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February 2, 2018

VIA ELECTRONIC FILING

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

**RE: Implementation of Act 40 of 2017**  
**Docket No. M-2017-2631527**

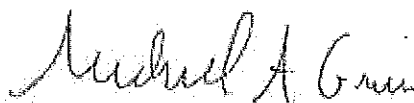
Dear Secretary Chiavetta:

Enclosed for filing please find the Comments of GP Energy Management in the above-referenced matter.

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

Best Regards,

STEVENS & LEE



Michael A. Gruin

Enclosure

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A PROFESSIONAL CORPORATION

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Implementation of Act 40 of 2017           :           Docket No. M-2017-2631527**

**Comments of GP Energy Management**

In response to the Tentative Implementation Order issued by the Pennsylvania Public Utility Commission (“Commission”) on December 21, 2017, GP Energy Management (“GPEM”) respectfully submits its comments and requests for clarification to the Commission, as set forth more fully below, regarding the implementation of Act 40 of 2017. Act 40 amends the Administrative Code, 71 P.S. §§ 1 *et seq.* and establishes geographical limits on solar photovoltaic (solar PV) systems that qualify for the solar PV share requirement of the Alternative Energy Portfolio Standards (AEPS) Act, 73 P.S. §§ 1648.1 *et seq.*.

**Introduction**

GP Energy Management is a multifaceted energy services company. GPEM combines energy management, consulting, and commodity risk and operations support to provide a full array of services to industrial end user, electric and gas retailer, and generator clients operating throughout the North American energy markets. Many of GPEM’s clients operate within the state of Pennsylvania, and we appreciate the opportunity to submit comments to the Commission on this very important issue.

**A. Section 2804(2)(i)**

Section 2804(1) modifies Section 4 of the AEPS Act to exclude solar PV sources located outside of Pennsylvania from qualifying as an Alternative Energy System (“AES”) that is eligible to generate power and solar renewable alternative energy portfolio credits (SRECs) that may be used to meet the solar PV share requirement. This section of the act sets forth a condition to which Section 2804(1) does not apply. Specifically, Section 2804(2)(i) states the following:

(2) Nothing under this section or section 4 of the “Alternative Energy Portfolio Standards Act” shall affect any of the following:

(i) A certification originating within the geographical boundaries of this commonwealth granted prior to the effective date of this section of a solar photovoltaic energy generator as a qualifying alternative energy source eligible to meet the solar photovoltaic share of this Commonwealth’s alternative energy portfolio compliance requirements under the “Alternative Energy Portfolio Standards Act.”

This subsection addresses the scenario where a solar PV system had received a Pennsylvania certification as an AES eligible to meet the solar PV share requirement prior to October 30, 2017, the effective date of Section 2804. The Commission proposes to interpret this subsection to grandfather solar PV AESs certified as a Pennsylvania AES before October 30, 2017, as continuing to qualify to generate energy and SRECs eligible to be used by EDCs and EGSs to meet the solar PV share requirements.

The Commission proposes to interpret the language “a certification originating within the geographical boundaries of this Commonwealth” as a reference to systems certified by the Commission’s AEC Program Administrator in accordance with 52 Pa. Code §§ 75.62, 75.63 & 75.64. These systems received a unique Pennsylvania certification number that identifies them as a Pennsylvania qualifying alternative energy source eligible to meet the solar PV share requirements.

GPEM’s comments for consideration:

- GPEM respectfully requests clarification of the Commission’s proposed interpretation of Section 2804(2)(i). It seems that the Commission is proposing to interpret 2804(2)(i) as referencing the Pennsylvania certification that was previously given to the solar PV system, rather than the physical, geographic location of the solar PV system. Under this interpretation, all solar PV systems that were PA certified prior to October 30, 2017 regardless of their geographic location would be grandfathered. However, it would seem that the language of 2804(2)(i) is meant to grandfather only solar PV systems that are within the geographic boundaries of the Commonwealth. The Commission’s proposed interpretation of Section 2804(2)(i) also seems to conflict with the Commission’s interpretation of Section 2804(2)(ii) – copied below - related to grandfathered contracts for alternative energy credits derived from solar PV energy sources.

