

SCHELL SOLAR FARM, LLC  
301 W. Barbee Chapel Road, Suite 100  
Chapel Hill, NC 27517

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PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

February 2, 2018

Via FedEx

Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, PA 17120

RE: *Comments on Proposed Implementation of Act 40 of 2017, PUC Docket No. M-2017-2631527*

Dear Secretary:

Schell Solar Farm, LLC ("Schell") offers these comments on the Tentative Implementation Order M-2017-2631527 ("Tentative Order") concerning the proposed implementation of Section 11.1 of Pennsylvania Act 40 of 2017, which relates to the eligibility for renewable energy credits under the Pennsylvania Alternative Energy Portfolio Standards ("AEPS") Act, 73 P.S. §§ 1648.1 *et seq.*

Schell operates a solar photovoltaic project located outside of the geographical boundaries of the Commonwealth of Pennsylvania. Prior to October 30, 2017, Schell received a unique Pennsylvania certification number that identified it as a Pennsylvania qualifying alternative energy source eligible to meet the solar photovoltaic share of the Commonwealth's alternative energy portfolio compliance requirements. Further, prior to October 30, 2017, Schell entered into a multi-year written contract for the sale and purchase of the alternative energy credits derived from the operation of its project. Schell's contract to sell the alternative energy credits derived from the operation of its project was a material part of its decision to finance and build the project.

The Tentative Order recognizes the need to grandfather projects that have received a certification prior to the effective date and that have further entered multi-year contracts to sell alternative energy credits. Unfortunately, the Joint Statement of Chairman Brown and Vice-Chairman Place dated December 21, 2017 does not do the same. Schell supports the extension of the AEPS qualification to out-of-commonwealth resources certified prior to October 30, 2017 certification and a written contract to sell alternative energy credits entered prior to October 30, 2017.

Article I, Section 10 of the United States Constitution prohibits a state from enacting any law that impairs the obligation of contracts. Pennsylvania's legislature clearly understands that prohibition as evidenced by its inclusion of the carve-out in Section 2804(2)(ii) for projects with contracts for the sale and purchase of the alternative energy credits. Failure to grandfather projects certified prior to October 30, 2017 and with a written contract to sell alternative energy credits entered prior to October 30, 2017 will (i) unduly burden project and (ii) expose the Commonwealth to legal challenges.

Schell encourages the commission to adopt the position taken in the Tentative Order to grandfather projects with certifications prior to October 30, 2017.

Sincerely,

Schell Solar Farm, LLC

By: 

Will Owens, Vice President

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TO **SECRETARY**  
**PENNSYLVA PUBLIC UTILITY COMMISSION**  
**400 NORTH STREET**

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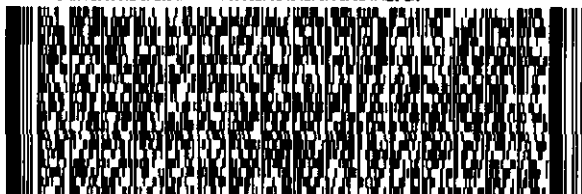
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