should certify or otherwise validate the aggregators listed on the PA AEPS website under Brokers/Aggregators.[4] Currently, this site states that "…there is no requirement for Brokers and Aggregators to appear on this list…" but the addition of this definition would inherently create the implication that those listed as Aggregators meet the definition under § 75.1.

B. Proposed Language for 52. Pa. Code § 75.13(f)

Changes have been proposed to the definition of "year" and "yearly" under § 75.12, to differentiate between the AEPS compliance year and the net metering year, and in an effort to maximize a client's distribution credits accrued between May and September. SRECTrade supports this distinction, but would propose an addition be made to further clarify the distinction. In an effort to minimize the confusion that these two "years" will cause, we encourage the Commission to reiterate in § 75.13(f) that the net metering year will span from May 1 to April 30 each year. This can be accomplished by adding the following clarifying language to § 75.13(f):

> "… the excess kilowatt hours shall be carried forward and credited against the customer-generator's unbundled distribution usage in subsequent billing periods until the end of the **net metering** year when all remaining unused distribution credits shall be zeroed-out. **The net metering year shall end on April 30 each year.** Distribution credits are not carried forward into the next year." (Additions in bold).

By specifically reinforcing this distinct "year" in § 75.13(f), the Commission can prevent disputes that may arise between EDCs and their customers as to billing and credits. To note, the Commission specifically references the end of the AEPS compliance year in § 75.13(h), and it should make the same distinction in § 75.13(f).

C. Proposed Language for 52. Pa. Code § 75.13(k)

SRECTrade opposes the revisions to the re-lettered subsection (k) because the proposed language is overly broad and could be interpreted to include charging a minimum bill to all net metering customers. In relevant part, the subsection reads:

[4] Referencing: http://paaeps.com/credit/brokers_aggregators.do.

> "An EDC or DSP may not charge a customer-generator a fee or other type of charge unless the fee or charge would apply to other customers that are not customer-generators, **or is specifically authorized under this chapter or by order of the Commission**." (emphasis in original).

The Commission states that the purpose for these revisions is to remove any conflicts in the regulations and provide clarity with respect to § 75.14(e).[5] However, this language has the opposite effect of creating clarity, as it essentially states "there shall be no special fees, unless there are special fees." There is nothing in the proposed language that limits the fee virtually net-metered systems or to administrative costs, nor is there any language to prevent an EDC or DSP to request (and a future Commission to approve) a new charge to compensate for the customer-generator's use of the distribution system or for any other reason the EDC, DSP, and Commission may deem appropriate. These revisions drastically diverge from the original language and grossly surpass the original intention of § 75.14(e), which limits these fees to the administrative costs incurred by the EDCs in aggregating and billing its virtual net metering customers.

Aside from diverging from the original intention of § 75.14(e), the proposed changes to § 75.13(k) are not supported by any analysis of the impact that such fees would have on residential and small business owners who may be subjected to these fees. Furthermore, the Commission offers no qualifications for how such a fee would be determined as acceptable under its proposed language, opening the door for EDCs and DSPs to attempt to create any number of fees. If the Commission believes that additional fees should be added to those permitted under § 75.14(e), a full cost of service study should be conducted that evaluates both the costs and the benefits of each specific net-metered system, and there should be an opportunity for public comment to evaluate the results of that study.

Accordingly, SRECTrade strongly urges that the Commission rely on the original intention of the § 75.14(e), and restrict the applicability of § 75.13(k) to the fees permitted under § 75.14(e). To accomplish this, SRECTrade proposes strictly limiting these fees to those permitted under § 75.14(e)—applying only to the administrative costs of aggregating and billing virtual net-metered systems.

D. Proposed Language for 52. Pa. Code § 75.16

§ 75.16 has been proposed to apply to "large customers-generators" with a capacity of greater than three megawatts and up to five megawatts. This section identifies and clarifies several standards that must be met for a facility to qualify as a large customer-generator

[5] 44 Pa.B. 4179, p. 10.

