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May 28, 2015

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Granger Energy of Honey Brook LLC and Granger Energy of Morganton LLC's Comments, in the above referenced matter. If you have any questions regarding this filing, please contact me at your convenience.

Very truly yours,



Carl R. Shultz

CRS/jls  
Enclosure

cc: Scott Gebhardt, TUS (via email)  
Kriss Brown, Law Bureau (via email)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Alternative :  
Energy Portfolio Standards Act of 2004 :                   Docket No. L-2014-2404361  
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**COMMENTS OF  
GRANGER ENERGY OF HONEY BROOK LLC AND  
GRANGER ENERGY OF MORGANTOWN LLC  
ON THE PROPOSED FINAL REGULATIONS**

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Date: May 28, 2015

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## I. INTRODUCTION

Granger Energy of Honey Brook LLC and Granger Energy of Morgantown LLC (collectively, “Granger”) is concerned that the Commission’s Proposed Final Regulations<sup>1</sup> will severely limit both the existing and prospective eligibility of customer-generators’ existing and planned energy projects for net metering in Pennsylvania.

Granger supports the grandfathering of customer-generators and alternative energy systems. But, Granger is concerned with how the grandfathering of the proposed 200% consumption limitation provision will be implemented. The provision providing for grandfathering from the 200% consumption limitation does **not** (a) exempt existing customer-generators and alternative energy systems from all of the other new or additional restrictions on the eligibility; and (b) actually conflicts with the proposed definition of “utility” - which is not sufficiently defined so that public can understand that grandfathered customer-generators and alternative energy systems should not be deemed to be a “utility.”

That being said, Granger opposes any new or additional restrictions on the eligibility of customer-generators and energy projects for net metering in Pennsylvania. Granger submits that the proposed revisions to the Commission’s net metering and interconnection regulations, which implement the Alternative Energy Portfolios Standards Act<sup>2</sup> (“AEPS” or “Act”), will severely

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<sup>1</sup> See *Proposed Final Rulemaking; Implementation of the Alternative Energy Portfolio Standards Act of 2004*, PUC Docket No. L-2014-2404361, Order entered April 23, 2105 (“Proposed Final Rulemaking Order”); Annex A of the Proposed Final Rulemaking Order is referred to as the “Proposed Final Regulations.”

<sup>2</sup> The Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.1, *et seq.*, was signed into law in 2004. Act 213 of 2004. It has been amended on two occasions. First, by the Act 35 of 2007, which took effect July 19, 2007, amended certain definitions and provisions for net metering and interconnection. Notably, Act 35 added the definition of virtual meter aggregation to the AEPS Act. Second, by the Act 129 of 2008, which became effective on November 14, 2008, amended the AEPS Act by modifying the scope of eligible Tier I alternative energy sources and the Tier I

limit the eligibility of both customer-generators and energy projects for net metering in Pennsylvania. Such changes are inconsistent with the text and spirit of the AEPS Act and should be rejected.

## II. BACKGROUND

The parent of Granger, Granger Holdings, LLC, is a leader in the development of renewable energy projects that use landfill gas and has been since the technology began. It is a third generation, family-owned and operated business based in Lansing, Michigan. It specializes in partnering with landfill owners, private industry, municipalities and utilities to create mutually beneficial landfill gas recovery solutions that make sense economically and environmentally. Once recovered, landfill gas can be used as an alternative to natural gas or other conventional fossil fuels by directly powering industrial applications or as a fuel to generate electricity.

Granger is a customer-generator using, and intending to use, net metering in PPL's service territory. Specifically, Granger Energy of Honey Brook LLC is located at the Chester County Solid Waste Authority Lanchester Landfill in Chester County, Pennsylvania, and provides landfill gas to industrial customers.<sup>3</sup> Granger Energy of Honey Brook LLC also owns and operates generation facilities that use landfill gas to generate electricity (currently 3.2 MW) which is delivered to the distribution system of PPL Electric Utilities ("PPL"), consistent with current law, rules and regulations. This Landfill Gas Generation Facility generates sufficient electric energy to satisfy the annual energy usage at the landfill gas processing plant. Each year

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compliance obligation. Except where the context clearly indicates otherwise, references to the AEPS Act shall include reference to Act 213 of 2004 as originally enacted and as amended.

