March 10, 2014
Re: Experiences with Aggregated Net Metering Process and Rules N.J.A.C. 14:8-7

Dear Mr. Teague and Mr. Hunter,

The Solar Energy Industries Association appreciates the opportunity to provide experiences regarding the Aggregated Net Metering Process and Rules N.J.A.C. 14:8-7 as Staff prepares possible modifications to the Aggregated Net Metering Special Adoption.

In our November 23, 2012 comments on this issue, SEIA stated that the interpretation of the Section (e) language did not materially expand existing opportunities for the deployment of solar generation beyond what was currently available to municipalities, state agencies and other governmental entities. In our experience, these comments have proven to hold true as SEIA has not heard of any instances where Section (e) has been used to develop projects.

As a minor improvement, our previous comments proposed that Staff should define the host site as expansively as permitted under New Jersey law to maximize the aggregated net metering opportunity and it's utility to governmental entities. Thus, we proposed that the operative terms "*the customer's facility*" and "*property on which the solar system was installed*" be defined broadly to encompass a single contiguous parcel under common ownership.[1] This would encourage aggregated net metering under a wider range of contexts including, for example, school campuses, governmental office complexes, and wastewater treatment facilities.

SEIA fully supports aggregated net metering and other forms of community or shared solar and many states have successful programs that allow for aggregation of meters. Unfortunately, as currently written and interpreted, New Jersey's aggregated net metering rules do not materially expand opportunities for the deployment of solar. SEIA stands ready to work with New Jersey policymakers and regulators develop a robust program for New Jersey.

Respectfully submitted
On behalf of the Solar Energy Industries Association

Katie Bolcar Rever
Director, State Affairs
Solar Energy Industries Association
krever@seia.org

[1] Likewise, the restriction against "on-site generation facilities" qualifying for aggregated net metering should be narrowly drawn.

Jersey Central Power & Light
A FirstEnergy Company

300 Madison Avenue
P. O. Box 1911
Morristown, NJ 07962-1911

March 10, 2014

VIA EMAIL

B. Scott Hunter – Renewable Energy Program Administrator
John R. Teague, P.E., P.P. – Research Scientist-2
New Jersey Board of Public Utilities
Office of Clean Energy
44 S. Clinton Avenue, 7th floor
E. State Station Plaza, Bldg #3
P.O. Box 350
Trenton, NJ 08608-0350

Re: BOARD OF PUBLIC UTILITIES
Net Metering and Interconnection Stakeholders Meeting
Comments on Experiences with Aggregated Net Metering Process and Rules

Dear Mr. Hunter and Mr. Teague:

Please accept these informal comments on behalf of Jersey Central Power & Light Company ("JCP&L" or "Company") regarding the Board of Public Utilities Staff's ("Board"; "Staff") request for comments regarding experiences and inquiries about the Aggregated Net Metering Process and Rules promulgated under N.J.A.C. 14:8-7. Staff has indicated they are preparing possible modifications to the Aggregated Net Metering Special Adoption anticipated to be proposed for action on the April 2014 Board Agenda. JCP&L is pleased to submit the following comments to assist the Board in its implementation of its renewable energy initiatives and will be present at the March 25, 2014 Net Metering and Interconnection Stakeholder Meeting to participate in discussion of this matter.

JCP&L, along with the solar industry and other interested parties, has been an active participant in the stakeholder process in connection with the Board's development of aggregated net metering rules. Comments on behalf of Rockland Electric Company, Atlantic City Electric Company, Public Service Electric and Gas Company, and JCP&L (collectively, the "EDCs") were submitted by PSE&G on February 22, 2013 in response to Staff's request for responses to certain

questions that arose at a stakeholder meeting in connection with the "Solar Act" requirements for the Board's development of aggregated net metering rules at N.J.S.A. 48:3-87(e) 4. JCP&L believes that the current Aggregated Net Metering Rules under N.J.A.C. 14:8-7 properly reflect the results of the stakeholder process.

As the rules are fairly recent, having been adopted less than a year ago on March 20, 2013, JCP&L believes that there is not enough experience with the rules in order to explore whether modifications are necessary at this time, and it would be best to allow for more time for the market to familiarize itself with the current process. The Company does not believe modifications are warranted and it would be premature to consider modifications at this time. The Company currently has no interconnected accounts under the Aggregated Net Metering provisions but has had a number of inquiries. In certain cases, these inquiries were for projects that would not be eligible to participate as an aggregated net metering project due to not being within the type of customer eligible under the statute (i.e., state, county, municipal, school facilities) or were not proposed to be net metered installations. With this understanding, JCP&L recommends that the Board allow the accumulation of further experience before assessing whether modifications are warranted.

JCP&L appreciates the opportunity to provide these informal comments and looks forward to continuing to participate in the Board's stakeholder process. In addition, the Company also requests that it have the opportunity to respond to the positions or other participants.

Respectfully submitted,

Tom Donadio
Jersey Central Power & Light Co.

Deborah Petrisko

From: Donald Powell [donaldgpowell@gmail.com]
Sent: Monday, March 03, 2014 1:38 PM
To: Teague, John
Subject: Aggregated net meters

John:

I would like to see you adjust the regulations for municipal net metering to correct a few issues.

1. Many municipalities have open areas where they could construct a solar array often large enough to provide much of the municipality's power usage but the current regulations inhibit that in two ways. First, while the municipality is allowed to produce as much power equal to it's collective usage, it gets treated like a grid supply project and only gets wholesale rates against the retail rate it pays for power from the utility. I would like to see that changed so the municipality can receive "behind the meter" level offsets so it is more of a one for one swap. Being treated as grid supply hurts the municipality; first with lower compensation and second the utility gets to charge full demand costs even if the real demand goes down as it will with solar. I realize there is not an easy way to fix the demand issue but the least the utility can do is pay retail on the power.

2. Similar to #1 above, municipalities have multiple sites that could accept solar arrays and often the available space is not in sync with the usage at that site. Often the site will hold more solar than the usage of the site. I would like to see provisions for multiple sites to "over-produce" and be aggregated against the municipalities total usage and at retail not wholesale rates. Since with aggregation, only the supply component is a factor, there is no reason that it can't be credited one for one.

Similarly, a few years ago, a project called Red Sky was attempted where a farmer was able to aggregate his multiple meters at different locations on his property. He had a meter at his pump house for irrigation, one on his barn, etc. It's a simple booking issue for the utility and it makes perfect sense for the customer. I would like to see that provision made available to the general public. There is little reason to hold solar hostage to individual meters when the accounts are in common ownership. All that is required is some software modification on the part of the utility.

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Click here to receive our monthly "Solar and Energy Saving Tips" Email newsletter

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Thank you.

Alexander C. Stern
Associate General Regulatory Counsel

Law Department
PSEG Services Corporation
80 Park Plaza – T5G, Newark, New Jersey 07102-4194
tel: 973.430.5754 fax: 973.430.5983
email: alexander.stern@pseg.com

March 7, 2014

VIA ELECTRONIC AND OVERNIGHT MAIL
John Teague
Scott Hunter
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: In the Matter of the Implementation of L. 2012, c. 24, The Solar Act of 2012; and

In the Matter of N.J.S.A. 48:3-87(e)(4) – Net Metering Aggregation Standards – Rule Proposal and Additional Rule Amendments for N.J.A.C. 14:8 – Special Adoption.

Experiences with the Aggregated Net Metering Process

BPU Docket Nos. EO12090832V and Docket No. EO12090861V

Dear Messrs Teague and Hunter:

Please accept this correspondence on behalf of Public Service Electric and Gas Company ("PSE&G" or "Public Service") in response to Mr. Teague's February 28, 2014 email seeking comments regarding experiences and inquiries about the Aggregated Net Metering Process, N.J.A.C. 14:8-7.1 et seq.

On March 20, 2013, in furtherance of the Solar Act of 2012 (the "Act"), the BPU adopted rules codifying the Aggregate Net Metering provisions of the Act. The new rules generally and appropriately mirror the language of the Act. Specifically, the BPU rule adoption continues to track the key points of the Act, notably:

1. The host site meter will be the only meter that qualifies for a retail credit.
2. All facilities within an aggregate net metering group must have the same utility customer and be in the same rate class.
3. The host site meter must utilize a net metering billing account.
4. The solar facility, and all facilities within the aggregate net metering group must be located on property owned by the customer.

5. At the end of the customer's historical 12-month period, the customer shall receive a credit for any excess electricity equal to the electric power supplier's avoided cost of wholesale power.
6. An eligible customer may contract with a third-party to own and/or operate the solar facility provided such third-party contract includes contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements.
7. The utility may recover incremental costs incurred due to aggregate net metering.

With regard to this last point, N.J.S.A. 48:3-87e.(4) specifies that "[a]ny incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board." The regulations required the EDCs to develop a tariff providing for aggregated net metering. N.J.A.C. 14:8-7.3(c).

In accordance with the Board's regulations, on August 30, 2013, Public Service filed modifications to the net metering tariff provisions of its Tariff for Electric Service to incorporate aggregated net metering provisions (See Attachment 1) in accordance with N.J.A.C. 14:1-5.11 – tariff changes which do not propose increases in charges to customers. Both at the time of the tariff filing and at present PSE&G has experienced no incremental costs associated with aggregated net metering and is not proposing any increases in charges to customers at this time associated with aggregated net metering.

Although pursuant to N.J.A.C. 14:1-5.11 the tariff provisions were to be effective within thirty days of submission, on September 25, 2013 the Division of Rate Counsel submitted correspondence raising an objection to PSE&G's tariff provision permitting recovery of incremental costs associated with aggregated net metering through the Solar Generation Investment Extension Program component of the Green Programs Recovery Charge.

Recognizing the Board's stated desire to move aggregated net metering forward, Public Service responded to Rate Counsel's objection approximately one week later, on October 3, 2013. Although opposing Rate Counsel's submission, in light of the concerns expressed, PSE&G indicated that it would await further guidance from the Board before implementing the tariff provisions and pursuing further efforts to support net metering aggregation initiatives by governmental entities. (See Attachment 2). Notwithstanding, since filing its response, Public Service has continued to work in good faith with communities that have shown interest in pursuing aggregated net metering.

Public Service does not see any need to modify the Board's rules as the rules promulgated in the Special Adoption are wholly consistent with the Act. However, in the interests of allowing implementation of the net metering aggregation provisions of the Solar Energy Act of 2012 to continue to efficiently move forward, Public Service would urge Board Staff to recommend the Board to authorize the Board Secretary to issue correspondence reflecting the Board's acceptance of PSE&G's net metering tariff revisions incorporating

provisions for net metering aggregation in accordance with N.J.S.A. 48:3-87e.(4); N.J.A.C. 14:8-7.3(c) and 7.5; and N.J.A.C. 14:1-5.11.

