

Bradley A. Bingaman, Esq.
(610) 921-6203
(610) 939-8655 (Fax)

March 8, 2010

VIA OVERNIGHT UNITED PARCEL SERVICE

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

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MAR - 8 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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

Dear Secretary McNulty:

Enclosed for filing are an original and sixteen (16) copies of Comments of Metropolitan Edison Company, Pennsylvania Electric Company and Pennsylvania Power Company pursuant to the Commission's Proposed Policy Statement in the above-captioned docket.

Please date stamp the additional copy and return it to me in the enclosed, postage-prepaid envelope. Please contact me if you have any questions regarding this matter.

Very truly yours,



Bradley A. Bingaman

dln
Enclosures

c: As Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF METROPOLITAN EDISON COMPANY,
PENNSYLVANIA ELECTRIC COMPANY
AND PENNSYLVANIA POWER COMPANY**

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I. INTRODUCTION

On November 6, 2009, the Pennsylvania Public Utility Commission ("Commission") adopted a Proposed Policy Statement in support of Pennsylvania Solar Projects. The Commission entered the Proposed Policy Statement Order ("Order") on December 10, 2009 which set forth the proposed policy statement and a discussion explaining its contents. Specifically, the Commission stated that the proposed policy statement "seeks to provide the longer-term revenue stability that is likely needed to support both small and large scale solar development, and to address other business that could prevent new solar projects from coming to fruition in Pennsylvania." Order at 1. The proposed policy statement appeared in the *Pennsylvania Bulletin* of February 6, 2010, 40 Pa. B.709, and invited interested parties to submit comments on the proposed policy statement within 30 days and reply comments with 45 days.

Metropolitan Edison Company ("Met-Ed"), Pennsylvania Electric Company ("Penelec") and Pennsylvania Power Company ("Penn Power") (collectively "the Companies") remain committed to the development of the renewable energy market in Pennsylvania. The Companies

have adhered to the policies outlined in the Alternative Energy Portfolio Standards (“AEPS”) Act, 73 P.S. § 1648.1 *et seq.*, as amended, and will continue to do their part to support the reasonable development of renewable energy, including solar, that is permissible under the law and consistent with the standards set forth in Act 129 to provide default service at the least cost to customers over time. 66 Pa. C.S. § 2807(e)(3.4)(ii). The Companies respectfully submit the following comments in the above-captioned docket in response to the Commission’s invitation for comments regarding the proposed policy statement.

II. COMMENTS

Before discussing the specific comments to the proposed policy statement, the Companies want to be clear that any policies and processes ultimately established through this process and included in a final policy statement must only be utilized on a going-forward basis. Any new policies established and any newly developed standardized contracts and related documents should only be used prospectively and must not be expected to be adopted in previously approved or pending default service proceedings.

Following are the comments of the Companies addressing specific sections of the proposed policy statement as set forth in Annex A of the Order and Proposed Policy Statement published in the *Pennsylvania Bulletin* on February 6, 2010. Inasmuch as the Companies do not have comments on every section of the proposed policy statement, the comments herein will only address those sections of the proposed policy statement where the Companies wish to offer specific comments and suggestions for the Commission’s consideration.¹

¹ The Companies recognize that once finalized, the policy statement will not have the force of law that attends a regulation, *Pennsylvania Human Relations Commission v. Norristown Area School District*, 473 Pa. 334, 350, 274 A.2d 671 (1977). However, it will act as a policy to provide guidelines regarding the Commission’s expectations regarding solar project development in Pennsylvania.

A. § 69.2901. Purpose.

The Commission is concerned that barriers exist preventing new solar projects from becoming a reality in Pennsylvania and has put forth the proposed policy statement to establish a process to provide price certainty and reduce barriers to solar development in the Commonwealth.²

The Companies understand the Commission's intent and support the reasonable development of solar projects in Pennsylvania. In fact, the Companies have put forth and are implementing a process to procure a long-term supply of solar photovoltaic alternative energy credits ("SPAECs") in their most recently enacted and proposed default service plans.

Under the approved settlement of Met-Ed and Penelec's current default service plan³, Met-Ed and Penelec have conducted a separate solar request for proposal ("RFP") in February 2010 to meet their solar requirements, as well as those associated with load secured by electric generation suppliers. The RFP solicited bids to obtain 10,000 SPAECs per year covering a 10-year period, divided into separate tranches of 500 SPAECs. Delivery of the SPAECs will begin on June 1, 2010.

