

Hawke
 Mckeon &
 Sniscak LLP
ATTORNEYS AT LAW

William T. Hawke
Kevin J. McKeon
Thomas J. Sniscak
Lillian Smith Harris
Scott T. Wyland
Todd S. Stewart
Craig R. Burgraff
Janet L. Miller
Steven K. Haas
William E. Lehman
Tori L. Giesler

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

June 7, 2010

VIA HAND-DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Filing Room - Second Floor
Commonwealth Keystone Building
P.O. Box 3265
Harrisburg, PA 17105-3265

RECEIVED
2010 JUN -7 PM 3:50
PA PUC
SECRETARY'S BUREAU

RE: Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 through May 31, 2013; Docket No. P-2008-2060309; **ANSWER OF THE SUSTAINABLE ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA**

Dear Secretary Chiavetta:

Enclosed for filing with the Public Utility Commission are the original and three (3) copies of the Answer of the Sustainable Energy Fund of Central Eastern Pennsylvania to the Petition of PPL Electric Utilities Corporation for Approval to Modify its Procurement of Solar Alternative Energy Credits under the Default Service Procurement Plan in the above-captioned matter. Copies have been served consistent with the attached Certificate of Service.

If you have any questions, please feel free to contact me.

Respectfully,



Craig R. Burgraff
Counsel for Sustainable Energy Fund of Central Eastern Pennsylvania

CRB/bks

Enclosures

cc: Per Certificate of Service

RECEIVED

2010 JUN -7 PM 3: 50

PA PUC
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of PPL Electric Utilities Corporation :
for Approval of a Default Service Program : Docket No. P-2008-2060309
and Procurement Plan for the Period January 1, :
2011 through May 31, 2013 :

**ANSWER OF THE SUSTAINABLE
ENERGY FUND OF CENTRAL EASTERN PENNSYLVANIA**

The Sustainable Energy Fund of Central Eastern Pennsylvania ("SEF"), by its attorneys in this matter, Hawke McKeon & Sniscak LLP, hereby files its Answer to PPL Electric Utilities Corporation's ("PPL Electric" or "Company") Petition to Modify the Default Service Procurement Plan ("DSP Plan")¹ previously approved by the Pennsylvania Public Utility Commission ("Commission") on June 30, 2009, in the above-captioned proceeding. SEF believes that the Commission should investigate and determine if PPL Electric's proposed modifications to its DSP Plan fully meet the Commission's goals of promoting both small-scale and large-scale solar energy development, especially where, as here, PPL Electric's proposal favors the continued piece-meal promotion of large-scale solar projects at the expense of small-scale projects. SEF also believes that the Commission should investigate and determine if the increased risk to customers of banking solar alternative energy credits attendant in PPL Electric's proposal is appropriate at this time, and if the confidentiality provisions of PPL Electric's

¹ Hereinafter referred to as "Petition."

proposed solar alternative energy credit RFP impedes solar project development. SEF, in support thereof, responds as follows:

1. INTRODUCTION AND GENERAL ANSWER

On May 18, 2010, PPL Electric filed its Petition to modify the DSP Plan previously approved by the Pennsylvania Public Utility Commission (“Commission”) on June 30, 2009, in the above-captioned proceeding. PPL Electric requested the Commission to authorize a revised procedure for prospective acquisition of solar Tier 1 alternative energy credits (“SRECs”).

In particular, PPL Electric requested approval of (1) an amendment to its current DSP Plan to permit the Company to procure a portion of its SRECs obligation over a longer term delivery period such that this portion will no longer be procured under its DSP Plan’s fixed-price load following contracts; (2) a proposed Request for Proposals Process and Rules: Solar Receivable Energy Credits for Compliance with Pennsylvania’s Alternative Energy Portfolios Standards Act (“SREC RFP”)²; (3) a proposed Solar Receivable Energy Credit Supply Master Agreement (“SREC SMA”); and (4) revision to the Company’s Generation Supply Charge – 1 to provide for the treatment of all costs and credits associated with the procurement of SRECs pursuant to its requested RFP process.

PPL Electric posits that the requested modification to its existing DSP Plan for SREC procurement is in the public interest since it will encourage the development of new Solar Photovoltaic (“Solar PV”) projects to satisfy the AEPS Act.

