



October 21, 2016

Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg , PA 17120
Attn.: Commissioners

RECEIVED

OCT 21 2016

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Sent by email to Secretary Rosemary Chiavetta, rchiavetta@pa.gov

RE: Implementation of the Alternative Energy Portfolio Standards Act of 2004
Pa. PUC Docket No. L-2014-2404361)
Independent Regulatory Review Commission ("IRRC") No. 3061

Dear Commissioners:

As a future participant in the Commonwealth's AEPS and net metering program through our landfill gas to energy project, we remain very concerned as previously expressed to the PAPUC and IRRC with the final revised ruling passed by the PAPUC on June 9, 2016 and now just slightly revised after comments from the attorney general's office provided on October 5, 2016. We also wanted to bring to your attention an October 14, 2016 Pa Commonwealth Court ruling the provides guidance to the legality of these proposed changes.

In fact, the recent court ruling specifically says "The Court describes the AEPS Act as giving the PUC authority to "establish 'technical and net metering interconnection rules', but it does not give the PUC power to act beyond this narrow authorization." Changes proposed to the definition of utility, customer-generator and the review process being brought under PAPUC oversight for greater than 500 kW systems are clearly not legal under the court's ruling.

Based on the IRRC's comments (and twice disapproval) and several of the commissioner's comments to the statutory authority to make the proposed changes, and in light of the October 14, 2016 Pa Commonwealth Court's ruling from Sunrise Energy, LLC v. First Energy Corp. and West Penn Power Co., No. 1282 C.D. 205 (Oct. 14, 2016), Opinion by President Judge Leavitt (joined by Simpson, Brobson, McCullough, Covey and Wojcik), Dissenting Opinion by Cohn Jublirer, we ask the commissioners to disapprove of these proposed changes.

We appreciate the PAPUC's oversight and assistance in so many areas as it pertains to implementing public utility regulations. We are unclear and concerned about why the PAPUC has persisted to pass these proposed punitive rules on net metering (which is designed to promote renewable energy development in a stagnant market) and significantly slow or bring the development small scale renewable energy projects to a halt.

The outcome of your review of this proposed changes to the AEPS is very important to maintaining that mandate of supporting the growth of renewable energy in the Commonwealth.

Thanks for your consideration of our comments.

Respectfully Submitted,

Clinton County Solid Waste Authority

A handwritten signature in black ink that reads "Jay B. Alexander" followed by a stylized flourish or symbol.

Jay B. Alexander
General Manager

CC: Paul D. Welch, Jr., Esquire, Solicitor for Clinton County SWA
CCSWA Board of Directors
Independent Regulatory Review Commission by email to irrc@irrc.state.pa.us

COMMONWEALTH OF PENNSYLVANIA
OFFICE OF ATTORNEY GENERAL

October 5, 2016

RE: Public Utility Commission Regulation #57-304

TO: Bohdan R. Pankiw
Chief Counsel
Public Utility Commission

FROM: Amy M. Elliott *AME*
Chief Deputy Attorney General
Legal Review Section

This office is in receipt of the Commission's September 29, 2016, response to our September 1, 2016, tolling memorandum. Having reviewed the Commission's correspondence, we hereby direct the Commission to amend the definition of "utility" in Section 75.1 to read as follows:

Utility – a business, person or entity whose primary purpose, character, or nature is the generation, transmission, distribution or sale of electricity at wholesale or retail. This term excludes building or facility owners or operators that manage the internal distribution system serving such building or facility and that supply electric power and other related power services to occupants of the building or facility.

In consideration of the foregoing, this regulation is hereby approved for form and legality, contingent upon the adoption of this revised definition by the Commission at a Commission Public Meeting as soon as is practical.

Public Utility Commission
52 Pa. Code Ch. 75
Implementation of the Alternative Energy
Portfolio Standards Act of 2004
FINAL FORM

AME:mlm
SR-75554-C1ZW

cc: Leslie A. Lewis Johnson, Esq.

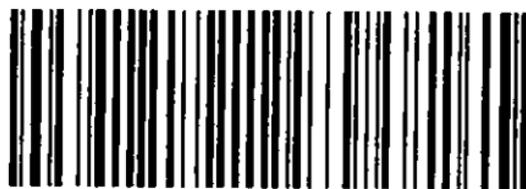
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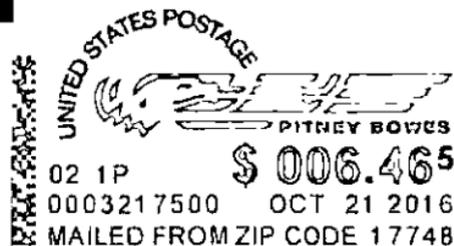
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