

**STEVENS & LEE**  
**LAWYERS & CONSULTANTS**

17 North Second Street  
16th Floor  
Harrisburg, PA 17101  
(717) 234-1090 Fax (717) 234-1099  
www.stevenslee.com

Direct Dial: (717) 255-7365  
Email: mag@stevenslee.com  
Direct Fax: (610) 988-0852

August 19, 2010

**VIA Electronic Mail and First-Class US Mail**

Honorable Susan Colwell  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street  
Harrisburg, PA 17120

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**Re: Petition of PPL Electric Utilities Corporation for Approval to Modify Its  
Procurement of Solar Alternative Energy Credits under the Default Service  
Procurement Plan  
Docket No. P-2008-2060309**

Dear Judge Colwell:

In accordance with your instructions at the August 18, 2010 Pre-Hearing Conference in the above-captioned matter, please accept this letter as a supplement to the Solar Alliance's Petition to Intervene, for the purpose of stating the grounds for granting the Petition notwithstanding the lateness of its filing.

As you noted at the Conference, this matter has been open since 2008, and the Solar Alliance has not participated in this proceeding to date. Several circumstances have changed since the Commission approved the Settlement Agreement related to PPL Electric Utilities Corporation's ("PPL") Default Services Plan ("DSP") on June 30, 2009, and the changed circumstances warranted the Solar Alliance's intervention at this time. First, in December 2009

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the Commission issued a policy statement related to the development of new solar projects in Pennsylvania. The Solar Alliance was an active participant in that proceeding and served as a member of the Stakeholder Working Group. Then on May 18, 2010, PPL filed the instant Petition seeking to amend its approved DSP Plan to add a “new, long term SREC procurement process to its DSP Plan.”<sup>1</sup> PPL’s previously approved DSP Plan did not contain a solar-specific RFP process or Master Agreement.

On July 22, 2010, in response to Answers to PPL’s Petition filed by OCA, OSBA, and the Sustainable Energy Fund, the Commission noted “there are factual issues that need to be resolved” and entered an Order which assigned PPL’s Petition to the OALJ for the development of an evidentiary record and issuance of a Recommended Decision.

With its Petition to Intervene, the Solar Alliance seeks to participate in the phase of the proceeding opened by the Commission’s July 22, 2010 Order. After reviewing the Commission’s Order and the various parties’ positions described in that Order, the Solar Alliance and its members determined that their interests could be impacted by the evidentiary hearing and Recommended Decision, and therefore sought to intervene to protect those interests and provide the perspective of solar energy manufacturers and developers who will be directly affected by PPL’s new SREC procurement process.

As set forth in its Petition to Intervene, the Solar Alliance meets the criteria for intervention under 52 Pa. Code §5.72(a), in that its members have an interest in the proceeding which may be directly affected and which is not adequately represented by the existing parties, and as to which the members may be bound by the action of the Commission.

With respect to the timeliness of its Petition to Intervene, the Solar Alliance notes that the Commission’s July 22, 2010 Order opened a new phase in the proceeding, namely, a phase for the development of an evidentiary record regarding PPL’s proposed modifications to the DSP to add a Solar Renewable Energy Procurement Process. This phase of the proceeding is in an unusual procedural posture. While the Commission’s Order clearly opened a new phase to the proceeding, it did not specify a time period for the filing of Petitions to Intervene. The Commission’s regulation at 52 Pa. Code §5.74 states that if “no deadline is set in an order or notice with respect to the proceedings”, then the time limits of 52 Pa. Code § 5.53 shall apply. Section 5.53 states that “A protest shall be filed within the time specified in the published notice of the application. If no protest time is specified, the protest shall be filed within 60 days of publication of the notice.” The Solar Alliance filed its Petition to Intervene twenty-five (25) days after the Commission entered its July 22, 2010 Order.

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<sup>1</sup> See PPL Petition, at paragraph 12.

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To the extent that the Solar Alliance's Petition to Intervene was late-filed, the Solar Alliance respectfully requests that it has good cause for the late-filing under 52 Pa. Code §5.74(a). The Commission has previously granted intervention based on late-filed Petitions when (1) the petitioner has a reasonable excuse for missing the initial due date; (2) the proceeding is contested at the time of the filing of a petition for intervention; (3) a grant of intervention will not delay orderly progress of the case; and (4) the grant of intervention will not broaden significantly the issues or shift the burden of proof. *See, e.g., In re Pennsylvania American Water Co.*, Docket No. A-212285F0096, A-230073F00042002, 97 Pa. P.U.C. 157, (May 9, 2002), *citing Re S.T.S. Motor Freight, Inc.*, 54 Pa PUC 343 (1980).

