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VIA HAND DELIVERY

March 5, 2010

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

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

Dear Secretary McNulty:

Enclosed please find the original and fifteen (15) copies of the Comments of The PPL Companies To the Proposed Policy Statement in the above-referenced proceeding.

If you have any questions regarding these Comments, please feel free to call me.

Respectfully submitted,


Paul E. Russell

cc: Scott Gebhardt (via electronic mail)
Kris Brown (via electronic mail)

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

**Comments of
The PPL Companies
To the Proposed Policy Statement**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

I. Introduction

By Order entered December 10, 2009 and published in the Pennsylvania Bulletin on February 6, 2010, the Pennsylvania Public Utility Commission (“Commission” or “PUC”) issued a proposed Policy Statement (“Proposed Policy Statement”) in support of Pennsylvania solar projects. The stated purpose of the Proposed Policy Statement is to provide a foundation upon which Pennsylvania can meet its solar renewable energy goals by establishing long-term revenue stability for solar projects. The Commission asserts that the absence of long-term revenue stability is a barrier currently inhibiting development of solar projects in Pennsylvania.

The Commission’s Order issuing the Proposed Policy Statement provides a comprehensive overview of the Pennsylvania Alternative Energy Portfolio Standards Act of 2004¹ (“AEPS Act”). The AEPS Act establishes an alternative energy portfolio standard for Pennsylvania and requires that an annually increasing percentage of electricity sold to retail electric customers in Pennsylvania by electric distribution companies (“EDCs”) and electric

¹ 73 P.S. §§ 1648.1 – 1648.8

generation suppliers (“EGSs”) be derived from alternative energy resources. Subsequent amendments to the AEPS Act have placed increased emphasis on solar renewable energy, increasing the annual solar photovoltaic (“PV”) requirements and requiring the Commission to consider an EDC’s or EGS’s efforts to obtain alternative energy credits through competitive solicitations and long-term contracts. *See* 73 P.S. 1648.2.

The Commission’s Order details Pennsylvania’s stated policy of promoting the development of solar projects in Pennsylvania through the Alternative Energy Investment Act² and details Act 129 of 2008, which requires default service providers to acquire electric power and alternative energy credits through competitive procurement processes that include a prudent mix of spot market purchases, short-term contracts and long-term contracts of more than four years, but not more than 20 years. 66 Pa. C.S. §§ 2807(e)(3.1), (3.2) and (3.5).

PPL Electric Utilities Corporation (“PPL Electric”) and PPL EnergyPlus, LLC (“PPL EnergyPlus”) (together “the PPL Companies”) note that they have participated in all aspects of implementing the AEPS Act and subsequent amendments, and Act 129. The PPL Companies look forward to continued involvement in these areas. The PPL Companies further note their broad and long-standing experience in the electricity marketplace, which has formed the basis for these comments. The PPL Companies bring the perspective of an electric distribution company; an integrated electric marketing company active in renewable energy credit trading and marketing in several states; owners of transmission facilities in PJM; owners of generation facilities in the east and the west, which are fueled by a diverse mix of fuels, including coal, oil, natural gas, hydropower and nuclear fuel; and entities involved in deciding

² 73 P.S. §§ 1649.101 – 1649.711.

whether and where to bring new renewable generating facilities on line to meet demand. This diversity of experience brings a useful perspective to these comments.

The PPL Companies hope that these comments, informed by their considerable experience in diverse electricity markets, will be helpful to the Commission in its important effort to provide a foundation upon which Pennsylvania can meet its solar renewable energy goals.

In this filing, the PPL Companies provide their comments on the Commission's Proposed Policy Statement to encourage the development of solar power in Pennsylvania. The PPL Companies welcome the opportunity to participate in this important proceeding. At the outset, it is important to note that the PPL Companies support the development of small- and large-scale solar projects in the Commonwealth. However, the PPL Companies note that it is important to balance the support for solar development with other important energy policy goals. For example, consideration should be given to potential risks associated with providing long-term revenue stability for solar projects on customer rates and on the future development of the solar market in Pennsylvania. As to the Proposed Policy Statement, the PPL Companies believe that several modifications or clarifications would be appropriate and directs their comments to those issues. To facilitate review by the Commission and other stakeholders, the following comments track the organization of the Commission's Proposed Policy Statement.

II. Comments

§ 69.1901. Purpose.

The PPL Companies agree with the Commission that the process outlined in the Proposed Policy Statement may address some of the barriers that currently exist to the development of small- and large-scale solar projects in Pennsylvania. Such an approach is appropriate at this time as Pennsylvania transitions to greater reliance on new alternative energy

systems to meet its present and future energy needs. Further, the PPL Companies agree with the Commission that the Proposed Policy Statement is consistent with the stated policy of the Commonwealth to promote the construction of solar projects in Pennsylvania and should assist Pennsylvania in achieving this stated policy goal.