Notwithstanding Public Service's comments herein, if the Board wishes to pursue modifications to its rules, it may wish to clarify N.J.A.C. 14:8-7.5, to confirm that, where possible, incremental costs associated with aggregated net metering can and should be billed to the specific end use customer/solar developer (e.g. interconnection costs), but that where the electric public utility experiences costs incurred to implement aggregated net metering that it would be unable to attribute to a specific individual aggregated net metering customer, the electric public utility may include those costs in an appropriate clause mechanism to provide the Board opportunity for full and fair review and the electric public utility opportunity for full and timely recovery.

Thank you for the opportunity to submit these comments.

Respectfully submitted,

Alexander C. Stern

Alexander C. Stern, Esq.

ACS:jb

Attachment 1

Alexander C. Stern
Associate General Regulatory Counsel

Law Department
PSEG Services Corporation
80 Park Plaza – T5G, Newark, New Jersey 07102-4194
tel: 973.430.5754 fax: 973.430.5983
email: alexander.stern@pseg.com

August 30, 2013

VIA ELECTRONIC AND OVERNIGHT MAIL
Hon. Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: In the Matter of the Implementation of L. 2012, c. 24, The Solar Act of 2012; and

In the Matter of N.J.S.A. 48:3-87(e)(4) – Net Metering Aggregation Standards – Rule Proposal and Additional Rule Amendments for N.J.A.C. 14:8 – Special Adoption.

Tariff Compliance Filing

BPU Docket Nos. EO12090832V and Docket No. EO12090861V

Dear Secretary Izzo:

By this letter, Public Service Electric and Gas Company ("PSE&G") hereby provides thirty (30) days notice that it intends to implement modifications to the net metering tariff provisions of its Tariff for Electric Service to incorporate aggregated net metering provisions in accordance with N.J.A.C. 14:8-7.3(c). An original and four copies of the revisions are enclosed. For ease of reference, also enclosed is a red-lined version of the Tariff delineating the modifications.

This notice is being provided in accordance with N.J.A.C. 14:1-5.11(a)4. At the expiration of the thirty day notice period, PSE&G will issue the tariff sheets and forward copies to the Board. Please feel free to contact me if you have any questions regarding this Notice.

Very truly yours,

Alexander C. Stern

Alexander C. Stern

ACS:jb
Enclosures
cc: Stefanie Brand, Director, Division of Rate Counsel

PUBLIC SERVICE ELECTRIC AND GAS COMPANY **XXX Revised Sheet No. 9**
Superseding
B.P.U.N.J. No. 15 ELECTRIC **Original Sheet No. 9**

STANDARD TERMS AND CONDITIONS – INDEX
(Continued)

STANDARD TERMS AND CONDITIONS

(Continued)

If the telecommunications provided by a customer to an interval meter is not operable at the time of a monthly meter reading date, Public Service will notify the customer and manually obtain the data from the interval meter. If the telecommunications to an interval meter is not operable for two consecutive meter reading dates, Public Service may charge the customer for the cost to manually obtain the interval data for the subsequent months' meter readings (after the second consecutive month) until the problem is remedied. The charge to provide this manual data collection is $50.00 ($53.50 including SUT) per month. If the customer does not remedy the telecommunications problem after four (4) consecutive meter reading dates, Public Service reserves the right to bill third party supplied customers on the basis of a load profile for the customer's rate schedule or historical customer usage and demand data, at the discretion of Public Service, until the telecommunication problem is remedied.

15. NET METERING INSTALLATIONS

15.1. General: For the purpose of this Section of the Tariff for Electric Service a customer-generator is a customer that generates electricity using Class I renewable resources as defined in N.J.A.C. 14:8-1.2 on the customer's side of the meter. Net Metering provides for the billing or crediting, as applicable, of energy usage by measuring the difference between the amount of electricity delivered by Public Service to a Qualified Customer-Generator, as defined in Section 15.2, Limitations and Qualifications for Net Metering, in a given billing period and the electricity delivered by Qualified Customer-Generator into the Public Service distribution system. Public Service will select and supply the type of meter(s) that will enable the measurement of the electricity for the billing or crediting of energy delivered as indicated above.

Customers qualified for Net Metering shall be responsible for all interconnection costs, which shall be in addition to any line or service extension charge required to meet service requirements. For customers eligible for Net Metering the term usage as applied in Section 3, Charges for Service, shall mean net usage as determined by Net Metering.

15.2. Limitations and Qualifications for Net Metering: To qualify for Net Metering, a Customer-Generator must generate Class I renewable energy as defined in N.J.A.C. 14:8-1.2. Further, to qualify for Net Metering, the annualized electric generation capability of the customer's generating system cannot exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to the customer's residence or facility, as applicable, over an annualized period; or as provided for in Section 15.3 (a) Customer-Generator Sizing Qualifications for Aggregated Net Metering. Customer-Generators that qualify for Net Metering shall be referred to as "Qualified Customer-Generators."

15.3. Limitations and Qualifications for Aggregated Net Metering [N.J.S.A. 48:3-87e(4)]: To qualify for Aggregated Net Metering a customer must be: a state entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority that has multiple facilities with metered accounts to be known collectively as the "Aggregated Meters". The Aggregated Meters must be: located within Public Service territory; served under the same rate schedule; all served by either Basic Generation Service or by the same Third Party Supplier; and located within the customer's territorial jurisdiction or, for a State entity, located within 5 miles of one another. One of the Aggregated Meters must operate a Class 1 solar electric power generation system using a net metered account as defined in Section 15.2, Limitations and Qualifications for Net Metering, except for the annualized electric generation capability limitation. The

STANDARD TERMS AND CONDITIONS

(Continued)

Qualified Customer-Generator must be located on property owned by the customer and may not be an On-Site Generation Facility as defined in N.J.S.A. 48:3-51. The size of the Qualified Customer-Generator for Aggregated Net Metering is defined in Section 15.3 (a) Customer-Generator Sizing Qualifications for Aggregated Net Metering.

a) **Customer-Generator Sizing Qualifications for Aggregated Net Metering:** The annualized electric generation capability of the customer's solar generating system located at the net metered location cannot exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to all of the Aggregated Meters over an annualized period. The Aggregated Meters used to determine the maximum annualized electric generation capability of the customer's solar generating system may not be used to determine the maximum annualized electric generation capability of other aggregated net metered facilities nor become a Qualified Customer-Generator as defined in Section 15.2, Limitations and Qualifications for Net Metering.

b) **Billing for Aggregated Net Metering**: The Qualified Customer-Generator will be billed as defined in Section 15.6, Net Billing. However, Section 15.6, Net Billing will not apply to the other Aggregated Meters and those meters will continue to be billed at the full retail rate pursuant to the applicable rate schedules.

c) **Incremental Costs Associated with Aggregated Net Metering**: All incremental costs incurred by Public Service resulting from the implementation of Aggregated Net Metering shall be recovered through the Solar Generation Investment Extension Program component of the RGGI Recovery Charge.

15.4. Installation Standards: A Qualified Customer-Generator shall ascertain and comply with the requirements of Public Service which are covered in detail in the "Information and Requirements for Electric Service", available on www.pseg.com or by request as designated in Section 6.3, Secondary Distribution Service, of these Standard Terms and Conditions. In addition, the Qualified Customer-Generator shall be responsible for meeting all applicable safety and power quality standards as set forth below.

Qualified Customer-Generator's generating system shall comply with all applicable safety and power quality standards specified by the National Electrical Code, Institute of Electrical and Electronics Engineers, accredited testing institutions, such as Underwriters Laboratories. The customer's installation should be made in accordance with the State of New Jersey Uniform Construction Code requirements for electrical installations, UL 1741 and the IEEE Standard 1547. Net Metering systems served by network distribution systems, shall comply to standards established by Public Service and approved by the New Jersey Board of Public Utilities ("Board") in addition to the aforementioned applicable safety and power quality standards and all other requirements in N.J.A.C. 14:8-4.1 *et seq*.

15.5. Initiation of Service: Prior to interconnecting with the Public Service distribution system, the Qualified Customer-Generator is required to provide Public Service with an Interconnection Application available on www.pseg.com and pay all appropriate charges as detailed in the Interconnection Application Process. Additionally, Public Service may, at its option, inspect the interconnection prior to the initiation of Net Metering service for Qualified Customer-Generators.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY **XXX Revised Sheet No. 40**
Superseding
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STANDARD TERMS AND CONDITIONS
(Continued)

Initiation of service will become effective on the Qualified Customer-Generator's first regularly scheduled meter reading date that is at least twenty (20) days after the customer elects this provision, by executing an Interconnection Application, but in no case prior to the installation of the necessary meter(s), and shall terminate at a regularly scheduled meter reading date that is at least twenty (20) days following the receipt of customer notification by Public Service. The Qualified Customer-Generator shall provide Public Service on a regular basis with access to the customer's telephone service when required for the purposes of acquiring metering data.

15.6. **Net Billing:** Where the amount of electricity delivered by the Qualified Customer-Generator plus any kilowatthour credits held over from the previous billing periods exceeds the electricity supplied by the Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, the Qualified Customer-Generator shall be credited for the excess kilowatthours to the next billing period. At the end of the annualized period the Qualified Customer-Generator will be compensated for any remaining credits by the Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, at their avoided cost of wholesale power.

A Qualified Customer-Generator shall have a one time opportunity to select a monthly billing period as the start of the Qualified Customer-Generator's annualized period. This selection will become effective on the first regularly scheduled meter reading date that is at least twenty (20) days after the Qualified Customer-Generator notifies Public Service of the selection of their alternate monthly billing period. If a Qualified Customer-Generator initiating service after March 2, 2009 does not submit an annualized period selection they shall be assigned a default annualized period until such time as they notify Public Service of the selection of their alternate annualized period.

In the event that a Qualified Customer-Generator changes suppliers, the electric power supplier or basic service provider with whom service is terminated shall treat the end of the service period as if it were the end of the annualized period. Changes in supplier are to be in accordance with Section 14.2.1, Customer Change of Third Party Supplier, or Section 14.2.2, Customer Returns to Public Service Rate Schedule Electric Supply, of these Standard Terms and Conditions, as applicable.

15.7. **Billing Adjustments:** In addition to Section 9.5, Billing Adjustments, of these Standard Terms and Conditions whenever a meter measuring energy delivered from a Qualified Customer-Generator to Public Service's distribution system is found to be registering slow by 2% or more an adjustment of the energy delivered shall be made and an adjustment may be made if the meter is found to be registering fast by more than 2%. The Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, will determine the applicability of this latter adjustment.

15.8. **Budget Plan (Equal Payment Plan):** The payment option described in Section 9.9, Budget Plan, is not available for Qualified Customer-Generators taking service under this Section 15, Net Metering.

15.9. **Program Availability:** Public Service may be authorized by the Board to cease offering net metering whenever the total rated generating capacity owned and operated by Qualified Customer-Generators Statewide equals 2.5 percent of the State's peak electricity demand.

