

COMMONWEALTH OF PENNSYLVANIA



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March 8, 2010

James J. McNulty
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

RE: Policy Statement in Support of Pennsylvania
Solar Projects
Docket No. M-2009-2140263

Dear Secretary McNulty:

Enclosed for filing are the Comments of the Office of Consumer Advocate, in the above-referenced proceeding.

Should you have any questions, please contact me at the telephone number above.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Tanya J. McCloskey".

Tanya J. McCloskey
Senior Assistant Consumer Advocate
PA Attorney I.D. # 50044

Enclosure

cc: Scott Gebhardt, Energy Program Specialist, CEP – electronic mail only
Kriss Brown, Assistant Counsel, LAW – electronic mail only

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Policy Statement in Support of : Docket No. M-2009-2140263
Pennsylvania Solar Projects :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

On February 6, 2010, the Proposed Policy Statement in Support of Pennsylvania Solar Projects issued by the Pennsylvania Public Utility Commission (Commission or PUC) was published in the Pennsylvania Bulletin. Through this Policy Statement, the Commission seeks to provide the longer term revenue stability that may be needed to support the development of both small and large scale solar development and to address other barriers that could impede the development of new solar projects in Pennsylvania. In its Order issuing the Policy Statement, the Commission notes its concern with solar alternative energy credit price uncertainty and seeks to develop a process to overcome such price uncertainty.

The OCA supports this Commission's proactive efforts to develop processes that enhance the development of solar projects for the benefit of Pennsylvania consumers. As with other renewable resources, solar resources have the potential to bring benefits to consumers in many ways. This is especially true when one considers the impact of possible future requirements at the national and international levels to reduce our reliance on carbon-emitting fossil fuels. At the same time, the OCA remains concerned with the prices for solar alternative energy credits as compared to other alternative energy resources as Pennsylvania electric default service providers and electric generation suppliers attempt to meet the requirements of the Alternative Energy Portfolio Standards Act. Steps that can aid in overcoming barriers to entry and providing the long term support of the solar resources needed for development should greatly assist in ensuring that solar AECs in the future are reasonably priced.

The OCA also agrees with the Commission's intent to ensure the development of both small scale and large scale solar projects. It is the OCA's view that both types of projects can play an important role in meeting Pennsylvania's energy needs both now and into the future.

The OCA anticipates that as retail customers, particularly residential and small business customers, experience higher generation rates in the future, small solar projects on residences and small businesses will become a part of the strategy for such customers to mitigate the impacts of price increases and price uncertainty. The Commonwealth of Pennsylvania is already supporting such development through its PA Sunshine Residential/Small Business Solar Program, and the efficiencies and experience gained through this program should enable a more wide-scale deployment of such small projects.

The Policy Statement provides important support for small solar projects, including the encouragement of aggregation, the use of bilateral contracts for small projects, and the use of standardized contracts for such projects. The OCA is particularly supportive of efforts to enable aggregation of small solar systems. Aggregation provides an easy and accessible means for small customers to obtain the financial support of the sale of AECs when considering the costs and benefits of installing a system. Aggregation should also allow for a reduction in risk related to small project AECs as the aggregator can diversify its portfolio of resources through aggregation of different size projects, projects over a wide geographic area or projects using differing technologies.

While the Policy Statement contains important provisions regarding small solar projects, it is not clear to the OCA that the proposed Policy Statement will fully achieve the Commission's goal of providing adequate support for the small solar projects. In particular, the limitation on the amount of small scale solar projects that can be procured through bilateral contracts in Section 69.2903(b)(2)(iv) and the potential for security requirements on contracts for projects as small as 15 KW in size may need to be revisited.

The OCA is filing these very limited comments to address some specific concerns it has identified with the provisions regarding small scale solar development. Overall, however, the OCA wishes to express its support for both the goals and the language of the Policy Statement. The OCA looks forward to reviewing the comments of other parties and continuing to work with the Commission and the stakeholders in developing a policy that will provide the certainty necessary to enhance the development of solar projects in a cost-effective manner to the benefit of all Pennsylvania consumers.

II. COMMENTS

A. Section 69.2903—RFPs to establish SREC values recoverable as a reasonable expense

1. Section 69.2903(b)(1): SREC Procurement for small-scale solar projects

Section 69.2903(b)(1) provides that if procuring small scale solar through an RFP process, the EDC should adhere to the same standards as for a large scale solar RFP. The OCA submits that this requirement is unclear. If the intent is to use the same RFP process, including such things as credit and security requirements, this approach may not produce the best result. The OCA recommends that if an RFP process for small solar is to be utilized, the Commission may wish to establish RFP standards and requirements more specific to small scale solar projects. The stakeholder working group contemplated by the Policy Statement may be the appropriate forum for the development of such an RFP process.

