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March 23, 2010

**VIA HAND DELIVERY**

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

**Re: Reply Comments of the Energy Association of Pennsylvania to the Proposed Policy  
Statement on Pennsylvania Solar Projects  
Docket No. M-2009-2140263**

Dear Secretary McNulty:

Enclosed for filing, please find an original and 15 copies of the Energy Association of Pennsylvania's Reply Comments in the above-referenced docket.

Sincerely,

A handwritten signature in black ink, appearing to read "Donna M. J. Clark".

Donna M. J. Clark  
Vice President and General Counsel  
Energy Association of PA

DMJC/lb

CC: James H. Cawley, Chairman (via hand-delivery)  
Tyrone J. Christy, Vice Chairman (via hand-delivery)  
Robert F. Powelson, Commissioner (via hand-delivery)  
Kim Pizzingrilli, Commissioner (via hand-delivery)  
Wayne E. Gardner, Commissioner (via hand-delivery)  
Scott Gebhardt (via electric mail to [sgebhardt@state.pa.us](mailto:sgebhardt@state.pa.us))  
Kriss Brown, Esq. (via electronic mail to [kribrown@state.pa.us](mailto:kribrown@state.pa.us))

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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SECRETARY'S BUREAU

Proposed Policy Statement on : Docket No. M-2009-2140263  
Pennsylvania Solar Projects :

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REPLY COMMENTS OF THE  
ENERGY ASSOCIATION OF PENNSYLVANIA

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At its Public Meeting on November 6, 2009, the Commission adopted a Proposed Policy Statement regarding Pennsylvania solar projects. This document was published in the *Pennsylvania Bulletin* and interested parties were provided 30 days to file comments, and 45 days to submit reply comments. The Energy Association of Pennsylvania ("EAPA") files these reply comments on behalf of its Electric Distribution Company ("EDC") members.<sup>1</sup>

- I. **The Commission should not require EDCs to file three year plans for their solar purchases, which would separate such purchases from the default service plans required by the Public Utility Code.**

The Solar Alliance and the Mid-Atlantic Solar Energy Industries Association ("MSEIA") both advocate at page three of their comments that the Commission require EDCs to file three year plans for their solar purchases.

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<sup>1</sup> EDC members supporting these comments include: Allegheny Power, Citizens' Electric Company, Duquesne Light Co., Metropolitan Edison Company, PECO Energy Co., Pennsylvania Electric Company, Pennsylvania Power Company, Pike County Light & Power Co., PPL Electric Utilities, UGI Utilities, Inc. (Electric Division) and Wellsboro Electric Company.

EAPA objects to this proposed requirement because it does not have a basis in the statute or in public policy.

The Public Utility Code makes clear that purchases of alternative energy are to be part of the competitive procurement plans filed by EDCs. 66 Pa. C.S. § 2807 (e)(3.5)-(3.6). All of an EDC's purchases under this section must be designed to ensure "the least cost to customers over time." In light of these statutory requirements, it is not permissible or appropriate to require EDCs to separate solar purchases from other purchases necessary to provide default service. A separate planning process would likely encourage some parties to advocate policies that would not be designed primarily to provide the least cost to customers over time, but to encourage the success of solar developers, with cost considerations relegated to a secondary role.

In addition, removing an EDC's solar purchases from its default service plan may be inconsistent with allowing EDCs to meet some portion of their solar obligation through full requirements contracts. These contracts have been approved for some EDCs as a method to fulfill their statutory default service procurement obligations and removing them from consideration for solar purchases may not be in the best interest of customers.

**II. Creating separate classifications of solar generators according to size and requiring EDCs to contract with each classification is not authorized by the AEPS Act, and is not in the best interest of customers.**

Some commenting parties advocated that the Commission create an additional category of solar generator (in addition to the "large" and "small" classifications in the proposed policy statement) and/or that the Commission

mandate that EDCs purchase some part of their requirements from the different classifications. (MSEIA at p.5, Sustainable Energy Fund at pp.2-3, Mid-Atlantic Renewable Energy Association at p.4).

Since a policy statement does not have the force of law<sup>2</sup>, it is not an appropriate vehicle for imposing a requirement that EDCs make purchases from different categories of solar generators. In addition, the AEPS Act does not distinguish among solar generators based upon size, and establishing such classifications for purposes of a formal policy statement, and then creating a separate market for solar renewable energy credits ("SRECS") for each of these segments, is inconsistent with the statute.

**III. Requiring EDCs to contract with numerous small solar generators would be costly and impractical.**

Some commenting parties have advocated that EDCs allow solar generators as small as 200 kw to participate in the standardized procurement process for SRECS. (Solar Alliance at p.9; MSEIA at p.4).

To the extent that the Commission encourages EDCs to enter into contracts with different sizes of solar generators, the Commission should seek to strike the appropriate balance between encouraging development of more solar facilities and minimizing the cost associated with acquiring SRECS. If the Commission adopts a size threshold with regard to encouraging direct contracts between EDCs and generators, 200 kw is too low. For projects of this size, aggregation should be used to assist the project owners in selling their SRECS.

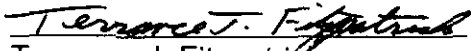
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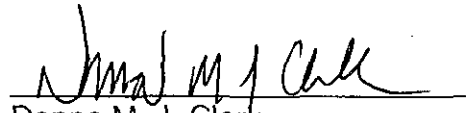
<sup>2</sup> Pennsylvania Human Relations Commission v. Norristown Area School District, 374 A.2d 671 (Pa. 1977).

#### IV. Conclusion

EAPA reiterates the points raised in its initial comments to the Proposed Policy Statement. Further, the Commission should consider the unintended negative consequences to default service customers of EDCs when finalizing the instant policy statement which has the laudable goal of encouraging the development of solar projects. As outlined in these reply comments, many of the suggestions presented by commentators are inconsistent with the current statutory framework and should not be included in the final policy statement. EAPA thanks the Commission for this opportunity to provide input on these important issues.

Respectfully submitted,

  
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Dated: March 23, 2010