SEF was a party in this proceeding, and a signatory of the Settlement that was ultimately approved by the Commission in its June 30, 2009 Order in this docket. In particular, SEF supported the portion of the Settlement in Section II.M. relative to PPL Electric’s continuation

² Hereinafter the Act is referred to as “AEPS Act.”

and funding for SEF's Solar Scholars™ program or the Green Scholars program at SEF's discretion. SEF took no position in regard to the settlement of the other issues associated with the DSP Plan.

As part of the terms of the Settlement, PPL Electric undertakes a series of competitive bid processes to obtain full requirements default service supply, spot market default service supply, block energy default service supply, and Alternative Energy Credits ("AEC RFP"). Under the full requirements and spot market contracts, each supplier must provide a proportional share of AECs, including SRECs, to fulfill the Company's AEPS Act obligations. The approved full requirements and spot market procurements obtain supplies for periods up to two years in length. The block and AEC RFPs are conducted to acquire a portion of default supply solely for residential customers. The block supplies, totalling 350 MW, do not include AECs as part of the supply provided, and AECs, including SRECs, must be purchased for each portion of supply through a separate RFP. PPL Electric's Petition does not propose to modify the spot market, block and AEC RFPs as previously approved by the Commission.

The Petition does propose to competitively procure a portion of its SREC obligation in three solicitations occurring once per year during 2010-2012. These solicitations are designed to procure 50% of SREC requirements for the load following full requirement products. The initial targets for each solicitation are based upon the purchase of 3,500 SRECs per year, resulting in target quantities of 31,500 SRECs for solicitation 1, the nine year delivery period solicitation on October 28, 2010, 28,000 SRECs for the eight year delivery period solicitation on July 28, 2011, and 24,500 SRECs for the seven year delivery period solicitation on July 26, 2012. Bidders that have the ability to deliver a minimum of 5,000 SRECs over the contracted delivery period and that meet the eligibility requirements, can participate in the solicitation. Bid participants may

provide SRECs from either current or proposed Solar PV projects. Bid offers will not be based upon defined quantities. Bidders can offer any quantity of SRECs offered so long as the quantity exceeds the 5,000 delivery period minimum and does not exceed the maximum target quantity for each solicitation. Bidders may also submit multiple bids, allowing them to offer different supply amounts at different prices.

PPL Electric opines that its requested new, long-term SREC procurement process is in response to the Commission's goals in the Commission's proposed solar policy statement.³ It believes that its proposal will provide the longer term revenue stability that is likely needed to support both small-scale and large-scale solar development in Pennsylvania, and will remove other barriers to the development of new solar projects by increasing the number of solar projects, the number of bidders and the amount of SRECs qualified for use by PPL Electric to meet its AEPS Act obligation.

1. The Commission Should Investigate And Determine If PPL Electric's Proposed Modifications To Its DSP Plan Fully Meet The Goals Of Promoting Both Small-Scale And Large-Scale Solar Energy Development.

Under the current Settlement, PPL Electric's current default service AEPS obligation for full requirements purchases is met through market based purchases by the providers of the default service supply. Although Electric Generation Suppliers ("EGS's") compliance with the AEPS requirements is regulated by the Commission, the actual purchases of SRECs are not regulated. PPL Electric proposes to change its SREC acquisition policy for 50% of its full requirements SRECs through competitively bid long-term purchases in the open market. The short and long term impact of changing from open to regulated purchases should be investigated.

³ Policy Statement in Support of Pennsylvania Solar Projects, Docket No. M-2009-2140263 (December 10, 2009) ("Proposed Solar Policy Statement").

This is reinforced by the stated impetus of the proposal, namely, the Commission's concerns that resulted in the issuance of the Proposed Solar Policy Statement. PPL Electric asserts that its proposal is in response to the goals of that policy statement.⁴ However, the Commission's policy statement is not final, and there appears to be no need to rush to judgment on PPL Electric's proposal since full requirements contract SRECs can be obtained, under the DSP Plan, beyond the May 31, 2013 term of the plan.

