

From: Linda Wetzel
Sent: Monday, January 23, 2012 10:07 AM
To: Deborah Petrisko
Subject: FW: Solar Transition Comments

Deb, please print this for me. Thanks.

-----Original Message-----

From: Neal Zislin [mailto:zislinns@comcast.net]
Sent: Friday, January 20, 2012 8:07 PM
To: OCE; Winka, M
Subject: Solar Transition Comments

Office of Clean Energy, Mike Winka:

Renu Energy is pleased to offer these comments and recommendations to the Office of Clean Energy on the subject of the Solar Transition.

Background

It is necessary to strike a balance among the attainment of the RPS, engagement of all ratepayer sectors and delivery of solar generated electricity at the lowest cost to the ratepayer. Uncertainty in pricing for SRECs imposes significant risk for the project developer/owner and creates a barrier to obtaining financing over a period that extends beyond SREC purchase agreements. Significant risk faced by the project developer/owner manifests itself in demanding higher front-end valuation for SRECs than what is necessary to attain a targeted IRR (e.g. 11.5%). There are inherent advantages to the ratepayer and project developer/owner in hedging SREC valuations over a period of time that coincides with the duration of the loan. Project developer/owner can be reasonably assured of servicing the debt and earning the requisite rate of return and the ratepayer will incur the lowest costs in benefiting from solar generated electricity from an investment made at that time.

OCE has drafted two options for the continuation of the solar program in meeting the Energy Master Plan objectives. Option #1 increases the RPS. The following comments highlight advantages and disadvantages to increasing the RPS.

The advantages to expanding the RPS:

- SREC overhang in the market possibly through EY 2014 may be immediately absorbed
- Opportunity to monetize these excess SRECs may provide a safety net for survival to project developers/owners during this period of SREC surplus
- Continuity in access to certified solar contractors is bridged into the future when equilibrium becomes restored
- Option to secure hedged SREC pricing over 15 years may supplant reliance on the unstructured market and lower cost of SRECs to ratepayers on the front end and over the duration
- Guaranteed payments for SRECs provide a major revenue stream that may facilitate investment into solar systems

The disadvantages to expanding the RPS:

Even through a competitive reverse auction process such as the EDC SREC program, the valuation of an SREC today may be more expensive than an SREC three years out depending on the declining slope of the solar system cost curve
Implementation of an incremental increase in the RPS with the exemption of LSEs having supply contracts in force (accounts for virtually all of them) makes the assignment of the incremental SREC obligations problematic over the period of the contracts

OCE's option #2 increases the EDC program capacity without increasing the overall RPS. The following comments highlight advantages and disadvantages to increasing the EDC program capacity.

The advantages to increasing the capacity of the EDC reverse auction SREC program:

- Larger percentage of the SRECs are priced at a lower front-end cost than what has been observed from the transactions in the unstructured market
- Supply-demand equilibrium for SRECs becomes more visible and prominent to prospective investors/owners leading to more rational investment decisions
- Sales of SRECs purchased by the EDCs are sold at auction in larger quantities and with fewer sellers than individual SREC owners thus potentially being able to exert more leverage in attracting higher bids from the LSEs – sellers become more aggregated to exert market leverage over the small number of LSEs
- Creates more opportunity for financing of projects through the guaranteed SREC revenue stream

The disadvantages to increasing the capacity of the EDC reverse auction SREC program that might result in surplus SRECs expiring at zero value, thus maximizing exposure to ratepayer:

- Inaccurate accounting for SRECs generated through other channels such as PJM (pipeline of projects securing interconnection permits that have not yet registered with the SRP are not being tracked)
- Enhanced kwh output per kw DC of installed capacity beyond the baseline of 1200 kwh/kw DC-yr
- Exacerbation of the current market which is already significantly long in SRECs.

We have the opportunity now to shape the future SREC program to embody those attributes that have been found to be beneficial for attracting investment in solar generated electricity. These attributes need to be retained within the future SREC program:

- Contributes to sustaining long position of SRECs within the market
- Hedges price of SRECs over a period coinciding with loan repayment period
- Minimizes transactional costs
- Yields fair & reasonable investor's rate of return to project developer/owner
- Permits grid-connected and customer's side of the meter systems to compete for guaranteed SREC valuations
- Permits systems already operating to compete for guaranteed SREC valuations

Recommendations

Some of these recommendations are dependent on the outcome of the Rutgers CEEEP economic analysis of the EDC SREC reverse auction and PSEG Solar Loan programs and a subsequent cost-benefit analysis in shifting forward the RPS requirements.

- Increase the RPS to favor the near-term over the back-end
- Endorse the concept of the reverse auction process administered by the EDCs
- Tighten transactional costs associated with reverse auction process

Allocate larger percentage of RPS capacity towards the reverse auction process (70-80%)
Guarantee SREC valuation over 15 years
Make all ratepayer classes eligible to participate
Make grid connected & customer-side-of-meter projects eligible to participate
Make reverse auction process available in all 4 EDC territories
Schedule next reverse auction to occur within 1-year of SREC supply approaching equilibrium with demand
Allow operating solar systems to compete for SREC guarantees over remaining eligibility period of the systems

Regards,

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**SIERRA
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FOUNDED 1892

January 23, 2012

VIA ELECTRONIC MAIL

New Jersey Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, NJ 08625-0350
publiccomments@njcleanenergy.com

RE: Comments Regarding New Jersey Solar Renewable Portfolio Standard

The Sierra Club respectfully submits these comments in response to the New Jersey Board of Public Utilities' ("BPU") request for comments on whether to increase the solar Renewable Portfolio Standard ("RPS") in New Jersey. For the reasons set forth below, the Sierra Club believes that the BPU should formally increase the solar RPS to maximize benefits for ratepayers and environmental and human health benefits from New Jersey's RPS while providing clarity, accountability, and enforceability.

I. Factual background

Due in large measure to the State's strong statutory and regulatory support for solar energy, New Jersey currently ranks second in the nation in installed solar capacity. New solar installations in the State have more than doubled each year since 2008, and New Jersey now has more than 531 MW of installed solar capacity, comprising nearly 13,000 individual projects. Pipeline projects totaling an additional 599 MW could more than double installed capacity in the State if the State continues to implement prudent policies regarding solar development.

The large majority (76%) of New Jersey's installed capacity has been developed through the State's Solar Renewable Energy Credit ("SREC") program. By the end of Energy Year 2012, it is estimated that the installed solar capacity will be capable of producing 596,800 to 611,000 SRECs, equivalent to 135.0-138.3% of the State's Energy Year 2012 RPS. The State's existing solar RPS ramps up to 5,316 solar GWh/year for Energy year 2026 and beyond, representing a 2.1% solar set aside. *See* N.J. Admin. Code § 14:8-2.3.

The BPU has solicited comment regarding two options for fostering continued development of New Jersey's solar industry in light of the recent greater-than-anticipated growth. The first option is to increase the present solar RPS following a detailed cost-benefit analysis by the Center for Energy, Economic and Environmental Policy ("CEEPP") with the increase allocated to the electric distribution company ("EDC") SREC programs. The second option is to expand the capacity of the EDC SREC

programs without increasing the RPS. The Sierra Club believes that the BPU should elect the former option and formally increase the State's solar RPS.

II. Benefits of solar

There are many reasons for the BPU to maximize the continued development of cost-effective solar generation in New Jersey. When compared with other forms of non-renewable generation, solar offers significant economic, environmental and human health benefits that strongly support the BPU's proposal to increase the solar RPS and expand EDC SREC programs.

A. Economic benefits

Solar energy possesses important economic advantages over fossil fuel-based electric generation. Unlike fossil fuels, which are subject to significant fuel price and regulatory price volatility, solar provides price stability that benefits customers. Solar is immune from the oscillations in coal and natural gas prices, which render these energy sources risky long-term investments. Solar also creates no emissions and generates no water or solid waste discharges, thereby insulating it from future air, water, and solid waste regulations. Perhaps most significantly, because solar energy generates no greenhouse gases, solar costs will remain unaffected by any future price on carbon dioxide or other greenhouse gases, an increasingly likely scenario that would impose considerable additional costs on fossil fuel-based energy generation. Moreover, because solar installations typically generate the most energy on days and at times of day that coincide with peak energy demand, solar provides a cost-effective means of addressing this demand, thereby protecting ratepayers from excessive energy prices during these times.

