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March 8, 2010

VIA ELECTRONIC FILING

James J. McNulty
Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

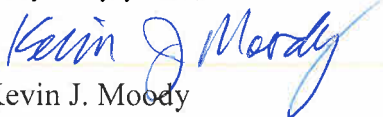
Re: Policy Statement in Support of Pennsylvania Solar Projects
Docket No. M-2009-2140263

Dear Secretary McNulty:

Enclosed please find the original of ConEdison Competitive Energy Businesses' Comments for filing in the above-referenced matter.

If you have any questions regarding this matter, please contact me at your convenience.

Very truly yours,


Kevin J. Moody

KJM/jls
Enclosures

cc: Scott Gebhardt (w/enc, via email)
Kris Brown (w/enc, via email)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Policy Statement in Support of Pennsylvania
Solar Projects

Docket No. M-2009-2140263

**COMMENTS OF
THE CONEDISON COMPETITIVE ENERGY BUSINESSES
ON THE PROPOSED POLICY STATEMENT IN SUPPORT OF PENNSYLVANIA SOLAR
PROJECTS**

On December 10, 2009, the Commission issued an Order and Proposed Policy Statement in Support of Pennsylvania Solar Projects in the above-referenced docket. According to the Order, the purpose of the proposed Policy Statement is to establish a foundation upon which the Commonwealth can achieve its solar renewable energy goals as set forth in the Alternative Energy Portfolio Standard requirements established by the General Assembly. Consolidated Edison Solutions, Inc. (“CES”), Consolidated Edison Energy, Inc. (“CEE”), and Consolidated Edison Development (“CED”) (collectively, the “ConEdison Competitive Energy Businesses”) submit these comments in support of the Commission’s proposed Policy Statement.

CES, CEE and CED are New York corporations and are wholly-owned subsidiaries of Consolidated Edison, Inc. (“CEI”). CEE is a wholesale energy marketer operating under Federal Energy Regulatory Commission (“FERC”) market-based rate authority and engages in the business of electricity marketing and trading, including energy procurement services on behalf of CES. CED invests in energy related infrastructure and generation projects, including large-scale solar projects. CES is a competitive retail provider of electricity and energy-related services operating in several states that have enacted retail choice, and is a licensed Electric Generation

Supplier (“EGS”) in Pennsylvania. CES also invests in smaller scale “behind the meter” solar projects on behalf of certain retail customers.

The Competitive Energy Businesses support competitively neutral policies designed to promote investment in solar energy projects. As such, we believe that the proposed Policy Statement is a positive step forward that will help the Commonwealth achieve its solar energy goals. In general, the Competitive Energy Businesses support the measures discussed in the proposed Policy Statement. However, it is important to recognize that in encouraging EDCs to issue RFPs to procure Solar Renewable Energy Credits (“Solar RECs”) to support solar development, the Commission is attempting to leverage the EDCs’ regulated assets and customer base to provide a more stable and predictable revenue stream for solar projects. In doing so, the policy goal of promoting solar energy development must be balanced with other stated goals of the Commonwealth, namely ensuring that Pennsylvania has a robust competitive retail market for electricity. Accordingly, the Competitive Energy Businesses offer the following recommended clarifications designed to ensure that any EDC SREC procurement plans result in a competitively neutral outcome that does not present a competitive advantage for default service as compared to service from an EGS.

The Competitive Energy Businesses recommend that the Proposed Policy Statement include a requirement that any Solar RECs procured through long-term contracts must be disposed of in a competitively neutral manner that does not create a competitive advantage for default service as compared to service from an EGS. This can be achieved by limiting the procurement to Solar RECs, as currently provided for in the proposed Policy Statement, and allocating the Solar RECs to all load serving entities in the EDC’s territory on a load ratio share basis.

First, it is important to recognize that EDCs have certain advantages as compared to EGSs in terms of cost recovery for AEPS costs. The AEPS Act provides EDCs with a statutory guarantee of cost recovery for AEPS costs.¹ Accordingly, EDCs are better positioned to enter into long-term contracts with solar facilities because they have little or no risk. Conversely, an EGS must reflect its AEPS costs in its offer prices. It would be highly speculative for an EGS to enter into long-term contracts because EGSs have a transient and unpredictable customer base.

Allowing EDCs to enter into long-term contracts with solar facilities while using the energy, capacity and Solar RECs from these procurements for default service would create a situation that could place EGSs at a significant competitive disadvantage. By entering into 5 to 20 year long term contracts, the associated Solar REC prices reflected in future default service rates will be divorced from current market prices in future periods. If Solar REC prices in future periods exceed the Solar REC prices under the long-term contract rates, then retail suppliers will be at a competitive disadvantage as compared to the EDC's default service. Alternatively, if the long-term contracted Solar REC prices are above future market prices, then default service rates will be artificially high. The competitive impact of the long-term contracts is exacerbated if the EDCs are also permitted to enter into long-term contract for energy and capacity in addition to the Solar RECs.

To ensure competitive neutrality, EDCs should be required to allocate the acquired Solar RECs to all load serving entities (default service providers and retail EGSs) on a load ratio share basis and recover the costs of the long-term procured Solar RECs from all customers through a non-bypassable charge. This would ensure that default service does not have a price advantage over EGS offers because the EDC was able to enter into long term contracts at a lower price as compared to EGSs, and vice-versa. This approach was taken in the First Energy (Met-Ed and

¹ 66 P.S. § 1648.3(a)(3)

Penelec) default service settlement and was viewed by the settling parties as a reasonable solution to this issue.²

The Competitive Energy Businesses also offer the following comments with respect to certain specific sections of the Proposed Policy Statement.

§69.2903(a): This section encourages EDCs to use a transparent competitive procurement process with standardized RFP documents for the procurement of Solar RECs from large-scale facilities. The Competitive Energy Businesses support this proposal. Reliance on a standardized competitive procurement process is the most effective way to encourage participation from large-scale solar developers and will ensure the most cost effective result.

§69.2903(b)(2): This section encourages EDCs to pursue bilateral negotiations with small-scale solar projects with certain conditions. These conditions include ensuring that the Solar REC price resulting from bilateral contracts does not exceed the price resulting from competitive RFPs for large-scale projects and limiting the amount of Solar RECs purchased from small-scale projects through bilateral contracts. The Competitive Energy Businesses support these conditions as appropriate measures to ensure that EDC procurement plans result in a mix of Solar RECs from large-scale and small-scale projects. These conditions encourage the development of small-scale solar projects while also ensuring that the EDCs ultimately acquire the most cost effective Solar RECs available.

In conclusion, the Competitive Energy Businesses support adoption of the Proposed Policy Statement with the above-stated modifications.

² Docket Nos. P-2009-2093053 and P-2009-2093054.

Respectfully submitted,

Richard J. Hudson, Jr.

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Director Regulatory & Legislative Affairs

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