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September 12, 2011

VIA UNITED PARCEL SERVICE

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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SEP 12 2011

**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

***Re: Net Metering – Use of Third Party Operators
Docket No.M -2011-2249441***

Dear Secretary Chiavetta:

Pursuant to the Commission's Tentative Order entered July 28, 2011, enclosed for filing are an original and four (4) copies of the Comments of Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company in the above-captioned dockets.

Please date stamp the additional copy and return it to me in the enclosed, postage-prepaid envelope. Please contact me if you have any questions regarding this matter.

Very truly yours,


Tori L. Giesler

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Enclosures

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SEP 12 2011

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Net Metering - Use of Third Party : Docket No. M-2011-2249441
Operators :

COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY, PENNSYLVANIA POWER
COMPANY AND WEST PENN POWER COMPANY

I. INTRODUCTION

On July 28, 2011, the Pennsylvania Public Utility Commission (“Commission”) entered a Tentative Order in the above-referenced matter seeking comments regarding whether it should be the policy of the Commission: (1) to interpret the term “operator”¹ as including customer-generators with distributed alternative energy systems that contract with a third party to perform the operational functions of that system; and (2) to limit such interpretation to alternative energy systems installed on property owned or leased by the customer-generator and which are designed to generate no more than 110% of the customer-generator’s electric consumption, to be determined using the customer-generator’s total electric usage in the twelve full months immediately preceding submission of the associated interconnection application. The Commission directed that comments be submitted within thirty days following the date the Tentative Order is published in the *Pennsylvania Bulletin*.² The Tentative Order was published in the *Pennsylvania Bulletin* on August 13, 2011 at 41 Pa.B. 4515.

¹ As found in the definition of “customer-generator” at 73 P.S. § 1648.2.

² Tentative Order at Ordering Paragraph 2.

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company (collectively, “the Companies”) respectfully submit the following comments in response to the Commission’s Tentative Order.

II. COMMENTS

The Companies generally support the Commission’s Tentative Order because it establishes defining parameters which are helpful in supporting the provision of access to alternative energy systems to a broad array of consumers. However, the Companies do have several concerns with regard to the application of the suggested policy as outlined in the Tentative Order which, if addressed, would help to mitigate potential gaming of the Commission’s policy and reduce subsidies paid by customers without alternative energy systems. To this end, the Companies will separately address both of the policy objectives in the Tentative Order.

A. The term “operator” shall be interpreted as including customer-generators with distributed alternative energy systems that contract with a third-party to perform the operational functions of that system.³

The interpretation of the term “operator” to include customer-generators that contract with a third party to perform the operational functions of the alternative energy system is reasonable in so much as the customer-generator remains the retail customer of record. An electric distribution company (“EDC”) should not be required to interact or consult with the third party and the retail customer should remain the ultimate party responsible for the interconnection with the EDC, receipt of EDC monthly billing, and other EDC interactions. In fact, the EDCs’ retail tariffs govern the rates, rules and regulations for service to retail customers, and do not extend to entities that the customer may sub-contract with for various services. As such, the

³ Tentative Order, p. 4.

retail customer of record should remain responsible for fulfilling all net metering obligations, as well as those obligations borne by all retail customers generally, in accordance with the Commission's regulations and the EDC's retail tariff.

The specification that the customer-generator must be the retail customer of record (regardless of who performs the operational function of the alternative energy system) should extend to the eligibility for physical or virtual net metering aggregation, as well. In other words, because the third party is not the retail customer of record, the third party should not be eligible to aggregate EDC accounts. Only those accounts under the direct responsibility of the retail customer of record should be eligible for physical or virtual net metering aggregation, subject to the conditions and eligibility of the Commission's regulations and the respective EDC's retail tariff.

Additionally, customer-generators who contract with a third party should not receive preferential treatment over customer-generators who do not, or over customers without an alternative energy system altogether. As the retail customer of record, the customer-generator must adhere to the EDC's retail tariff rates, rules and regulations, including conditions for disconnection and reconnection of service, to the extent that every other customer served under the same tariff must do so. As such, customer-generators should remain subject to termination of service for non-payment, regardless of whether the disconnection would interfere with the customer-generator's and/or third-party's receipt of alternative energy credits.

B. The interpretation that customer-generators who have contracted with a third party as “operators” should be limited to alternative energy systems installed on property owned or leased by the customer-generator and designed to generate no more than 110% of the customer-generator’s electric consumption.⁴

The Commission has defined the 110% consumption criterion as:

“measured by the customer-generator’s total electric usage in the 12 full months immediately preceding submission of the interconnection application. In the event of a system expansion, the customer-generator would need to demonstrate that the expansion is designed not to exceed 110% of their electricity consumption in the 12 full months immediately preceding submission of the expansion application...”⁵

The Companies agree that the Commission’s proposed policy regarding the 110% limitation will help discourage the installation of oversized alternative energy systems which would more accurately be described as merchant generation posing as customer-generators. To be clear, however, the 110% criterion should be based solely upon the electricity consumption at the metering point through which the alternative energy system supplies electricity to an EDC’s distribution system. Applying such a basis would prevent a gaming of the Commission’s regulations whereby a third party could greatly oversize an alternative energy system with the intention of requiring the retail customer to aggregate any nearby metering points to satisfy the 110% criterion.