Not only does solar energy protect electric customers by providing no fuel- or regulatory price volatility, it also generates more jobs per unit energy than fossil fuel generation. According to the Electric Power Research Institute, solar photovoltaic creates at least twice as many jobs as natural gas per MW of electricity, while other studies indicate that solar creates up to 13 times as many jobs as gas-generated electricity.¹

Trends in the cost of solar photovoltaic panels reinforce that solar is a good investment for New Jersey. Solar photovoltaics have been experiencing significant price decreases in recent years. Several news sources have reported 70% decline in the price of solar systems between 2009 and the end of 2011. *See, e.g.*, Energy Matters, Solar System Prices Drop by 70% (Dec. 2011)²; Sun Solar Electric, Solar Panel Prices Down by 70

¹ M. Wei, et. al., Putting Renewable Energy and Energy Efficiency to Work, 38 Energy Policy 919-931, 2010. Available at http://rael.berkeley.edu/sites/default/files/WeiPatadiaKammen_CleanEnergyJobs_EPolicy2010.pdf. Solar (photovoltaic) creates 0.23 jobs per MW (Electric Power Research Institute, 2001) 0.95 jobs per MW (Renewable Energy Policy Project 2006) or up to 1.42 jobs per MW (European Photovoltaic Industry Association and Greenpeace, 2006).

² Available at http://www.energymatters.com.au/index.php?main_page=news_article&article_id=1912.

Percent from 2009 (Nov. 29, 2011).³ As these trends continue, they will push down SREC prices and provide benefits to NJ electric customers.

In addition, as the Mid-Atlantic Solar Energy Industries Association (“MSEIA”) recently determined, the NJ BPU can best promote decreasing customer costs by increasing solar capacity in the State through the expansion of EDC SREC programs.⁴ On January 12, 2012 MSEIA released a Comparative Study of Rate Impacts by Program. The study examined the rate impacts of PSE&G’s loan program, the JCP&L/ACE 10-year contract program, and experiences with the unstructured SREC market on long-term SREC prices. MSEIA concluded that over a range of assumptions regarding the rate of decline of the cost of solar power, the lowest SREC prices, and the lowest prices for New Jersey electric customers, were produced by the EDC programs. *See* MSEIA Study at 20-21. Based on these results, the Sierra Club supports the NJ BPU’s decision to target expansion of EDC SREC programs in both of the proposals under consideration.

B. Environmental and human health benefits

Promoting the continued expansion of in-state solar energy generation also provides significant benefits for New Jersey’s air and water and for public health in New Jersey. As noted above, solar energy produces no emissions either to air, water, or in the form of solid waste. By contrast, emissions from fossil fuel generation—in the form of sulfur dioxide, nitrogen oxides, air toxics, and mercury and other heavy metals—contribute to a host of environmental and human health problems. Moreover, because solar energy requires no fuels, it does not require the extraction of non-renewable resources in ways that threatened to pollute the local air and endanger local drinking water supplies.

Crucially, solar energy does not contribute to global warming, which is anticipated to have massive adverse impacts for New Jersey. As the New Jersey Department of Environmental Protection recently observed, “[t]he Northeastern United States is particularly vulnerable to the impacts of climate change, with potentially devastating ecological, economic and public health impacts to New Jersey.”⁵ These effects include erosion of New Jersey’s shoreline as a result of sea level rise, increased heat stress and ground-level ozone and fine particulate pollution as a result of higher temperatures, adverse impacts on water supply and agriculture including flooding, loss of critical habitat and increased stress on threatened and endangered species, and increases in fires, pests, disease pathogens and invasive species.⁶ Together, these changes are likely to result in costs to New Jersey in the tens or hundreds of billions of dollars.⁷ The continued development of solar energy in New Jersey provides a power means of mitigating the risk of these climate change-related harms.

³ Available at <http://sunsolarelectric.com/solar-panel-prices-down-by-70-percent-from-2009/>.

⁴ These EDC solar programs develop both small and large residential as well as commercial solar projects.

⁵ N.J. Dep’t of Env’tl. Protection, Meeting New Jersey’s 2020 Greenhouse Gas Limit: New Jersey’s Global Response Act Recommendations Report (Dec. 2009), at 6. Available at http://www.nj.gov/globalwarming/home/documents/pdf/njgwra_final_report_dec2009.pdf.

⁶ *Id.* at 16-18.

⁷ *See id.* at 18-19.

III. The BPU Should Increase the Solar RPS

As the BPU has recognized, in order to build on the tremendous successes already achieved by New Jersey's solar RPS, the time has come to increase the capacity of EDC SREC programs. To maximize the benefit of this expansion, the BPU should do so in the context of formally increasing the solar RPS, with specific increases allocated to each of the EDCs. This approach will give clarity to EDCs regarding their obligations, ensure that increases in solar generation are concrete and enforceable, and thereby promote accountability. In addition, the BPU's plan to base increases on a detailed cost-benefit analysis by CEEEP will ensure that costs associated with the increase in the solar RPS are not unduly burdensome and in proportion to the benefits provided. Given the myriad economic, environmental and human health benefits provided by solar generation, the BPU should not hesitate in carrying forward its plan to increase New Jersey's solar RPS.

Respectfully submitted,

/s/

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KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

January 23, 2012

Via Overnight Delivery and Electronic Mail

Honorable Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: Solar Transition Working Group-Comments on OCE's Proposed Options
to Revise the Solar Renewable Portfolio Standards dated January 5, 2012

Dear Secretary Izzo:

Enclosed please find an original and ten copies of comments submitted on behalf of the New Jersey Division of Rate Counsel in connection with the above-captioned matters. Copies of the comments are being provided to all parties by electronic mail and hard copies will be provided upon request to our office.


We are enclosing one additional copy of the comments. Please stamp and date the extra copy as "filed" and return it in our self-addressed stamped envelope.

Honorable Kristi Izzo, Secretary
January 23, 2012
Page 2

Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

By: 
Felicia Thomas-Friel, Esq.
Deputy Rate Counsel

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Mike Winka, BPU
Mona Mosser, BPU
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New Jersey Rate Counsel Comments on OCE's Proposed Options to Revise the Solar RPS

Introduction

The New Jersey Division of Rate Counsel ("Rate Counsel") appreciates the opportunity to provide comments on the two solar transition proposals offered by the Office of Clean Energy dated January 5, 2012. Both options would purportedly address the volatility in the Solar Renewable Energy Certificate ("SREC") market while maintaining downward pressure on SREC prices.

The first option is to increase the solar RPS by establishing a set-aside for the EDC SREC programs. This increase would be based upon a cost-benefit analysis performed by the Rutgers Center for Energy, Economic, and Environmental Policy ("CEEEM") and would purportedly keep downward pressure on SREC prices.

The second option would be to leave the solar RPS as it is, but to increase the share of EDC program capacity by establishing a set-aside for the EDC SREC programs.

Solar Market Transition

Rate Counsel is opposed to rapid or dramatic changes to the current solar RPS and questions the needs for such changes. While recent market trends are claimed to have negatively impacted solar energy developers, they have not negatively impacted ratepayers. In fact, if anything, New Jersey ratepayers are finally beginning to see a return on the solar investments dollars they have put into the industry for the past decade.

While the solar industry has expressed significant concern about the recent decrease in solar delivery costs, and SRECs, Rate Counsel sees those changes as being the result of a wide range of changes in a developing market influenced by a number of state, regional, national and international considerations. There is simply no evidence that any changes New Jersey may make will influence those factors, nor is there any evidence that these recent market changes will last or are permanent in nature.

It is Rate Counsel's position that New Jersey has an attractive, if not the most attractive solar energy market in the country and one that has very robust public policy support. The strength of this market, and the likely temporary nature of the changes in this market over the past year, clearly indicate that no dramatic changes are necessary, and to the extent any changes are made, they should be done in a concerted and methodic manner with a longer-term view in mind.

For more than a decade, New Jersey has been a leader among states in fostering solar development and installations. (See Figure 1 below). Currently, New Jersey ranks second only to California in terms of installed solar capacity. No other state is prepared to, nor is proposing

to challenge New Jersey's leadership position in solar development. New Jersey is still the best solar energy market in the eastern U.S. and affords solar developers a significant number of benefits and opportunities that do not exist in other state solar energy markets.

