

**Before the  
House Environmental Resources & Energy Committee  
Public Hearing re  
Solar Energy and Economic Development – HB1467  
March 18, 2024**

**Testimony of  
Donna M.J. Clark, Vice President & General Counsel  
Energy Association of Pennsylvania**

Good morning, Chairman Vitali, Chairman Causer and members of the House Environmental Resources and Energy Committee. I am Donna Clark, Vice President and General Counsel 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 (“EDCs” and “NGDCs”, respectively)—operating in Pennsylvania. Collectively, EAP’s members deliver energy to more than 8.3 million residential, commercial, and industrial customers within the Commonwealth. EAP advocates for its members before the General Assembly, the Pennsylvania Public Utility Commission (“PUC”) and other 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 solar energy and economic development and, relatedly, HB 1467 which would, in part, expand the current Alternative Energy Portfolio Standards (“AEPS”) Act requirements to promote investment in solar energy in the Commonwealth. As this legislation would primarily affect EAP’s EDC members, my testimony today will focus on their perspective.

Currently, AEPS mandates EDCs and electric generation supplies (“EGSs”) to include specific percentages of electricity from alternate energy resources in the generation mix sold to Pennsylvania customers. HB 1467 would increase the AEPS Tier 1 requirements from 8% to 30% incrementally over the next six (6) years and, within that increase, would establish new specific targets for in-state grid-scale solar, community solar, and in-state distributed generation solar. HB 1467 would also create a path for community solar projects which are not presently permitted in Pennsylvania. Given that EDCs recover the cost of complying with the AEPS Act from customers, any increase in alternative energy requirements as a means to spur economic development should be balanced, gradual, and should consider impacts on reliability and energy affordability. These considerations are particularly important today as energy prices continue to rise and serious concerns have recently been raised regarding generation resource adequacy and reliability in the PJM region, in which Pennsylvania is a member<sup>1</sup>.

## **BACKGROUND**

Pennsylvania’s EDCs recognize the importance of reducing greenhouse gas (“GHG”) emissions and the need for all industries that contribute to GHG emissions to participate in efforts to achieve that objective. EDCs look to achieve that goal in a cost-effective manner which is technology neutral and prioritizes customer affordability and reliability. As detailed

---

<sup>1</sup> PJM Interconnection is a regional transmission organization (RTO) that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia; See also infra footnote #3.

below, EAP believes that legislation which advances the production of renewable energy in Pennsylvania should account for the need to preserve and enhance electric reliability in the world today as EDCs look to invest in the electric distribution system to meet the challenges of more severe weather and facilitate the energy transition.

Pennsylvania “restructured” its electric industry through passage of the Electricity Generation Customer Choice and Competition Act (“Competition Act”)<sup>2</sup> in 1996. Under this Act, EDCs maintain ownership and maintenance of poles and wires but no longer own generating plants. Customers can purchase energy from competitive suppliers or may choose to remain on the “default” supply service offered by EDCs.

Today, EDCs purchase energy for default service, including alternative energy credits to meet AEPS requirements in the wholesale market, and recover the cost of these purchases from customers without markup. Consumers of electricity in Pennsylvania have benefited from the creation of a competitive generation market under the Competition Act, and proposals to further expand alternative energy requirements should consider the impact on the wholesale generation market as well as the effects on generation reliability, availability, and pricing. This point is highlighted by a recent PJM Interconnection report concluding that under current trends, there may be insufficient generation to meet demand for electricity in the region by 2030.<sup>3</sup>

---

<sup>2</sup> Electricity prices in Pennsylvania were 15% above the national average in 1996, the year the Electric Competition Act was passed. In 2022, Pennsylvania electricity prices were 4% below the national average. <https://www.eia.gov/electricity/state/pennsylvania/>

<sup>3</sup> PJM Interconnection, LLC, *Energy Transition in PJM: Resource Retirements, Replacements & Risks*, Feb. 24, 2023 (p.2), available at [www.pjm.com](http://www.pjm.com).

The PJM report indicates that coal and natural gas-fired power plants are closing before their natural “end of use” date due to state and federal environmental policies. Simultaneously, electricity usage is projected to increase due to construction of data centers and the rise in electric vehicles. Both of these things are happening at a time when almost all the generation projects currently being planned in the PJM RTO are for renewable energy.<sup>4</sup> These renewable projects cannot timely replace what is being retired due to delays in bringing them online caused by supply chain and siting obstacles. In addition, these renewable energy sources are intermittent—available only when the wind blows and sun shines—and they are not yet technically able to replace the reliability benefits of power plants that can generate electricity twenty-four hours a day, seven days a week.

So far, Pennsylvania has generally taken a moderate, centrist approach to alternative energy mandates, including solar requirements, which has benefitted consumers. Pennsylvania remains the second largest total energy producer in the nation, second in natural gas production, and fourth in electricity production.<sup>5</sup> Pennsylvania’s retail electric prices have remained below the national average for over a decade, and, despite the recent rise in energy prices, electricity in Pennsylvania remains below that national average today.<sup>6</sup> These factors contribute to the economic health of not only our state, but of the surrounding region as well.

---

<sup>4</sup> The PJM report shows that 94% of the projects in the interconnection queue are for renewable energy and storage. Historically, the rate of completion for renewable energy projects has been just 5% due to siting, supply chain, and other challenges. PJM Report, p. 2.