STANDARD TERMS AND CONDITIONS

(Continued)

16. NEW JERSEY AUTHORIZED TAXES

The following taxes are authorized by the State of New Jersey and are applied in accordance with P.L. 1997, c. 162 (the "Energy Tax Reform Statute"), as amended by P. L. 2006, c. 44, and are included in the appropriate charges contained within this Tariff for Electric Service.

16.1. New Jersey Sales and Use Tax:
In accordance with P.L. 1997, c. 162, as amended by P. L. 2006, c. 44, provision for the New Jersey Sales and Use Tax (SUT) has been included in all applicable charges by multiplying the charges that would apply before application of the SUT by the factor 1.07.

16.1.1. The Energy Tax Reform Statute exempts the following customers from the SUT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the SUT included therein:

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.

c) Agencies or instrumentalities of the federal government.

d) International organizations of which the United States of America is a member.

e) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162, as amended by P. L. 2006, c. 44.

16.1.2. The Business Retention and Relocation Assistance Act (P.L. 2004, c. 65) and subsequent amendment (P.L. 2005, c.374) exempts the following customers from the SUT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the SUT included therein:

a) A qualified business that employs at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process, for the exclusive use or consumption of such business within an enterprise zone, and

b) A group of two or more persons:

(b-1) Each of which is a qualified business that are all located within a single redevelopment area adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 *et seq.*);
(b-2) That collectively employ at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process;
(b-3) Are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and
(b-4) Collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group within an enterprise zone.

STANDARD TERMS AND CONDITIONS

(Continued)

c) A business facility located within a county that is designated for the 50% tax exemption under section 1 of P.L. 1993, c.373 (C.54:32B-8.45) provided that the business certifies that it employs at least 50 people at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.

A business that meets the requirements in (a), (b) or (c) above shall not be provided the exemption described in this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 *et seq.*) and P.L.1966, c.30 (C.54:32B-1 *et seq.*) and Public Service has received a sales tax exemption letter issued by the New Jersey Department of Treasury, Division of Taxation.

16.2. Transitional Energy Facility Assessment:
In accordance with P.L. 1997, c. 162, provision for a temporary Transitional Energy Facility Assessment (TEFA), as shown on the Transitional Energy Facility Assessment Unit Tax page of this Tariff for Electric Service, has been included in the per kilowatthour distribution charges as applicable.

16.2.1. The Energy Tax Reform Statute exempts the following customers from the TEFA provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the amount of the TEFA included therein:

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.

c) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162.

16.3. New Jersey Corporation Business Tax:
In accordance with P.L. 1997, c. 162, provision for the New Jersey Corporation Business Tax (CBT) has been included in the Service Charge, Distribution Charge, and the Demand Charge:

16.3.1. The Energy Tax Reform Statute exempts the following customers from the CBT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the CBT (and related SUT) included therein.

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.

c) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY **XXX Revised Sheet No. 43**
Superseding
B.P.U.N.J. No. 15 ELECTRIC **Original Sheet No. 43**

STANDARD TERMS AND CONDITIONS
(Continued)

17. TERMINATION, CHANGE OR MODIFICATION OF PROVISIONS OF TARIFF

This tariff is subject to the lawful orders of the Board of Public Utilities of the State of New Jersey.

Public Service may at any time and in any manner permitted by law, and the applicable rules and regulations of the Board of Public Utilities of the State of New Jersey, terminate, or change or modify by revision, amendment, supplement, or otherwise, this Tariff or any part thereof, or any revision or amendment hereof or supplement hereto.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

B.P.U.N.J. No. 15 ELECTRIC

Original Sheet No. 44
Original Sheet No. 45
Original Sheet No. 46
Original Sheet No. 47

RESERVED FOR FUTURE USE

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

B.P.U.N.J. No. 15 ELECTRIC

XXX Revised Sheet No. 9
Superseding
Original Sheet No. 9

STANDARD TERMS AND CONDITIONS – INDEX
(Continued)

STANDARD TERMS AND CONDITIONS

(Continued)

If the telecommunications provided by a customer to an interval meter is not operable at the time of a monthly meter reading date, Public Service will notify the customer and manually obtain the data from the interval meter. If the telecommunications to an interval meter is not operable for two consecutive meter reading dates, Public Service may charge the customer for the cost to manually obtain the interval data for the subsequent months' meter readings (after the second consecutive month) until the problem is remedied. The charge to provide this manual data collection is $50.00 ($53.50 including SUT) per month. If the customer does not remedy the telecommunications problem after four (4) consecutive meter reading dates, Public Service reserves the right to bill third party supplied customers on the basis of a load profile for the customer's rate schedule or historical customer usage and demand data, at the discretion of Public Service, until the telecommunication problem is remedied.

15. NET METERING INSTALLATIONS

15.1. General: For the purpose of this Section of the Tariff for Electric Service a customer-generator is a customer that generates electricity using Class I renewable resources as defined in N.J.A.C. 14:8-1.2 on the customer's side of the meter. Net Metering provides for the billing or crediting, as applicable, of energy usage by measuring the difference between the amount of electricity delivered by Public Service to a Qualified Customer-Generator, as defined in Section 15.2, Limitations and Qualifications for Net Metering, in a given billing period and the electricity delivered by Qualified Customer-Generator into the Public Service distribution system. Public Service will select and supply the type of meter(s) that will enable the measurement of the electricity for the billing or crediting of energy delivered as indicated above.

Customers qualified for Net Metering shall be responsible for all interconnection costs, ~~as defined in N.J.A.C. 14:8-4.1 *et seq.*,~~ which shall be in addition to any line or service extension charge required to meet service requirements. For customers eligible for Net Metering the term usage as applied in Section 3, Charges for Service, shall mean net usage as determined by Net Metering.

15.2. Limitations and Qualifications for Net Metering: To qualify for Net Metering, a Ccustomer-Ggenerator must generate Class I renewable energy as defined in N.J.A.C. 14:8-1.2. Further, to qualify for Net Metering, the annualized electric generation capability of ~~the capacity of~~ the customer's generating system cannot exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to the customer's residence or facility, as applicable, over an annualized period; or as provided for in Section 15.3 (a) Customer-Generator Sizing Qualifications for Aggregated Net Metering. ~~or the customer's generating system is limited to a maximum size of 2 megawatts, whichever is less.~~ Customer-Ggenerators that qualify for Net Metering shall be referred to as "Qualified Customer-Generators."

15.3. Limitations and Qualifications for Aggregated Net Metering [N.J.S.A. 48:3-87e(4)]: To qualify for Aggregated Net Metering a customer must be: a state entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority that has multiple facilities with metered accounts to be known collectively as the "Aggregated Meters". The Aggregated Meters must be: located within Public Service territory; served under the same rate schedule; all served by either Basic Generation Service or by the same Third Party Supplier; and located within the customer's territorial jurisdiction or, for a State entity, located within 5 miles of one another. One of the Aggregated Meters must operate a Class 1 solar electric power generation system using a net metered account as defined in Section 15.2, Limitations and Qualifications for Net Metering, except for the annualized electric generation capability limitation. The

~~**15.3. Installation Standards:** A Qualified Customer-Generator shall ascertain and comply with the requirements of Public Service which are covered in detail in the "Information and Requirements for Electric Service", available on www.pseg.com or by request as designated in Section 6.3, Secondary Distribution Service, of these Standard Terms and~~

~~Conditions. In addition, the Qualified Customer-Generator shall be responsible for meeting all applicable safety and power quality standards as set forth below.~~

Date of Issue: Effective:

Issued by DANIEL J. CREGG, Vice President Finance – PSE&G
80 Park Plaza, Newark, New Jersey 07102
Filed pursuant to Order of Board of Public Utilities dated
in Docket No.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

B.P.U.N.J. No. 15 ELECTRIC

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Qualified Customer-Generator must be located on property owned by the customer and may not be an On-Site Generation Facility as defined in N.J.S.A. 48:3-51. The size of the Qualified Customer-Generator for Aggregated Net Metering is defined in Section 15.3 (a) Customer-Generator Sizing Qualifications for Aggregated Net Metering.

a) **Customer-Generator Sizing Qualifications for Aggregated Net Metering:** The annualized electric generation capability of the customer's solar generating system located at the net metered location cannot exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to all of the Aggregated Meters over an annualized period. The Aggregated Meters used to determine the maximum annualized electric generation capability of the customer's solar generating system may not be used to determine the maximum annualized electric generation capability of other aggregated net metered facilities nor become a Qualified Customer-Generator as defined in Section 15.2, Limitations and Qualifications for Net Metering.

b) **Billing for Aggregated Net Metering**: The Qualified Customer-Generator will be billed as defined in Section 15.6, Net Billing. However, Section 15.6, Net Billing will not apply to the other Aggregated Meters and those meters will continue to be billed at the full retail rate pursuant to the applicable rate schedules.

c) **Incremental Costs Associated with Aggregated Net Metering**: All incremental costs incurred by Public Service resulting from the implementation of Aggregated Net Metering shall be recovered through the Solar Generation Investment Extension Program component of the RGGI Recovery Charge.

15.43. Installation Standards: A Qualified Customer-Generator shall ascertain and comply with the requirements of Public Service which are covered in detail in the "Information and Requirements for Electric Service", available on www.pseg.com or by request as designated in Section 6.3, Secondary Distribution Service, of these Standard Terms and Conditions. In addition, the Qualified Customer-Generator shall be responsible for meeting all applicable safety and power quality standards as set forth below.

Qualified Customer-Generator's generating system shall comply with all applicable safety and power quality standards specified by the National Electrical Code, Institute of Electrical and Electronics Engineers, accredited testing institutions, such as Underwriters Laboratories. The customer's installation should be made in accordance with the State of New Jersey Uniform Construction Code requirements for electrical installations, UL 1741 and the IEEE Standard 1547. Net Metering systems served by network distribution systems, shall comply to standards established by Public Service and approved by the New Jersey Board of Public Utilities ("Board") in addition to the aforementioned applicable safety and power quality standards and all other requirements in N.J.A.C. 14:8-4.1 *et seq*.

15.54. Initiation of Service: Prior to interconnecting with the Public Service distribution system, the Qualified Customer-Generator is required to provide Public Service with an Interconnection Application available on www.pseg.com~~provided by the Office of Clean Energy~~ and pay all appropriate charges as detailed in the Interconnection Application Process. Additionally, Public Service may, at its option, inspect the interconnection prior to the initiation of Net Metering service for Qualified Customer-Generators.

~~Initiation of service will become effective on the Qualified Customer-Generator's first regularly scheduled meter reading date that is at least twenty (20) days after the customer elects this provision, by executing an Interconnection Application, but in no case prior to the installation of the necessary meter(s), and shall terminate at a regularly scheduled meter reading date that is at least twenty (20) days following the receipt of customer notification by Public Service. The Qualified Customer-Generator shall provide Public Service on a regular basis with access to the customer's telephone service when required for the purposes of acquiring metering data.~~

15.5. Net Billing: Where the amount of electricity delivered by the Qualified Customer-Generator plus any kilowatthour credits held over from the previous billing periods exceeds the electricity supplied by the Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, the Qualified Customer-Generator shall be credited for the excess kilowatthours to the next billing period. At the end of the annualized period the Qualified Customer-Generator will be compensated for any remaining credits by the Qualified Customer Generator's electric supplier or basic generation service provider, as applicable, at their avoided cost of wholesale power.