To properly apply such a limitation, an EDC’s evaluation of the 110% criterion by necessity must be performed prior to connection of the alternative energy system. However, this leaves open for debate the question of what is meant when the limitation states that an expansion is “designed” to generate no more than 110% of the customer-generator’s electric consumption. A customer-generator and/or third party could manipulate the application of this criterion by over-sizing an alternative energy system and then making the claim that inefficiencies resulted in

⁴ Tentative Order, pp. 4-5.

⁵ Tentative Order, n. 11.

a “designed” output that is no more than 110% of the customer-generator’s electric consumption. The possibility of such behavior would lead to a situation where eligibility could only be confirmed after the alternative energy system is connected and some period of time has elapsed. The Companies urge the Commission to consider the remedies to be applied where such a situation occurs and it is determined that the alternative energy system exceeded 110% of the customer-generator’s electric consumption.

A logical solution to consumption manipulation would be that, upon determination that the customer-generator should never have been eligible for net metering, the customer should be removed from net metering and the customer’s electric usage should be rebilled as if the customer had never been eligible for net metering. The Companies suggest that another solution would be to limit the annual kilowatt-hours (“kWh”) eligible for net metering and compensation⁶ for a customer’s excess generation to a combined total of no more than 110% of the electrical energy consumption in the twelve full months immediately preceding submission of a new or expansion application, which would likewise result in the forfeiture of any kWh produced in excess of 110% after each year.⁷ Either of these two solutions could be applied if the customer account is a new generator interconnection or is an account without twelve months’ worth of electric usage⁸ prior to the submission of the interconnection application. The EDC would obtain the kWh output readings from the customer’s alternative energy system meter⁹ to validate the generation output. In the event of an alternative energy system expansion, the second

⁶ Pursuant to 52 Pa. Code § 75.13(d), the compensation amount is calculated based upon the EDC’s price to compare.

⁷ A year is defined in 52 Pa. Code § 75.12 as the “planning year as determined by the PJM Interconnection, LLC regional transmission organization.”

⁸ In instances of new customers or where twelve months’ history does not exist, the customer must prepare and submit a documented projection of annual consumption.

⁹ Customers must install metering on the output of their generator to qualify for renewable energy credits; this meter should be located next the electric service meter or where readily accessible to the EDC.

solution is more appropriate, as it would be inequitable to completely remove a customer from net metering if they were eligible for net metering prior to the system expansion.

On page 5 of the Tentative Order, the Commission provides several reasons and beliefs to support the 110% alternative energy system size limitation, namely:

1. Such a limitation prevents the installation of oversized alternative energy systems that are more accurately described as merchant generation posing as customer-generators;
2. Not allowing merchant generation to net meter is reasonable and consistent with the intent of the Alternative Energy Portfolio Standards Act of 2004 (“AEPS Act”)¹⁰;
3. The AEPS Act did not intend that net metering be an avenue for merchant generators to circumvent the wholesale electric market in an attempt to avoid Federal Energy Regulatory Commission jurisdiction; and
4. The intent of the AEPS Act was not to provide retail rate subsidies to merchant generation facilities at retail customer expense that may result in cross-class subsidization.

The Companies agree with the Commission’s reasons and beliefs with regard to the intent of the AEPS Act. The Commission has put forth several valid reasons to support a 110% alternative energy system size limitation for customer-generators. These reasons, however, are not solely applicable to customer-generators who contract with a third party to perform the operational functions of an alternative energy system. The reasons for the 110% alternative energy system size limitation apply equally and are valid for all customer-generators, with or without a third party. Therefore, the Companies believe that the Commission should consider

¹⁰ 73 P.S. §§ 1648.1 – 1648.8 and 66 Pa.C.S. § 2814.

applying the 110% alternative energy system size limitation to *all* net metering installations for all of the valid reasons the Commission has provided in its Tentative Order.

III. CONCLUSION

Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company and West Penn Power Company appreciate the opportunity to provide comments on the proposed net metering policy described in the Commission's Tentative Order, and respectfully request that the Commission consider its comments and recommendations provided herein.

Respectfully submitted,

Dated: September 12, 2011



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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Net Metering - Use of Third Party Operators : **Docket No. M-2011-2249441**
:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by electronic mail, as follows:

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Dated: September 12, 2011



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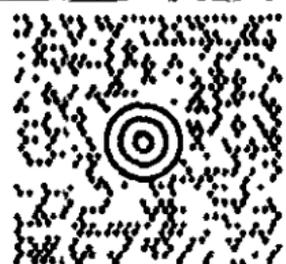
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