<sup>3</sup> *Petition of Granger Energy of Honey Brook, LLC for a Declaratory Order Concluding that the Provision of Landfill Gas by Granger Energy of Honey Brook, LLC to Four Industrial Customers Constitutes Neither the Provision of Public Utility Service under 66 Pa. C.S. § 102 nor Natural Gas Distribution Service or Natural Gas Supply Services under 66 Pa. C.S. § 2202*, PUC Docket No. P-00032043, Order entered September 8, 2004, 2004 Pa. PUC LEXIS 33.

it also generates excess electric energy. Granger Energy of Honey Brook LLC has plans to expand these existing generation facilities (up to 5 MW as currently allowed) and to continue to deliver electricity to the PPL system under the AEPS Act, the Commission's Regulations, and PPL's net metering tariff provisions. In fact, Granger Energy of Honey Brook LLC has a Method of Accommodation from PPL for the expansion from 3.2 MW to 4.8 MW.

Granger Energy of Morgantown LLC is located at the Conestoga Landfill in Berks County, Pennsylvania. It provides landfill gas to industrial customers.<sup>4</sup> It is in the process of planning and permitting generators, which it will own and operate, to generate electricity (up to 5 MW as currently allowed under the AEPS Act) that will be delivered to the PPL distribution system under the AEPS Act, the Commission's Regulations, and PPL's net metering tariff provisions. This Landfill Gas Generation Facility will generate excess electric energy. In fact, Granger Energy of Morgantown LLC has a Method of Accommodation from PPL for the project at 3.2 MW, and an application is currently in process for a revised method of accommodation for the project for 4.8 MW.

In addition, Granger has also assisted others to design and construct an alternative energy generating system using landfill gas. Granger teamed up with L&S Sweeteners ("L&S"), a division of Zook Molasses Company, to produce renewable energy. L&S is an electric distribution customer of PPL. The energy project uses landfill gas supplied by Granger to generate electricity for use by L&S and to use net metering to sell the excess electricity to PPL. The project's current alternative energy generating system is 3.2 MW, but there are plans to expand it up to 4.8 MW. The project was sized to satisfy the annual energy usage at the L&S'

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<sup>4</sup> See *Granger Energy of Morgantown, LLC*; PUC Docket No. M-00051865F0002, Notice and Disclosure Statement, published on July 12, 2008. That Notice and Disclosure Statement is available at <http://www.pabulletin.com/secure/data/vol38/38-28/1309.html>.

manufacturing plant and to generate excess electric energy. Presently, L&S uses electricity from the project to power roughly 80 percent of its operations. So, expansion is necessary for L&S to fully self-supply its own requirements for electricity.

Other current landfill gas customers of Granger are also interested in owning and operating facilities that use landfill gas to generate electricity and in selling any excess electricity to PPL (or an Electric Generation Supplier (“EGS”)) under the AEPS Act, the Commission’s Regulations, and PPL’s net metering tariff provisions.

### III. COMMENTS ON THE PROPOSED FINAL REGULATIONS

Granger offers the following comments on the Proposed Final Regulations.

#### A. Grandfathering for Existing Customer-Generator Facilities Sections 75.1, 75.13(a)(2), and 75.13(a)(3) of the Proposed Regulations

Commissioner Cawley explained that: “Existing net metered installations are grandfathered.”<sup>5</sup> But, as proposed, that grandfathering is limited to the 200% consumption limitation. To wit, Section 75.13(a)(3) of the Proposed Regulations provides:

The 200% of the customer-generator’s annual electric consumption limitation applies to any interconnection application for a new alternative energy system or expansion of an existing alternative energy system submitted on or after \_\_\_\_\_ . (Editor’s note: The blank refers to 180 days after the effective date of adoption of this proposed rulemaking.)<sup>6</sup>

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<sup>5</sup> *Implementation of the Alternative Energy Portfolio Standards Act of 2004*, PUC Docket No. L-2014-2404361, Statement by Commission James H. Cawley dated April 23, 2015, at fn 1. If the right to engage in net-metering is not preserved for customer- generators who are actually engaged in the practice of net metering at the time the Final Regulations become effective, their systems and facilities may be deemed ineligible for net metering on or after said effective date – which will cause substantial undue financial hardship and is likely to put those systems and facilities out of operation/business.

<sup>6</sup> Proposed Final Rulemaking Order, Annex A at § 75.13(a)(3)(III).

