

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560

FAX (717) 783-7152
consumer@paoca.org

May 29, 2015

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments, in the above-captioned proceeding.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Lauren M. Burge".

Lauren M. Burge
Assistant Consumer Advocate
PA. Attorney ID# 311570

Enclosures

cc: Kriss Brown/Law Bureau
Scott Gebhardt/TUS
Sherri Delbiondo/Law Bureau

207419

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Advance Notice of Final Rulemaking Order :
Re: Implementation of the Alternative Energy : Docket No. L-2014-2404361
Portfolio Standards Act of 2004 :
:

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION

On July 5, 2014, the Commission's proposed rulemaking order amending its existing regulations regarding implementation of the Alternative Energy Portfolio Standards Act of 2004, as amended by Act 35 of 2007, was published in the *Pennsylvania Bulletin* for comment (Proposed Rulemaking Order). The Commission proposed to revise its regulations pertaining to net metering, interconnection and portfolio standards provisions as well as to clarify certain issues of law, administrative procedure and policy.

On September 3, 2014, the Office of Consumer Advocate (OCA) submitted comments on the proposed rulemaking. The OCA's comments addressed some of the proposed revisions that may have had an impact on the development of residential net metered projects. In particular, the OCA questioned the necessity of a size limit of 110% of the customer-generator's annual electric consumption for residential installations, and expressed concern that the proposed language would preclude the development of new residential homes that incorporate solar as part of the new construction. The OCA also submitted that it would be reasonable to allow residential customers to utilize virtual net metering for their own properties, and supported the

Commission's efforts to encourage electric generation suppliers to offer net metering to residential customers.

On May 9, 2015, the Commission's Advance Notice of Final Rulemaking Order was published in the *Pennsylvania Bulletin* for public comment. The Advance Notice included a number of revisions to the original proposal, including an increase on the size limit of 110% to 200% of the customer-generator's annual electric consumption at the interconnection meter and all qualifying virtual meter aggregation locations. A number of the OCA's concerns have been addressed, including language clarifying how new residential construction may include solar installations. The OCA's additional comments on the revised proposal are included below.

The OCA appreciates the Commission's efforts to provide the necessary guidance regarding the implementation of the Alternative Energy Portfolio Standards Act. Establishing clear guidance will provide certainty in the development of alternative energy projects and will aid in carrying out the intent of the Act. The OCA recognizes that the Commission must continually balance the value of distributed generation with the cost to customers on the system. Important to this consideration in the OCA's view is that customers should not be required to pay more than the value received from the distributed generation. For residential customers, it is also important that residential customer-generators receive appropriate compensation for the generation from their projects. The OCA also appreciates the Commission's consideration of the comments and the modifications to the proposed regulations. The OCA will address some of the updated revisions that may have an impact on the development of residential net metered projects.

II. COMMENTS

A. Proposed Section 75.13(a)(3) -- Limiting Size of Alternative Energy System to 200% of Annual Consumption

The Commission proposes to amend 52 Pa. Code § 75.13(a) to require that, in order to qualify for net metering, a customer-generator's alternative energy system "must be sized to generate no more than 200% of the customer-generator's annual electric consumption at the interconnection meter location when combined with all qualifying virtual meter aggregation locations as of the date of the interconnection application." Advance Notice of Final Rulemaking Order, Annex A at 23 (Section 75.13(a)(3) – General Provisions). This proposal increases the size limit from the originally proposed 110% to 200% of annual electric consumption. The stated reason for this change is to "limit the possibility of merchant generators posing as customer-generators." Proposed Rulemaking Order at 12. The OCA recognizes the need to strike a balance between encouraging the development of alternative energy systems while preventing possible harms to ratepayers.

For residential customers, however, the concern with becoming a merchant generator is not a significant concern. The Commission may wish to consider whether a limitation for residential customer installations is necessary. The OCA submits that while the 200% limit for residential customers is an improvement of the initial 110% proposal, it may still unnecessarily limit the expansion of residential solar installations.

The Act currently limits the size of customer-generators' alternative energy systems to 50 kW for residential customers. The OCA submits that it may be inefficient to place an additional size limitation on residential solar installations. Solar panels may be costly for residential customers to install, but the total cost per kW to the residential customer will likely

decrease as additional panels are added. It may be more efficient for residential customers to install a larger number of panels that utilize the available space rather than attempting to limit the system's capacity. The OCA only suggests this consideration for residential installations. The OCA continues to share the Commission's concern with merchant generators.

B. Proposed Section 75.12 and 75.14(e) -- Virtual Meter Aggregation

The Commission proposes to change the definition of virtual meter aggregation and modify the virtual metering provisions to clarify the conditions under which customer-generators may qualify for virtual meter aggregation. Virtual meter aggregation allows for certain meters to be aggregated "by means of the EDC's billing process, rather than through a physical rewiring of the customer-generator's property for a physical, single point of contact." 52 Pa. Code § 75.12. The regulations currently require that, in order to be eligible for virtual meter aggregation, the meters must be "on properties owned or leased and operated by a customer-generator and located within 2 miles of the boundaries of the customer-generator's property and within a single electric distribution company's service territory. . ." Id.; see also 52 Pa. Code § 75.14(e).

