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**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

May 5, 2006

Honorable Wendell Holland, Chairman  
Pennsylvania Public Utility Commission  
Keystone Building, 3rd Floor  
400 North Street  
Harrisburg, PA 17105

Re: Regulation #57-244 (IRRC #2519)  
Pennsylvania Public Utility Commission  
Alternative Energy Portfolio Standards

Dear Chairman Holland:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director

wbg

Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee  
Honorable Robert J. Flick, Majority Chairman, House Consumer Affairs Committee  
Honorable Joseph Preston, Jr., Democratic Chairman, House Consumer Affairs Committee

# Comments of the Independent Regulatory Review Commission

on

## Pennsylvania Public Utility Commission Regulation #57-244 (IRRC #2519)

### Alternative Energy Portfolio Standards

May 5, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the February 4, 2006 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Pennsylvania Public Utility Commission (PUC) to respond to all comments received from us or any other source.

#### 1. General – Economic impact; Feasibility; Need; Reasonableness.

##### *Meter aggregation*

Meter aggregation is addressed in Sections 75.12 and 75.14(e) and in both sections is limited to “a particular rate class on contiguous and adjacent properties.” Commentators stated that this language has negative impacts on alternative energy projects located on farms. These commentators include the Department of Agriculture, the Department of Environmental Protection, agricultural associations and individual farmers. The PUC should explain why the limits for meter aggregation in regard to rate class and property location are necessary and appropriate.

##### *One meter versus two meters*

In the Preamble, the PUC specifically requests comments regarding the metering approaches in the regulation. The regulation allows for several metering arrangements. Subsection 75.14(a) allows single bi-directional meters and also allows two meters if the customer-generator agrees. Subsection 75.14(b) allows the Electric Distribution Company (EDC) to install new meters if existing metering is not sufficient.

We note that commentators provided examples where one metering arrangement was better in a particular situation than another. It would appear that some degree of flexibility is needed to address individual circumstances of alternative energy generators. The PUC should consider all of the possible metering alternatives in relation to the comments and explain why the metering approach selected is the best alternative.

**2. Section 75.12. Definitions. – Consistency with statute; Duplication; Need; Clarity.**

*Avoided cost of wholesale power*

This definition implies an average avoided cost over the one year reporting period. Since fuel costs vary, why is an average over the whole year the most appropriate as opposed to the actual avoided cost of the billing period?

*Annualized period*

This definition states “The term has the same meaning as 'reporting period' as that term is defined in section 2 of the act.” Since the term “reporting period” is defined in 73 P.S. § 1648.2 and Section 75.1 of this regulation, it is confusing to create another term that means the same thing. This definition should be deleted and the term “reporting period” should be used consistently throughout the regulation.

*Net metering*

The statutory definition of “net metering” at 73 P.S. § 1648.2 addresses measurement of electricity and states:

The means of measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator when the renewable energy generating system is intended primarily to offset part or all of the customer-generator’s requirements for electricity.

The regulatory definition varies from the statutory definition and includes substantive provisions regarding credits and costs. Since substantive provisions within a definition cannot be enforced, we recommend using the statutory definition and moving the cost mechanisms to the body of the regulation.

**3. Section 75.13. General provisions. – Consistency with statute; Reasonableness; Economic impact.**

*Subsection (a) First come, first served basis*

Under 73 P.S. §§ 1648.3(b) and (c), the EDC and Electric Generation Suppliers (EGS) are directed to meet certain minimum percentages of Tier 1 and Tier 2 alternative energy sources within certain time periods. However, this subsection states the EDC and EGS must offer net metering on a “first come, first served basis.” If the EDC and EGS are directed in regulation to accept customer-generators on a “first come, first served basis,” the EDC and EGS may not have the flexibility to meet the percentages required by the statute. The PUC should amend this subsection to allow the EDC and EGS the flexibility to meet their statutory obligations. Alternatively, the PUC should explain how the EDC and EGS could meet their statutory obligations for both Tier 1 and Tier 2 alternative energy sources if they must accept customer-generators on a “first come, first served basis.”

### *Subsection (c) Kilowatt-hour for kilowatt-hour basis*

This subsection requires the customer-generator to be credited on a kilowatt-hour for kilowatt-hour basis. This will reduce the customer-generator's bill for both generation costs and distribution costs. Commentators questioned whether it is fair to reduce the customer-generator's bill for distribution costs and whether other customers are then subsidizing the customer-generator. The PUC should explain how this method is equitable.

### *Subsections (c), (d) and (e) Timing of compensation*

These subsections establish payment for excess kilowatt-hours generated by a customer-generator at the end of the reporting period. Commentators from the electric utilities have suggested that they should be allowed to reconcile with the customer-generator monthly rather than extending these credits to the end of the reporting period. It would appear that all parties would benefit from a more immediate reconciliation. Why did the PUC choose to extend reconciliation to the end of the reporting period?

## **4. Section 75.14. Meters and metering. – Reasonableness.**

### *Subsection (d) Customer-generator rejects ownership of alternative energy credits*

This subsection establishes provisions for when a customer-generator expressly rejects ownership of alternative energy credits. The regulation should require the EDC to fully inform the customer-generator of the potential value and options available concerning these credits before a customer-generator rejects ownership.

## **5. Section 75.15. Treatment of stranded costs. – Consistency with statute; Reasonableness; Economic impact.**

Under 66 Pa. C.S.A. § 2808(a) a competitive transition charge is required if on-site generation “significantly reduces the customer’s purchases of electricity.” Also, the competitive transition charge is defined at 66 Pa. C.S.A. § 2803 as being “designed to recover an electric utility’s transition or stranded costs as determined by the commission.”

This section of the regulation interprets a significant reduction as “10% or more reduction in the customer’s purchase of electricity.” How did the PUC determine that the threshold of “10% or more” is appropriate and will not compromise the utility’s recovery of costs?

## **6. Miscellaneous Clarity.**

- The definition of “Act” in Section 75.1, as printed in the *Pennsylvania Bulletin* version, contains a cross reference that should be corrected to 73 P.S. §§ 1648.1—1648.8.
- In Section 75.12, the term “equipment package” is defined but is not used in the regulation. Therefore, this definition should be deleted.
- In Section 75.12, Paragraph (ii) of the “net metering” definition uses the confusing

phrase “supplier/provider.” It is not clear whether this refers to an EGS, EDC or both.

- Some of the definitions in Section 75.1 have “the same meaning as defined in section 2 of the act” and include a cross reference to 73 P.S. § 1648.2. However, other definitions do not include the cross reference. For consistency, the reference to 73 P.S. § 1648.2 should be added where appropriate.

# Facsimile Cover Sheet

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Administrative Officer



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INDEPENDENT REGULATORY REVIEW COMMISSION

**To:** Sherri A. DelBiondo  
Regulatory Review Coordinator  
Law Bureau  
**Agency:** Pennsylvania Public Utility Commission  
**Phone:** 2-4597  
**Fax:** 3-3458  
**Date:** May 5, 2006  
**Pages:** 6

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-244 (IRRC #2519). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: *Sherri DelBiondo* Date: 5/5/06

Fax5

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