Before the
Consumer Affairs & Professional Licensure Committee
Senate of Pennsylvania

Hearing on Solar Energy's Impact on Pennsylvania Ratepayers
June 20, 2023

Testimony of
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Good morning Chairman Stefano, Minority Chairman Boscola and members of the Senate Consumer Affairs & Professional Licensure Committee. I am Terry Fitzpatrick, President and CEO of the Energy Association of Pennsylvania ("EAP" or "Association"), a trade association comprised of electric and natural gas utilities—also known as electric and natural gas distribution companies—operating in Pennsylvania. EAP advocates for its members before the General Assembly and state agencies, assists its members by facilitating sharing of information and best practices, and provides educational opportunities for employees of its members and others through its operations and consumer services conferences. Thank you for this opportunity to provide testimony on behalf of our electric utility members regarding the impact of solar energy on Pennsylvania ratepayers.

Today's hearing encompasses a number of solar issues, including local and community solar legislation, rooftop solar, and utility scale solar. My testimony will address all of these topics. As you will see, the main theme running through the testimony is that policies to promote solar energy should not shift costs from solar customers and developers to non-solar customers.

Background

Before delving into particular solar issues, it's helpful to review some background information. In 1996, Pennsylvania enacted the Electricity Generation Customer Choice and Competition Act, which established a competitive generation market to create conditions that

would allow market forces to determine what types of electric generation are built. The main reason for this law was to promote lower electricity prices in Pennsylvania, which at that time were 15% above the national average.[1] In 2004, Pennsylvania enacted the Alternative Energy Portfolio Standards (AEPS) Act, which required that 18% of electricity consumed in the Commonwealth come from renewable and other alternative energy sources by 2021. This law also put into place a policy known as "net metering" which controls how to credit the electric bill of a customer when the customer generates power from an on-site source such as rooftop solar panels. The passage of the AEPS Act was an intervention in the competitive market to jump-start alternative energy to further environmental goals.

Net Metering

As stated above, the AEPS Act adopted a net metering policy to compensate customer generators for energy they produce. Under this policy, a customer-generator receives a credit on their electric bill that is equal to the full retail price of electric service for any power they generate. The full retail price for electric service includes not just a charge for energy itself, but also charges for the electric grid that delivers the energy (i.e., transmission and distribution) and to pay for items such as state taxes and government-mandated programs for low-income assistance and energy efficiency.

While customer-generators should receive an appropriate credit for power they generate—we believe this credit should reflect the wholesale spot-market price of energy—allowing these customer-generators to avoid paying for their use of the electric grid shifts costs to other customers and is unsustainable over the long-term. Customer-generators are not "off the grid;" they continue to rely upon it to export energy they produce in excess of their use and also to import energy at times when the sun isn't shining. In practice, there are few occasions when a solar energy system is producing exactly the amount of power needed by that customer,

[1] In 2021, electricity prices in Pennsylvania were 11% below the national average. Energy Information Administration, *State Electricity Profiles*, November 10, 2022, www.eia.gov/electricity/state/.

and at all other times, the customer is using the grid to either import or export power. The grid is very important for a solar customer-generator because it acts as a giant battery that they can draw upon at any time; it only makes sense that they should pay for this benefit. Similarly, customer-generators should not be permitted to avoid paying their share of taxes and costs of programs mandated by law to achieve policy goals. The costs that customer-generators avoid paying under net metering do not go away—they are shifted to non-solar customers, many of whom are less well off.

According to the latest figures compiled by the Public Utility Commission, there are now almost 46,000 customer generators in Pennsylvania.[2] In addition, it is also important to consider the impact of federal policies designed to promote rooftop solar. The Inflation Reduction Act provides a 30% residential tax credit for rooftop solar costs, which the White House projects will cause an additional 610,000 households in Pennsylvania to install solar panels.[3] If this projection proves to be accurate, it would mean a thirteen-fold increase in customer-generators, and a thirteen-fold increase in the costs that non-solar customers are forced to bear due to the net metering policy.

Given the manner in which net metering shifts distribution costs to non-solar customer and the expected rapid increase in solar adoption as a result of expanded federal incentives, we believe that the AEPS Act should be amended to phase-out the current net metering policy and establish a bill credit for customer-generators that requires them to pay for their use of the grid, and for other related costs.

Court Decisions Extending Net Metering to Pure Generators

In addition to a general concern regarding net metering, electric utilities have a particular concern over the impact of decisions by Pennsylvania's appellate courts that interpret the AEPS Act to allow pure generators—whose only electric usage is related to operating a generation

[2] https://www.puc.pa.gov/media/2174/net_metering_interconnection_report_2020-2022.pdf
[3] https://www.whitehouse.gov/wp-content/uploads/2022/08/Pennsylvania.pdf

facility—to take advantage of net metering. These decisions struck down PUC regulations that required a customer to have load independent of operating a generation facility to qualify for net metering.[4] Since the net metering bill credit exceeds the wholesale price of energy, solar generators have a financial incentive to connect to the distribution grid and take advantage of this method of compensation for the power they produce. This could further increase costs imposed on non-solar customers due to net metering.