The Advance Notice of Final Rulemaking Order proposes to modify the definition of virtual meter aggregation in Section 75.12 and add the requirement in Section 75.14(e) that:

Service locations to be aggregated must be EDC service location accounts, held by the same individual or legal entity, receiving retail electric service from the same EDC and have measurable electric load independent of the alternative energy system. To be independent of the alternative energy system, the electric load must have a purpose other than to support the operation, maintenance or administration of the alternative energy system.

Advance Notice of Final Rulemaking Order, Annex A at 23 (Section 75.12 – Definitions). As compared to the original revisions in the Proposed Rulemaking Order, this definition clarifies that the meter accounts to be aggregated must be held by the same person or entity. The OCA

appreciates this clarification, but continues to have concern about the independent load requirement.

The wording of the proposed regulation appears to require independent load at each meter. As the OCA reads this language, it may preclude a residential customer from locating solar panels on their property if that location required a separate meter but has no independent load at that location. In the Proposed Rulemaking Order, the Commission explained that virtual meter aggregation “was initially proposed in this regulation for the purpose of facilitating the development of distributed generation in the agricultural setting, particularly for systems referred to as anaerobic or methane biodigesters,” and expressed concern that virtual meter aggregation is being used in a broader range of situations. Proposed Rulemaking Order at 17-19. The OCA appreciates this concern but submits that the language may preclude installations that are sized to support sufficient independent load but require a separate location apart from the load.

When the virtual meter aggregation regulations were promulgated, the Commission noted that commenters had “directed [the Commission’s] attention to other types of projects” that would be unable to qualify for virtual meter aggregation under the regulations as originally proposed. *Final Rulemaking Re Net Metering for Customer-Generators Pursuant to Section 5 of the Alternative Energy Portfolio Standards Act*, L-000050174 (June 23, 2006), at 21. In response, the Commission drafted the regulations with broader language that would “help alternative generation expand as envisioned by the Act.” *Id.* at 22. This indicates that, while the Commission did originally propose these regulations to accommodate certain agricultural facilities, the language was crafted broadly to allow for a variety of qualifying projects to use virtual meter aggregation to expand the use of alternative energy systems.

Requiring load behind each meter location for residential installations could limit the development of residential alternative energy systems. There are many reasons that a residential customer-generator may need to locate an alternative energy system at some distance from the home where the meters that would have the independent load are located. For example, a residential customer's home may be shaded or poorly oriented to accommodate the installation of solar panels on their roof. The customer may instead choose to install the panels in another area of their property which does have the proper conditions for such a system. If a separate meter is required by the utility for the installation but there is no load independent of the system, it appears as if this residential installation would not qualify for net metering even if all other requirements were met. These residential customers should not be penalized for the orientation of their homes and should be allowed to install an alternative energy system as long as the requirements contained in the current regulations are met.

Again, for residential installations, the OCA recommends that the Commission clarify the requirement of having independent load.

C. Additional Comments – Billing Practices Relating to Net Metering

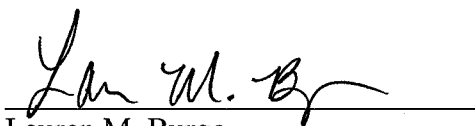
As explained in its September 2014 comments, it is the OCA's understanding that billing practices for customer-generators enrolled in net metering or virtual meter aggregation vary among utilities. The OCA submits that the Commission may wish to consider providing guidance concerning billing practices for customers enrolled in these programs. Specifically, monthly bills should clearly state the total amount of generation produced during the billing period by the customer-generator's alternative energy system, the full retail rate at which the customer-generator is being compensated for the electricity generated, any excess credits being rolled forward, and any other calculations used in reaching the bill's total amount due. This will

allow customer-generators to understand their bills by explaining how any credits associated with net metering were calculated and allow customers to verify the accuracy of their bills.

III. CONCLUSION

In conclusion, the OCA appreciates the Commission's efforts to provide the necessary guidance regarding the implementation of the Alternative Energy Portfolio Standards Act. The OCA submits that these revisions are an improvement over the original proposal, and respectfully suggests that the Commission further consider these additional comments.

Respectfully Submitted,



Lauren M. Burge
Assistant Consumer Advocate
PA Attorney I.D. # 311570
E-Mail: LBurge@paoca.org

Aron J. Beatty
Senior Assistant Consumer Advocate
PA Attorney I.D. # 86625
E-Mail: ABeatty@paoca.org

Counsel for:
Tanya J. McCloskey
Acting Consumer Advocate

Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923
(717) 783-5048

Dated: May 29, 2015

207433