2. Section 69.2903(b)(2)(i) and (ii): SREC Procurement for small-scale solar projects

Section 69.2903(b)(2) establishes certain conditions for an EDC entering into a bilateral contract with a small scale solar project. Subsections (i) and (ii) establish that the price for the SRECs cannot exceed Commission-approved average winning bid prices for the most

recent large scale solar project. The OCA is concerned that the reference to the “most recent” RFP for a large scale project is somewhat vague and could result in the use of stale information. There could be differences of many months or even a year between RFP processes depending on the EDCs procurement approach. The OCA submits that the Commission may wish to include a time frame for the “most recent” large scale RFP and consider other market price information that may be available as a check if there are no large scale RFPs within that time frame.

3. Section 69.2903(b)(2)(iv): SREC Procurement for small-scale solar projects

Section 69.2903(b)(2)(iv) establishes a limit on the amount of small scale solar project SRECs that can be procured through bilateral contracts during a single AEPS compliance year. The limit is set at the number of SRECs procured by the EDC in its last large-scale solar project procurement. Establishing a limit on the amount of small scale solar projects could impede the development of the small scale project market. This could be particularly problematic as more small scale projects, such as residential and small commercial projects, may use solar facilities as a way to mitigate significant electric price increases. The OCA recommends that this limiting language be removed so that there is no undue barrier to small scale projects when an EDC determines the appropriate mix of solar AEC resources to meet the needs of its customers.

B. Section 69.2904: Contracts for the purchase of SRECs by EDCs

1. Section 69.2904(c): Performance guarantees, security and other contract terms

In Section 69.2904(c), the requirements for performance guarantees, security and other contract terms are set forth. The OCA will not discuss all of these requirements. The OCA

supports the provision for small projects under 15 KW that finds that bid security or security related to project completion or performance for such projects is not necessary. This provision will eliminate a potential barrier to very small projects. Subsection (c), however, does allow for security deposits and performance guarantees for projects and project aggregations at or above 15 KW. It is unclear to the OCA that the 15 KW size is the appropriate size point at which to require security.

The OCA is also concerned that in the situations where the proposed Policy Statement allows for performance guarantees, security and other contract terms, there are no standards for establishing reasonable levels of such security, performance guarantees or other terms. The OCA understands that there are several different approaches used in other states regarding these issues, and that such requirements can have an impact on the prices paid by consumers. Given the potential impact of such requirements, the balance that needs to be struck, and the different possible approaches, the Commission may wish to provide more specific guidelines to reduce uncertainty and controversy.

Additionally, the OCA would note that subsection (c) calls for a “reasonable allocation of risk” of a small project failing due to force majeure and “reasonable financial qualifications” for solar aggregators. The language of the Policy Statement is broad and somewhat vague. The Commission should provide additional guidance as to what may be reasonable for small projects.

2. Section 69.2904(d): Contracts on behalf of residential customers

In Section 69.2904(d), the Commission encourages EDCs to contract for SRECs with solar aggregators that obtain SRECs from residential owners of small scale solar projects. The OCA supports this provision and encourages the aggregation of small scale residential

projects. This subsection, however, references “creditworthy residential owners” of small scale solar projects. It is unclear to the OCA how the EDC or Commission would define “creditworthy residential owner” or whether such a requirement is appropriate. It is the OCA’s understanding that the solar aggregator will be the party responsible for contract compliance and will be the party working directly with the residential owner of the SREC. Under such a system, it does not seem necessary for an additional creditworthiness check by the EDC to be required, particularly when an aggregator may have secured hundreds of residential projects. The OCA recommends that the word “creditworthy” with respect to residential customers be eliminated.

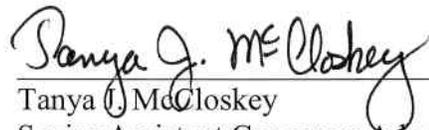
3. Section 69.2904(f): Customer Education

In section 69.2904(f), the Commission encourages the EDC to educate its retail customers about the opportunity to sell SRECs from solar projects. The OCA agrees that educating consumers on this opportunity should be included within each EDCs educational materials.

III. CONCLUSION

The OCA commends the Commission on its efforts to support the development of solar projects that will benefit Pennsylvania consumers. The OCA looks forward to working with the Commission and other stakeholders on these important issues.

Respectfully Submitted,



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