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PENNSYLVANIA PUBLIC UTILITY COMMISSION  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG, PENNSYLVANIA

November 1, 2006

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

THE VICE CHAIRMAN

The Independent Regulatory Review Commission  
14<sup>th</sup> Floor  
333 Market Street  
Harrisburg, Pennsylvania 17101

Re: Pennsylvania Public Utility Commission  
Final-Form Net-metering Regulations  
L-00050174/57-244

Dear Commissioners:

By separate letter from our Chief Counsel, my colleagues have written in support of our net-metering regulations and in opposition to recent written comments to you filed by PV Now on behalf of the solar energy industry. Although I voted to adopt our net-metering regulations, I now have grave concerns about the effect of one important provision, as explained below, and therefore think the wiser course is to request that our regulation be returned to us for reconsideration and, hopefully, speedy resubmission to you.

Act 213 of 2004 required the Commission to develop net-metering rules for customer-generators. Net-metering rules are critical to aid compliance with Act 213's requirement that eighteen percent of the electricity sold at retail in Pennsylvania come from designated alternative energy sources in fifteen years, including half a percent from solar photovoltaics – commonly referred to as Pennsylvania's solar share.

Act 213 further instructs this Commission to develop net-metering rules such that they are, "...consistent with rules defined in other states within the service region of the regional transmission system in any part of this Commonwealth." We convened a stakeholders group to assist us in developing the proposed net-metering rules. On November 10, 2005, we promulgated a proposed rule for net-metering, consistent with net-metering rules found in other states within the regional transmission system, with the exception of one critically important provision related to the true-up period for excess credits. The proposed rule provided that, "An EDC shall carry over credits earned by a customer-generator from a billing period to successive billing months. Any unused credits shall accumulate until the end of the annualized period." This is referred to as "annual true-up."

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The Commission's final rulemaking for net-metering changed this provision to a "monthly true-up" as found in § 75.13(D). "At the end of each billing period, the EDC shall compensate the customer-generator for kilowatt-hours generated by the customer-generator over the amount of kilowatt hours delivered by the EDC during the billing period at the EDC's avoided cost of wholesale power."

According to PV Now, an annual true-up is superior to a monthly true-up. Customer-generator resources such as solar photovoltaics and wind are seasonal and produce more electricity in certain months when the sun shines most or wind blows the hardest. Annual true-up allows customer-generators to earn more credits at retail than they would under a monthly true-up scenario, thereby improving the economics of net metered systems, reducing the costs of compliance with Act 213, and encouraging more clean, distributed generation development in Pennsylvania. Additionally, providing an annual true-up maintains complete consistency with New Jersey's net-metering rules as required by Act 213.

I respectfully urge you to reject the Commission's final rulemaking order on net-metering and to recommend that we change the final rule to include an annual true-up period for credits generated by customer generators.

I believe that getting this aspect of our regulations properly aligned is crucial to encouraging investments in solar infrastructure in Pennsylvania, and not in adjacent states like New Jersey. Unlike New Jersey, our law does not provide for rebates, which greatly enhance the economics of solar projects. In my opinion, it is going to be very difficult for Pennsylvania to meet its solar share. Even the perception by the solar energy industry that other states are more advantageous investment environments will virtually ensure that Pennsylvania's EDCs will not have solar alternative energy sources available to them to fulfill their obligations under Act 213. They will be forced to go elsewhere for those alternative energy credits. For these reasons, I reluctantly urge you to reject our regulations so that we may give this issue further thought and consideration.

Thank you for your consideration of this very important matter.

Sincerely yours,

  
James H. Cawley