However, the PPL Companies are concerned that what may be appropriate Commission encouragement during this time of transition may be unnecessary in the future as the markets develop and Pennsylvania proceeds with the implementation of the AEPS Act. Moreover, while *the Proposed Policy Statement may be useful in the short term, in the long term, it could possibly increase costs for Pennsylvania consumers above the level that may be achieved in a fully competitive solar market.* The PPL Companies believe that as more solar generation is brought on-line and the market for solar generation and solar renewable energy credits (“SRECs”) matures, regulatory intervention must be lifted and the market must be allowed to work in order to provide the maximum benefit to Pennsylvania consumers at the lowest possible cost. Therefore, the PPL Companies recommend that the Proposed Policy Statement be viewed as a short term program and that the Proposed Policy Statement have a sunset date three (3) years from its final adoption. This sunset date will minimize the Proposed Policy Statement’s potential adverse impacts on SREC markets and signal to both markets and developers that such potential impacts are temporary. A sunset date will also signal strongly that Pennsylvania still wants to accommodate a transition to a fully competitive SREC marketplace once the market is more fully developed. If, at the time of the sunset date, the Commission determines that Pennsylvania’s solar market still needs ongoing regulatory intervention, the Commission can adopt additional measures, as it believes necessary.

§ 69.2902. Definitions.

The PPL Companies believe that it is critical to establish an appropriate cut-off between small- and large-scale solar projects. Therefore, the PPL Companies recommend that the Commission modify the definition of: (1) large-scale solar project, and (2) small-scale solar project in the manner described below.

Large-Scale Solar Project – The Proposed Policy Statement defines large-scale solar projects as those systems with a nameplate capacity of 200 kW or more. The PPL Companies believe that the proposed threshold is too low and should be raised to 500 kW. The best way to jump start development of solar projects is to focus primary attention on truly large-scale projects. Because the Proposed Policy Statement establishes a Request for Proposals (“RFPs”) process for large-scale solar projects, the proposed 200 kW threshold will result in the PPL Companies incurring increased costs associated with developing and implementing RFP processes to acquire relatively small unit quantities of SRECs from individual projects. This approach will require managing multiple small resources, including the due diligence required to qualify and confirm operation for these small-scale solar projects. The PPL Companies believe that these increased administrative burdens and corresponding costs will be significant and are unnecessary. In addition, the expense incurred by bidders to prepare for and participate in an RFP process will make it costly for a project with only 200 kW capacity to successfully bid. Accordingly, the PPL Companies recommend that the Commission modify the definition of large-scale solar projects and set the threshold at 500 kW. The PPL Companies believe that the 500 kW threshold will strike the appropriate balance between encouraging the development of more qualifying solar facilities and minimizing the administrative burdens and costs associated with procuring SRECs. Therefore, the PPL Companies recommend that the definition of large-

scale solar projects be revised so that the threshold is set at solar projects with a nameplate capacity of 500 kW and above.

Small-Scale Solar Project – In the definition of this term, the Proposed Policy Statement provides that solar PV systems with a nameplate capacity of less than 200 kW be considered a small-scale solar project. Consistent with their comments above, the PPL Companies believe that the proposed threshold is too low. Again, the PPL Companies recognize the importance of small-scale solar projects.

The PPL Companies believe that a 500 kW threshold will strike the appropriate balance between encouraging the development of more qualifying solar facilities and minimizing the costs associated with the acquisition of SRECs. However, the PPL Companies support the Commission’s recognition of the beneficial role that solar aggregation may play in assisting in the development of small-scale solar projects. It is PPL Companies’ position that small-scale solar projects (solar projects below 500 kW) are best suited for solar aggregation. The Commission has issued final, uniform interconnection³ and net-metering regulations⁴ for customer-generators. These existing regulations, coupled with the Commission’s encouragement of solar aggregation and various EDC tariff offerings provide a solid foundation from which small-scale solar projects can be developed in Pennsylvania. Therefore, the PPL Companies recommend that the definition of small-scale solar projects be revised so that threshold be set at solar projects with a nameplate capacity of 500 kW or below.

Solar Aggregator – Consistent with the foregoing, and later comments, the PPL Companies recommend that the definition of Solar Aggregator provide for aggregation of small-

³ 52 Pa. Code §§ 75.21 – 75.40.

⁴ 52 Pa. Code §§ 75.11 – 75.15.

scale solar projects to a combined nameplate capacity of 500 kW. Further, the definition of large-scale solar project should include solar aggregators, in order to make clear that a solar aggregator may participate in the RFP process for large-scale solar projects.

§ 69.2903. RFPs to establish SREC values recoverable as a reasonable expense.