While PPL Electric focuses on the need to provide a process to provide longer term revenue stability, it is structured to by-pass other concerns of the Commission, such as the promotion of small-scale solar projects as well as large-scale projects. SEF believes that, to the extent that PPL Electric's proposal, if approved, will be used as a template for further acquisition of SRECs by PPL Electric,⁵ the ultimate goals expressed in a final policy statement by the Commission should be known, or the proposal should be investigated to determine if it meets all of the goals expressed to date by the Commission.

2. The Commission Should Investigate And Determine If PPL Electric's Proposal Should Include Meaningful Promotion of Small-Scale Solar Projects.

The Commission's Proposed Solar Policy Statement desires to provide a framework whereby existent barriers preventing new solar projects in Pennsylvania, principally through long-term price uncertainty, may be removed. It encourages Electric Distribution Companies ("EDCs") to issue RFPs for large-scale solar projects whose SREC output will be used to meet EDC obligations under the AEPS Act. It also encourages EDCs to procure SRECs from small-

⁴ Petition at ¶ 12.

⁵ This is PPL Electric's pattern. As it noted in its Petition, the proposed SREC procurement process follows the basic RFP procurement process that PPL Electric has used successfully to obtain default service supplies, first under its Competitive Bridge Plan and subsequently under its DSP Plan. In order to accomplish the new, long-term purchase of SRECs through a separate procurement process, the proposal offers a reduction, on a prospective basis, of a portion of SRECs under its full requirement contracts. Petition at ¶ 12. As will be demonstrated, the Commission has concerns over and above the competitive acquisition of SRECs on a longer-term basis.

scale solar projects through both a competitively bid RFP process, adhering to the same standards in use for large-scale solar project RFPs, and bilateral contracts.⁶ It expressly notes that the bilateral contract approach should be used to support the development of small-scale solar projects located in Pennsylvania,⁷ and that EDCs are encouraged to contract for SRECs with solar aggregators that obtain SRECs from creditworthy residential owners of small-scale solar projects.⁸ Standardized contracts for the long-term procurement of SRECs should be from 5 to 20 years in length.⁹

As noted, PPL Electric proposes three solicitations with terms of nine years, eight years and seven years, respectively, with target quantities of 31,500 SRECs, 28,000 SRECs and 24,500 SRECs for the three solicitations. This equates to an initial target level of 3,500 SRECs per year. However, bidders must have the ability to deliver a minimum of 5,000 SRECs over the contracted delivery period.

While this minimum equates to solar projects of approximately 42 kW, PPL Electric's proposal favors large-scale projects. There is no provision for bilateral contracts with small-scale solar projects, including agreements with solar aggregators which the Commission encouraged in its Proposed Solar Policy Statement.¹⁰ In fact, it is not clear from PPL Electric's proposal that solar aggregators may participate in the proposed RFP process.

Finally, PPL Electric's proposal is weighted to large-scale projects. Section 7.4.6 of the proposed SREC RFP provides that a bid proposal that offers a greater quantity at the same price as another bid proposal will be ranked before a bid proposal offering a smaller quantity. It also provides that, where acceptance of a bid proposal will cause the Company to exceed the target

⁶ Proposed Section 69.2903 of 52 Pennsylvania Code.

⁷ *Id.*

⁸ Proposed Section 69.2904 of 52 Pennsylvania Code.

⁹ *Id.*

¹⁰ *Id.*

quantity, but rejection would require the Company to contract with an RFP bidder offering SRECs at a higher price in order to obtain the target quantity, the Company shall have the right to negotiate a lower total quantity with the RFP bidder offering a lower price. This is perhaps not surprising given PPL Electric's Comments to the proposed policy statement wherein it expressed its position that the best way to "jump start" development of solar projects is to focus primary attention on truly large-scale projects.¹¹

In addition, PPL Electric's proposal requires bid assurance collateral of \$25,000 and contains significant performance assurance requirements, all of which provide preferential treatment for large-scale providers. At a minimum, these preferences must be eliminated.

The promotion of large-scale providers is also problematic where PPL Electric's sister company, PPL Energy Plus actively participates in the purchase and sale of renewable energy output including capacity, energy and RECs.