**B. Section 2804(2)(ii)**

This section sets forth a condition to which Section 2804(1) does not apply. Specifically, Section 2804(2)(ii) states the following:

(2) Nothing under this section or section 4 of the “Alternative Energy Portfolio Standards Act” shall affect any of the following:

....

(ii) Certification of a solar photovoltaic system with a binding written contract for the sale and purchase of alternative energy credits derived from solar photovoltaic energy sources entered into prior to the effective date of this section.

This subsection addresses the scenario where a binding written contract for the sale and purchase of AECs derived from a solar PV source was entered into prior to October 30, 2017. The Commission proposes to interpret this subsection as permitting the AEC Program Administrator to certify a solar PV system that does not meet the provisions of Section 2804(1) and was not certified prior to October 30, 2017, to qualify to generate energy and SRECs eligible to be used by EDCs and EGSs to meet the solar PV share requirements under the following conditions:

- (1) There is a binding written contract entered into prior to October 30, 2017.
- (2) The contract is for the sale and purchase of the alternative energy credits generated by a solar PV system that is not already certified in Pennsylvania.
- (3) The solar PV system does not meet the requirements of § 2804(1).

GPEM’s comments for consideration:

- The above language referenced from Section 2804(2)(ii), based on our interpretation, would coincide with the Commission’s interpretation in that it is meant to convey that contracts entered into for EDC/EGS-eligible SEECs would be honored through the term

of the contract, at which time the solar PV system would no longer continue to produce EDC/EGS eligible SAECs. This conflicts with the interpretation from the Commission above given that the contracts would not need to be grandfathered if the entire solar PV systems were to be grandfathered.

- Additionally, as a follow up request for clarification to the Commission regarding this point – if a solar PV system had entered into a contract that terminated after October 30, 2017 for EDC/EGS-eligible SAECs, but does not meet the requirements of § 2804(1), during that time, would the system continue to produce EDC/EGS-eligible SAECs outside of the contract as well? Or, per the Commission’s interpretation of Section 2804(4) copied below, would the additional SAECs produced outside of those that were contracted for only qualify for the Tier-I non-solar requirement?
- Furthermore, GPEM would like to stress to the Commission the importance of establishing a clear method as to how the determination around grandfathered contracts would be treated as soon as possible. For example, if a contract was entered into prior to the effective date of this legislation, and the solar site was not specified in the contract, how would that be treated? Additionally, if a contract was entered into that WAS site-specific, but that site under-produced in reference to the contract quantity, how would that contract be treated? Would the solar site be able to use future production not included in the initial contract to meet the terms of the contract? Ultimately, what is the process by which the Commission would take to certify which contracts are grandfathered and which are not, and the terms of the grandfathering for each? This

process should be clearly laid out in a timely manner as it will impact commercial decisions that retailers and generators alike need to make in the near term.

**C. Section 2804(4)**

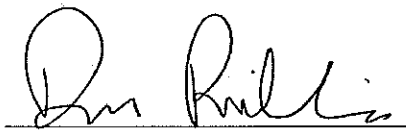
Section 2804(4) provides that the terms “Alternative Energy Source” and “Electric Distribution Company” maintain their respective definitions as set forth in Section 2 of the AEPS Act. As such, the Commission believes solar PV systems not meeting Section 2804(1) requirements or the exceptions thereto in Section 2804(2) can still generate credits eligible to meet the Tier I non-solar share requirements.

GPEM’s comments for consideration:

- The Tentative Order seeks comments on “whether completed solar PV system applications that were received before October 30, 2017, but not approved by the program administrator until after October 30, 2017, should be grandfathered in as a solar PV AES eligible to meet the solar PV share requirements, as their certification date would be the date the completed application was received.” GPEM respectfully submits that the rules should remain consistent with the current program whereby the qualification date becomes the date the application was received rather than when it was approved, and would therefore grandfather these solar PV systems. Keeping the rules consistent would be operationally simpler for all market participants.
- However, GPEM must note this is inconsistent with the “contract grandfathering” language from Section 2804(2)(ii), and aligns more with the Commission’s initial

interpretation of Section 2804(2)(i) that all systems certified prior to October 30, 2017 would be grandfathered in and continue creating EDC/EGS-eligible SAECs.

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Dan Rulli", is written over a horizontal line.

GP Energy Management

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