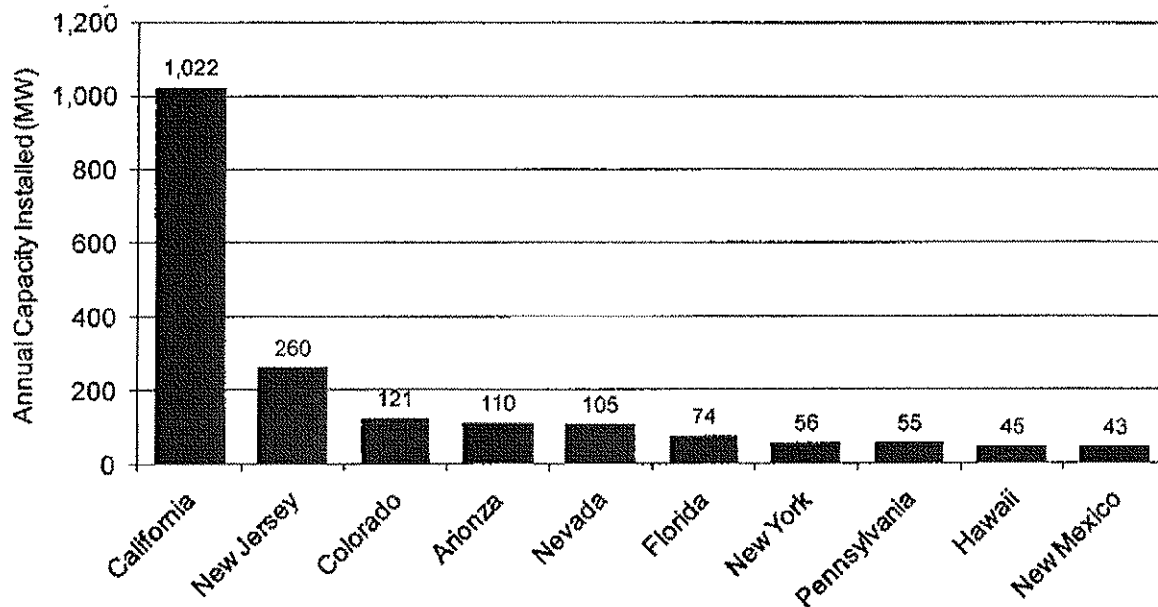


Figure 1. Installed PV Capacity in Top 10 States, 2010

Source: Interstate Renewable Energy Council, Accessed at: <http://irecusa.org/>.

New Jersey has gone to great lengths to promote and facilitate vibrant and healthy solar energy markets represented by a large number of buyers and sellers, free entry and exit conditions, healthy long- and short-term contracting opportunities, and a significant amount of installation diversity. Recent decreases in SREC prices are not a problem, but instead, represent a clear and visible sign that New Jersey's past policies in developing competitive solar energy markets are bearing fruits and providing rewards to those that have taken the biggest stake, and made the biggest investments: ratepayers.

Option 1: Increasing the Solar RPS through an EDC Program Set-Aside

The OCE proposal to increase the solar RPS in order to address the perceived crisis in solar energy markets and fast track development will create a new degree of scarcity which, in turn, will increase prices above levels considered by many solar developers to be "depressed."

Some solar developers have indicated that their proposals for advancing solar energy development rest more with forcing a new degree of business activity than on trying to create a new degree of market scarcity that would drive up prices and create new excess profits for solar energy developers.

If this is truly the case, then Rate Counsel would be willing to discuss certain types of changes to the solar RPS provided there is a fair balancing of risks and rewards between solar developers and rate payers as envisioned in the EMP:

In light of New Jersey’s fiscal challenges, efforts must be made to strip away any largesse that constitutes a transfer of wealth from New Jersey’s ratepayers to EE/DR program developers.¹

Rate Counsel believes that any front-loading or rebalancing of the State’s solar RPS must be done, at minimum, on a revenue-neutral basis in net present value (“NPV”) terms. One of two specific conditions, therefore, would need to be imposed on any rebalancing of the solar RPS.

The first potential condition for a revenue-neutral front-loaded solar RPS would be that solar capacity development goals would have to be substantially reduced in later RPS years, if the current SREC pricing trends continue to hold. These recent SREC pricing trends have seen SREC prices at levels that are close to the Solar Alternative Compliance Payment (“SACP”) cap: in fact at levels far in excess of the 75 percent of SACP amounts originally envisioned when the solar RPS was first established, as demonstrated in Figure 2 below.

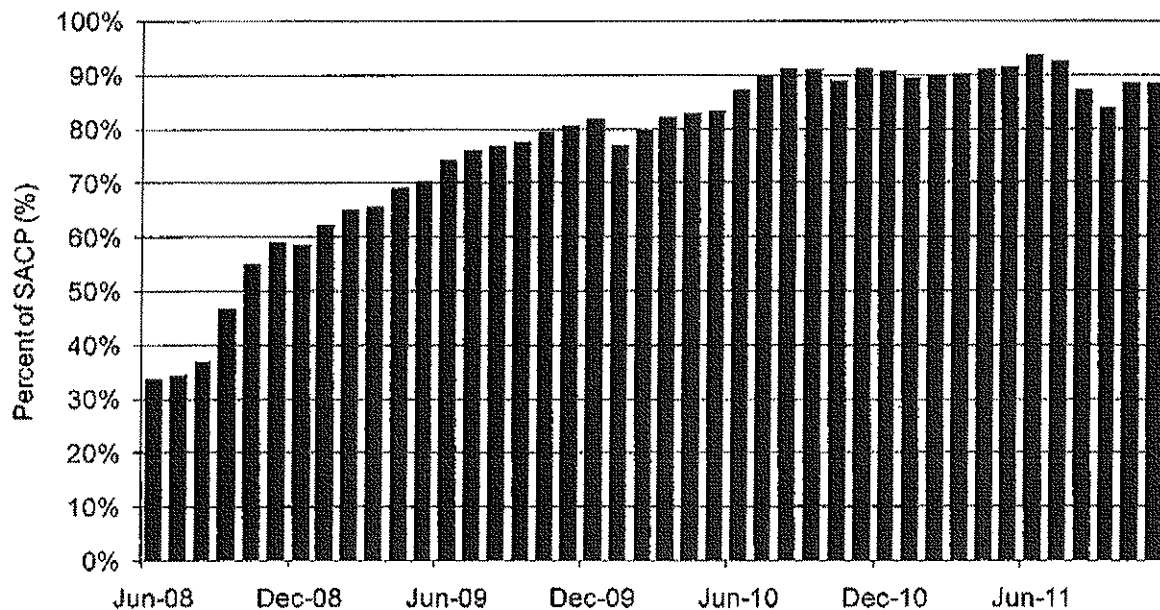


Figure 2. SREC as a Percent of SACP

Source: New Jersey Office of Clean Energy, Accessed at: <http://www.njcleanenergy.com/renewable-energy/project-activity-reports/srec-pricing/srec-pricing>.

¹ 2011 New Jersey Energy Master Plan, December 6, 2011. (p. 55)

The second potential condition for a revenue-neutral front-loaded RPS would temper overall capacity development reductions in later years, but instead would require substantial decreases in both SREC and SACP levels to offset the initial year front-loaded costs.

Rate Counsel cannot agree with any proposal to increase the RPS without a corresponding decrease in latter years -- particularly when ratepayers are already committed to a potential solar cost exposure of between \$6 billion to \$7 billion under the current solar RPS.

Option 2: Increase in EDC Solar Contracting Program Capacity

There are currently two types of securitized programs for solar in New Jersey: (1) EDC long-term contracting; and (2) solar loan and other utility financed development programs. Both programs are defined for finite time periods. The EDC long-term contracting program will cease to hold solicitations, and contract for new incremental capacity, starting in early 2012. The deadline for applications under the PSE&G Solar Loan II program expired December 31, 2011. Thus, OCE's proposals to "increase" the capacity under the EDC contracting program will, in effect, require each of the EDCs to offer new proposals for new incremental capacity.

Rate Counsel is open to the consideration of a moderate, and explicitly defined, extension of the EDC long-term contracting program under certain conditions:

- The shares secured under a long-term contracting extension do not exceed 40 percent, on average, across the duration of the extension period.
- No major modifications to the existing program design and solicitation process.
- Small development set-asides and goals are eliminated. Resources need to stand on their own and experience in these programs to date have shown that smaller systems can offer prices as competitive, if not more competitive, than larger systems.

Rate Counsel opposes the extension of any solar loan or other utility-financed solar energy program. While those programs may have made sense at the time they were approved, their need has passed. Comparable financing programs exist in competitive markets today, and utility intervention to provide patient capital is no longer necessary.

Any proposal examining changes or extensions of a utility-financed solar program must also address a number of issues that include: (1) has the program been successful in meeting its goals; (2) is the program cost-effective relative to other forms of long-term securitization like the EDC contracting program; and (3) a determination of the merits and demerits of maintaining non-uniformity in EDC securitization programs (i.e., utility financed programs versus utility contracting programs).