We believe the General Assembly intended net metering to apply to real customers, not pure generators of electricity who would otherwise have to sell their power into the wholesale electricity market. A merchant generator should not qualify for net metering if the electric usage at the location is minimal or out of proportion to the size of the generation facility that is installed at the site. Accordingly, we recommend that the legislature consider amending the AEPS Act to codify the requirements in the PUC regulations and orders that customers must have usage independent of operating a generation facility and in proportion to the size of the generation unit to qualify for net metering.

Community Solar Legislation

Over the past few legislative sessions, a number of bills have been introduced to authorize "community solar" facilities interconnected to the electric distribution system that generate electricity using solar photovoltaic technology. Under these bills, customers could contract for a subscription to purchase energy from these facilities and their bills would be credited for the power produced by the facility. The key issue here is how this bill credit is established. The language of these bills has changed over time regarding this bill credit. For example, under House Bill 531 introduced in the 2019-2020 session, bill credits for subscribers would have been set at "full retail value." In essence, this language would have extended the net metering policy to subscribers to community solar facilities and resulted in non-solar

[4] *Hommrich v. Pa PUC,* 231 A.3d 1027 (Pa. Cmwlth 2020), *affirmed,* 245 A.3d 637 (Pa. 2021).

customers subsidizing community solar developers and subscribers, even as these customers would be using the grid in the same manner as all other customers.

The most recent versions of community solar bills no longer use the words “full retail value” to describe the bill credits for subscribers, but we believe the requirements for setting these credits still result in imposing costs on non-solar customers. Senate Bill 550 from the current legislative session would set the bill credit at the electric utility’s “price to compare.” The price to compare, or “PTC” as it is commonly referred to, is the amount customers can use to compare the utility’s supply price to competitive generation offers. The PTC includes transmission costs and also wholesale capacity charges designed to assure that generation is available twenty-four hours a day, seven days a week, three hundred and sixty-five days a year. Setting the bill credit at the PTC allows community solar subscribers to avoid paying for their use of the transmission system and overcompensates them for the intermittent generation from the facility. Senate Bill 550 also requires electric utilities to make a “grid services” payment to community solar developers that install “smart inverters” at their facilities. The level of these payments is not related to any affirmative benefit that community solar facilities with smart inverters provide to the electric grid and, again, results in payment of a subsidy to community solar developers.

Local Solar Legislation

Local solar legislation sounds similar to community solar legislation, but there is a key difference in how the bill credits are set. Legislation such as House Bill 330 in the current session and Senate Bill 919 from the 2021-2022 session would authorize electric utilities to seek PUC approval of a “local solar” program under which a third party would build a solar photovoltaic facility connected to the distribution grid and sell subscriptions to customers. Subscribers to local solar facilities would pay a cost-based charge for energy from the facility, and other charges on the bill, including transmission and distribution charges, would not be impacted.

Since local solar subscribers would be paying for their use of the distribution and transmission system and also picking up their share of costs for state taxes and low-income assistance programs, etc., this legislation would not result in shifting those costs to non-solar customers. For this reason, electric utilities have supported local solar legislation.

Utility Scale Solar Generation

In the years since the AEPS Act became law in 2004, numerous bills have been introduced to increase the required purchases of renewable energy, including for "utility-scale" solar generation. For example, Senate Bill 230 from this session would require, among other things, that 8% of the electricity sold at retail in the Commonwealth by 2031 would come from solar technologies other than those owned by customer-generators and community solar facilities. In considering increases in AEPS requirements such as this, electric utilities recommend that the legislature consider a number of factors.

Electric utilities recognize the importance of reducing greenhouse gas emissions in a cost-effective manner, and they pursue a number of strategies to reduce emissions from the industry, including offering energy efficiency programs to their customers. Any increases in AEPS requirements should be balanced, realistic, and gradual, and should consider the impacts on energy affordability and reliability. The importance of these considerations has been highlighted by the challenges posed to customers by energy price increases over the past two years due to national and international events, and also by a recent report from the regional grid operator concluding that under current trends there may not be sufficient electric generation to meet demand for electricity in the region by 2030.[5] If AEPS requirements are increased, the most cost-effective approach would be to enact policies that are technology-neutral and avoid carve-outs favoring some technologies over others.

[5] PJM Interconnection, LLC, *Energy Transition in PJM: Resource Retirements, Replacements & Risks*, Feb. 24, 2023 (p.2), available at www.pjm.com.

To preserve and enhance electric reliability, utilities must continue to invest in the electric distribution system and incorporate distributed energy generation sources. This is especially important to meet the challenge that more frequent and severe storms pose to the electric grid. It is critical that the increased cost of additional requirements of alternative energy sources does not disrupt the ability of electric distribution utilities to recover the cost of these critical investments.

Finally, if AEPS requirements are increased, provisions of the Act regarding alternative compliance payments should be revised so that these payments do not function as a penalty, but rather as a cap on compliance costs in order to protect customers from burdensome cost increases. Accordingly, any alternative compliance payments by electric utilities should be recoverable from customers in the same manner as the cost of purchasing alternative energy credits.

Thank you for the opportunity to testify and I would be happy to answer your questions.