A Qualified Customer-Generator shall have a one time opportunity to select a monthly billing period as the start of the Qualified Customer-Generator's annualized period. This selection will become effective on the first regularly scheduled meter reading date that is at least twenty (20) days after the Qualified Customer-Generator notifies Public Service of the selection of their alternate monthly billing period. If a Qualified Customer-Generator initiating service after March 2, 2009 does not submit an annualized period selection they shall be assigned a default annualized period until such time as they notify Public Service of the selection of their alternate annualized period.

In the event that a Qualified Customer-Generator changes suppliers, the electric power supplier or basic service provider with whom service is terminated shall treat the end of the service period as if it were the end of the annualized period. Changes in supplier are to be in accordance with Section 14.2.1, Customer Change of Third Party Supplier, or Section 14.2.2, Customer Returns to Public Service Rate Schedule Electric Supply, of these Standard Terms and Conditions, as applicable.

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STANDARD TERMS AND CONDITIONS

(Continued)

Initiation of service will become effective on the Qualified Customer-Generator's first regularly scheduled meter reading date that is at least twenty (20) days after the customer elects this provision, by executing an Interconnection Application, but in no case prior to the installation of the necessary meter(s), and shall terminate at a regularly scheduled meter reading date that is at least twenty (20) days following the receipt of customer notification by Public Service. The Qualified Customer-Generator shall provide Public Service on a regular basis with access to the customer's telephone service when required for the purposes of acquiring metering data.

15.6.5 Net Billing: Where the amount of electricity delivered by the Qualified Customer-Generator plus any kilowatthour credits held over from the previous billing periods exceeds the electricity supplied by the Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, the Qualified Customer-Generator shall be credited for the excess kilowatthours to the next billing period. At the end of the annualized period the Qualified Customer-Generator will be compensated for any remaining credits by the Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, at their avoided cost of wholesale power.

A Qualified Customer-Generator shall have a one time opportunity to select a monthly billing period as the start of the Qualified Customer-Generator's annualized period. This selection will become effective on the first regularly scheduled meter reading date that is at least twenty (20) days after the Qualified Customer-Generator notifies Public Service of the selection of their alternate monthly billing period. If a Qualified Customer-Generator initiating service after March 2, 2009 does not submit an annualized period selection they shall be assigned a default annualized period until such time as they notify Public Service of the selection of their alternate annualized period.

In the event that a Qualified Customer-Generator changes suppliers, the electric power supplier or basic service provider with whom service is terminated shall treat the end of the service period as if it were the end of the annualized period. Changes in supplier are to be in accordance with Section 14.2.1, Customer Change of Third Party Supplier, or Section 14.2.2, Customer Returns to Public Service Rate Schedule Electric Supply, of these Standard Terms and Conditions, as applicable.

15.76. Billing Adjustments: In addition to Section 9.5, Billing Adjustments, of these Standard Terms and Conditions whenever a meter measuring energy delivered from a Qualified Customer-Generator to Public Service's distribution system is found to be registering slow by 2% or more an adjustment of the energy delivered shall be made and an adjustment may be made if the meter is found to be registering fast by more than 2%. The Qualified Customer-Generator's electric supplier or basic generation service provider, as applicable, will determine the applicability of this latter adjustment.

15.87. Budget Plan (Equal Payment Plan): The payment option described in Section 9.9, Budget Plan, is not available for Qualified Customer-Generators~~customers~~ taking service under this Section 15, Net Metering.

15.98. Program Availability: Public Service may be authorized by the Board to cease offering net metering whenever the total rated generating capacity owned and operated by Qualified Customer-Generators Statewide equals 2.5 percent of the State's peak electricity demand.

~~**16. NEW JERSEY AUTHORIZED TAXES**~~

~~The following taxes are authorized by the State of New Jersey and are applied in accordance with P.L. 1997, c. 162 (the "Energy Tax Reform Statute"), as amended by P. L. 2006, c. 44, and are included in the appropriate charges contained within this Tariff for Electric Service.~~

~~**16.1. New Jersey Sales and Use Tax:**~~
~~In accordance with P.L. 1997, c. 162, as amended by P. L. 2006, c. 44, provision for the New Jersey Sales and Use Tax (SUT) has been included in all applicable charges by multiplying the charges that would apply before application of the SUT by the factor 1.07.~~

~~**16.1.1.** The Energy Tax Reform Statute exempts the following customers from the SUT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the SUT included therein:~~

~~a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.~~

~~b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.~~

~~c) Agencies or instrumentalities of the federal government.~~

~~d) International organizations of which the United States of America is a member.~~

~~e) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162, as amended by P. L. 2006, c. 44.~~

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(Continued)

16. NEW JERSEY AUTHORIZED TAXES

The following taxes are authorized by the State of New Jersey and are applied in accordance with P.L. 1997, c. 162 (the "Energy Tax Reform Statute"), as amended by P. L. 2006, c. 44, and are included in the appropriate charges contained within this Tariff for Electric Service.

16.1. New Jersey Sales and Use Tax:

In accordance with P.L. 1997, c. 162, as amended by P. L. 2006, c. 44, provision for the New Jersey Sales and Use Tax (SUT) has been included in all applicable charges by multiplying the charges that would apply before application of the SUT by the factor 1.07.

16.1.1. The Energy Tax Reform Statute exempts the following customers from the SUT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the SUT included therein:

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.

c) Agencies or instrumentalities of the federal government.

d) International organizations of which the United States of America is a member.

e) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162, as amended by P. L. 2006, c. 44.

16.1.2. The Business Retention and Relocation Assistance Act (P.L. 2004, c. 65) and subsequent amendment (P.L. 2005, c.374) exempts the following customers from the SUT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the SUT included therein:

a) A qualified business that employs at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process, for the exclusive use or consumption of such business within an enterprise zone, and

b) A group of two or more persons:

(b-1) Each of which is a qualified business that are all located within a single redevelopment area adopted pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c.79 (C.40A:12A-1 *et seq.*);
(b-2) That collectively employ at least 250 people within an enterprise zone, at least 50% of whom are directly employed in a manufacturing process;
(b-3) Are each engaged in a vertically integrated business, evidenced by the manufacture and distribution of a product or family of products that, when taken together, are primarily used, packaged and sold as a single product; and
(b-4) Collectively use the energy and utility service for the exclusive use or consumption of each of the persons that comprise a group within an enterprise zone.

~~c) A business facility located within a county that is designated for the 50% tax exemption under section 1 of P.L. 1993, c.373 (C.54:32B-8.45) provided that the business certifies that it employs at least 50 people at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.~~

A business that meets the requirements in (a), (b) or (c) above shall not be provided the exemption described in this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 *et seq.*) and P.L.1966, c.30 (C.54:32B-1 *et seq.*) and Public Service has received a sales tax exemption letter issued by the New Jersey Department of Treasury, Division of Taxation.

16.2. Transitional Energy Facility Assessment:

In accordance with P.L. 1997, c. 162, provision for a temporary Transitional Energy Facility Assessment (TEFA), as shown on the Transitional Energy Facility Assessment Unit Tax page of this Tariff for Electric Service, has been included in the per kilowatthour distribution charges as applicable.

16.2.1. The Energy Tax Reform Statute exempts the following customers from the TEFA provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the amount of the TEFA included therein:

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

STANDARD TERMS AND CONDITIONS

(Continued)

c) A business facility located within a county that is designated for the 50% tax exemption under section 1 of P.L. 1993, c.373 (C.54:32B-8.45) provided that the business certifies that it employs at least 50 people at that facility, at least 50% of whom are directly employed in a manufacturing process, and provided that the energy and utility services are consumed exclusively at that facility.

A business that meets the requirements in (a), (b) or (c) above shall not be provided the exemption described in this section until it has complied with such requirements for obtaining the exemption as may be provided pursuant to P.L.1983, c.303 (C.52:27H-60 *et seq.*) and P.L.1966, c.30 (C.54:32B-1 *et seq.*) and Public Service has received a sales tax exemption letter issued by the New Jersey Department of Treasury, Division of Taxation.

16.2. Transitional Energy Facility Assessment:
In accordance with P.L. 1997, c. 162, provision for a temporary Transitional Energy Facility Assessment (TEFA), as shown on the Transitional Energy Facility Assessment Unit Tax page of this Tariff for Electric Service, has been included in the per kilowatthour distribution charges as applicable.

16.2.1. The Energy Tax Reform Statute exempts the following customers from the TEFA provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the amount of the TEFA included therein:

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.

c) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162.

16.3. New Jersey Corporation Business Tax:
In accordance with P.L. 1997, c. 162, provision for the New Jersey Corporation Business Tax (CBT) has been included in the Service Charge, Distribution Charge, and the Demand Charge:

16.3.1. The Energy Tax Reform Statute exempts the following customers from the CBT provision, and when billed to such customers, the charges otherwise applicable shall be reduced by the provision for the CBT (and related SUT) included therein.

a) Franchised providers of utility services (gas, electricity, water, wastewater and telecommunications services provided by local exchange carriers) within the State of New Jersey.

b) Special contract customers for which a customer-specific tax classification was approved by a written Order of the New Jersey Board of Public Utilities prior to January 1, 1998.

c) Additional customers as authorized by the State of New Jersey Department of Treasury in accordance with the provisions of P.L. 1997, c. 162.

~~**17. TERMINATION, CHANGE OR MODIFICATION OF PROVISIONS OF TARIFF**~~

~~This tariff is subject to the lawful orders of the Board of Public Utilities of the State of New Jersey.~~

~~Public Service may at any time and in any manner permitted by law, and the applicable rules and regulations of the Board of Public Utilities of the State of New Jersey, terminate, or change or modify by revision, amendment, supplement, or otherwise, this Tariff or any part thereof, or any revision or amendment hereof or supplement hereto.~~

Date of Issue: Effective:

Issued by DANIEL J. CREGG, Vice President Finance – PSE&G
80 Park Plaza, Newark, New Jersey 07102
Filed pursuant to Order of Board of Public Utilities dated
in Docket No.

STANDARD TERMS AND CONDITIONS
(Continued)

17. TERMINATION, CHANGE OR MODIFICATION OF PROVISIONS OF TARIFF

This tariff is subject to the lawful orders of the Board of Public Utilities of the State of New Jersey.