RE: SEIA position on revised BPU staff options under the Solar Transition Work Group
Date: January 23, 2012

Dear Mr. Winka,

I write to you on behalf of the Solar Energy Industries Association (SEIA)¹ to submit our support for staff option 2 and ask for swift action by the Board to implement this recommendation. SEIA is the national trade association for the US solar industry. Through advocacy and education, SEIA and its 1,100 member companies work to make solar energy a mainstream and significant energy source by expanding markets, removing market barriers, strengthening the industry and educating the public on the benefits of solar energy. SEIA member companies have installed over 60% of all MWs currently under operation in New Jersey. In addition, SEIA member companies provide solar panels and equipment, financing and other services to a large portion of New Jersey solar projects. Through its state committees, SEIA works with its member companies and state legislators and regulators promote cost effective and successful solar energy policies.

Consistent with its petition submitted to authorize additional capacity under the utility finance programs,² SEIA writes in support of Revised Staff Option 2, "Do not increase the solar RPS but only increase the EDC program capacity". This option will allow the BPU to take swift action to avert a potential stalling of the SREC market, ensuring that our member companies can continue to maintain some modicum of development activity as the market works through the anticipated oversupply situation, employ thousands of New Jersey residents throughout the PV value chain, and deliver the types of projects and consumer benefits envisioned by the 2011 Energy Master Plan. In addition, the conditions that existed at the start of the EDC programs still exists today; namely, suppliers and providers are generally disinclined to contract for SRECs beyond the term of their load obligation. A continuation of these programs will ensure the continued delivery of lower risk/lower cost SRECs.

Sincerely,



Katie Bolcar
Director, Mid-Atlantic States
Solar Energy Industries Association
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¹ As of January 1, 2012, the Solar Alliance and SEIA are merged organizations. While SEIA has affiliations with local groups (ie MSEIA), these are separate and distinct entities with separate and distinct memberships.

² This petition was filed on October 4, 2011 under the name of The Solar Alliance.

**COMMENTS OF THE ATLANTIC CITY ELECTRIC COMPANY ON THE OFFICE OF
CLEAN ENERGY'S REVISED STAFF OPTIONS PRESENTED AT JANUARY 12, 2012
STAKEHOLDER MEETING TO DISCUSS NEXT STEPS – SOLAR TRANSITION**

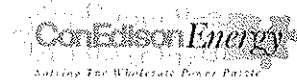
JANUARY 23, 2012

The 19 megawatts of solar facilities currently under contract with Atlantic City Electric Company (“ACE” or the “Company”) represents a cash flow of nearly \$9 million per year in Solar Renewable Energy Certificate (“SREC”) payments to the solar generators. While there is an offsetting revenue amount received through the sale of SRECs in the SREC auctions, given today’s spot market prices, this revenue would yield roughly \$6 million. The \$3 million shortfall is charged to the ACE’s retail customers. The SREC programs developed by the electric distribution companies (“EDCs”) and approved by the Board of Public Utilities were envisioned as a transitional mechanism to a competitive SREC market. The Office of Clean Energy’s Update, presented on January 12, 2012, on the status of the solar market in New Jersey indicated that “[t]he 531.7 MWs of solar capacity installed as of 11/30/11 and the additionally forecast installed solar capacity for the remainder of Energy Year 2012 is estimated to be capable of producing approximately 596,800 to 611,000 SRECs during Energy year 2012.” This level of participation in the New Jersey solar market indicates that the EDCs’ SREC programs have met their objectives and the solar market in New Jersey is now capable of moving forward without additional support of – and subsidization by --New Jersey ratepayers through the EDCs’ SREC programs.

The EDCs are not the only entities with which these facilities can contract for the sale of their SRECs. There is an active spot and term market with brokers and aggregators who can effectively take SRECs to the open market. A review of the open market effectively demonstrates that there exist one, two, three and five year contracts with whom willing buyers and sellers can negotiate agreements. Aggregators are active market participants who supply the administrative market needs for even the smallest facility. Use of these individuals, aggregators and brokers yields a market-based solution whereby the subsidization provided to the solar industry in New Jersey by the EDCs’ SREC program is no longer necessary or required.

In summary, while the Company continues to favor a robust and actively growing solar industry in New Jersey, ACE does not believe that the EDCs’ SREC program need be extended to maintain a robust and competitive market for SRECs.

Thank you for the opportunity to comment on this important issue to the Company, its customers and the State of New Jersey.



January 23, 2012

Michael Winka
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Re: Comments regarding Two Options to Address Instability in the Solar Market Presented by Board of Public Utilities Staff to Solar Transition Working Group

Dear Director Winka:

On behalf of Consolidated Edison Solutions, Inc. (“CES”), Consolidated Edison Development, Inc. (“CED”) and Consolidated Edison Energy, Inc. (“CEE”) (collectively the “Con Edison Companies”), I am writing in response to your request for comments on the two options presented to the Solar Transition Working Group (“Working Group”) by Board of Public Utilities staff (“Staff”). As background, the Con Edison Companies are active in all aspects of New Jersey’s energy market (both as a BGS provider and a retail electricity supplier) and New Jersey’s SREC market (as an SREC consumer, producer and trader).

Both of the Staff options included an unspecified extension of, and increase to, the Solar Renewable Energy Credit (“SREC”) programs administered by the Electric Distribution Companies (“EDCs”). At this time, the Con Edison Companies along with the other members of the Solar Transition Working Group are waiting for the completion of a Rutgers study on the performance and cost-effectiveness of the various EDC programs. According to Staff’s January 5, 2012 memorandum to the Working Group, the study’s “cost and benefits analysis is needed in order to achieve any consensus recommendations in regard to the EDC SREC programs” Therefore, the Con Edison Companies would recommend deferring a decision on whether to extend specific EDC programs, and if so by how much, until after the results of the Rutgers study have been completed and disseminated.

The fundamental difference in the two Staff options is whether to increase the solar RPS requirement by the increase in the EDCs' SREC program capacity. Under Option 1, the solar RPS requirement would be increased concurrently with the expansion of the EDC programs, presumably for Energy Year 2014 which begins on June 1, 2013. The Con Edison Companies oppose such an approach as it would impose an additional and unanticipated obligation on existing supply contracts. Furthermore, the Solar Energy Advancement and Fair Competition Act ("SEAFCA"), which is the basis for the current SREC rules, would exempt existing BGS supply contracts from the Board-imposed increase in the SREC requirement. Not only would this BGS-specific exemption further increase the SREC obligations that retail suppliers and their customers would have to meet, it would also extend the competitive disadvantage created by SEAFCA and perpetuate a regime wherein retail suppliers and their customers are consistently forced to bear a disproportionate amount of any increases in New Jersey's solar RPS requirements. Therefore, the Con Edison Companies strongly oppose the first option presented by Board staff.

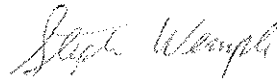
Regarding Option 2, under which the RPS solar requirement would not be increased by the expansion in the EDC SREC programs' capacity, the Con Edison Companies are concerned that the additional solar generation attracted by the expansion of the EDC programs will add to anticipated over-supply of SRECs and further depress SREC prices.

If the Board decides to extend any of the EDC SREC programs, the Con Edison Companies recommend doing so under a hybrid of the two Staff options where the SREC requirements remain unchanged for the first three energy years and increase subsequently to account for the additional solar generation resulting from the expansion of the EDC program¹. Increasing the SREC requirements on a delayed basis would ensure both that 1) existing retail supply contracts are not subjected to additional, unanticipated obligations and 2) that retail supply contracts have the same RPS obligations as their BGS counterparts. By increasing the overall SREC obligation to offset the production from incremental projects attracted by the expansion of the EDC programs, the long-term equilibrium of the SREC market will be maintained. And, from a

¹ Staff may also wish to explore other options for maintaining equilibrium in the SREC market such as asking the EDCs to bank the SRECs associated with their expanded programs until such time as the current surplus is worked through or retiring the SRECs outright rather than selling them in the market.

developer's perspective, the ability to bank SRECs and resell them in subsequent years provides a reasonable opportunity to monetize their SREC production either currently or in future years. Finally, the Con Edison Companies believes that this delayed approach to increasing the SREC requirements serves as a fair and balanced model for other changes the RPS requirements that the Board may determine to be appropriate.

Respectfully submitted,



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January 23, 2012

Michael Winka
NJBPU
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Trenton, NJ 08601

**Re: Solar Transition Working Group
Comments to "Revised Staff Options" of 1/12/12**

Dear Mr. Winka:

Please accept the following comments by MSEIA in regard to the "Revised Staff Options" presented at the Solar Transition Working Group meeting of 1/12/12.

Regarding Option 1, MSEIA believes that an increase in the Solar RPS, with the increase being a specific set-aside for the EDC SREC programs, will be effective in preventing an SREC market crash. At the same time, MSEIA believes that it will be effective in preventing undesirable SREC market price increases. With the moderating effect of long-term contracts and loans, recent drops in the cost of solar power should allow this increase to take place with the same or lower overall cost to ratepayers.