The Solar Alliance has a reasonable excuse for the timing of filing of its Petition to Intervene. As set forth above, the Solar Alliance's interest in this case was not triggered until the Commission issued its July 22, 2010 Order and assigned the case for the development of an evidentiary record. The procedural posture of this case is somewhat unique, and the Commission's July 22, 2010 did not specify a timeline for the filing of Petitions to Intervene in the new phase of the proceeding. Notice of PPL's May 18, 2010 Petition was not published in the Pennsylvania Bulletin, and as a non-party to PPL's DSP Proceeding, the Solar Alliance was never served with PPL's Petition, Answers to the Petition, or the Commission's July 22, 2010 Order. The Solar Alliance only recently become aware of the Commission's Order and the forthcoming evidentiary hearing in this matter. Upon learning of the new phase of the proceeding, the Solar Alliance needed to confer with its various members to obtain consensus to intervene. Then, the Solar Alliance needed to retain counsel to represent it in this matter, in accordance with the requirements of 52 Pa. Code §1.21. The Solar Alliance filed its Petition to Intervene as soon as practicable after becoming aware of the forthcoming evidentiary hearing, obtaining the approval of its membership, and retaining counsel. The Petition was filed prior to the Pre-Hearing Conference in this matter so as not to delay the conduct of the proceeding. No party has been prejudiced by the timing of the Solar Alliance's Petition, and no party has objected to the Solar Alliance's Intervention, including PPL.

The Solar Alliance's participation in this proceeding will have no impact on the contested nature of the proceeding. As demonstrated at the Pre-Hearing Conference, there are multiple parties actively participating in this proceeding, so it is already contested. Similarly, the Solar Alliance's intervention will not delay the orderly progress of the case. The Solar Alliance filed its Petition to Intervene prior to the Pre-Hearing Conference, and its counsel participated in the Conference. No discovery has yet been exchanged, and the Solar Alliance's intervention will not alter the hearing schedule in the case. Finally, the Solar Alliance's intervention will not shift the burden of proof in the proceeding or significantly broaden the issues. The burden of proof will remain with PPL as the Petitioner, and as discussed at the Pre-Hearing Conference, the issues in the proceeding are fairly narrow in scope, even with the Solar Alliance's participation.

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For all of the above-stated reasons, the Solar Alliance respectfully requests that its Petition to Intervene be granted, notwithstanding the lateness of its filing. Thank you for your consideration of this request, and if you have questions, please do not hesitate to contact me.

Very truly yours,

STEVENS & LEE

  
Michael A. Gruin

cc: Certificate of Service  
Secretary Chiavetta

**CERTIFICATE OF SERVICE**

I hereby certify that I am this day serving a true copy of the foregoing document on the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

**VIA ELECTRONIC MAIL AND FIRST CLASS MAIL**

Allison C. Kaster, Esq.  
Office of Trial Staff  
400 North Street, 2nd Floor West  
Harrisburg, PA 17105-3265

Craig R. Burgraff, Esq.  
Todd S. Stewart, Esq.  
Hawke, McKeon & Sniscak, LLP  
100 N. Tenth Street  
Harrisburg, PA 17101

Erin L. Gannon, Esq.  
James A. Mullins, Esq.  
Tanya J. McCloskey, Esq.  
Office of Consumer Advocate  
555 Walnut Street  
5th Floor, Forum Place  
Harrisburg, PA 17101-1923

Andrew Tubbs, Esq.  
David B. MacGregor, Esq.  
Post & Schell, P.C.  
Four Penn Center  
1600 John F. Kennedy Boulevard  
Philadelphia, PA 19103

Steven C. Gray, Esq.  
Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101

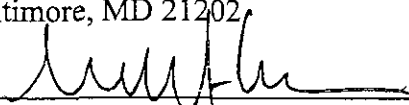
Eric Joseph Epstein  
4100 Hillsdale Road  
Harrisburg, PA 17112

Michael W. Hassell, Esq.  
Christopher T. Wright, Esq.  
Post & Schell, P.C.  
12th Floor  
17 North Second Street  
Harrisburg, PA 17101-1601

Shelby Linton-Keddie, Esq.  
Pamela C. Polacek, Esq.  
McNees, Wallace & Nurick, LLC  
P.O. Box 1166  
100 Pine Street  
Harrisburg, PA 17108-1166

Christopher A. Lewis, Esq.  
Christopher R. Sharp, Esq.  
Blank Rome LLP  
One Logan Square  
Philadelphia, PA 19103

Divesh Gupta, Esq.  
Constellation NewEnergy Inc.  
Suite 500  
111 Market Place  
Baltimore, MD 21202

  
\_\_\_\_\_  
Michael A. Gruin, Esq.

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Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120