Public Service may at any time and in any manner permitted by law, and the applicable rules and regulations of the Board of Public Utilities of the State of New Jersey, terminate, or change or modify by revision, amendment, supplement, or otherwise, this Tariff or any part thereof, or any revision or amendment hereof or supplement hereto.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

B.P.U.N.J. No. 15 ELECTRIC

~~**Original Sheet No. 43**~~**Original Sheet No. 44**
Original Sheet No. 45
Original Sheet No. 46
Original Sheet No. 47

RESERVED FOR FUTURE USE

Attachment 2

Alexander C. Stern
Associate General Regulatory Counsel

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October 3, 2013

VIA ELECTRONIC AND OVERNIGHT MAIL
Hon. Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350

Re: In the Matter of the Implementation of L. 2012, c. 24, The Solar Act of 2012; and

In the Matter of N.J.S.A. 48:3-87(e)(4) – Net Metering Aggregation Standards – Rule Proposal and Additional Rule Amendments for N.J.A.C. 14:8 – Special Adoption.

Response to Rate Counsel Objection to Net Metering Aggregation Tariff Compliance Filing

BPU Docket Nos. EO12090832V and Docket No. EO12090861V

Dear Secretary Izzo:

Please accept this original letter and ten copies as the response of Public Service Electric and Gas Company ("PSE&G") to the objection raised by the Division of Rate Counsel to the proposed modifications to its Tariff for Electric Service to incorporate aggregated net metering provisions in accordance with N.J.A.C. 14:8-7.3(c). The objection is essentially limited to a single tariff provision permitting recovery of incremental costs associated with aggregated net metering through the Solar Generation Investment Extension Program component of the RGGI Recovery Charge (a.k.a "Green Programs Recovery Charge").

Contrary to Rate Counsel's allegations (1) at the moment there are no incremental costs associated with aggregated net metering; (2) PSE&G is not proposing a tariff filing which increases rates; (3) to the extent that incremental costs eventually develop and begin to mount, in some instances it may be untenable for PSE&G to retroactively individually bill these costs to each state, county and local governmental solar host facility months or perhaps years after their solar aggregation project was built; (4) N.J.S.A. 48:3-87e.(4) specifically directs that an electric public utility shall receive full and timely recovery of the incremental costs for net metering aggregation; (5) PSE&G has maintained within its net metering tariff provisions that interconnection costs for net metering aggregation projects will be billed directly to the solar electric generation project at construction; and (5) net metering aggregation is limited to state, county and local governmental entities precisely because these entities exist for the benefit of all

ratepayers and therefore the Legislature concluded it was acceptable for only these entities to have the opportunity for a unique subsidy paid for by all ratepayers.

I. PSE&G's Net Metering Aggregation Tariff Compliance Filing is Wholly Consistent with the provisions of the Solar Energy Act of 2012 as well as the Board's Implementing Regulations.

At the outset, it should be noted that prior to the Board's issuance of aggregated net metering regulations, Board Staff asked the electric distribution companies a series of questions. A joint response to these questions was submitted on or about February 22, 2013 and included the following:

> 2. *What type of costs should be deemed 'incremental costs' incurred by the EDC in the context of aggregated net metering? Additionally, should the costs be restricted to net metering and exclude interconnection costs?*
>
> *EDCs' Response:*
>
> The EDCs would generally define such costs as those incurred to implement net metering aggregation incremental to costs assumed in the EDCs' most recent electric rate case, in cases where an alternative (Board approved) mechanism to recover such costs does not exist. An example of such costs could be system costs incurred to implement net metering aggregation (if incurred). However, costs related to interconnecting the solar electric generation system to an EDC's distribution system would not be considered incremental, to the extent that such costs are recoverable through existing Board approved interconnection agreements and/or an EDC tariff.

Although N.J.A.C. 14:8-7.2 as enacted did not exclude interconnection costs from the definition of "Incremental costs" and instead broadly defined the term as "costs incurred by the EDC to provide aggregated net metering services, which would not otherwise have been incurred by the EDC and may include, but are not limited to, billing costs," N.J.A.C. 14:8-7.5 makes clear that "an EDC *may* recover any incremental costs due to aggregated net metering from the eligible customer to which the incremental cost may be attributed." (emphasis added).[1] Accordingly, PSE&G retained provision in its tariff for net metering customers to properly be responsible for all interconnection costs whether the project is straight net metering or qualifies for aggregated net metering. See PSE&G Tariff at Section 15.1.

PSE&G agrees with Rate Counsel that, where possible, incremental costs can and should be billed to the specific end use customer/solar developer. However, as the EDCs noted back in February 2013, there could also conceivably be system costs incurred to implement aggregated net metering as well as other operational costs that the EDCs would be unable to attribute to a

[1] It should be noted that despite correctly quoting the regulation, Rate Counsel subsequently misstates the regulation as requiring that "a utility wishing to recover the costs of aggregated net metering *must* do so through charges to aggregated net metering customers." (emphasis added). Rate Counsel Letter at 3.

specific individual aggregated net metering customer. For example, should net metering aggregation really start to take hold and the state itself, individual counties, municipalities, or other local governmental entities seek to leverage the process to build multiple solar projects under multiple timeframes and perhaps in multiple years, the EDCs may need to develop tracking systems to track governmental solar host facilities and the specific governmental properties included in each solar project's aggregation group for solar generation sizing purposes. There is no ability to individually attribute or bill aggregated net metering solar projects for these costs or, at this point, to even know if there will be such tracking costs. Moreover, these costs would be more in line with providing all ratepayers and the EDCs with the appropriate assurance that there is no "gaming" of the aggregated net metering landscape to the detriment of all other customers.

Accordingly, consistent with the provision in N.J.S.A. 48:3-87e.(4) that "[a]ny incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board," and the provision in N.J.A.C. 14:8-7.5 that "[i]ncremental costs due to aggregated net metering shall not be recovered through rates other than under the EDC's aggregated net metering tariff," PSE&G included within its tariff compliance filing for the Board's consideration what it believes to be an appropriate mechanism for accomplishing the clear objectives of both the statute and the Board's implementing regulations.

II. PSE&G Properly Submitted its Tariff Compliance Filing Pursuant to N.J.A.C. 14:1-5.11

Rate Counsel falsely alleges that PSE&G's tariff compliance filing is "procedurally defective," PSE&G is "proposing to pay for aggregated net metering by implementing a new surcharge on other customers" and, astonishingly, that in filing the tariff with the Board in accordance with the Board's regulations, PSE&G is somehow trying to "circumvent the Board's authority and duty to regulate[sic] PSE&G's rates for utility service." Rate Counsel Letter at 3-4.

Unfortunately, Rate Counsel did not contact PSE&G with its concerns or questions as the Company offered in the cover letter to its compliance filing. Had it done so prior to filing an objection letter, PSE&G could have explained the submission further as it did in the section above. In particular, (1) the submission does not at present propose an increase in rates; (2) most, if not all, of the information sought in N.J.A.C. 14:1-5.12 – tariff filings proposing increases in rates – either presently does not exist or is not presently relevant as PSE&G is not proposing new rates; (3) PSE&G has proposed allocating all costs which can be attributed to the aggregated net metering project to the specific eligible aggregated net metering customer, most significantly interconnection costs; and (4) to the extent any system operations costs arise necessitating PSE&G to incur incremental costs for net metering aggregation, it proposes to include them within a Board-approved clause to effectuate due process as well as review of prudency and evaluation of rate impacts consistent with N.J.S.A. 48:3-87e.(4) as well as the remainder of Title 48.

Ironically, the appropriateness of PSE&G's submission in accordance with the provisions of N.J.A.C. 14:1-5.11 has in fact been validated by Rate Counsel's correspondence. PSE&G did not simply "develop a tariff providing for aggregated net metering," N.J.A.C. 14:8-7.3(c), and implement the tariff. Rather, it submitted the tariff compliance filing to the Board with a thirty day notice period as required by N.J.A.C. 14:1-5.11. In so doing, Rate Counsel has had the opportunity to raise its concerns prior to tariff implementation. Absent those concerns or concerns expressed by Board Staff (none thus far having been raised), the tariff would have been effective at the expiration of the thirty day notice period and final tariff sheets would have been submitted as approved in accordance with the Board's procedures for tariff filings not proposing increases in rates. However, in light of the concerns raised, PSE&G will obviously await further guidance from the Board before pursuing further efforts to support net metering aggregation initiatives by governmental entities.

III. Utilizing an Existing Board Approved Clause as Opposed to Developing A Completely New One Is Both Just and Reasonable as well as Consistent With the Statutory Requirement in the Solar Energy Act of 2012 that Electric Public Utilities Be Provided Full and Timely Recovery of Incremental Costs for Net Metering Aggregation.

In referencing well-established case law and statutory provisions governing utility ratemaking, Rate Counsel seeks to invent issues where none exist. The Board certainly has not lost its opportunity to discharge its responsibility to "ensure that rates are not excessive." In re Redi-Flo Corp., 76 N.J. 21, 39 (1978). As previously noted, should any incremental costs associated with aggregated net metering develop, PSE&G would include them in an annual Green Programs Recovery Clause proceeding for full scrutiny and review, including public hearings, discovery, full involvement by Board Staff and Rate Counsel and, if necessary, an evidentiary hearing before an Administrative Law Judge or designated Board Commissioner.

At this point, the Green Programs cost recovery mechanism, which includes annual cost recovery proceedings, is well-established and certainly provides for adequate due process, transparency, prior notice, opportunity for comment and Board oversight of the resulting charges to customers. See, In re Redi-Flo Corp., 76 N.J. at 39-45. See also, In re Provision of Basic Generation Service for the Period Beginning June 1, 2008, 205 N.J. 339, 344 (2011). Moreover, the Solar Energy Act of 2012 specifically authorizes the Board to afford electric public utilities full and timely recovery of incremental costs associated with net metering aggregation. N.J.S.A. 48:3-87e.(4).

Rate Counsel's suggestion that while net metering aggregation may be implemented now, electric public utilities should not be permitted to recover any incremental costs until a clause mechanism is established in a base rate case, Rate Counsel Letter at 4, is both entirely inconsistent with the authorizing language of N.J.S.A. 48:3-87e.(4) and completely unjust and unreasonable. There is no indication anywhere in Title 48 that the rule that rates be "just and reasonable" applies only for the benefit of ratepayers. Presumably that phrase means "just and reasonable" to the utility as well as the consumer. The Legislature in establishing the BPU

intended to protect both the utility and the ratepayer. Petition of Elizabethtown Water Co., 107 N.J. 440, 455 (1987).

Although PSE&G could certainly have proposed a new clause mechanism for full and timely recovery of incremental costs, recognizing that the Green Programs Recovery Clause is already well-established and includes a solar generation component, PSE&G proposed this approach. In doing so, its intent was to further the objectives of the Solar Energy Act of 2012 in as non-confrontational and expeditious a manner as possible. Again, PSE&G also proposed this approach recognizing that presently there are no incremental costs, but should there be, there needs to be a mechanism for full and timely recovery of those costs after appropriate process and review.

