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May 29, 2015

Rosemary Chiavetta, Esq., Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, Pennsylvania 17120

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

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Advanced Notice of Final Rulemaking Order relating to the implementation of the Alternative Energy Portfolio ("AEPS") Act of 2004 at the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, appearing to read "Donna M. J. Clark".

Donna M. J. Clark  
Vice President and General Counsel

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Alternative Energy Portfolio Standards Act of 2004 : L-2014-2404361

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**COMMENTS OF THE  
ENERGY ASSOCIATION OF PENNSYLVANIA  
TO ADVANCE NOTICE OF FINAL RULEMAKING ORDER**

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**I. INTRODUCTION**

The Alternative Energy Portfolio Standards Act of 2004 (“AEPS Act” or “the Act”), 73 P.S. §1648.1, *et seq.* promotes the development of alternative energy in Pennsylvania in two fundamental ways. First, the AEPS Act establishes a 15 year schedule pursuant to which electric distribution companies (“EDCs”) and electric generation suppliers (“EGSs”) must purchase discrete amounts of electric energy generated by alternative energy sources for resale to retail customers. 73 P.S. §1648.3(b) and (c). Second, the AEPS Act encourages customer-generators to obtain electric power through small onsite alternative energy systems which can be net-metered and interconnected to the electric utility grid. 73 P.S. §1648.5.

The Pennsylvania Public Utility Commission (“PUC” or “Commission”), which is charged with implementing the AEPS Act together with the Department of Environmental Protection, promulgated a series of regulations concerning net-metering and interconnection for customer-

generators and portfolio standards obligations between 2006 and 2008.<sup>1</sup> Additionally, the Commission issued an Order in May 2009 to implement certain provisions of Act 129 of 2008 which had amended the AEPS Act.<sup>2</sup> Based on its experience with implementing the regulations and the Act 129 amendments to the AEPS Act, the Commission proposed specific revisions in a Notice of Proposed Rulemaking (“NOPR”) Order entered on February 20, 2014.<sup>3</sup> The proposed 2014 revisions involve changes to regulations addressing portfolio standards, interconnection, and net metering. Public comments were filed by various parties in the fall of 2014. Following its review of input from the public and the Independent Regulatory Review Commission (“IRRC”), the Commission issued the current Advanced Notice of Final Rulemaking (“ANOFR”) Order detailing further revisions and seeking additional public comment.

As a trade association that represents and promotes the interests of regulated electric and natural gas distribution companies operating in the Commonwealth, the Energy Association of Pennsylvania (“EAP” or “Association”) respectfully submits these comments to supplement those filed individually by its member EDCs.<sup>4</sup>

## II. COMMENTS

### A. Revisions to the Interconnection Rules to Reflect the Increase in Limits on Customer-Generator Capacity

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<sup>1</sup> See, 52 Pa. Code §§ 75.1, *et seq.*

<sup>2</sup> *Implementation of Act 129 of 2008 Phase 4 – Relating to the Alternative Energy Portfolio Standards Act*, Dckt. M-2009-2093382 entered on May 28, 2009.

<sup>3</sup> *NOPR Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004*, Dckt. L-2014-2404361 entered on February 20, 2014.

<sup>4</sup> Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc.(Electric Division); Wellsboro Electric Company; and, West Penn Power Company.

The Commission’s initial proposal in the proposed rulemaking was that “the alternative energy system be sized to generate no more than 110 percent of the customer-generator’s annual electric consumption at the interconnection meter and all qualifying virtual meter aggregation locations.”<sup>5</sup> Limiting the size of the system through application of the 110 percent cap helps to avoid installation of an oversized system and circumstances leading to increased cost-shifting to customers within the class who do not participate in net metering scenarios. EAP, as well as many other stakeholder parties, agreed that this was a reasonable limitation – one that helps to prevent merchant-generators from posing as customer-generators or from some customers receiving excessive subsidies from other retail customers. The Commission acknowledges this point in the ANOFR,<sup>6</sup> but cites additional concerns from the Pennsylvania Departments of Agriculture and Environmental Protection as a basis for a new proposed limitation of 200 percent.

EAP does not believe that the 200 percent proposal is appropriate, or “consistent with how net metering is treated in other states” as the Commission suggests.<sup>7</sup> In the ANOFR Order, the Commission footnotes that Delaware sets their net metering limitation at 110 percent; and that New Jersey limits the amount of electricity to the customer’s historic 12-month usage (presumably an approximate limit of 100 percent) without exceeding “combined metered annual energy usage of the customer’s qualified facilities.”<sup>8</sup> Additional information provided by PECO in its comments to the Notice of Proposed Rulemaking Order indicate that even in other states with aggressive renewable energy goals, their limitations are not as high as 200 percent. For example, Nevada’s limit is the lesser of 1 megawatt or 100 percent of the customer’s annual requirements for electricity; Arizona’s is 125 percent of total connected load; Colorado’s is 120 percent of annual

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<sup>5</sup> NOPR Order, at p. 12. *See also*, NOPR Annex A, at p.7, § 75.13(a)(3).