<sup>5</sup> U.S. Energy Information Administration, <https://www.eia.gov/state/rankings/?sid=US#/series/101>; <https://www.eia.gov/state/rankings/?sid=US#/series/47> and; <https://www.eia.gov/state/rankings/?sid=US#/series/51>

<sup>6</sup> U.S. Energy Information Administration, <https://www.eia.gov/electricity/state/>

As stated earlier, EAP and its members recognize the need for all industries that contribute to GHG emissions to reduce those emissions. However, such reductions should be done in the most cost-effective manner. Cost-effective policies to reduce GHG emissions in the generation of electricity should be technology-neutral and avoid carve-outs favoring some technologies over others. Given that EDCs recover the cost of complying with alternative energy purchase requirements from all customers, any such increase should be balanced, realistic, and gradual, and should consider impacts on energy affordability and reliability. Affordability concerns remain especially important as energy prices nationwide have risen significantly over the past two years.

EAP further asks the Committee to consider the impact any change in statewide environmental policies will have on essential grid reliability. To preserve and enhance electric reliability, utilities must continue to invest in the electric distribution system and incorporate various 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.

EAP believes the Commonwealth should continue to provide opportunities for all types of energy to succeed—including renewable energy, natural gas, and others—so that we can continue to provide energy benefits to the entire region and reduce emissions at the same time.

## **The Alternative Energy Portfolio Standards (“AEPS”) Act of 2004**

Under the AEPS Act, retail suppliers of electricity – that is, now both EDCs and EGSs – were required to purchase eighteen percent of their portfolios from specified forms of alternative energy sources by 2021. The Act also established a “net metering” policy under which “customer generators” are provided a credit on their electric bills for their generation and avoid paying for their use of the electric grid and for certain other usage-based charges, such as the cost of low-income assistance programs. HB 1467 proposes to increase the level of required purchases of alternative energy and to carve out additional, specific purchase requirements for solar energy without addressing the economic burden of the current net metering policy.

According to the latest figures compiled by the Public Utility Commission, there are now almost 60,000 customer generators in Pennsylvania.<sup>7</sup> In addition, it is also important to consider the impact of federal policies designed to promote rooftop solar. The Inflation Reduction Act (“IRA”) 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.<sup>8</sup> If this projection proves to be accurate, it would mean a ten-fold increase in customer-generators, and a ten-fold increase in the costs that non-solar customers are forced to bear due to the net metering policy.

Net metering is the policy that compensates customer generators for energy (typically solar energy) they produce. Under this policy, a customer-generator receives a

---

<sup>7</sup> [https://www.puc.pa.gov/media/2652/net-metering-interconnection-report-2021-2023\\_final.pdf](https://www.puc.pa.gov/media/2652/net-metering-interconnection-report-2021-2023_final.pdf)

<sup>8</sup> <https://www.whitehouse.gov/wp-content/uploads/2022/08/Pennsylvania.pdf>

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. Furthermore, the current net metering policy in the AEPS Act creates additional affordability challenges for electric customers, as it allows customer generators to avoid paying for their use of the electric grid and to avoid paying certain other usage-based charges as I mentioned previously. Over time, the burden of paying these costs is shifted to non-solar customers.

A recent Pennsylvania Supreme Court decision interpreted the language of the AEPS Act to allow pure generators, with no electricity usage apart from operating the generation facility, to take advantage of net metering.<sup>9</sup> Since the net metering bill credit currently exceeds the wholesale price of energy, these kinds of solar generators have a financial incentive to connect to the distribution grid and take advantage of the current compensation paradigm for the power they produce instead of selling into the wholesale market. This issue further increases costs imposed on non-solar customers due to net metering. The distributed generation provisions of the Act were intended to apply to actual customers who use energy for purposes other than just generating electricity, and the Act should be amended to close this loophole.

EAP and its EDC members believe the General Assembly intended net metering to apply to actual customers, not pure generators of electricity who would otherwise have to

---

<sup>9</sup> *Hommrich v. Pa PUC*, Pennsylvania Supreme Court, 664 Pa. 567, 245 A.3d 637

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 that were in the PUC regulations and provide 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.

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

In conclusion, EAP and its EDC members recognize the importance of reducing GHG emissions in a cost-effective manner. Today, EDCs offer energy efficiency programs to their customers through Act 129 Energy Efficiency & Conservation Plans and Low-Income Usage Reduction Plans (“LIURP”) which reduce energy usage and emissions. Additionally, Pennsylvania EDCs are using a variety of other strategies to pursue a goal of net zero emissions. Simultaneously, EAP strongly maintains that legislative efforts to amend the AEPS Act to further this shared goal of cost-effective GHG reductions should consider the impacts on energy reliability and affordability. Considerations of generation resource adequacy in the PJM RTO; the need for EDCs to continue to invest in their distribution grid



systems so as to incorporate distributed energy resources and meet the challenge of increasingly severe weather; and the impact of net-metering on customer affordability are just a few of the topics which should be examined as the committee considers the changes proposed by HB 1467 as a way to promote solar energy and economic development.

Thank you for the opportunity to testify and I will be happy to answer any questions.