PSE&G has already received inquiries from governmental entities seeking to explore aggregated net metering. It made this tariff compliance filing as directed by N.J.A.C. 14:8-7.3(c) for the purpose of revising its existing net metering tariff to incorporate provisions for aggregated net metering consistent with N.J.S.A. 48:3-87e.(4). Since there are no incremental costs at present and there is no need for additional revenue for services covered by existing tariffs or to propose increases in charges to customers, PSE&G did not file pursuant to N.J.A.C. 14:1-5.12. Rather, its filing is entirely consistent with the provisions of N.J.A.C. 14:1-5.11 as well as in furtherance of the intentions of the Solar Energy Act of 2012. Accordingly, PSE&G respectfully submits that its compliance submission should be accepted as filed.

CONCLUSION

PSE&G's tariff compliance filing is entirely consistent with the net metering aggregation provisions of the Solar Energy Act of 2012 as well as the Board's enabling regulations. Rate Counsel's objection is based solely on its opposition to potential incremental costs associated with net metering aggregation being evaluated within a Board approved clause mechanism and, where deemed appropriate, passed through to ratepayers. However, presently there are no incremental costs and this objection has no merit as the enabling statute clearly authorizes the Board to approve a mechanism to enable full and timely recovery by electric public utilities of incremental costs for net metering aggregation. To the extent that incremental costs for net metering aggregation become significant enough to necessitate submitting those costs for full and timely review in an annual Green Programs Recovery Clause proceeding, Rate Counsel or anyone else having any concerns will have appropriate opportunity to be heard.

For the foregoing reasons and in the interests of allowing implementation of the net metering aggregation provisions of the Solar Energy Act of 2012 to continue to efficiently move forward, the Board should authorize the Board Secretary to issue correspondence reflecting the Board's acceptance of PSE&G's net metering tariff revisions incorporating provisions for net metering aggregation in accordance with N.J.S.A. 48:3-87e.(4); N.J.A.C. 14:8-7.3(c) and 7.5; and N.J.A.C. 14:1-5.11.

Respectfully submitted,

Alexander C. Stern
Alexander C. Stern, Esq.

ACS:jb

c: Sarah Steindel, Assistant Deputy Rate Counsel
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March 10, 2014

Comments to BPU Staff ("Staff") request for comments regarding Aggregated Net Metering Special Adopted Rules of March 20, 2013, N.J.A.C. 14:8-7 and the NJ Solar Act of 2012 subsection (e).

Garden Solar provides below the following comments to the current enacted rules and provides further comments with regard to the intent of the Solar Act of 2012, with regard to subsection (e) addressing aggregated net-metering. We believe that the scope of intent by the legislature regarding implementing aggregated net-metering was short-circuited by the rules adopted last March. Briefly below are four comments directly addressing those rules as enacted and we have provided our more extensive comments to this provision of the Solar Act from last year when the adopted rules were being formulated as we believe there is still much to consider to enact revised rules which make it possible to implement aggregated net-metering in terms of regulatory framework and commercial viability.

1) Clarification of the definition of municipal ownership of land to include the ability of the municipality to enter into a long-term lease of the property where the solar generation facility will be located.
2) Net-metering – the solar generation facility meter can be new, and the metered facility can be of a different rate class than the customer qualified facilities. This would allow school systems for example, to the benefit of leasing land for a solar generation facility to provide aggregated net-meter service to the schools of that school district and allow for considerable energy savings for the municipalities of the state.
3) Incremental costs – should only include the costs of physical interconnection of the facilities, a nominal grid maintenance facilities charge, and normal costs of account billing. These costs should be able to be readily determined as they are in the current EDC practices of interconnecting and serving generators and distribution customers in the service territory and on the PJM grid.
4) The paid excess price of the 12 month period of solar generated power should correspond with the monthly average peak load price of solar energy at the nodal delivery point, i.e. the monthly average on-peak locational marginal price (LMP).

Respectfully,

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Background: Garden Solar provided the comments below in Feb 2013, before the provisional aggregated net metering rules of March 20, 2013, were adopted. We maintain that much of the intent of the legislature with regard to subsection (e) was not encompassed in the adopted rules and therefore; resubmit our complete comments from a year ago with regard to the rules of subsection (e) of the Solar Act as well as the current statute that expires September 20, 2014 as it is being revisited.

Garden Solar agrees with staff that the aggregated net metering provisions of the Solar Act ("Act") are a step in the right direction; however, the question of Legislative "intent" of the Act should be first addressed by Staff. It is important that the Board's implementation of the Act be harmonized with the Legislature's intent. This is particularly true where, as here, the Legislature undertook substantial effort in drafting of the Aggregated Net Metering Section of the Act. Therefore it would seem counterproductive that they enact a bill which would so narrow a focus as to so significantly limit the implementation of subparagraph e., aggregated net metering. It is expected that the intention of subparagraph e. was to enhance the benefits of the solar program to municipalities and state entities to facilitate energy cost savings; thereby resulting in savings to ratepayers.

We have surveyed a variety of municipal entities that are excited to participate in aggregated net metering. None of these parties are situated to accommodate a system being installed behind a meter of a facility large enough to generate enough electricity to offset their aggregated load of their CQFs. Garden Solar believes that Staff should interpret the Act to advance the interests of the municipalities and state agencies, whose constituents directly subsidize the program even when they cannot participate directly and not interpret the Solar Act provision in such a restrictive manner that provides no meaningful change to current practices and prohibits these cost saving opportunities. It seems clear that the Act was intended to allow public sector entity customers to aggregate load and receive avoided wholesale cost reimbursement for adding distributive renewable generation capacity to the local system which would meet the goals of the NJ Energy Master Plan and result in public sector cost savings.

A primary responsibility of the Board of Public Utilities, among other purposes, is to protect the ratepayer interests as captive customers of the franchise utility monopoly. Since the Act allows for the aggregation of load(s) to one of any of the meters of the customer, it would seem that the EDCs would not incur an incremental cost in aggregated accounting and billing or monitoring, as in the Red Skyes Pilot, or otherwise. The customer should simply be able to certify annually that the system installed has not supplied more capacity than the aggregated load for the CQFs.

Before addressing the questions soliciting comment, we urge Staff to interpret the meaning of "or" in the following excerpt of the Act; "(4) net metering aggregation standards to require electric public utilities to provide net metering aggregation to single electric public utility customers that operate ***a solar electric power generation system***

installed at one of the customer's facilities <u>or</u> on property owned by the customer, provided that any such customer is a…" and also reiterated later in the same paragraph; "…the standards shall provide that, in order to qualify for net metering aggregation, the customer must operate a solar electric power generation system ***using a net metering billing account***, which ***<u>system is located on property</u>*** owned by the customer, provided that:…(a)-(d)"

It is our interpretation of the Act that a net metering billing account should be able to be established at a property owned by the customer, for the purpose of net metering the aggregated load of the customer's qualified facilities (CQFs). The Act states "**<u>the qualified customer facilities</u>** shall all be in the same customer rate class under the applicable electric public utility tariff"; the Act does not state that the meter at the site of the solar generating system be in the same rate class anywhere within the Act. Any other interpretation would significantly limit the customer's ability to aggregate loads of the same rate class AND have the solar system installed behind the meter at a CQF, within the same rate class in order for the remainder of the facilities to be aggregated. This would appear to make this potentially progressive provision of the Act unable to be implemented. . We request Staff to provide an example of where a single customer, as defined, would be able to meet either of those narrow criteria. (i.e. a customer with enough land or viable interconnection capacity, behind an existing meter, without impeding network safety and reliability, to install a system that could offset their aggregated load of their CQFs.)

If the Act was to be interpreted as requiring the net metering billing account to only be applicable where a facility is located, then why would there have been the need to include a provision of the municipal planning board to waive the farmland provision of the Act in subparagraph (a) of paragraph e.? Via the Act, allowing the system to be installed on property owned by the customer, the property then having a meter installed becomes, by the definition in subparagraph 1) "…,on the customer's side of the meter,…". A meter is required for interconnection; the Act does not differentiate between the different types of meters. In either instance of meter type, load is supplied to the meter in operational hours for SCADA system monitoring and remote trip transfer capability and in non operational hours for emergency lighting and or security systems.

1. Q: Assume a host site for a solar generation system has multiple metered accounts on the site, could all of those meters be deemed to constitute one net metered billing account for the purposes of receiving a retail credit against their consumption on an annualized basis?

   The Act: (e. 4. (d.))
   All electricity used by the customer's qualified facilities, with the exception of the facility or property on which the solar electric power generation system is installed, shall be billed at the full retail rate pursuant to the electric public utility tariff applicable to the customer class of the customer using the electricity

Comment: The Act does not define the "facility" as limited to one meter, thus Staff may reasonably interpret a "facility" as being multiple meters on one property or that the multiple meters constitute one meter. Nothing prevents Staff from adopting rules, construing this provision, to allow for all of the meters, if the chosen net metering billing account is to be located at a facility with more than one meter, from receiving less than full retail credit for all of the meters on that property. The Act permits aggregating loads to a meter at the same facility, but does not limit the Staff's ability to determine all meters on that property as being eligible to be measured as the host, irrespective of which meter is actually replaced with a revenue grade bi-directional meter.

2. Q: What type of costs should be deemed "incremental costs" incurred by the EDC in the context of aggregated net metering? Additionally, should the costs be restricted to net metering and exclude interconnection costs?

   The Act: (e. 4. (d))
   Any incremental cost to an electric public utility for net metering aggregation shall be fully and timely recovered in a manner to be determined by the board

   Comment: This question is only answered after the determination of how or where a system can be interconnected. The electric public utility should be allowed to recover all of the costs it reasonably incurs from aggregated net metering, subject to proof that costs are incurred. Given the Act's ability to be interpreted to allow a "system" to be installed at a property owned by the customer and that that meter not expressly be attached to or at a facility, a CQF, as a net metered billing account, the EDC should be permitted to recover T&D at a rate deemed appropriate for a capital recovery charge and line maintenance. This recovery should not be determined without adequate proof of costs. Interconnection of a generating system to the electric distribution system is already required to be recovered by the EDC via FERC SGIP and PJM Manual 14. Remote monitoring SCADA and revenue grade metering is required to be installed for any system interconnecting to the distribution system. Since a wholesale market participant does not pay T&D to the EDC for wholesale generation, and in effect the installed capacity is explicitly sized to offset no more than aggregated annualized CQF load, then perhaps T&D should be excluded from recoverable "incremental costs". An aggregated net metering system operator would have similar privileges as a system operator under our proposed interpretation of the Act and would be generating energy as governed and permitted by the NJBPU as a provision of the Act within its rights provided within any adopted rules. The Staff's implementation of the Act should promote aggregated net metering while fairly compensating the EDCs, -but not compensating them in a manner that caused aggregated net metering to be uneconomic.

3. Q: Does the statute allow a solar generation system to be owned by a third party rather than by the public entity customers defined in the stature? Or alternatively does the law require public entity ownership?