Similarly, in its recently filed default service program case⁴, Penn Power has proposed an essentially identical plan to the SPAEC purchase of Met-Ed and Penelec. Penn Power has proposed a separate RFP to purchase SPAECs for a nine-year period. The nine-year period is proposed in order to synch future solar procurements of Penn Power with Met-Ed and Penelec.

² It should be noted that the AEPS Act does not limit the consideration of projects within the borders of Pennsylvania, nor does it distinguish between various sizes of solar projects. Such limitations could ultimately increase costs to default service customers.

³ *Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of their Default Service Programs*, Docket Nos. P-2009-2093053 and P-2009-2093054.

⁴ *Petition of Pennsylvania Power Company for Approval of its Default Service Program*, Docket No. P-2010-2157862.

Although the Companies are doing their part to provide opportunities to develop the solar market, the Companies propose that the Commission carefully consider and balance any initiatives to foster the development of the solar market in Pennsylvania under this policy statement with the standards set forth in Act 129 to provide default service at the least cost to customers over time. 66 Pa. C.S. § 2807(e)(3.4)(ii).

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

The Commission proposes processes and standards to procure SRECs through competitive bidding processes. The proposed policy statement sets forth specific processes to obtain SRECS from both large-scale solar projects and from small-scale solar projects. The Companies offer the following specific comments and recommendations:

- The Companies suggest that the Commission’s proposed policy statement should include and provide for procuring SRECs from “Solar Aggregators” in addition to large-scale and small-scale solar projects. The Commission should not limit RFPs only to “projects”. Including solar aggregators in the RFP process will bring additional value to the development of the solar market.

Including solar aggregators in the RFP process will offer several benefits. It will bring more competition to the procurement process by allowing portfolios of small or large-scale projects to be acquired or developed by an aggregator or developer to compete in the RFP process. The inclusion of solar aggregators in the RFP process would create the potential for creditworthy counterparties to act as intermediaries between an electric distribution company’s (“EDC”) customers and various project owners. EDCs would also have the ability to seek bids in “round numbers” (e.g., 250 or 500 SRECs per year)

also have the ability to seek bids in “round numbers” (e.g., 250 or 500 SRECs per year) instead of having the EDC or its customers take the risk associated with project performance, with the solar aggregators filling in gaps or selling off excess SRECs to meet the obligations of the RFP.⁵

- The Companies suggest that the Commission consider the encouragement of conducting RFPs for SRECs for multiple EDCs (or statewide) at one point in time by one independent evaluator. The pooling of SRECs into one procurement would not only provide administrative efficiencies, but it would potentially create a much greater interest in supplying SRECs because the SRECs solicitation volumes could be larger.

- The Companies recommend that the Commission consider preparing periodic statewide solar market assessment reports, and also participate in the production of regional solar market assessment reports, in order to look at general solar project supply characteristics (both built and planned) as well as historical SRECs pricing both in Pennsylvania and on a regional basis. Periodic reports could provide valuable information and may help provide all parties with consistent information.

- The Companies believe that the final decision on the type of solicitation and procurement to implement should be left to the individual EDC. The proposed policy statement appears to be flexible and provides procurement options to the EDC. However, clarification may be needed to indicate that an EDC, at its discretion, may pick and choose which solicitation type it wants to implement, and that it is not necessary for an EDC to conduct all procurement options (e.g., large-scale, small-scale, or specific projects via bilateral contracts).

⁵ The inclusion of solar aggregators in the RFP process for SRECs would also require expanding the standardized RFP documents to include the concept of solar aggregators.

- The Commission’s proposed Policy Statement addresses cost recovery of SRECs in general terms, i.e., consistent with the provisions of the AEPS Act and other applicable law. The Companies encourage the Commission to make it clear that cost recovery for SRECs under Section 69.2903(c) may be achieved through a non-bypassable mechanism from shopping and non-shopping customers alike, where an EDC agrees to procure SRECs on behalf of its default service supply as well as the EGS’ supply. This cost recovery provision should enable consistent SREC procurement, stabilize the development of SRECs, foster the growth and development of retail energy markets without SREC overhang, and minimize costs to ultimate retail customers. The Commission should also make it clear that administrative costs to develop and implement procurement plans to contract for SRECs, in addition to the cost of the SRECs, are recoverable under the AEPS Act.