SEF asserts that PPL Electric's proposal, while meeting some goals of the Proposed Solar Policy Statement, must begin to meet all of the proposed policy statements goals, let alone the goals of the ultimate policy statement. The Commission must determine, even as a starting point for SREC promotion, whether PPL Electric's proposal, which simply continues to foster large-scale solar providers is an adequate response to the Commission's goals. There comes a time where the continued piece-meal promotion of large-scale solar projects simply negates the promotion of small-scale projects. The Commission's goals include the promotion of small-scale solar projects and SEF believes that PPL Electric must begin to proactively take steps to include small-scale solar projects.

¹¹ Comments of the PPL Companies to the Proposed Policy Statement at 5 (March 5, 2010).

3. The Commission Should Investigate And Determine If Increased Banking Risk Is Appropriate At This Time.

Under the current Settlement, there is minimal SREC banking risk to default service customers. PPL Electric states that its current AEC procurement process is not designed to produce additional AECs for banking.¹² The proposed SREC procurement will provide PPL Electric with opportunities to acquire additional SRECs for banking purposes to meet as yet unknown increased AEC requirements, or to cover seller failure of delivery. Although PPL Electric's proposed procurements are expected to produce only a "limited amount" of additional SRECs for banking purposes, and all banked credits are currently projected to be usable within the two year banking period provided under law, PPL Electric admits that it is possible that it could have banked credits that cannot be used within the two-year banking period.¹³

PPL Electric's proposal to acquire SRECs in excess of its compliance obligation during the first few years of its plan and bank the excess for future compliance needs creates banking risk to default service customers. The Company proposes selling any excess SRECs back into the market with net proceeds credited to customers.¹⁴ Conversely, if proceeds are less than the cost of the SRECs procured through the proposed SREC RFP, PPL Electric requests that the Commission allow the costs to be recovered through its revised Generation Supply Charge at Appendix D to the Petition, thereby placing on default service customers the risk associated with PPL Electric's perceived need to bank SRECs for future compliance.

The Commission should determine whether this assignment of risk is appropriate for unknown future compliance obligations, or whether PPL Electric's SREC target levels should be adjusted in the future for future compliance requirements.

¹² Petition at ¶ 26.

¹³ *Id.*

¹⁴ *Id.*

4. The Commission Should Investigate And Determine If The Confidentiality Provisions Of The SREC RFP Impede Solar Project Development.

PPL Electric's Appendix 3 to its proposed SREC RFP concerning confidentiality requirements prevents even winning bidders from releasing the price of the transaction. Without an active futures market for Pennsylvania SRECs, this level of confidentiality negatively impacts the establishment of the fair market value for transactions. This constitutes the continuation of a barrier to a more expansive development of solar projects in Pennsylvania by continuing solar alternative energy credit price uncertainty. As such, it impedes the goals of the Commission's Proposed Solar Policy Statement, whose purpose is to develop a process to overcome such price uncertainty.

The Commission must determine if this policy is appropriate.

II. SPECIFIC ANSWER

1. ADMITTED.

2. ADMITTED.

3. ADMITTED.

4. ADMITTED.

5. ADMITTED.

6. ADMITTED.

7. ADMITTED.

8. ADMITTED.

9. ADMITTED.

10. ADMITTED.

11. No response is necessary. The Comments filed by PPL Electric to the Commission's Proposed Solar Policy Statement speak for themselves.

12. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

13. SEF has no basis to judge the accuracy of the averments. Strict proof of same is demanded at hearing.

14. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

15. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

16. SEF has no basis upon which to judge the accuracy of the averments. Strict proof of same is demanded at hearing.

17. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

18. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

19. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

20. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

21. No response is necessary. PPL Electric's proposed amendments to its DSP Plan speak for themselves.

22. The averments in Paragraph 22 represent conclusions of law to which no response is necessary.

23. No response is necessary. PPL Electric's current DSP Plan SMA speaks for itself.

24. No response is necessary. PPL Electric's proposed Addendum to the DSP Plan SMA speaks for itself.

25. The averments in Paragraph 25 represent conclusions of law to which no response is necessary.

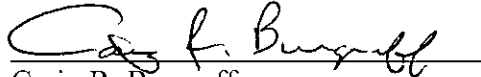
26. SEF has no basis upon which to judge the accuracy of the averments. Strict proof of same is demanded at hearing. Further, proposed Appendix D speaks for itself.