   The Act: (e. 4. (d))
   Any contractual relationship entered into for operation of a solar electric power generation system related to net metering aggregation shall include contractual protections that provide for adequate performance and provision for construction and operation for the term of the contract, including any appropriate bonding or escrow requirements.

   Comment: The law does not prohibit third-party ownership. Thus, it is permitted implicitly. Moreover, nothing in the Act prohibits a governmental entity to contract for solar facilities used for aggregated net metering. Thus, a governmental entity may enter into such a contract as long as there are "contractual protections". Suitable contractual protections, such as liquidated damages for non-performance, could be identified by Staff in a rule making. ..

4. Q: May the host site facility's metered consumption, where proposed generator is to be located, be in a different rate class and tariff than the qualified customer facilities (i.e., the satellite sites' metered consumption)?

   The Act: (e. 4. (d))
   …the qualified customer facilities shall all be in the same customer rate class under the applicable electric public utility tariff. For the customer's facility or property on which the solar electric generation system is installed, the electricity generated from the customer's solar electric generation system shall be accounted for pursuant to the provisions of paragraph (1)

   Comment: Emphasis should be placed on "facilities" in answering this question. The facilities must be in the same rate class. Garden Solar asserts that the meter where the net metering billing account location is to be designated, notwithstanding that this may be on property owned by the customer, need not be in the same rate class and tariff. The Act provides for no guidance to the contrary and any other interpretation would be unreasonably restrictive.

5. Q: May a public entity customer such as a school district be deemed a single customer if all its accounts are in the same rate class?

   The Act: (e. 4.) and (e. 4. (c))
   …single electric public utility customers that operate a solar electric power generation system installed at one of the customer's facilities or on property owned by the customer, provided that any such customer is a State entity, school district, county, county agency, county authority, municipality, municipal agency, or municipal authority.
   And

(c) all of the facilities of the single customer combined for the purpose of net metering aggregation are facilities owned or operated by the single customer and are located within its territorial jurisdiction except that all of the facilities of a State entity engaged in net metering aggregation shall be located within five miles of one another,

Comment: Yes. A school district clearly is a single customer where all accounts are in the same rate class and each school is owned by the District. An issue may arise however, within a sending district because the District may not necessarily "own" or "operate" a facility within its sending district. However the definition of "operate" should be construed to mean asserting control (akin to ownership) and thus all load from schools included in a sending school district could be aggregated.

Regarding Ownership of the property; it seems to be further limiting that a single customer wholly owns the parcel where the system is to be installed. Ownership, for the purpose of the Act should be expanded to encompass a long-term property lease, including a lease to own. Lessees under long-term leases control the property and are frequently treated as they are owners in fee. To suggest that long-term leaseholds would not meet the "ownership" requirement would mean that very few qualifying participants will ever own vacant land upon which enough solar could be installed to match their aggregated CQF's annualized load.

Garden Solar appreciates the opportunity to submit these comments and looks forward to the providing additional input as this matter progresses.

Comments regarding Syncarpha Solar, LLC's Experience with the Aggregated Net Metering Process and Rules N.J.A.C. 14:8-7 dated March 10, 2014

These comments are in response to the request from the Board of Public Utilities dated February 28, 2014 in respect of stakeholders' experiences and inquiries about the Aggregated Net Metering Process and Rules N.J.A.C. 14:8-7 in anticipation of the scheduled March 25th 2014 Net Metering and Interconnection Stakeholder Meeting.

Syncarpha Solar, LLC and its affiliates are actively engaged in developing, owning and operating commercial scale photovoltaic (PV) solar energy systems throughout the United States. In particular, Syncarpha has developed and installed several solar energy systems in the Commonwealth of Massachusetts that qualify as "Net Metering Facilities of a Municipality or Other Governmental Entity" within the meaning of the Commonwealth's Net Metering net metering statute, M.G.L. c. 164, §§ 138-140 and net metering regulations, 220 C.M.R. 18.00 et seq. Each of these projects has resulted in the significant energy savings for the municipalities that purchased solar-generated energy.

In the Commonwealth, a governmental entity engaged in net metering receives net metering credits from its local distribution company calculated with reference to the number of kWhs purchased by such governmental entity and established from time to time under applicable tariffs. The key to the success of the Massachusetts net metering program for a governmental entity is that such credits are *not measured solely in reference to the amount of energy consumed at the governmental entity's host site meter* as is the case under N.J.A.C. 14:8-7(d). Instead, each participating municipality is permitted to designate several of its electricity accounts throughout its municipal boundaries that benefit from such net metering credits. In this fashion, Massachusetts governmental entities are permitted to maximize energy savings among all of their municipal facilities and are not limited to benefits measured solely by energy usage at the host site.

In contrast with this beneficial and progressive program, Syncarpha's experience with net metering in New Jersey has been challenged. As an example, Syncarpha signed a land lease with Bernards Township, Somerset County, New Jersey in April 2011 for the Pill Hill landfill in located in and owned by the Township. Syncarpha applied and received both a post Post-Closure Modification Permit from the New Jersey Department of Environmental Protection and a Final Site Plan Approval from Bernards Township for a proposed 3.25 MW solar facility. However, after numerous conversations with the local distribution company, Jersey Central Power & Light (" JCP&L") exploring the aggregated net metering options for this project, we have concluded that aggregated net metering would not prove to be economic for this development.

Due to a de minimis on-site load, if Syncarpha were to take advantage of the present Aggregate Net Metering program, essentially all of the electricity produced by the system would be injected back into the grid. As per our conversations with JCP&L, if Syncarpha and the Township were go down this route, the Township's electricity bills would be credited the average annual (i.e. 24/7/365) ***real time*** electricity price (roughly $0.04/kWh) for any electricity produced by the system, and *not* the RT rate for the day and hour of the actual production.

As you may already understand, there is a massive spread between these two rates. Solar electricity is typically produced while the annual real time rate would weight midnight and midday (off peak and on peak) pricing the same, therefore stealing this inherent advantage of solar. There was a 15% difference between these two values over the last year.

Syncarpha was also informed by JCP&L that the credit assigned to the Township electricity bills would not take into account any capacity payments that the site would be entitled to receive if it were delivering the electricity directly into the JCP&L grid. Considering that the Township would not be compensated for supplying peak power or capacity, the advantages of selling electricity wholesale heavily outweighed any benefit of structuring an aggregated net metering deal with the Township.

Currently, Syncarpha does not believe there is any substantive benefit gained by any New Jersey Municipality by the current Aggregate Net Metering program. If a Municipality's solar system were to produce kWhs in excess of their usage over a 12 month period, then the Municipality would already receive a check from their utility provider for the excess kWhs at the average annual RT rate. This preexisting program therefore provides the same financial benefit to the Township for the excess production at one site.

Stated bluntly, New Jersey's current Aggregate Net Metering program is aggregate net metering in name only. Unlike other States that have embraced aggregate net metering (Massachusetts and Connecticut are examples), New Jersey's program suppresses aggregated net metering benefits by restricting those benefits to the relative capacity of the host site instead of the respective municipality's aggregate municipal use.

If the State of New Jersey wants to institute an aggregate net metering program where Municipalities throughout New Jersey could benefit, it will need to create a program where electricity created by a solar installation would generate a credit/kWh that is assignable to the entire Municipalities' respective utility bills. This credit would need to be greater in value than the sum of the appropriate RT price assigned to that generation and the capacity charge on an ongoing basis. If a program such as this were instituted it would prove more economical to aggregate net meter projects with townships than sell the electricity and capacity into the wholesale markets.

Syncarpha proposes that the State enact a program where a Township would be able to credit their Utility bills for electricity that is produced at another location within their Township/district/zone/etc. at a rate equivalent to the "Price to Compare" as listed by JCP&L or PSE&G. The current "Price to Compare" listed by PSE&G and JCP&L is approximately $0.10. A program similar to this has already been successfully implemented throughout the Commonwealth of Massachusetts.

CARBON FINANCE STRATEGIES LLC
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BY E

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March 13, 2014

RE: Comments on Aggregate Net Metering Temporary Special Adoption, NJAC 14:8-7 (March 21, 2013; sunsetting Sept.20, 2014)

Gentlemen:

This presents brief summary comments of CFS and our co-developer SunDurance Energy LLC on key aspects of the Special Adoption and related "on-site generator" rules. We appreciate OCE's outreach and the opportunity for input.

CFS is a solar center of excellence with approximately 40 MW of ground-mounted solar PV facilities under development in Massachusetts and elsewhere. SunDurance, a subsidiary of The Conti Group, Inc. (Edison NJ), is a solar PV developer and turnkey EPC provider with numerous PV projects completed or under development on both coasts.

We second, strongly support, and incorporate by reference pertinent comments of SEIA, Garden Solar and Syncarpha on this matter. As noted a year ago in and following our response to INX ANM Question 3 (attached), unduly constrained interpretations of the Solar Act's ANM provision were not required by the Act and could well defeat ANM's facial purpose by making beneficial ANM projects administratively or economically infeasible.

That seems to have been the case. Based on industry information and informal surveys of NJ PV developers, we have not been able to identify a single ANM project that currently is under real-world development.

We believe OCE is not required to and should not perpetuate such results. As Syncarpha's comments indicate, the contrast between NJ's current ANM approach and how MA has implemented its version of ANM (called 'virtual net metering') is instructive. For example, MA VNM rates (called 'net metering credits') in NGRID and NSTAR service territories currently average about 15¢/kWh after subtracting certain fixed retail components. This allows VNM projects to offer government facilities material long-term savings over present and likely-future retail rates. The ANM situation in NJ seems exactly the opposite.

We offer a NJ example that involves both issues above (ANM and on-site generator constraints).

In January 2012 we began discussions with a NJ LFGTE operator and its host county-landfill, seeking to install a 5 MW to 10 MW ballast-mounted PV facility on closed cells at the LF. The LFGTE facility leased its adjacent site from the LF and had substantial parasitic-power demands, resulting in only about half its nameplate capacity delivering renewable power under a long-term PPA. The county's power demands (including county facilities outside the LF) far exceeded our total planned PV output. These power demands mostly were met by purchasing retail power from the local IOU or 3rd party providers.

Through January 2014 we pursued two main options to structure our PV project in ways that would benefit both the county and the LFGTE plant while remaining financeable.

First and preferably, we sought to aggregate-net-meter the PV project's expected 10,000,000+ kWh average annual output with retail meters at county office buildings and other county facilities, all of which appeared to be in the same rate class and generally meet other Special Adoption criteria. We conservatively modeled potential minimum savings that we could offer the financially-pressed county at several hundred thousand dollars per year, even assuming "ANM credit" values about half of pertinent retail rates.

Second, should Option 1 not work out, we planned to take the separate on-site generator route and directly feed the PV project's output to the adjacent LFGTE plant. By freeing up daytime parasitic power this approach could have boosted the LFGTE plant's power-sales and Class I REC revenues by approximately 40%, with similar increases in royalties paid to the county.