(elaborating upon the definition of "Customer-generation" under § 75.1). Among these requirements is § 75.16(b):

> "(b) A retail electric customer may qualify its alternative energy system for customer-generator status if it makes its system available to operate in parallel with the grid during grid emergencies by satisfying the following requirements:
> "(1) An RTO has designated, under a Federal Energy Regulatory Commission approved tariff or agreement, the alternative energy system as a generation resource that may be called upon to respond to grid emergencies.
> "(2) The alternative energy system is able to provide the emergency support consistent with the tariff or agreement."

These clarifications made to the definition of "Customer-generator" are effectively imposing very specific pre-qualifications to the qualification of a customer-generator, even if "potential applicants have a reasonable level or certainty that their systems will qualify for customer-generator status before making an investment to purchase and install such a system," as suggested in 44 Pa.B. 4179.[6] While it would certainly be beneficial if such generators *could* serve as a grid support generation resource, it seems onerous to *require* a retail electronic customer to serve as a grid support generation resource *in order to be* qualified as a customer-generator by the Commission.

The definition of customer-generator under § 75.1 permits the qualification of systems that are above three megawatts and up to five megawatts for such facilities "*who make their systems available to operate in parallel with the electric utility during grid emergencies as defined by the regional transmission organization or where a microgrid is in place for the primary or secondary purpose of maintaining critical infrastructure*…." While this definition is being maintained as-is, the Commission is proposing very specific pre-qualifications under § 75.16, creating a conflict between the intention of the definition of customer-generator (customers "*who make their systems available to operate*…") and these specific, onerous requirements (pre-qualification by an RTO).

These pre-qualification procedures could impact a customer's net metering eligibility, which could subsequently impact the customer's AEC/SREC eligibility. Because an application for qualification to generate AECs cannot be submitted until interconnection has been approved, and AEC eligibility begins when a completed application is submitted to the AEPS, facilities greater than 3 MW and up to 5 MW could be at risk of jeopardizing months of AEC-eligibility.

Accordingly, we suggest that the Commission adjust the proposed language of 52. Pa. Code § 75.16 to match the intention of the definition of customer-generator, such that customers will not be required to have their systems pre-qualified by rigorous RTO procedures *before* they

[6] 44 Pa.B. 4179, p. 12.

are able to seek qualification by the Commission. Rather, as stated by the definition of customer-generator, such customers should only be required to "make their systems available to operate in parallel with the electric utility during grid emergencies….".

E. Proposed Language for 52 Pa. Code § 75.22 as it applies to § 75.63

Under § 75.22, the definition of "electric nameplate capacity" has been revised to be "measured in volt-amps of a small generator facility, **the inverter or the aggregated of multiple inverters at an alternative energy system[']s location** as designated by the manufacturer." (emphasis in original).

SRECTrade urges the Commission to elaborate on this definition as to its applicability Alternative energy credit certification under § 75.63. As is, it is unclear whether the "nameplate capacity" as used in § 75.63 is subject to the revised definition under § 75.22, or if "nameplate capacity" as used in § 75.63 will continue to reference the facility's direct current (DC) capacity. Given the weight of this distinction, it is vital that the definition of "nameplate capacity" as used in § 75.63 be distinguished, if necessary, from the definition of "nameplate capacity" of § 75.22.

Currently, the direct current (DC) capacity is used for alternative energy credit certification. Other SREC-certifying states in the PJM interconnection territory, including Ohio,[7] Maryland,[8] the District of Columbia,[9] Delaware, and New Jersey,[10] certify facilities based on the facility's direct current (DC) capacity. Moreover, the PJM-GATS tracking registry requires that facilities be registered by nameplate capacity in direct current (DC).[11] Accordingly, it seems appropriate to distinguish the definition of "nameplate capacity" as it applies to § 75.63 to refer to the facility's direct current (DC) capacity, in an effort to remain in sync with the registration and reporting requirements of the PJM-GATS tracking registry.

F. Proposed Language for 52. Pa. Code § 75.63(g)

Per 44 Pa.B. 4179, "Section 75.63(g) has been supplemented with a proposed end to the use of estimates for future small solar photovoltaic systems and to clarify when estimated

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[7] ORC 4928.64 et seq., ORC 4901:1-40 et seq., *See also* Online Application for Certification as an Eligible Ohio Renewable Energy Resource Generating Facility, Sections G.4 and I, *available at* http://www.puco.ohio.gov/puco/assets/File/REN_Sample_Application_5Jun2013.pdf.

