



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF AGRICULTURE

May 29, 2015

Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: Docket L-2014-2404361

Dear Commissioners:

Thank you for your consideration of the comments received from the agricultural community and the Pennsylvania Department of Agriculture (Department) since September 2014 regarding the Public Utility Commission's (Commission) proposed net metering changes. The Department initially expressed concern about the potential negative impact of the proposed rule, which would have limited the amount of excess energy a farm can sell through net metering and potentially discourage the further deployment of anaerobic digesters (ADs) on Pennsylvania farms. The Department would like to reiterate that concern, and note that it shares concerns expressed by the Department of Environmental Protection regarding the Commission's authority to impose the limitations in the proposed net metering rule changes.

It is worth reiterating that agriculture provides more than \$7.5 billion in farm gate revenue to Pennsylvania's economy. More than 7,800 of our state's 59,300 farms are dairy operations and another 14,300 farms raise swine or poultry. In many cases, the major challenge our farmers face is how to continue to grow their business in order to remain economically viable, while at the same time working to attain environmental compliance requirements.

A producers' use of ADs to manage the manure generated on their farm is one of the most effective means to achieve the objective of expanding their business while continuing to manage manure in an environmentally responsible manner. That being said, the Commonwealth must do everything it can to encourage farmers to adopt such technology. The adoption of AD technology on more farms is an integral element in the Chesapeake Bay Watershed Improvement Plan (WIP) adopted by the Commonwealth and approved by the US Environmental Protection Agency (EPA).

It is clear that the Commission recognizes this opportunity. I thank you for efforts to address the unique nature of on-farm alternative energy production. Notwithstanding the Department's objection to the 200% limit noted above, should the PUC proceed with that limitation, the Department would like to offer four suggested changes as described below.

- 1) *Definition of Utility in 75.1 Definitions:* This states that Customer-Generators that are designed to produce no more than 200% of Customer-Generator's annual electric

consumption shall be exempt from the description of a utility. It is unclear whether this statement is subject to 75.13(a)(3)(IV) conditions for having the 200% consumption limit waived.

*Suggested change: Utility – A person or entity that provides electric generation, transmission or distribution services, at wholesale or retail, to other persons or entities. AN OWNER OR OPERATOR OF AN ALTERNATIVE ENERGY SYSTEM THAT IS DESIGNED TO PRODUCE NO MORE THAN 200% OF A CUSTOMER-GENERATOR'S ANNUAL ELECTRIC CONSUMPTION or satisfies the conditions set forth in 75.13(a)(3)(IV) SHALL BE EXEMPT FROM THE DEFINITION OF A UTILITY IN THIS CHAPTER.*

- 2) *75.13(a)(3)(IV) – Exempting Certain Systems from the 200 Percent Limitation:* While this is an improvement from the earlier proposed rule change, the Department recommends three changes for the sake of clarity and accuracy. First, the “may” provision should be changed to a “shall” provision to maximize consistency. Second, digester systems are not needed “to comply” with Pennsylvania’s Chesapeake Watershed Implementation Plan; therefore, it would be more appropriate to use the words “consistent with”. Third, nutrient management plans under the Nutrient Management Act will never “require” a digester system for compliance with a nutrient management plan. A digester may be recognized as a component of a plan, but it will never be a required BMP in a plan. Based on this, it would be hard to state that any digester is “an integral element for compliance” with the Nutrient Management Act, as stated in the current language.

*Suggested change: (IV) THE 200% OF THE CUSTOMER-GENERATOR'S ANNUAL ELECTRIC CONSUMPTION LIMITATION MAY shall NOT APPLY TO ALTERNATIVE ENERGY SYSTEMS WHEN THE DEPARTMENT PROVIDES CONFIRMATION TO THE COMMISSION THAT A CUSTOMER-GENERATOR'S ALTERNATIVE ENERGY SYSTEM IS USED TO COMPLY consistent WITH THE DEPARTMENT'S PENNSYLVANIA CHESAPEAKE WATERSHED IMPLEMENTATION PLAN IN COMPLIANCE WITH SECTION 303 OF THE FEDERAL CLEAN WATER ACT AT 33 USC § 1313 OR IS AN INTEGRAL ELEMENT of a farm's approved Nutrient Management Plan in compliance WITH THE NUTRIENT MANAGEMENT ACT AT 3 PA. C.S. §§ 501, ET SEQ.*

- 3) *75.13(a)(4):* This sentence refers to limiting nameplate capacity for residential service locations. Many farms in Pennsylvania have their electricity as a residential service. These farms with residential service accounts will be excluded from the benefits of net-metering.

*Suggested change: (4) The alternative energy system must have a nameplate capacity of not greater than 50 kW if installed at a residential service location, unless it is designed to produce no more than 200% of the customer-generator's annual electric consumption or satisfies the conditions set forth in 75.13(a)(3)(IV).*

- 4) *Definition of Customer-generator in 75.1 Definitions:* The customer-generator definition has the same issue as 75.13(a)(4) noted above, and should be revised to be consistent.

In addition, as the alternative energy marketplace has advanced, a variety of new ownership structures are emerging for how these systems are deployed. For example, a farm operating a digester may choose to establish a separate legal entity to operate the distributed generation system. The Department feels that this definition must remain flexible enough to allow net metering to encourage innovation in how alternative energy technologies are deployed.

*Suggested Change: Customer-generator*—A retail electric customer that is a nonutility owner or operator of a net metered distributed generation system with a nameplate capacity of not greater than 50 kilowatts if installed at a residential service, unless it is designed to produce no more than 200% of the customer-generator's annual electric consumption or satisfies the conditions set forth in 75.13(a)(3)(IV), or not larger than 3,000 kilowatts at other customer service locations, except for customers whose systems are above 3 megawatts and up to 5 megawatts 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, such as homeland security assignments, emergency services facilities, hospitals, traffic signals, wastewater treatment plants or telecommunications facilities, provided that technical rules for operating generators interconnected with facilities of an EDC, electric cooperative or municipal electric system have been promulgated by the institute of electrical and electronic engineers and the Commission.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Russell C. Redding".

Russell C. Redding  
Secretary