Due mainly to constraints highlighted here and in cited comments, neither option proved feasible. Among other things, as best we could determine:

For the ANM route: While Special-Adoption rates for the PV facility's meter itself would erase that facility's (typically tiny) parasitic load for retail billing purposes, all excess PV generation apparently would be "credited" only at average LMPs, currently between approximately 4¢ and 5¢/kWh. Compared (for example) to standard MA VNM transactions (where each kWh generated typically is valued well above LMPs, allowing projects feasibly to offer eligible VNM customers materially discounted energy costs while still generating financeable returns), this left no room for ANM "recipient" savings. In fact, it seemed to provide little incentive for eligible governmental candidates to participate in ANM at all – they generally could do better by physically net-metering to offset retail billings dollar for dollar. (Except of course where conditions preclude physical net metering – a gap that ANM was supposed to address, at least for public entities.)

In addition, we found there apparently was no "credit" system under ANM. That is, excess generation values would not be the project's to allocate or control. Instead, excess generation at the PV facility's meter automatically would be applied by the serving utility to billings at designated ANM "recipient" meters, limiting the PV project's ability to negotiate long-term ANM contract conditions together with rates.

Moreover, non-IOU power providers were not required to offer or participate in ANM. Where (as with our planned project) potential ANM "recipients" received purchased power at their collective meters from a mix of providers, how to track and navigate that seemed resource-intensive and unclear.

For the on-site generator route: Our project appeared to fall cleanly between all cracks. If we supplied the LFGTE plant through its retail meter, the amount of power our project could provide apparently would be limited to that plant's annual

metered consumption – in our case almost zero, since the plant generated its own power. On the other hand, if our PV project connected directly to the LFG plant's electrical bus and bypassed its meter, the project risked losing eligibility for critical SRECs, notwithstanding reasonable arguments (based partly on improved efficiency of the grid-connected LFGTE facility) that SRECs still should be generated in such a narrow case.

For general regulatory certainty: None of these results seemed to be rational outcomes, whether from a developer perspective or for sound energy policy. Clarification attempts based on our MA VNM experience seemed to speak a foreign language that seldom connected. We and our financiers could not keep investing in this project given ongoing ambiguities and opportunities elsewhere. We ultimately discontinued it, pending Special Adoption amendments and related changes we hope OCE will vigorously and promptly pursue.

We particularly (though not exclusively) urge that:

- **The rate at which ANM excess generation is compensated or valued be adjusted at minimum from LMP to either 50% of applicable retail rates or (as in MA) retail rates minus certain defined fixed billing components, whichever is greater.**

- **No distinction be made between the meter at a PV facility and the meters at otherwise-eligible participating ANM facilities – i.e., they should be treated as a single meter.**

- **To the extent possible, on-site PV generators directly connecting and providing non-emitting renewable power to adjacent facilities be encouraged to do so in the interest of (e.g.) efficiency and climate change benefits, rather than penalized for seeking to do so.** Any potential concern over granting "dual" SRECs and Class I RECs in such situations should (a) acknowledge that no material concern exists where the receiving facility otherwise would use fossil-derived power; (b) recognize that the Class I and SREC regimes pertinently are separate programs with distinct goals and policy considerations; and (c) as and only to the extent necessary, resolve such concerns by discounting the quantity of eligible RECs by an amount equivalent to any increased efficiency or output of the facility receiving power from the on-site generator.

For reasons stated in other comments and in the attachment, we believe OCE has ample discretion to implement such improvements.

Thanks in advance for your attention to these comments.

Cordially,

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Managing Director & General Counsel

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c (by e): Todd Martin, Ted McNamara (SunDurance)
CFS principals

ATTACHMENT

MEMORANDUM

TO: **Scott Hunter, Renewable Energy Program Manager, OCE/BPU**

FROM: **Mike Levin, Managing Director & General Counsel**

DATE: **February 25, 2013**

RE: **NM/INX Staff Question 3**

Dear Scott---This briefly responds to OCE's February 15 request for comment. We're sending it today because we're not part of the formal stakeholder group and only learned of the comment request this past Friday through owner's counsel for a potential PV project we're discussing.

The pertinent question is reprinted below, followed by our thumbnail analysis. Citations are to the accompanying select pages of S. 1925 as-passed on or about June 27, 2012 but before enrollment. We've generally found this version to be more useful than the enacted version. For time, resource and clarity reasons this memo omits cites to legal authority, which we can supply if needed.

We hope this is helpful and appreciate the chance to respond to this question. Please contact us should OCE have questions.

* * *

Does the statute allow a solar generation system to be owned by a third party rather than by the public entity customers defined in the statute? Or alternatively does the law require public entity ownership? Again please refrain from addressing the desirability of the practice but reference the language within the law that leads you to conclude the law enables this practice.

* * *

We limit these comments to established principles of statutory construction, notwithstanding the powerful policy considerations involved. Those principles include:

- Where a statute is ambiguous, the implementing agency has reasonable discretion to interpret it to effect a supportable view of the legislature's intent.

- Even where a statute does not appear to be sufficiently ambiguous, the implementing agency has reasonable discretion to interpret it to avoid creating a nullity or endorsing what amounts to a legislative mistake.

PUBLIC OWNERSHIP IS NOT REQUIRED

- **S. 1925 is at minimum ambiguous in pertinent respects**

  - The Act's pertinent intent was generally to expand the geographic and procedural availability of what has been called "virtual net metering" for a long list of specified *public entities*, while retaining prior limits on "conventional [behind the meter physical] net metering" for *non-public entities.* For example:

  - Its preamble shifted the focus from "net metering" to "*certain electric customer* metering" [p.1]

  - It conclusively deemed any solar electric facility "qualified for net metering aggregation" ("NMA") to be "connected to the distribution system" for purposes of eligibility to generate SRECs. [p. 6]

  - It specified that all facilities *to be credited under* NMA must be "owned by a single [public] customer" *but not that the pertinent solar generating facility must be owned by that customer.* The NMA solar facility is only required to "serve" such publicly-owned "using" facilities. [p. 11]

  - It expressly and repeatedly stated that NMA-eligible solar electric systems must merely *be operated* by qualified public-entity "single customers" and be installed "at one of the customer's facilities or *on property owned by the customer*" through that customer's net metering billing account. Nowhere did it state that an eligible solar system must itself be owned (or even leased) by the pertinent public entity, though the Legislature knew how to specify "ownership" when it wanted to do so. *Cf. e.g.,* the italicized passage quoted immediately above. [p. 25]

  - Indeed, the new NMA language of Act subsection (e)(4) appears to indicate a significant *expansion* of the circumstances under which NMA may be implemented by qualified public entities. The previous definition of "virtual net metering aggregation" ("VNMA") in earlier versions of S. 1925 stated that all facilities "owned *or leased*" by an eligible single public customer were eligible for VNMA. While the new NMA definition standing alone recites that such facilities must be "owned" by the public customer, operative subsection (e) (4) makes plain that such "user" facilities -- like eligible solar electric systems themselves – *need only be "operated"* by the public customer. "Operated" includes more than situations where the public customer formally leases a facility. For example, it facially can include cases where the public customer may be an O & M contractor for the solar facility [*see, e.g.,* pp. 11, 17, 25 at lines 16, 30-31].

  - The Act's follow-on clarification that "A customer may contract with a third party to operate a solar electric power generation system, for the purpose of net metering aggregation" [p. 26] is not to the contrary. In fact it appears affirmatively to support the view that otherwise-qualified NMA solar systems may be owned by private third parties.

    - The clause facially is a *clarification*, meant to confirm that eligible public entities are not required to operate such systems themselves.

• The following language reasonably can be read to mean that where the public entity *may happen to* own the solar system, conformity with the public-integrity goals of the Local Public Contracts Act and similar requirements reasonably must be assured. No more than this need be implied.

• There is a range of real-world circumstances where an NMA-eligible public entity might desire to contract for aspects of solar system "operation" – or be required to countersign or consent to such project-related contracts through measures that may be considered "contracting" – *even though it does not own the solar system.* For example, installation of a solar system on closed cells of a publicly-owned MSW landfill – an outcome explicitly encouraged by other provisions of the Act – typically requires numerous consents that the LF owner/operator either must secure or prudentially will seek to secure in order to assure cap integrity, non-interference with fill operations, and similar protections.

EVEN IF S. 1925 SHOULD BE FOUND INSUFFICIENTLY AMBIGUOUS REGARDING QUALIFIED SOLAR SYSTEM OWNERSHIP, BPU SHOULD NOT INTERPRET IT TO CREATE AN EMPTY BOX THAT DEFEATS THE ACT'S FACIAL NMA PURPOSES

• A main purpose of the Act's new NMA provisions was to make the benefits of NM more broadly available to hard-pressed public entities, thus helping them reduce the costs of energy purchased "from the grid" at retail rates.

• This purpose is related to the Act's goal of incentivizing (and thus focusing) future solar development on appropriate landfills and brownfields (rather than greenfields), many of which are publicly-owned.

• Requiring public ownership of NMA solar generating systems would tend to defeat these purposes by generally making recognized federal tax benefits (e.g., the 30% investment tax credit, accelerated depreciation, and 50% 'bonus' deprecation) unavailable to project "owners" because they're non-taxpayers. This result would sharply increase solar facility costs and make most (if not all such) installations either unaffordable by public entities, or effectively unfinanceable due to the higher returns available to limited private capital from privately-owned solar projects. This situation has been exacerbated by current low NJ SREC spot and forward market prices for EY 2011-13 and following years. It is more dire for planned solar facilities seeking multi-year SREC "strip" contracts that will allow projected project SREC revenues to "count" for financial pro forma purposes – such "strips" typically are priced significantly below spot prices.

• Many observers believe that due in part to certain of the Act's provisions, NJ SREC markets are slowly recovering and should continue to do so. However, current depressed SREC prices combined with low wholesale electricity pricing have put heavy financial pressure on planned NJ PV projects, causing many (especially by smaller developers) to be abandoned or suspended in fact if not in name. To the extent the NJ solar PV program is an economic development and jobs initiative as well as an environmental and distributed-energy effort, such developments are material facts.

• Alternative solar financing structures currently available to otherwise-eligible public entities in NJ generally are constrained, comparatively costly, and less efficient economically. For example, the

creditworthiness of many public entities has become questionable after 2008, limiting their access to the capital markets. Tax-exempt private-activity bonds are subject to a statewide volume cap, and thus to intense competition among potential issuing authorities. Even if so-called "inverted leases" could be used by "owner" public entities to capture some federal tax benefits on behalf of private developers to whom such facilities might be leased, many project financiers will not consent to such leases. Others often decline to finance such projects because inverted-lease arrangements can reduce project returns. For example, inverted leases cannot "pass through" to lessees the leased project's federal depreciation benefits, which would remain with the public "owner-lessor" and effectively be lost.

- In interpreting the Act OCE/BPU can take administrative notice of these facts, which OCE/BPU also may presume to have been known to the Legislature.