<sup>6</sup> ANOFR, at p. 10

<sup>7</sup> ANOFR, at p. 11

<sup>8</sup> ANOFR, at p.10, fn.4.

consumption; and a proposal in Massachusetts limits generation capacity to no more than 100 percent of future load.<sup>9</sup> If the Commission wishes to maintain consistency with “how net metering is treated in other states,” the 200 percent limit appears excessive and not in keeping with the majority of states. Moreover, the recommendation to align Pennsylvania’s limit with Maryland’s would make it an outlier, even among some of the states in the nation which have adopted more aggressive portfolio standards than Pennsylvania. If the increased limitation of 200 percent was proposed to accommodate certain agricultural customer-generators, EAP suggests a targeted exception for that usage as opposed to raising the generation cap in general which will inevitably result in greater cost-shifting to other customers in that rate class who are not net-metering.

Further, EAP requests that the Commission reconsider its proposal to allow customers with existing service locations to apply any 12 consecutive month period of electric usage data occurring within the last 60 months to determine its future annual electric consumption for purposes of net metering. This window provides an excessive amount of discretion to the customer-generator to pick the highest-usage months. EAP recommends reducing this window to perhaps 24 or 36 months prior to account for any outlier usage or weather-dependent usage years.

**B. Revision of Net Metering Rules and Inclusion of Process for Obtaining Commission Approval for Systems with a Nameplate Capacity of 500 KW or Greater**

EAP supports the Commission’s proposal to require that all alternative energy systems with a nameplate capacity of 500 kilowatts or greater obtain Commission approval for net metering. However, EDCs are concerned with the impact of the Commission’s new proposal for a shortened timeframe for EDC technical review. The ANOFR Order suggests reducing the

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<sup>9</sup> PECO Comments to Notice of Proposed Rulemaking, Docket No. L-2014-2404361, at p. 7

proposed time period of 20 days for EDCs to review and submit the customer-generator application with its recommendation to the Bureau of Technical Utility Services (“TUS”) to 15 days.<sup>10</sup> EAP believes that this shortened timeframe for review could ultimately lead to a higher percentage of initial rejection of projects as it does not provide sufficient time for an appropriate engineering review. The required technical analysis of these projects is complex, and to continue to maintain the requisite level of expert review, the EDCs ask the Commission to retain the originally-proposed 20 day period for utilities to review the application prior to submitting it to TUS. EAP is not opposed to shortening the review process overall, as is suggested by cutting the TUS review from 30 days to 10 days.

### **C. Addition of Provisions for Adjusting Tier I Compliance Obligations on a Quarterly Basis**

The Commission’s revised proposal includes the addition of provisions for the quarterly adjustment of the nonsolar photovoltaic Tier I obligation of EDCs and EGSs in order to comply with the Act 129 of 2008 amendments.<sup>11</sup> EDCs typically only report exceptions, not all monthly retail sales for each EGS, on a quarterly basis. To do so for all sales would become administratively burdensome, particularly in those EDCs service territories where dozens or more EGSs are licensed to provide supply to customers. The onus for this report should fall on the individual EGS, rather than the EDC, with the EGS reporting for themselves on a quarterly basis.

If the Commission were to keep this suggested reporting requirement as proposed, EDCs would need an additional five calendar days to accommodate the PJM reconciliation process.

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<sup>10</sup> ANOFR, at p. 16

<sup>11</sup> ANOFR, at p. 34

The ANOFR proposal calls for a reporting of monthly sales data for the preceding quarter by no later than each of October 30, January 30, April 30, and June 30. EAP requests that the reporting dates be extended by five calendar days beyond the proposed dates to November 5, February 5, May 5, and July 5, respectively. This extension would serve to address the reporting time constraints associated with the PJM sixty-day reconciliation process. The data being requested herein is typically being run by EDCs on, or perhaps one day before, the proposed reporting dates, which makes the timeframe to provide the data very tight and the data susceptible to potential error. By adding five days, EDCs will have an opportunity to complete the sixty-day reconciliation process, validate the data, and then accurately post it.

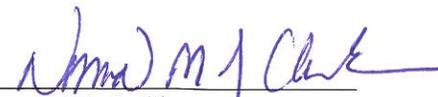
Similarly, the Commission's recommendation for EGS verification of monthly sales data should also be adjusted. The Commission has proposed two business days for review, when in current practice the review is afforded five business days. EAP suggests codifying the informal practice of five business days in order to continue current procedures and ensure that the sales data is properly validated and accurately reported.

### III. CONCLUSION

EAP respectfully requests that the Commission consider these suggestions and comments along with those of its individual member EDCs in finalizing revisions to the current regulations addressing net-metering, interconnection and portfolio standards under the AEPS Act.

Respectfully submitted,

  
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