**Granger submits that the proposed grandfathering should be extended so as to include the application of all of such revised or newly created definitions to alternative energy systems that filed an application prior to the proposed effective date.<sup>7</sup>** This is necessary because, as proposed, grandfathering only applies to the consumption limitation. But, the consumption limitation, is not the only change being made by the Commission. There are clearly new or additional restrictions on the eligibility being created by the Commission. Specifically, Granger notes that the Commission proposed revisions of entirely new definitions for, at least, six terms: (1) customer-generator;<sup>8</sup> (2) grid emergencies;<sup>9</sup> (3) micro-grid,<sup>10</sup> (4) utility<sup>11</sup>; (5) useful thermal energy;<sup>12</sup> and (6) virtual net metering.<sup>13</sup> These revised or newly-created definitions should not be permitted to impact existing customer-generators and alternative energy systems. These revised or newly created definitions have the potential to negatively impact the rights of existing customer-generators and alternative energy systems.

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<sup>7</sup> Support for Granger’s positions on “grandfathering” can be found in Granger’s comments to the Proposed Rulemaking Order, which are incorporated herein by reference.

<sup>8</sup> Proposed Section 75.1 adds the phrase “retail electric customer” to the definition of customer-generator. *See* Proposed Final Rulemaking Order, Annex A at § 75.1.

<sup>9</sup> Proposed Section 75.1 creates a definition for this term. *See* Proposed Final Rulemaking Order, Annex A at § 75.1.

<sup>10</sup> Proposed Section 75.1 creates a definition for this term. *See* Proposed Final Rulemaking Order, Annex A at § 75.1.

<sup>11</sup> Proposed Section 75.1 creates a definition for this term. *See* Proposed Final Rulemaking Order, Annex A at § 75.1.

<sup>12</sup> Proposed Section 75.1 creates a definition for this term. *See* Proposed Final Rulemaking Order, Annex A at § 75.1.

<sup>13</sup> See Section III.C of these Comments.

**Granger is concerned that revised or newly created definitions will be used as the basis for declaration that existing customer-generators and alternative energy systems are not eligible for net metering.** Two examples are presented below:

*Example 1: Definition of “Utility”  
Sections 75.1 and 75.13(a)(2) of the Proposed Regulations*

Granger submits that either existing customer-generators and systems must be grandfathered from the proposed definition of “utility” or that definition needs to be substantially modified so that there is no possibility that grandfathered customer-generators and systems could be deemed to be a public utility.

As proposed, existing customer-generators and alternative energy systems could be unfairly categorized as a “utility”<sup>14</sup> under the proposed definitions and, therefore, ineligible for net metering.

Granger commented that the original proposed definition of utility was flawed and unreasonable.<sup>15</sup> The Independent Regulatory Review Commission (“IRRC”) acknowledged these concerns, and asked the Commission “to provide a more precise definition of this term and

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<sup>14</sup> The AEPS Act uses the adjective “nonutility” as part of the statutory definition of a customer-generator. That definition specifically identifies a customer-generator as a “nonutility owner or operator” of the distributed generation system. The AEPS Act does not define the term “nonutility,” and the Commission does not propose one as part of the Proposed Rulemaking. The Commission is defining the word “utility” because it suggests that the term “nonutility” is intended to exclude “generation utilities” from net-metering in the Commonwealth. Proposed Final Rulemaking Order, p. 11. That term (“generation utilities”) is not defined in the Public Utility Code or the AEPS Act.

<sup>15</sup> Granger Comments, p. 17-20. Granger’s comments are incorporated herein by reference. *See also* footnote 32, *infra*.

to consider using the statutory term ‘public utility.’”<sup>16</sup> This was not done. Instead, the Commission added the following sentence to the already flawed definition:

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 shall be exempt from the definition of a utility in this chapter.<sup>17</sup>

That sentence is not more precise, and adds no clarity. It does the opposite. It adds confusion. That sentence is based on the 200% consumption limitation. The 200% limitation would not apply to existing systems Section 75.13(a)(3) of the Proposed Regulations. But, the definition of utility – which uses the same 200% limitation – would be applicable to the existing systems under Sections 75.1 and 75.13(a)(2) of the Proposed Regulations. The application of the proposed definition of “utility” to existing systems means that the owners or operators of existing systems which produce more than 200% of a customer-generator’s annual electric consumption would fall within the definition. Such a result would violate the vested rights to engage in net metering.

*Example 2: Use of “Retail Electric Customer”  
Section 75.1 of the Proposed Regulations*

Granger submits that either existing customer-generators and systems must be grandfathered from the proposed regulatory definition of “customer-generator” or the phrase “retail electric customer” be removed from that proposed regulatory definition.