Regarding Option 2, it appears to MSEIA that the option would not include any increase to the Solar RPS, and therefore would not do anything to correct the oversupply situation and prevent an SREC market crash. Therefore, MSEIA believes that this option is not a viable solution at this time.

Sincerely,

Dennis Wilson
President

Lyle Rawlings
Vice-President, NJ



Rockland Electric Company

Jane Quin
Director
Customer Energy Services

January 23, 2012

VIA E-MAIL to OCE@bpu.state.nj.us
Michael Winka
Director, Office of Clean Energy NJBPU
POB 350 – 44 S. Clinton Ave.
Trenton, NJ 08625-0350

Re: NJBPU Staff Memo – EDC SREC Program Recommendations - Status Update

Dear Mr. Winka,

Rockland Electric Company (“RECO” or “the Company”) appreciates the opportunity to provide comments on the Office of Clean Energy’s Staff memo on “EDC SREC Program Recommendations - Status Update,” (the “OCE Memo”) dated January 5, 2012.

Introduction

The Company has been an active participant in the Solar Transitions working group, and continues to support the development of renewable technologies in New Jersey, including solar energy, while at the same time seeking to encourage the adoption of policies that balance incentives for solar energy development with the costs to its customers.

RECO submitted comments in this matter on September 30, 2011 and November 30, 2011, and has opposed the Solar Alliance’s unilateral application for the extension and expansion of the Company’s EDC SREC based financing program. From the Company’s perspective, the Company’s EDC SREC program, that was established through Company-specific and BPU-approved stipulations, has met its targets and fulfilled the explicit objectives the program was created to achieve. At this time RECO does not plan to extend its EDC SREC program beyond the current expiration date, and recommends that the Board of Public Utilities (“BPU”) not take any actions to extend its length in its current or a modified format.

These comments are focused on the two ‘Revised Staff Options’ contained in paragraph 8 of the OCE Memo. The first option is to establish an incremental increase in the solar RPS procurement obligation for SRECs, with such incremental SRECs allocated to the EDC SREC program. The second option is to increase the EDC SREC program capacity. The Company’s comments primarily address the EDC SREC program.

The Company Opposes Mandatory Extension or Enlargement of the EDC SREC Program

The EDC SREC program is one of many state-created incentives and subsidies intended to increase New Jersey's development and production of solar energy and to help the solar energy industry grow in the Garden State. To date these incentives and subsidies include the EDC SREC program, the RPS program and SREC purchase obligations, net metering, and sales tax and property tax exemptions for solar energy.¹ These programs all amount to subsidies provided for solar energy funded by all New Jersey electric customers. As a result, there has been robust construction of solar electricity generation taking place in New Jersey. It can be argued that solar development has surpassed the "start-up" phase, as shown by the robust installation activity and cost reductions that have occurred in the State's solar industry in the last year, and the industry is no longer in the start-up phase in New Jersey. Therefore, the company suggests that subsidies should not continue at the "start-up" level or even beyond the "start-up" level, and in particular, that an incremental increase in the solar RPS procurement obligation for SRECs allocated to the EDC SREC program should be rejected.

Moreover, the BPU must also consider that such long-term contracts may become obligations (*i.e.*, liabilities) of the utilities that must be carried on the balance sheets of the utility for the term of the SREC contract. Such liabilities negatively affect the utilities' ability to attract capital at lower costs. An expansion, at this time, would add to the potential impact, and would undermine the initial cap established in the limited transitional programs when they were established.

These long-term contracts also shift SREC price risk to customers. If the costs of SRECs fall substantially in future years (and many in the solar industry are projecting such cost declines), then these long-term contracts will be at prices that are above future market costs for SRECs. Customers would be required to fund this difference, which could be large, given the significant expansion in financing activities that could result from an expanded EDC SREC program.

In the 1980's many utilities, including RECO's corporate parent, Orange and Rockland Utilities, Inc., were required to sign long term contracts for non-utility generation as a result of the Public Utilities Regulatory Policies Act. These contracts ended up being significantly more expensive than the market, and had negative impacts on utilities' balance sheets, raising costs for customers who ultimately bore the cost impact of these above-market contracts. Continuing or enlarging the EDC SREC programs risks a similar outcome.

¹ There are also significant incentives for solar energy at the federal level, such as the investment tax credit.

The Board Should Consider Cost Impacts of Changes to the SREC Market

With respect to advancing the solar RPS procurement obligation, RECO asks the Board to consider the objectives of the state in supporting solar with the costs of achieving those objectives, in the context of best meeting overall customer needs and the cost for meeting those needs. While the OCE Memo describes the increase as ‘implement[ing] the Board’s solar policies for both economic and environmental benefits’, any incremental increase in the amount of SRECs purchased on behalf of customers will result in costs higher than they would otherwise have been. The Company respectfully requests that the Board balance the economic and environmental impacts of such an increase with the costs that will need to be paid for by customers.

Conclusion

RECO’s SREC program, like the other EDC SREC programs, was designed to be an interim mechanism supporting suppliers’ ability to satisfy the RPS with SRECs. It was to achieve this goal by providing greater assurance about minimum solar project cash flow to certain industry segments while the industry scaled up and established business models that deliver solar systems at more competitive prices. It is undeniable that the EDC SREC programs have enhanced the expansion of solar resources in New Jersey over the past two years. But the SREC market has reached a level of maturity that justifies continued transition to an open, competitive SREC market. Allowing the solar transition to move forward will enable market forces to price New Jersey solar generation in the most economically efficient manner possible, and provide New Jerseyans with the benefits of clean energy at the lowest reasonable cost.

Sincerely,

Jane J. Quin

Jane Quin

MURRAY E. BEVAN
mbevan@bmgzlaw.com

January 23, 2012

VIA ELECTRONIC AND REGULAR MAIL

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***Re: Comments regarding Two Options to Address Instability in the Solar Market
Presented by Board of Public Utilities Staff to Solar Transition Working Group***

Dear Director Winka:

On behalf of the Retail Energy Supply Association (“RESA”),¹ a diverse group of competitive third party energy suppliers, I am writing in response to your request for comments on the two options presented to the Solar Transition Working Group (“Working Group”) by Board of Public Utilities (“Board”) staff. For the reasons stated herein, RESA opposes the first option of immediately increasing the solar Renewable Portfolio Standard (“RPS”) with a specific set-aside for the Electric Distribution Companies’ (“EDCs”) Solar Renewable Energy Credit (“SREC”) programs. Instead, RESA would only support an increase in the solar RPS that is triggered three years following any Board resolution of this matter, or if the Board is unwilling to set the increase three years out, then RESA would prefer the second option of not increasing the solar RPS but only increasing the EDCs’ SREC program capacity over the first option.

¹RESA’s members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant and TriEagle Energy, L.P.. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

RESA opposes the first option presented by Board staff because establishing an immediate incremental increase in the solar RPS to address an over-supply in the SREC market would impose a major competitive disadvantage upon retail suppliers. The Solar Energy Advancement and Fair Competition Act ("SEAFCA"), which is currently controlling law on this issue, provides that existing BGS provider contracts, but not existing retail supply contracts, are exempt from any increases in the RPS. Thus, any increase in the solar RPS adopted by the Board without at least three years before the effective date of the increase would be foisted upon existing retail supply contracts and not existing BGS provider contracts.² The fundamental unfairness of this scheme is obvious: a Board-imposed increase in the solar RPS will force retail suppliers and their customers to pay additional, unfair costs, while BGS providers and their customers will have no such obligation. Retail suppliers have already been forced to pay tens of millions of dollars more than their fair share of the solar RPS due to the inequitable distribution of solar RPS requirements by SEAFCA. Immediately advancing the RPS, as proposed in the first option, just imposes further economic harm by requiring retail suppliers to pay additional unfair costs. In short, an administrative increase in the RPS for the following three energy years would extend the competitive disadvantage created by SEAFCA and perpetuate a regime wherein retail suppliers and their customers are consistently forced to bear the brunt of changes to New Jersey's solar RPS requirements. Therefore, RESA strongly opposes the first option presented by Board staff.

RESA also believes that any increase in the solar RPS would need to be based on a detailed cost-benefit analysis, which would also need to be reviewed by the Office of the Rate Counsel. In addition, a rulemaking proceeding would need to be undertaken, which would take at least six months to complete. Thus, even if this option were to pass scrutiny on a cost-benefit basis and eventually be adopted, it would not provide the desired short-term stability to the solar market.