C. § 69.2904 Contracts for the purchase of SRECs by EDCs.

The Commission proposes the development and utilization of a standardized contract for purchasing SRECs. The Commission suggests that a stakeholder working group develop the standardized contracts. In addition, the Commission proposes the development of an education program to inform the public about and to promote solar projects. The Companies offer the following comments and suggestions:

- The policy at Section 69.2904(a) implies that all SRECs are to be processed through contracts that are 5 to 20 years in length. In addition to the standardized contracts for 5 to 20 years, EDCs should also be allowed to retain the ability to sell excess SRECs and purchase SRECs in the short-term market from brokers and

aggregators in order to balance out needs. This flexibility is necessary for the EDC to secure the SRECs required by statute which are based on actual sales levels. Contracting 5 to 20 years in advance based on “forecasted loads” requires the ability to true-up SRECs with load in the short term or spot market.

- Section 69.2904(b), regarding contracts with solar aggregators, suggests that an EDC will pay an aggregator for a project pursuant to letter agreements for each project, under the contract with the solar aggregator. The EDC needs the ability to contract with solar aggregators for SRECs that are not tied to a specific project. This flexibility will allow for better credit protection helping to ensure that customers receive the benefit of the initial transaction, and will allow aggregators to provide a inventory function of SRECs, as well as reduce the administrative costs of the EDCs.

- The Companies recognize the benefits of developing and utilizing standardized contracts. However, the Companies recommend that the standardized contracts should be used as a starting point, and the parties should not be limited from making changes that are mutually agreed upon and that do not impact the product being sought or change the level playing field for the participants involved in the solicitation.

- The Companies suggest that several types of standardized agreements should be developed and utilized. For example, the Companies suggest that separate standardized agreements be developed for projects dependent on plant output performance, projects for fixed SREC purposes, and “take all produced” for small-scale projects.

- The Companies also believe it is necessary to stress that any costs related to educate customers about and to promote solar projects must be fully and timely

recovered by the EDC. The proposed policy statement at Section 69.2903(c) properly re-affirms the right of an EDC to recover the costs to acquire SRECs through procurement approaches. The same cost recovery treatment must be provided to EDCs for education initiatives about solar programs.

III. CONCLUSION

The Companies appreciate the opportunity to provide comments on the Commission's proposed policy statement in support of Pennsylvania Solar Projects.

Respectfully submitted,

Dated: March 8, 2010



Bradley A. Bingaman
Attorney No. 90443
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, PA 19612-6001
Phone: (610) 921-6203
Fax: (610) 939-8655
Email: bbingaman@firstenergycorp.com

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Counsel for:
Metropolitan Edison Company,
Pennsylvania Electric Company and
Pennsylvania Power Company

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the foregoing document upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

Service by overnight United Parcel Service, as follows:

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

Service by electronic mail, as follows:

Scott Gebhardt
Energy Program Specialist
Bureau of Conservation, Economics and
Energy Planning
sgebhardt@state.pa.us

Kriss Brown, Esq.
Assistant Counsel
Law Bureau
kribrown@state.pa.us

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Bradley A. Bingaman
Attorney No. 90443
FirstEnergy Service Company
2800 Pottsville Pike
P.O. Box 16001
Reading, Pennsylvania 19612-6001
(610) 921-6203
bbingaman@firstenergycorp.com

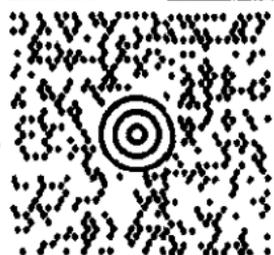
GLENN A COLDREN
(610) 921-6633
AE-1440
2800 POTTSVILLE PIKE
READING PA 19605-2459

LTR

1 OF 1

SHIP TO:

JAMES J. MCNULTY, SECRETARY
(800) 692-7375
PA PUBLIC UTILITY COMMISSION
COMMONWEALTH KEYSTONE BUILDING
2ND FLOOR
400 NORTH STREET
HARRISBURG PA 17120-0079



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