

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17105-3265**

**Implementation of Act 35 of 2007;
Net Metering and Interconnection**

**PUBLIC MEETING
MAY 22, 2008
MAY-2008-L-0038*
Docket No. L-00050174**

DISSENTING STATEMENT OF COMMISSIONER KIM PIZZINGRILLI

The most significant and contentious issue addressed by the revision of the net metering rule is the compensation standard for excess generation at the end of each annual period. Act 35 of 2007 revised the Alternative Energy Portfolio Standards Act to require that:

Excess generation from net-metered customer-generators shall receive full retail value for all energy produced on an annual basis.

73 P.S. § 1648.5.

The Commission requested comments and reply comments in 2007 regarding the implementation of this language.

Two different interpretations of this provision were provided by the commenting parties. Representatives of distributed generation interests asserted that customer-generators must be compensated at the fully bundled retail rate, including transmission, distribution and generation components, for all excess kilowatt hours at the end of the annual period. The other stakeholders, including the Office of Consumer Advocate, the Office of Small Business Advocate, the Department of Environmental Protection, the Energy Association of Pennsylvania and its member companies, commented that customer-generators may only be paid the generation component for their excess generation at the end of the annual period. There was a difference of opinion among the second group of stakeholders as to whether the generation component should be the unbundled, retail generation rate as reflected in the tariff, or alternatively, based on the avoided wholesale cost of power.

Instead of adopting one of these positions, the majority finds that customer-generators should be compensated at the price-to-compare, which is defined as the sum of all unbundled transmission and generation related charges associated with providing default service to retail customers. While I appreciate the public policy argument advanced to support this interpretation, I do not believe it is reasonably consistent with the plain language of the statute. Legislative intent should control. 1 Pa.C.S. § 1921.

Therefore, I dissent.

May 22, 2008
Date

KIM PIZZINGRILLI, COMMISSIONER