While RESA opposes any immediate increase in the solar RPS, RESA could support an increase in the solar RPS which is triggered three years after the Board takes action with regard to this matter. An increase in the solar RPS which is delayed for three years is the only way to avoid exacerbating the current and continuing discriminatory cost allocation between retail suppliers and BGS providers and would have the least impact on retail and BGS supply contracts.

If the Board is unwilling to support an increase in the solar RPS which is triggered not less than three years out, then RESA would support the second option of not increasing the solar RPS, but only increasing the EDCs' SREC program capacity. Increasing the EDCs' SREC

² Although it has been suggested at some Working Group meetings that the Board could exempt existing retail supply contracts in addition to existing BGS contracts from any increase in RPS requirements that the Board imposes, SEAFCA may not enable the Board to unilaterally make such an exemption without legislative action.

Mr. M. Winka
January 23, 2012
Page 3 of 3

program capacity would encourage the installation of new solar projects, while maintaining downward pressure on SREC prices and making the EDCs' SREC program price competitive. Meanwhile, RESA acknowledges that this second option includes long-term commitments by the EDCs which can impose stranded costs on ratepayers and cause harm to competitive markets. But given the choice between the two Staff alternatives, RESA would prefer the second option in order to preserve competitive neutrality by not forcing any party to pay more than its fair share of the solar RPS. This second option will preserve competitive neutrality by not forcing any party to pay more than its fair share of the solar RPS. Therefore, it provides both economic and environmental benefits, and is superior to the first option presented by Board staff.

In conclusion, RESA urges the Working Group to reject any option which increases the solar RPS less than three years out and, in turn, perpetuates the inherently flawed regime established by SEAFCA that has forced retail suppliers and their customers to pay tens of millions of dollars more than their fair share. Instead, RESA encourages both Staff and the Working Group to support alternative proposals that address the volatility in the solar market without further impeding competitive neutrality. RESA believes that the second option presented by Staff provides sufficient stabilization to the solar market without imposing an unfair burden on retail suppliers. Please do not hesitate to contact me should you have any questions or concerns. Thank you.

Very truly yours,



Murray E. Bevan

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January 23, 2012

Mr. Michael Winka
Director Office of Clean Energy NJBPU
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Trenton, NJ 08625-0350

Dear Mr. Winka,

New Jersey Resources' (NJR) appreciates the opportunity to comment on the Board of Public Utilities (BPU) staff proposals as part of the Solar Market Transition stakeholder proceeding. NJR is committed to working collaboratively with the BPU, as well as policymakers across state government, in support of policies that provide safe, reliable, cost-effective energy to the citizens of New Jersey, and promote economic development in an environmentally responsible manner.

In pursuit of those objectives, we are unable to support the extension of EDC financing programs at this time. These programs advantage some market participants at the expense of others, and undermine confidence in and the functioning of the SREC markets. Extension of the EDC programs is the equivalent of injecting capacity into the market.

NJR's commitment to solar energy in the state includes more than \$140 million of capital deployed in 2011, which has funded nearly 30 megawatts of renewable energy for businesses and homes throughout the state. Our projects range from 500 customers who participate in our Sunlight Advantage residential lease program, to the McGraw-Hill facility in East Windsor, which is one of the largest behind-the-meter solar projects in the Western Hemisphere. While NJR is the parent company of New Jersey Natural Gas, our solar investments are not financed by ratepayers; they are made through our Clean Energy Ventures unregulated subsidiary.

If markets are to function properly, and engender a virtuous cycle of confidence, active participation, liquidity and efficiency in resource allocation, the rules of the market should not be skewed in favor of one group of participants over another. Similarly, participants should not feel that those with authority to administer and set market rules are working against them in any way. In the absence of such confidence, markets will not function.

The current state of the SREC market, unfortunately, does not provide a level playing field. Those participants who receive an EDC contract are able to accept lower prices in exchange for a long term utility contract; an advantage unavailable to those who must accept SREC market risk. In the competition for LSE buyers, despite the best of intentions, EDCs selling SRECs, which are backed by ratepayer guarantees, have an advantage over those without such guarantees.

Of greater concern is that extension of the EDC programs will likely result in guaranteed oversupply. It's no accident that the EDC program capacity is fully subscribed; these programs are extremely attractive to those eligible to participate. To propose an extension of the EDC programs in a long market, at best, adds to the several year oversupply imbalance which is already forecast. NJR believes that staff's proposals would result in capacity additions in 2014 and 2015, and that even small amounts of additional capacity could have meaningful impacts on market prices.

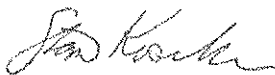
An unintended consequence of staff's proposal would be akin of establishing a market, encouraging participation, creating unfair advantages for one group of participants versus another, and then abandoning those who played by the original rules.

A well designed SREC market operates fairly and efficiently, with guidelines, rules and administrative procedures consistent with the energy policy of the state. We, therefore, urge the BPU to join the executive and legislative branches and assist them in crafting legislation that can most effectively balance the EMP directive to provide "relief to the solar industry" with the objective of reducing costs to ratepayers.

We feel it is important to emphasize that our comments are not contrary to the notion that SREC prices should fall and costs to the ratepayer should be reduced over time. The BPU established an SREC market as the best mechanism to achieve this goal. The proposed extension of the EDC financing programs, at this time, would diminish the ability of that market to function as intended.

NJR believes the original intent of the EDC programs was best summarized in the analogy offered by Commissioner Fiordaliso in the SREC Securitization stakeholder proceedings in 2008, when he referred to these programs as "training wheels." The analogy is clear; the EDC programs were intended to support an early market in transition, but would eventually be removed. Today, these programs create an unfair advantage for one group of participants over another. For this reason, and to avoid further undermining the market, NJR cannot support staff's recommendation to extend the EDC financing programs.

Sincerely,



Stan Kosierowski
President, NJR Clean Energy Ventures

Cc: Richard Gardner, Vice President, NJR Clean Energy Ventures
Larry Barth, Director of Development, NJR Clean Energy Ventures



January 23, 2012

Michael Winka, Director
New Jersey Board of Public Utilities
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With further copy to:
solartransition@njcleanenergy.com
OCE@bpu.state.nj.us

RE: Constellation Energy Comments Regarding Office of Clean Energy Revised Staff Options for Increase in Solar RPS

Constellation Energy (Constellation) hereby submits comments in response to the January 5, 2012 “EDC SREC Program Recommendations – Status Update” from the Office of Clean Energy.

Background

Constellation Energy is a diversified Fortune 200 energy company, serving customers throughout the U.S., including two-thirds of the Fortune 100. In New Jersey, Constellation operates from over nine locations, and serves wholesale and retail customers state-wide. Constellation is also one of the nation’s leading solar developers, designing, financing, and constructing solar projects that are helping New Jersey meet its renewable portfolio standard and solar carve-out.

Revised Staff Options

The Board of Public Utilities Staff has proposed two options with respect to altering the current SREC Program in New Jersey. Under Option 1 of the “Revised Staff Options,” BPU would increase the solar RPS and devote at least a portion of the increase to the EDC SREC programs. Under Option 2, BPU would not increase the solar RPS, but only increase the capacity of the EDC SREC programs.

New Jersey has built the second largest solar market in the country, and is justifiably proud of this success. This accomplishment is the result of the market-based mechanism of New Jersey's SREC program, which is now the most mature SREC market in the country. As many stakeholders have noted in this process, the recent SREC market volatility is the result of largely normal, albeit painful market fluctuations.

Constellation has submitted a Joint Proposal along with RESA and Solar Alliance regarding one factor that has artificially contributed to SREC market volatility - namely the lack of a transparent queue process for pending solar projects. The Final Energy Master Plan has similarly called for a more transparent queue process. Constellation urges the Office of Clean Energy (OCE) to incorporate the Joint Proposal into the final recommendations to the BPU.

Constellation supports OCE's desire to stabilize the current solar market. However, the recent volatility is not a reason to abandon the core of the program that has led to the state's success. By sending a market-based price signal, the SREC program has promoted solar development, while also allowing ratepayers to capture the value of rapidly declining solar prices. Constellation therefore opposes Option 2. Rather than addressing the current over-supply in the SREC market, Option 2 would move away from the unstructured market, and to the exclusive reliance on long term contract requirements for new solar capacity. In the interest of regulatory stability, Constellation does not oppose the continuation of the EDC programs. However, continuing the programs in their current form, or even expanding the programs, would have no impact on the unstructured SREC market - the market that has been the heart of New Jersey's solar success.