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<sup>16</sup> IRRC, Notice of Comments Issued, Pennsylvania Public Utility Commission Implementation of the Alternative Energy Portfolio Standards Act of 2004, 44 Pa.B. 6449, 6730 (October 18, 2014) (“IRRC Comments”), at Comment 3.

<sup>17</sup> Proposed Final Rulemaking Order, Annex A at § 75.1.

The Commission proposes to add the phrase “retail electric customer” the definition of “customer-generator.” Granger expressed concern that the use of said phrase was not supported by, or consistent with, the AEPS Act.<sup>18</sup>

The Commission did not respond to Granger’s or IRRC’s comments on this point. IRRC acknowledged these concerns, and noted that the “addition of the term ‘retail electric customer’ could alter the landscape of the alternative energy market that, to some degree, relies on the third-party ownership model.” IRRC then asked the Commission “to further explain how it ascertained that inclusion of this term is consistent with the intent of the General Assembly and the overall purpose of the Act.” Nothing was done in the Proposed Final Rulemaking.

Granger remains concerned, as it was in its original comments, that use of the phrase “retail electric customer” could be used by the Commission or EDCs to prohibit customer-generators who manage their own internal distribution systems from using a net metered alternative energy system. Despite the fact, that said customer-generation and system would otherwise be eligible for net metering under the AEPS Act.

**Granger submits that the proposed grandfathering should be extended so as to include the expansion of existing systems to expand to full nameplate capacity as set forth in the Act.** Grandfathering to be fully protective must also include the right to expand any such project to its full nameplate capacity for which net metering is permitted by the AEPS Act. Depending on the customer-generator and the system design, this could be 50 kW, 3 MW or 5 MW. Expansion may not necessarily occur in every grandfathered project. But each grandfathered project should be allowed to grow and expand. Expansion would merely reflect

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<sup>18</sup> Granger Comments, p. 20-22, which are incorporated herein by reference.

the nature and purpose of the grandfathered use, but that expansion would not be unlimited. Under the AEPS Act, expansion would continue to be limited by nameplate capacity, and by the interconnection process. Stated otherwise, to be expanded, a facility may require improvements or expansion of the interconnection. Interconnection improvements may (or may not) be viable or economical.

**B. 200% Consumption Limit  
Section 75.13(a)(3) of the Proposed Regulations**

**Granger does not agree that the proposed consumption (or similar) limitation should be created by the Commission and applied to any customer-generator.<sup>19</sup>** For example, Granger submits that consumption limits would materially harm landfill gas projects, which is one of the types of Tier I alternative energy sources listed under the AEPS Act.

Landfill gas is a reliable source of energy because it is generated 24 hours a day, seven days a week. By using landfill gas to produce energy, landfills can significantly reduce emissions of methane and decrease the need to generate energy from fossil fuels.<sup>20</sup> And, according to the Environmental Protection Agency's ("EPA") Landfill Methane Outreach Program, landfill gas projects also provide an array of benefits in the local economy:<sup>21</sup>

- Landfill gas use can create jobs associated with the design, construction and operation of energy recovery systems.
- Landfill gas projects involve engineers, construction firms, equipment vendors and utilities or end-users of the power produced.
- Businesses are also realizing the cost savings associated with using landfill gas as a replacement for fossil fuels, such as natural gas.

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<sup>19</sup> 71 P.S. § 745.5b(b) (relating to criteria for review of regulations).

<sup>20</sup> <http://www.epa.gov/lmop/basic-info/index.html>.

<sup>21</sup> *Id.*

Landfill gas is converted to electricity by way of an engine-generator set. The engine is similar to the engine in a car (or large truck). That engine drives the attached generator. To operate efficiently, a single engine-generator set has a name-plate capacity of 1.6 MW and needs to operate as close to its name-plate as possible. To ensure that a customer-generator is able to fully self-supply, two or three engine-generators may be necessary. Two engine-generator sets would have a nameplate capacity of 3.2 MW, a three engine-generator sets would have a nameplate capacity of 4.8 MW. But, 110% consumption limitation fails to account for the size of the engine-generator set. The landfill gas generating units have been designed to run at the full base load 1.6 MW and cannot be de-rated significantly for long periods of time without detrimental effect to the equipment. It is therefore, impossible to operate a landfill gas renewable energy project at a level that is determined by a percentage of a customer-generator load requirement. This means that consumption limits could effectively foreclose the opportunity for landfill gas renewable energy projects in this Commonwealth. By increasing the burdens and barriers for using net metering, the Commission is disregarding both the intent but also the clear language of the AEPS Act itself. This should not be done by the Commission.<sup>22</sup>

**That being said, Granger further submits that the 200% consumption limitation should be rejected because it is not consistent with the statutory authority of the Commission and the intention of the Pennsylvania General Assembly.**<sup>23</sup>

The Commission has been charged by the General Assembly with carrying out the provisions of the AEPS Act. Among other things, the AEPS Act guarantees the right of

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<sup>22</sup> See 1 Pa. C.S. § 1921(b).