[8] COMAR 20.61.02.01 et seq. *See also* RPS Forms, Solar PV Certification Process, EN73 Solar REF Application and Instructions and Solar PV Frequently Asked Questions, *available at* http://webapp.psc.state.md.us/intranet/electricinfo/home_new.cfm.

[9] 59 DCR 2313, 2316 (March 23, 2012), *available at* http://www.dcregs.dc.gov/Gateway/FinalAdoptionHome.aspx?RuleVersionID=3901842.

[10] N.J.A.C. § 14:8-2.4(h)(2).

[11] GATS Operating Rules, *available at* http://www.pjm-eis.com/~/media/pjm-eis/documents/gats-operating-rules.ashx.

readings may be used by existing small solar photovoltaic systems." To this end, the Commission proposed the following revisions to § 75.63(g):

> "(g) For solar photovoltaic alternative energy systems with a nameplate capacity of 15 **[kilowatts] kW** or less **that are installed or that increase nameplate capacity on or after _____ [Editor's Note omitted],** alternative energy credit certification shall be verified by the administrator designated under § 75.64 **using metered data. For solar photovoltaic alternative energy systems with a nameplate capacity of 15 kW or less that are installed before _____ [Editor's Note omitted], alternative energy credit certification shall be verified by the administrator using either metered data or estimates. The use of estimates is subject to the following conditions…**" (emphasis in original).

As it reads, this paragraph does not seem to address what will be used for facilities that are greater than 15 kW that seek certification after the date that this rule will become effective. Accordingly, it seems more appropriate that the first half of this paragraph read:

"(g) For solar photovoltaic alternative energy systems with a nameplate capacity GREATER THAN 15 **[kilowatts] kW** ~~or less~~ **that are installed or that increase nameplate capacity** to surpass 15 kW **on or after _____ [Editor's Note omitted],** alternative energy credit certification shall be verified by the administrator designated under § 75.64 **using metered data.**" (suggested revisions underlined).

In sum, this correction will clarify that all facilities *greater than* 15 kW shall be verified using metered data, and that facilities 15 kW or less may be verified using either metered data or estimates. As the rule currently reads, there would be no rule for facilities over 15 kW that seek certification after the effective date. By adopting our proposed revisions, only a facility *greater than* 15 kW would require the use of metered data (unless otherwise required by the conditions set forth by §§ 75(g)(1)-(5).

SRECTrade recognizes that the Commission intended to propose these revisions in an effort to require all new solar photovoltaic systems to have a revenue grade meter to measure system output for alternative energy credit certification,[12] but this requirement is far more burdensome than the cost of a revenue grade meter alone. While the cost a revenue grade meter may have decreased in recent years, the burden of requiring small systems to report their generation in lieu of utilizing estimates has not changed.

Requiring all new small systems, or any existing system that expands its facility after the effective date of the rule, to report their generation using a Revenue Grade meter will undoubtedly have the impact of discouraging small systems from obtaining alternative energy credit certification (or deterring existing facilities from expanding). It is unreasonable to expect customers who can only afford (or who only need) a small solar facility to be required to install a revenue grade meter and report for a 2 kW facility that only produces roughly 2 SRECs in an

[12] 44 Pa.B. 4179, p. 14.

entire year, and they will likely be unwilling to seek this incentive if the burden would so strongly outweigh the benefit. In addition to the burden placed on the customer, reporting burdens are also placed on the customer's aggregator (if applicable) and the tracking system, which must constantly audit that facility's reported generation. Rather, by permitting for these small facilities to continue using estimates, the tracking registry can rely on the system's estimated annual production, which was carefully calculated at the time of certification for the very purpose of being reliable data for SREC-creation.

For these reasons, SRECTrade strongly opposes the Commission's proposed rule to discontinue the use of estimates for solar photovoltaic systems 15 kW or smaller, and strongly encourages the Commission to adopt the language proposed above (thereby maintaining the Revenue Grade meter cap at 15 kW).

III. CONCLUSION

SRECTrade appreciates this opportunity to provide its comments regarding this proceeding. We look forward to continuing to assist the Commission with this process.

Respectfully submitted,

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