With respect to Option 1, any increase in the solar RPS must protect the integrity of existing contracts. All market participants, including ratepayers, have entered into contracts in reliance on the existing rules. All parties should be allowed to retain the benefits of the bargains which they entered into. This can be accomplished in two ways. First, the increase could be made effective in future compliance years, such that existing contracts are unaffected by the change. For example, the solar RPS could be increased beginning in EY2016. This delayed implementation would minimize the impact on both retail and BGS contracts. Alternatively, an increase could grandfather existing retail and wholesale contracts from the revisions, but apply the increase to load that is not under contract.

Without such delayed implementation or grandfathering, an increase would change the rules in the middle of the game, stranding ratepayers, suppliers, and providers with costs that their existing contracts did not take into account. Retail energy customers have taken proactive steps to manage their energy costs by entering into contracts that fix their energy rates for a set period of time, and they have done so in good faith reliance on the existing RPS requirements. Any change to the RPS that does not exempt existing contracts would destabilize the wholesale, retail, and solar markets, and artificially raise costs for all stakeholders.

Further, any increase in the RPS should be substantially dedicated to the unstructured SREC market. An increase devoted solely to higher capacity in the EDC programs would do nothing to stabilize existing SREC prices, and therefore not improve the economics of existing projects. OCE would in effect be choosing new projects over existing projects. Such a move would undermine the entire solar market, as investors would be forced to doubt whether they can rely on regulatory support for their projects going forward. Constellation therefore urges OCE not to pick sides in its recommendations between existing and new projects, and instead to dedicate any increase in the RPS largely to the unstructured market.

Constellation thanks OCE staff for its time and dedication to these matters, and appreciates the opportunity to file these comments.

Best regards,

Bryan S. Miller

Bryan S. Miller
Constellation Energy
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**Comments of
Public Service Electric and Gas Company (PSE&G)**

**BPU Review of Solar Programs
BPU Docket No. EO11050311V
January 23, 2012**

Pursuant to the request of the Office of Clean Energy (“OCE”), Public Service Electric and Gas Company (“PSE&G”) respectfully submits the following comments regarding the two options set forth by OCE.

I. Background

In a memorandum dated January 5, 2012, OCE distributed its “EDC SREC Program Recommendations - Status Update” (“OCE Recommendations”) to the Solar Transition working group. The memorandum also included two Staff “options” for moving forward. These options are summarized below.

1. Increase the solar RPS

Establish an incremental increase in the solar RPS to address the currently oversupplied SREC market. This increase in the solar RPS would be a specific set aside for the EDC SREC programs and would implement the Board’s solar policies for both economic and environmental benefits. The increase in the solar RPS would be based on a detailed cost benefit analysis performed by CEEEP similar to the cost benefit analysis performed to increase the Class I RPS from 4% in 2012 to 20% in 2020 with a 2.15% solar set aside.

2. Do not increase the solar RPS but only increase the EDC program capacity

The additional EDC SREC program capacity can be set aside to implement the Board’s solar policies for both economic and environmental benefits.

At its working group meeting on January 12, 2012, OCE requested comments on these two options, both of which contemplate adding capacity to the EDC SREC programs.

II. Comments

As a preliminary matter, PSE&G emphasizes that it agrees with OCE that the phrase “EDC SREC program” includes both of PSE&G’s direct investment solar programs – Solar 4 All and Solar Loan – as well as the other EDC long-term contracting programs. This interpretation is consistent with the OCE Recommendations and with the understanding of the working group regarding the scope of this term.

As PSE&G has expressed throughout this working group process, there are compelling reasons for continued EDC participation in the New Jersey solar industry (along with participation from private investors), and in particular for PSE&G's participation through its direct investment programs. As stated in the OCE Recommendations, PSE&G's programs provide the type of "economic and environmental benefits" that the Energy Master Plan seeks to encourage. These benefits include the following:

- (i) Solar 4 All, through its partnership with developers, has expanded solar beyond traditionally successful market segments to underserved markets that are important from a public policy perspective, such as landfills, brownfields and warehouses.
- (ii) Solar Loan provides funding for smaller projects that may otherwise have difficulty accessing financing.
- (iii) Both programs have stimulated job creation in New Jersey.
- (iv) Both programs provide market stability by hiring solar firms across the State and encouraging innovation, and by supplying a stable and predictable base quantity of solar capacity. While some level of contraction in the solar industry is inevitable in a down market, PSE&G's programs can keep a certain level of development going during times of particularly low SREC prices to help stabilize the industry.
- (v) Our programs provide cost transparency for solar investment including SRECs that are ultimately funded by ratepayers, and contain program structures to minimize ratepayer cost impacts.
- (vi) Solar 4 All allows ratepayers to benefit from their investment by returning the proceeds from energy, capacity and SREC sales, along with tax credits, to ratepayers. It is true that when SREC prices are low, there is less to defray the investment costs. However, when SREC prices are high, EDCs "refund" money from SREC auctions back to ratepayers, as they have done over the last few years. Over time, this provides less volatility in rates and will help New Jersey achieve its solar policy goals at the lowest cost.

Moreover, as PSE&G has previously explained, an option for implementation of an expanded Solar 4 All program, as well as an expanded Solar Loan program, is to structure the programs to include other elements to provide the Board with greater flexibility. For example, one option might be to design Solar 4 All with certain "circuit breaker" mechanisms regarding SREC supply, and Solar Loan can incorporate periodic adjustments to the SREC floor price to better mirror current SREC conditions.

PSE&G understands that reasonable SREC levels are important in helping to bring in new entrants and to facilitate continued solar development in New Jersey to meet New Jersey's solar policy goals. As a result, PSE&G does

not oppose an increase in the RPS. Any increase, however, in the RPS needs to respect the BGS auction process, so that any RPS increase to be put in place after this February's BGS auction should take effect no earlier than EY 2014.

In summary, there remains a vital role for EDC SREC programs in helping the State achieve its solar policy objectives and ensuring the stability of New Jersey's solar industry so that it survives inevitable boom and bust cycles. The EDC SREC programs can provide a stabilizing function to ensure that New Jersey's solar installers have a secure base of project work through the years. PSE&G believes it would be a dangerous gamble with the state's renewable portfolio standards ("RPS") requirements and, perhaps more importantly, New Jersey's economic development, for the Board to adopt such a "wait and see" approach by focusing solely on a short-term SREC over-supply.

Respectfully submitted,

Public Service Electric and Gas Company

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Dated: January 23, 2012
Newark, New Jersey

JERSEY CENTRAL POWER & LIGHT COMPANY

Response to BPU Staff's Revised Draft Position on Solar Transition Issues

January 24, 2012

Jersey Central Power & Light Company ("JCP&L") is pleased to submit these informal comments in response to the Board of Public Utilities ("Board" or "BPU") Staff's "Proposed Options" set forth in Staff's January 5, 2012 memorandum. As a preliminary matter, JCP&L submitted informal comments on November 30, 2011 in response to Staff's original "draft position" on issues related to whether the electric distribution companies' ("EDCs") SREC financing programs should be continued.¹ The following comments should be considered in conjunction with JCP&L's November 30, 2011 comments.

As JCP&L understands it, Staff has interpreted the State's Energy Master Plan ("EMP") to require the Board pursue increases or acceleration of the solar renewable portfolio standards ("RPS") requirements. JCP&L does not agree with this interpretation of the EMP. First, the EMP is a set of goals or recommendations and does not have the force of law. Second, while the EMP does endorse a near-term acceleration of solar RPS requirements, it also requires an evaluation of the costs and benefits of renewable energy subsidies. The EMP's section captioned "2011 Plan for Action" for renewable energy begins with a section entitled "Cost-Effective Renewable Resources" and states "[t]he State must reconsider all social policies that add to the cost of energy and must review, restructure, and reformulate the way the State promotes and subsidizes both traditional and renewable energy." EMP Report, p. 86. Moreover, the EMP

¹ JCP&L has fully-complied with the BPU order approving its SREC financing program. In late 2011 the Board approved the eighth and final solicitation for JCP&L's SREC Program, which has successfully filled the 42 MW of capacity approved for the Program.

notes that under the current statutory solar RPS requirements, “From 2011 through 2015, the amount of solar energy mandated by the Act will increase by 260% with a total annual estimated SREC cost in 2015 of \$525,262,500.” EMP Report, p. 98. Finally, the EMP recognizes the challenge and cost the State’s ratepayers face in achieving the existing RPS requirements: “New Jersey remains committed to achieving the 22.5% RPS target by 2021. In light of the inescapable cost-burden that will be shouldered by all ratepayers to meet this target, the method of achieving this objective should be subject to rigorous quantitative and qualitative analysis and should not be driven by *a priori* assumptions and historical decisions.” EMP Report, p. 87. Thus, in formulating its recommendations, Staff should produce such rigorous quantitative and qualitative analysis of the costs of increasing the solar RPS requirements above their current levels.