27. It is ADMITTED that PPL Electric has proposed contract lengths of 9, 8 and 7 years with all contracts expiring on May 31, 2020, that PPL Electric has set the minimum number of SRECs that may be bid at 5,000 over the contract delivery period, that the proposed SREC RFP permits bidders to submit multiple bid proposals and that each bidder must provide liquid bid assurance collateral in an amount of \$25,000 per bid proposal. The balance of the averments are DENIED.

28. The averments in Paragraph 28 are conclusions of law to which no response is required.

WHEREFORE, the Sustainable Energy Fund of Central Eastern Pennsylvania respectfully requests that the Commission fully review and further investigate PPL Electric's proposed modifications to its DSP Plan to ensure that the Commission's goals with regard to the more expansive development of both large-scale and small-scale solar projects in Pennsylvania are met, and that default service customers are no worse off under the proposal.

Respectfully submitted,



Craig R. Burgraff

Hawke McKeon & Sniscak LLP

100 North Tenth Street

P. O. Box 1778

Harrisburg, PA 17105-1778

(717) 236-1300

(717) 236-4841 (Facsimile)

crburgraff@hmslegal.com

*Counsel for the Sustainable Energy Fund of
Central Eastern Pennsylvania*

DATED: June 7, 2010

CERTIFICATE OF SERVICE

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

VIA EMAIL & FIRST CLASS MAIL

Administrative Law Judge Susan D. Colwell
Office of Administrative Law Judge
P.O. Box 3265
Harrisburg, PA 17105-3265
scolwell@state.pa.us

David B. MacGregor, Esquire
Post & Schell, P.C.
Four Penn Center
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103-2921
dmacgregor@postschell.com

Steven C. Gray, Esquire
Office of Small Business Advocate
300 North Second Street, Ste. 1102
Harrisburg, PA 17101
sgray@state.pa.us

Michelle M. Skjodal
Pepper Hamilton LLP
100 Market Street, Suite 200
P.O. Box 1181
Harrisburg, PA 17108-118
skjoldalm@pepperlaw.com

Carl R. Shultz, Esquire
Eckert, Seamans, Cherin & Mellott LLC
213 Market Street, 8th Flr.
P.O. Box 1248
Harrisburg, PA 17108-1248
cshultz@eckertseamans.com

Michael W. Hassell, Esquire
Post & Schell, P.C.
17 North Second Street, 12th Flr.
Harrisburg, PA 17101-1601
mhassell@postschell.com

Allison C. Kaster, Esquire
Office of Trial Staff
400 North Street, 2nd Flr. West
P.O. Box 3265
Harrisburg, PA 17105-3265
akaster@state.pa.us

Christopher A. Lewis, Esquire
Blank Rome LLP
One Logan Square
Philadelphia, PA 19103
lewis@blankrome.com

Erin L. Gannon, Esquire
James A. Mullins, Esquire
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
egannon@paoca.org

Brian Knipe, Esquire
Buchanan Ingersoll & Rooney, PC
One South Market Street
213 Market Street, 3rd Flr.
Harrisburg, PA 17101-2121
Brian.Knipe@bipc.com

RECEIVED
2010 JUN -1 PM 3:50
PA PUBLIC BUREAU
SECRETARY'S BUREAU

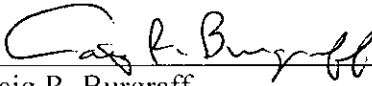
Jesse A. Dillon, Esquire
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
jadillon@pplweb.com

Eric Joseph Epstein
4100 Hillsdale Road
Harrisburg, PA 17112
lechambon@comcast.net

Pamela C. Polacek, Esquire
Carl J. Zwick, Esquire
McNees, Wallace & Nurick LLC
P.O. Box 1166
100 Pine Street
Harrisburg, PA 17108-1166
ppolacek@mwn.com

Craig A. Doll, Esquire
25 West Second Street
P.O. Box 403
Hummelstown, PA 17036-0403
CDoll76342@aol.com

Thomas T. Niesen, Esquire
Charles Thomas, Jr., Esquire
Thomas, Thomas, Armstrong & Niesen
P.O. Box 9500
212 Locust Street, Suite 500
Harrisburg, PA 17108-9500
tniesen@thomaslonglaw.com
cthomasjr@thomaslonglaw.com



Craig R. Burgraff

Dated this 7th day of June 2010