<sup>23</sup> 71 P.S. § 745.5b(a) (relating to criteria for review of regulations).

customer-generators to interconnect and net meter alternative energy systems.<sup>24</sup> The AEPS Act provides that customer-generators may design, build and operate a facility up to a specified nameplate capacity. There are no consumption limits within the AEPS Act on the size of a customer-generator facility.<sup>25</sup> That being said, Granger further submits that the AEPS Act should be read as providing for the maximum development of alternative energy sources.<sup>26</sup>

With respect to the consumption limitation, IRRC stated:

Commentators have questioned the PUC's statutory authority for this provision and also how it will be implemented. Regarding statutory authority, the commentators believe there is nothing in the Act, Act 35 or Act 129 that would allow the PUC to impose such a restriction. We ask the PUC to provide a citation to specific statutory language that would allow for the limitation being proposed under this subsection. (emphasis added)<sup>27</sup>

**Granger submits that there is no explicit statutory authority for a consumption limitation.** The AEPS Act is permissive in nature; it gives customer-generators the right to design, build and operate an alternative energy system up to a specified nameplate capacity. The AEPS Act contains limitations on the size of a system.<sup>28</sup> Depending on the customer-generator and the system design, this could be 50 kW, 3 MW or 5 MW. None of those limitations are

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<sup>24</sup> See 73 P.S. §§ 1648.2 (definition of “net metering” and “customer-generator”), 1648.5 (relating to interconnection standards for customer-generator facilities).

<sup>25</sup> See footnotes 28, *infra*, and the accompanying text.

<sup>26</sup> Support for Granger’s positions on legislative intent can be found in Granger’s original comments, which are incorporated herein by reference.

<sup>27</sup> IRRC Comments, at Comment 5.

<sup>28</sup> For a residential property, the nameplate capacity limit is 50 kilowatts. 73 P.S. § 1648.2 (definition of customer-generator). For non-residential properties as business or industry), the nameplate capacity limit is 3,000 kilowatts or 3 MWs. *Id.* But, if certain design criteria are satisfied, a non-residential facility can have a nameplate capacity of up to 5,000 kilowatts or 5 MWs. *Id.*

based on the actual use (or consumption) of electricity by a customer-generator.<sup>29</sup> Any consumption limitation in the Proposed Regulations is prohibitory in nature. Granger submits that nothing in the Act explicitly authorizes system limitations based on actual use (or consumption) of electricity by a customer-generator. And, despite the IRRC's request, the Commission has not provided any explicit statutory authority that authorizes a consumption limitation. So, the creation of a consumption limit by way of regulations exceeds the Commission's statutory authority to promulgate regulations.

**Legislative intent does not authorize a consumption limitation.** The basic policy of the Commonwealth encourages the use of alternative energy sources. At the legislative level, that basic policy does not include consumption limits. The creation of consumption limits is a basic policy choice which our General Assembly cannot, and did not, delegate to the Commission.<sup>30</sup> The General Assembly authorized the Commission to establish rules, regulations, and standards that implement the legislative intent expressed in the AEPS Act. The Commission cannot invest itself with authority or powers not fairly or properly within the legislative grant.<sup>31</sup> It is, therefore, beyond the statutory authority of the Commission to

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<sup>29</sup> The AEPS Act requires that "electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator's requirements for electricity." 73 P.S. § 1648.2 (definition of customer-generator).

<sup>30</sup> Administrative agencies are created by the Pennsylvania General Assembly, as part of the executive branch, to aid in the faithful execution of laws. Pa. Const. art. IV, § 1; *Blackwell v. State Ethics Commission*, 567 A.2d 630 (Pa. 1989). In *Blackwell*, the Pennsylvania Supreme Court stated that "the Legislature cannot constitutionally delegate the power to make law to any other branch of government or to any other body or authority." *Blackwell*, 567 A.2d at 636. "While the General Assembly may, with adequate standards and guidelines, constitutionally delegate the power and authority to execute or administer a law, the prohibition against delegation of 'legislative power' requires that the basic policy choices be made by the General Assembly." *Id.* at 637.