Based on Staff’s interpretation of the EMP, it has proposed two revised alternative proposals for increasing the solar RPS requirements via EDC SREC programs:

1. Increase the solar RPS

Establish an incremental increase in the solar RPS to address the oversupplied SREC market. This increase in the solar RPS would be a specific set aside for the EDC SREC programs and would implement the Board’s solar policies for both economic and environmental benefits. The increase in the solar RPS would be based on a detailed cost benefit analysis performed by CEEEP similar to the cost benefit analysis performed to increase the Class I RPS from 4% in 2012 to 20% in 2020 with a 2.15% solar set aside. Since the increase in the solar RPS would be allocated to the EDC SREC programs this would keep a downward pressure on the SREC prices.

2. Do not increase the solar RPS but only increase the EDC program capacity.

The additional EDC SREC program capacity can be set aside to implement the Board’s solar policies for both economic and environmental benefits. In this manner the solar developers can continue to build solar based on the Board’s policies. This will also keep downward pressure on the SREC prices and make the EDC SREC program very price competitive. [Staff Memo dated 1/5/2012, p. 8]

JCP&L respectfully submits that neither of Staff's alternatives is necessary at this time or appropriately structured. Prior to commenting on the specifics of Staff's two alternatives, JCP&L addresses the state of the solar market in New Jersey.

The EDC SREC Programs and Solar RPS Requirements

The EDC SREC programs were developed at a time when the solar market was underserved in certain segments, and the programs were designed to provide a jump start to the solar industry. The EDC Programs were sized to make up for shortfalls in the availability of SRECs, by filling a significant portion of the incremental RPS requirements over three energy years. The EDC Programs have effectively addressed this need. New Jersey has satisfied the solar RPS requirement for the current energy year and SREC prices have declined, which is the expected and appropriate result for a market that has achieved equilibrium. The statutory solar RPS requirements are scheduled to increase over the next several years and, with such an increase, it is likely that SREC prices will again rise, although not to the levels seen in the 2010 period. Again, this is an appropriate, market-based response to supply and demand (even though the "demand" in the case of SRECs is created by statutory and regulatory requirements, rather than true market demand). Given that the solar RPS requirements are already required to increase, there is no reason for the Board to accelerate or further increase them at this time. Despite the extensive rhetoric presented during the Solar Transition working group meetings, the only clearly-enunciated rationale for accelerating increases to the solar RPS is to provide larger, nearer-term subsidies to the solar industry. And, as the Board is well-aware, electric utility customers will pay for such subsidies, regardless of the mechanism for achieving the increased solar RPS requirements. Moreover, continued interference in the SREC market through proposed legislation and/or regulatory initiatives leads to market volatility and markets that do

not function efficiently. In light of this uncertainty, the future direction of markets is less predictable, making it difficult to properly price long-term SREC purchase contract, thus reducing the likelihood that buyer and seller will settle on long-term contracts.

Staff's Revised Alternative Proposals

JCP&L interprets Staff's first alternative to: (1) increase the solar RPS by an amount yet to be determined; and (2) allocate 100% of the incremental solar RPS requirement to new EDC SREC programs. JCP&L does not agree with Staff's statement that "Since the increase in the solar RPS would be allocated to the EDC SREC programs this would keep a downward pressure on the SREC prices." Staff Memo dated 1/5/2012, p. 8. Rather, increasing the solar RPS requirements will lead to increased SREC prices by creating a "short" (or less long) market.

Moreover, if the additional requirements were allocated to EDC SREC programs, this will likely lead to higher bid prices in solicitation auctions. During the SREC-Based Financing program solicitations, it appeared that bidders consistently attempted to maximize their return by bidding much closer to spot market prices. Prior to the solicitation auctions becoming more robust, the EDCs actually experienced increasing bid values as participants exhibited bidding behavior in which they priced their bids at the average accepted bid value. Once the SREC market was "long" and the bidding rounds were over-subscribed, the bid prices decreased dramatically. Although JCP&L expects that the EDCs would continue to have full and timely recovery of all program costs, including the SREC transaction fee, the burden of the increased solar RPS requirements nonetheless falls on utility ratepayers.

Staff's second alternative would apparently create additional EDC SREC program capacity without increasing the actual solar RPS requirements. It is not clear whether these SRECs would "count" towards the solar RPS or not, or if the EDCs would sell the SRECs via

auction. Aside from providing additional subsidies to the solar industry, it is not apparent what benefits “Option 2” offers. Creating an artificial RPS obligation applicable to only the EDC SREC programs could have the unintended consequence of weakening the SREC market, further depressing prices. This would occur when the EDCs offer the SRECs acquired through this secondary obligation in the market and create an over-supply, which one would expect to result in a decline in SREC market prices. This would potentially increase the spread between the contracted purchase price under the EDC contracts and the ultimate sales value for SRECs procured under existing and new contracts. This cost of this shortfall would then be borne by utility ratepayers.

Conversely, should utilities be expected to allow these SRECs to expire, the cost borne by utility ratepayers would be substantially higher without the offset from market sales. In addition, if “Option 2” is proposing to create a “shadow” or secondary RPS obligation that applies only to EDC programs, such a bi-furcated market is likely to cause market confusion. Regardless of whether Staff intends the additional solar capacity under “Option 2” to count toward the solar RPS or not, the proposal does not appear likely to increase SREC spot market prices. However, such an EDC-only SREC obligation would likely lead to the procurement of SRECs at contracted prices that are in excess of market prices, since the EDCs would be “captive” participants.

Conclusion

As stated in its November 30, 2011 comments, JCP&L continues to believe that there is no need for the Board to rush to judgment on the expansion of EDC SREC programs or increases to the solar RPS requirements at this time. While the Rutgers Center for Energy, Economic, and Environmental Policy (“CEEPP”) has presented a working draft of its analysis of the costs of

various state-sponsored solar incentive programs, it will apparently not complete its work until the end of January, 2012. Given that the CEEEP analysis is not complete, JCP&L recommends that the current stakeholder process continue once the results of the complete CEEEP analysis are available.² Continuing the stakeholder process will allow Staff and the other participants to continue to evaluate various alternatives and the costs and benefits of them.

JCP&L wants to reiterate that it is not formally opposing a future EDC SREC financing program at this time, assuming such a program follows the same basic structure, size and format as the recently-concluded Program. Under such a scenario, JCP&L would be willing to discuss minor modifications to the Program structure.

JCP&L appreciates the opportunity to comment on these issues and looks forward to continuing discussions through the stakeholder process.

² JCP&L is not commenting here on the draft CEEEP Report, nor the presentation that MSEIA made during the January 12, 2012 stakeholder meeting, but reserves the right to do so.



01.23.2012

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Re: Solar Transition Working Group – Changes to EDC SREC Programs

Dear Mr. Michael Winka:

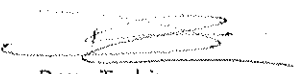
As you consider changes to the EDC SREC programs, we wanted to offer our perspective as a real estate owner and developer as to which programs would compliment large warehouse/distribution center roofs that are prevalent throughout New Jersey.

Prologis is one of the largest owner, operator and developers of warehouse/distribution space in the world as well as in New Jersey. Industrial warehouse roofs provide large spaces located close to electrical load and are not typically burdened by lengthy permitting and entitlement processes when applying for building permits for rooftop solar installations. . As such, they can be ideal to host photovoltaic installations and help bring clean renewable generation on-line quickly and at scale. Warehouse/distribution buildings however are not typically big users of electricity compared to what can be generated from the roofs which sit overtop them. In addition, these buildings frequently are occupied by multiple tenants with lease terms of three to five years on average giving the electrical demand within the buildings a variable component over the expected life of a typical solar installation.

Warehouse/distribution centers therefore can be well suited to host rooftop solar installations but are sometimes not ideally positioned to use the power generated. The solution which we have most commonly implemented to utilize these roofs under the circumstances are; (a) sell all of the power generated to the local utility or (b) work with the local utility so that they own and operate the installation. We see both structures as applicable in the New Jersey market and encourage you to continue to allow for both solutions in the marketplace.

Utility owned generation is a viable solution for the warehouse/distribution rooftop solar market in New Jersey and should continue to be part of the strategy implemented for EDC SREC programs. Utility owned programs provide landlords with an experienced and credit worthy roof tenant who brings a high degree of certainty and viability to the table. These attributes will benefit all those who desire to see photovoltaic projects built in New Jersey. Thank you for your consideration and please contact me if you would like to discuss further.

Kind regards,



Drew Torbin
Vice President – Renewable Energy
Prologis