



February 5, 2018

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

Re: Comments on the Tentative Implementation Order in Docket No. M-2017-2631527
by the Mid-Atlantic Renewable Energy Coalition

Dear Secretary Chiavetta:

The Mid-Atlantic Renewable Energy Coalition (“MAREC”) appreciates the opportunity to make these comments on Tentative Implementation Order M-2017-2641527 (“TIO”).

MAREC is a nonprofit Pennsylvania corporation that was formed to help advance the opportunities for renewable energy development primarily in the region where the Regional Transmission Organization, PJM Interconnection, LLC (“PJM”), operates, including Pennsylvania. MAREC’s membership consists of utility scale solar and wind developers, a wind turbine manufacturer, and nonprofit organizations dedicated to the growth of renewable energy technologies to boost economic development in the region, improve our environment, and diversify our electric generation portfolio, thereby enhancing energy security. The primary areas of focus of MAREC are to work with state regulators to develop rules and supportive policies for renewable energy; provide education and expertise on the environmental sustainability of solar and wind energy; and offer technical expertise and advice on integrating variable renewable energy resources into the electric grid.

Although MAREC supports the TIO in most respects, we are concerned that the interpretation of 2804(1)(ii) would unduly limit the grandfathering of contracts from out-of-state sellers to certain buyers, as more fully described in Paragraph 3 below. We would also highlight that MAREC takes *no position* on the TIO's interpretation of Section 2804(2)(i) of Act 40, in which the TIO would clarify that existing solar photovoltaic resources ("solar PV") certified prior to October 30, 2017 will be grandfathered for certification for future compliance into the PA solar AEC market.¹ MAREC members have disparate positions on this interpretation and may elect to individually file comments with the Commission to express those positions.

The following paragraphs address the areas of agreement we have with the TIO and one important area of concern with the TIO's interpretation of Act 40:

1. First, we agree that the language in Act 40, as addressed in in the TIO, did not change in any way the language in the Alternative Energy Portfolio Standards ("AEPS") that prescribed that solar PV continues to be eligible for Tier I non-solar treatment whether in- or out-of-state².
2. We agree with the interpretation of the TIO that Act 40 provides that solar PV resources directly connected to an EDC's customer's "internal electric system" are eligible to meet the solar PV share requirements of the AEPS of that EDC, as is a solar PV resource directly delivering power to an EDC with an AEPS compliance requirement. Further, we support the conclusion in the TIO that ACT 40 also permits the counting of solar PV systems physically interconnected to the distribution system of an EDC that has an AEPS compliance requirement, as well as those solar PV systems connected to the electric cooperative and municipal and electric cooperative systems within Pennsylvania.³ We fully support the TIO's conclusion that a solar PV system connected to the transmission

¹ TIO at 5-6.

² Id. at 3.

³ Id. at 3-4.

system within the service system of a PA EDC is also eligible to meet the solar compliance requirements of the AEPS.⁴

3. With one key exception, we support the conclusion in the TIO pursuant to Section 2804(2)(ii) of Act 40, which protects the sanctity of binding written contracts that have been executed prior to October 30, 2017 for Pennsylvania solar AECs.⁵ This provision should be read pursuant to the interpretation in the TIO, the plain language of Section 2804(2)(ii), as well as the historic protection on legally binding contracts executed in reliance of statute.

Our major concern with the TIO's interpretation of Section 2804(2)(ii) is that it appears to limit grandfathering to out-of-state facilities (Sellers) that have entered into contracts with only the following: PA EDCs, electric suppliers serving PA customers, LSEs, electric cooperatives, or municipal cooperatives (Buyers) and it excludes some types of contracts with other types of Buyers that are usually present in a fully deregulated market, like PA. These Buyers include non-end users or middle-marketers that play an important role in the market in delivering PA solar AECs to end-users. While we think the omission of non-end users or middle-marketers in the TIO was inadvertent, the consequence of such omission would be to inappropriately limit contracts intended to be covered by Section 2804(2)(ii), which provides:

(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.

⁴ Id. at 4

⁵ Id. at 7-8.

These are also solar photovoltaic systems that have binding written contracts entered into with these omitted entities prior to October 30, 2017, for the sale and purchase of solar AECs. As such, they are clearly intended to be grandfathered for certification under Act 40. In this case, the TIO should be revised to include solar photovoltaic systems for certification that have legally binding contracts with other entities, like non-end users and middle marketers.

In conclusion MAREC again appreciates the opportunity to make comments on the TIO. We agree with the TIO in large part. However, we believe the TIO needs to be revised to include other types of Buyers or RECs as described herein that have legally binding contracts for the sale and purchase of solar AECs. We also want to emphasize that MAREC has not taken a position as an organization on whether existing solar photovoltaic resources ("solar PV") certified prior to October 30, 2017 should be grandfathered for certification for future compliance into the PA solar AEC market.

Sincerely,



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