<sup>31</sup> *See, e.g., Federal Deposit Insurance Corp. v. Board of Finance and Revenue*, 84 A.2d 495, 499 (Pa. 1951).

promulgate a consumption limitation regulation that will act to prohibit and prevent alternative energy sources that satisfy all of the statutory requirements.

**The Commission’s interpretation of the definition of “customer-generator” does not authorize a consumption limitation.** The Commission interprets the statutory definition of “customer-generator”<sup>32</sup> as excluding “merchant generators”<sup>33</sup> from net metering in the Commonwealth.<sup>34</sup> Based on said interpretation, the Commission is proposing a consumption limitation to limit the possibility of merchant generators posing as customer-generators.<sup>35</sup> That being said, the proposed consumption limitation clearly conflicts with the explicit permissible system designs (50 kW, 3 MW or 5 MW) available under the AEPS Act. It is well-settled that the language of the AEPS Act cannot be ignored - under the pretext of pursuing legislative intent.<sup>36</sup>

**The Commission’s reliance on Maryland’s example is misplaced.** Maryland law requires that net metering “systems must be *primarily intended* to offset all or a portion of a customer’s *on-site* energy requirements” (emphasis added).<sup>37</sup> The Maryland Public Service Commission interpreted said high-lighted phrases as authorizing a 200% consumption limitation.<sup>38</sup> Similar statutory language does not currently exist in the AEPS Act.<sup>39</sup> In fact, Act

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<sup>32</sup> See footnote 14, *supra*.

<sup>33</sup> The term “merchant generator” does not appear in the Public Utility Code or the AEPS Act. No definition of that term is proposed by the Proposed Final Rulemaking Order. No effort is made to explain that term in the body of the Proposed Final Rulemaking Order.

<sup>34</sup> Proposed Final Rulemaking Order, p. 8-9, 11.

<sup>35</sup> Proposed Final Rulemaking Order, p. 9-12.

<sup>36</sup> See 1 Pa. C.S. § 1921(b).

<sup>37</sup> Md. PUBLIC UTILITIES Code Ann. § 7-306.

<sup>38</sup> COMAR 20.50.10.01D(1)(b).

<sup>39</sup> See footnote 29, *supra*.

213 originally stated, in the definition of net metering, that the primary purpose of the alternative energy system must be to offset part or all of the customer-generator's electricity needs. But, that "primary purpose" requirement was deleted by Act 35.<sup>40</sup> Presumably, it was deleted to further encourage the use of alternative energy systems.<sup>41</sup> By recreating a "primary purpose" requirement through a regulation, the Commission is acting counter to the express legislative action that removed that requirement from the statutory definition.

**C. Virtual Net Metering  
Section 75.12 and 75.14 of the Proposed Regulations**

The proposed changes to Sections 75.12 and 75.12 would require each meter of a customer generator to have measurable load not related to the alternative energy system. Granger commented the proposed regulations could prevent the use of virtual net metering and would impact the ability to locate alternative energy systems.<sup>42</sup>

IRRC acknowledged such concerns, and asked the Commission "to provide a more detailed explanation of why it believes the various provisions of the rulemaking cited by commentators do not conflict with the Act." This was not done.

Granger, therefore, continues in its belief that there is little – if any – justification for creating and applying such a restriction on any customer generators. There are legitimate scenarios where a customer-generator may wish to build a stand-alone, alternative energy system and use virtual net metering to offset that customer-generator's demands at another location. No

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<sup>40</sup> See footnote 2, *supra*.

<sup>41</sup> The AEPS Act provides that net metering is available "when any portion of the electricity generated by the alternative energy generating system is used to offset part or all of the customer-generator's requirements for electricity." 73 P.S. § 1648.2 (emphasis added).

<sup>42</sup> Granger Comments, p. 22-27, which are incorporated herein by reference.

reasonable explanation has been presented for prohibiting such arrangements, and no statutory support can be found for an “independent” electric load requirement for virtual net metering under the AEPS Act.

#### **IV. CONCLUSION**

Granger appreciates this opportunity to provide its viewpoints regarding this important proceeding and looks forward to continuing to assist the Commission with this very important process.

Respectfully submitted,



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Date: May 28, 2015

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