



Mike Winka  
Board of Public Utilities  
Newark, NJ 07445

February 6, 2013

Subject: Comments on Solar Development Volatility in Solar Act

Dear Mr Winka:

As an industry stakeholder Quantum Solar respectfully submits a response to your request for industry and stakeholder information in your efforts to understand the Legislative intent in Section 38 d.(3)(b) of the recently amended Solar Act. Which states:

“...the board shall complete a proceeding to **investigate approaches to mitigate solar development volatility** (*bold for emphasis*) and prepare and submit, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report to the Legislature, detailing its findings and recommendations. As part of the proceeding, the board shall evaluate other techniques used nationally and internationally;”

In order to investigate ways to understand the legislative intent of “mitigate(ing) solar development volatility” it would be best to understand what the authors of the legislation meant by solar development volatility. Because the Act does not define “solar development volatility” it may be argued the authors were concerned about “volatility” as it applies to the total amount of solar development that is installed in the state. It is a fact that there has been little volatility in the absolute growth of solar development in New Jersey. The authors of the Act amendments could not have been referring to the absolute growth volatility, because there was none. Except for a recent slowdown in solar applications that have occurred in the last two months, solar development volatility could not have been what the language intended unless you assume the authors of the amendments were prescient. This is unlikely given pace of applications last Summer.

It is more likely that authors of the legislation were concerned about other market volatility issues. For example there has been a huge swing in sector ownership participation from a relatively even participation of commercial, industrial, public entities, non-profits and residential ratepayers to a much smaller ratepayer participation and huge third party non-ratepayer participation in solar financial incentives. In addition to sector participation volatility there was an underlying financial and concomitant risk volatility caused by the collapse of SREC prices. I believe it is the sector participation and SREC price volatility that were the reasons for the authors including the above language in the amendments to the Act. Please keep in mind it is the ratepayer segments that are specifically targeted for financial incentive participation in Section m of the Act.

It should be recognized that the major authors of the legislation were Senator Smith and Assemblyman Chivukula with significant input from the Governor’s Office and approval by Senator Sweeney. Although it may not be practical or permitted to solicit their input,

these parties were instrumental in writing the language in the Bill. However, numerous members of the REC committee participated in negotiations with Senator Smith and Assemblyman Chivucula and the Governor's staff in the development of language in the Bill. It would be unwise not to poll these participants in an effort to determine if they have insight about this issue. We know that at least the Rate Council, Utility interests, MSEIA, and SEPA were consulted and negotiated with the authors to develop language in the Bill. Not investigating or asking these people for their understanding of the Legislature's "volatility" concerns would be like a policeman not getting witness information about an accident at a busy and crowded intersection. You need to ask the people involved in the Bill language negotiations what were the volatility concerns.

I for one, was among about 50 others who attended a meeting on November 15, 2012 sponsored by MSEIA where Senator Smith and Assemblyman Chivukula stated to the audience that they were very concerned about the volatility of SREC prices and the negative impact it might have on the development of solar PV in the state. One could conclude that it was this SREC price volatility that was paramount in their concern about solar development when writing the amendments to the Act.

We recognize that you have what sometimes seems to be competing responsibilities in developing procedures to implement provision in the Act. I have highlighted important items in Section l and m that I see are threatened by the market volatility.

In addition in Section 38 l, states:

"The board shall implement its responsibilities under the provisions of this section in such a manner as to:

- (1) place greater reliance on competitive markets, with the explicit goal of encouraging and ensuring the emergence of new entrants that can foster innovations and price competition;
- (2) maintain adequate regulatory authority over non-competitive public utility services;
- (3) consider alternative forms of regulation in order to address changes in the technology and structure of electric public utilities;
- (4) promote energy efficiency and Class I renewable energy market development, taking into consideration environmental benefits and market barriers;
- (5) make energy services more affordable for low and moderate income customers;
- (6) attempt to transform the renewable energy market into one that can move forward without subsidies from the State or public utilities;
- (7) achieve the goals put forth under the renewable energy portfolio standards;
- (8) promote the lowest cost to ratepayers; and
- (9) **allow all market segments to participate.**

m. The board shall ensure the **availability of financial incentives** under its jurisdiction, including, but not limited to, long-term contracts, loans, SRECs, or other financial support, to ensure market diversity, competition, and **appropriate coverage across all ratepayer segments**, including, but not limited to, residential, commercial, industrial, non-profit, farms, schools, and public entity customers.

What is clear in the past 18 months as solar development continues to grow in New Jersey, is that the availability of financial incentives to the various ratepayer segments has been dramatically reduced due in large part to the volatility of SRECs. This volatility in SRECs (which is really risk volatility) has scared off the ratepayers from participating in the financial incentives the Act specifically requires.

In conclusion, I would submit that the board has allowed the solar financial incentives to be captured by the corporate investment companies and private equity markets to the exclusion of the ratepayers. Now I'm not sure I can entirely blame the board for not seeing this eventuality, but the board has a mandate and time to investigate approaches to mitigate this ratepayer solar development volatility and to look nationally and internationally for solutions to reduce volatility. Feed-in tariffs have worked successfully in other jurisdictions. Another simple change would be to move to a three year compliance period (patterned after the CO<sub>2</sub> compliance period) for each electric power supplier. This would have moderating effect on SREC volatility. I'm sure the electric power suppliers and the Rate Council would favor this change because it would reduce their workload and costs.

As an alternative to a feed-in tariff, a quantitative evaluation of the cost, environmental, and health benefits of solar distributed energy could be calculated on an annual basis. One would use the LMP and EPA environmental and avoided health cost estimates to retroactively assign a SREC value to the previous year solar production. You could still have a market for SRECs but there would be a time that the SRECs would have a fixed value. There could be a sliding scale in this calculus that allows the SREC fixed cost to go to zero or some very low value at year 2028.

Thank you for this opportunity to comment on market volatility.

Sincerely

John Jenks  
Quantum Solar Solutions