The PPL Companies largely agree with the Commission's approach in this area. The PPL Companies support the use of RFPs to procure SRECs from large-scale solar projects. PPL Electric has employed the use of RFPs in implementing its default service plan ("DSP"), and has found that RFPs provide a fair and transparent process. As to small-scale solar projects, the PPL Companies recommend that RFPs be the preferred approach to procure SRECs from small-scale solar projects. Furthermore, the PPL Companies recommend that the RFP process to procure SRECs from small-scale solar projects be limited to solar aggregators. The PPL Companies are concerned that the use of RFPs for individual small-scale solar projects would result in a requirement to manage, review and perform due diligence on numerous solar PV systems, including individual residential solar PV systems. Requiring EDCs to manage multiple small sources would result in a significant administrative burden being placed upon an EDC in order to procure a relatively small number SRECs. Furthermore, as explained above, a potential bidder will incur costs to prepare for and participate in an RFP, and reflecting those costs in a bid for a 200 kW facility may make such bids non-competitive. Instead, the PPL Companies believe that small-scale solar projects are best suited for solar aggregation, or, in the alternative, participation in individual EDC tariff offerings. These approaches would provide the EDCs with the opportunity to procure SRECs from small-scale solar projects without the administrative burden associated with managing numerous individual contracts. Therefore, the PPL Companies

recommend that the reference to competitively bid RFPs for small-scale solar projects be deleted from the Proposed Policy Statement.

The Proposed Policy Statement also addresses EDC cost recovery associated with procuring SRECs. As proposed, the Proposed Policy Statement provides that the cost of SRECs may be recovered “consistent with the AEPS Act and other applicable law.” The PPL Companies fully support this cost recovery provision, but recommend that the Proposed Policy Statement be clarified to address the following scenario. Specifically, the PPL Companies are concerned that the potential exists for an EDC to procure SRECs in excess of its AEPS Act obligations for Provider of Last Resort (“POLR”) customers. This can occur if POLR load differs from projections used to calculate the number of SRECs to be procured from large-scale and small-scale solar projects. This is a particular risk, given that the Proposed Policy Statement encourages long-term (5 – 20 year) contracts for SRECs. Excess SRECs can be banked under the AEPS Act, but only for a period of two years. Clearly, to the extent that an EDC is unable to use such banked SRECs prior to their scheduled expiration, it is prudent for the EDCs to sell them and credit any revenue to its customers through the AEC cost recovery mechanism. However, to avoid expiration of certain banked SRECs, the EDC may be forced to sell them at a price less than the price at which they were purchased. It is critical that the sale of excess SRECs by an EDC not result in a disallowance of prudently incurred costs (or an imputation of revenue) based upon a contention that the EDC could have or should have received a higher price for the sale of its excess SRECs. The result would frustrate development of solar projects under the Proposed Policy Statement. Therefore, the PPL Companies recommend that the Proposed Policy Statement be amended to encourage EDCs to sell any excess SRECs that cannot be used prior to their scheduled expiration, with revenues received from such sales credited to the EDCs’

customers through the AEPS cost recovery mechanism. Moreover, the Proposed Policy Statement should explicitly state that such sales are not subject to an after-the-fact prudence review other than for fraud or market manipulation.

§ 69.2904. Contracts.

The Proposed Policy Statement provides that EDCs should use standardized contracts for their procurement of SRECs from small- and large-scale solar projects. For numerous reasons, the PPL Companies believe that an RFP process is the preferred approach to procure SRECs. In addition, the PPL Companies agree with the Commission that standardized contracts could be beneficial for RFP procurements. However, it is PPL Companies' position that a statewide form of standardized contract for RFP procurements must fairly and equitably allocate risk between the solar PV developers, EDCs and the EDCs' POLR customers. As discussed below, the PPL Companies do not believe that the standardized contracts currently under development meet this objective. While the PPL Companies prefer a standard, statewide form of contract for all RFPs, that standard contract must be fair. Since the current forms of contract do not meet this objective, the second choice would be the use of individual contracts for each EDC's RFP. It is noted that each of the major EDCs in Pennsylvania has developed its own form of RFP and purchase contracts for POLR supply. Although the PPL Companies believe these contracts are generally similar in nature, they are not identical and have significant differences involving risk allocation. It is the PPL Companies' position that existing Commission-approved EDC default service contracts can provide an alternative form of contract for EDCs to use in their RFP procurement of SRECs. To date, PPL Electric has completed three (3) procurements under its DSP and has found that its existing standardized contracts have been

successful. The PPL Companies believe that, unless appropriate standardized contracts can be developed, these existing contracts could be appropriate for use by the PPL Companies in their RFP procurement of SRECs.

The PPL Companies have participated in the Commission's Stakeholder working group to develop standardized solar contracts. At this time, the PPL Companies do not believe that the forms of contract being developed equitably distribute the risk between the solar PV developers and the EDCs and the EDCs' POLR customers who ultimately bear the cost of replacement SRECs (if the developer fails to perform). Therefore, the PPL Companies recommend that the Commission direct the stakeholders to meet over the next three (3) months in a collaborative effort to develop appropriate standardized contracts. If this collaborative effort is successful, the resulting contracts can be used in future SREC RFPs. However, if the effort is not successful, the Proposed Policy Statement should acknowledge that existing Commission-approved default service contracts are acceptable for use as a form contract for procurement of SRECs in RFP processes.

III. Conclusion

As stated above, the PPL Companies agree with the majority of the Commission's proposal in this proceeding. However, as discussed in the foregoing comments, the PPL Companies believe that several modifications and clarifications are appropriate. Accordingly, the PPL Companies respectfully request that the Commission modify its Proposed Policy Statement consistent with the PPL Companies' comments.

Respectfully submitted,



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Dated: March 5, 2010
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