Before the Pennsylvania Public Utility Commission
Implementation of the Alternative Energy Portfolio Standards Act of 2004

Docket No. L-00060180

Comments on the Act 35 Amendments to AEPS Implementation by
The Solar Alliance
and
Mid-Atlantic Solar Energy Industries Association (MSEIA)

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Introduction

The Solar Alliance (formerly PV NOW) and Mid-Atlantic Solar Energy Industries Association (MSEIA) respectfully offer the comments below on Act 35, signed by Governor Rendell on July 19, 2007. Act 35 amended the act of November 30, 2004 (P.L. 1672, No.213) the Alternative Energy Portfolio Standards Act (AEPS) and our comments reflect support for all of the changes to Act 35.

The Solar Alliance is a state-focused alliance of manufacturers, integrators and financiers that are dedicated to accelerating the promise of solar energy in the United States. The Solar Alliance specifically targets our efforts to help legislators, regulators and utilities make the transition to solar power by providing the technical and policy expertise that is in the best interest of residential, commercial and government customers and Americans as a whole.

Current Solar Alliance Board Members include BP Solar, Conergy, Energy Innovations, Evergreen Solar, First Solar, Kyocera Solar, MMA Renewable Ventures, PPM Solar, Sanyo Energy, Schott Solar, Sharp Electronics Corp.-Solar Energy Solutions Group, SolarWorld, SunEdison, SunPower, Suntech and Uni-Solar. Current Solar Alliance Associate Members are American Solar Electric, DT Solar-Turner Renewable Energy, REC Solar, SPG Solar, Mitsubishi Electric and Xantrex.

The Mid Atlantic Solar Energy Industries Association ("MSEIA") MSEIA is a not-for-profit trade association of companies and businesses working in New Jersey, Pennsylvania and Delaware who are involved in the development, manufacturing, design, construction and installation of solar photovoltaic (PV) systems.

Comments

1. Definition of Customer Generator. (Section 2). We support the amended language in Act 35, which increases the eligible system size for net metered systems to 3000kW for non-residential buildings. This change is consistent with current market trends in the U.S. and global market for distributed photovoltaic (PV) systems, which are designed for serving the on-site load requirements of large commercial buildings (recent examples include installations on Walmart and Kohl's department stores in California).

2. Definition of Force Majeure. (Section 2). We support the amended language in Act 35, which will greatly clarify the limited circumstances under which an electric distribution company or an electric generation supplier could be granted an exemption from a portion of its AEPS obligations. This clarifying language is particularly important to reinforce the "solar share" portion of the AEPS, which will depend on significant investment by the solar industry to develop a mature solar market.

   Formerly as PV NOW, and currently as the Solar Alliance and MSEIA, both organizations have stressed in our comments to the Proposed Final Rulemaking Order of July 20, 2006 and in other AEPS filings, the importance of long term contracts to provide for the most cost effective approach to compliance with the solar share requirements. In our comments filed on December 13, 2006, we state: "The ultimate value of long term contracts with standard conditions is delivery of required solar renewable energy credits (SRECs) at the lowest possible price. Greater supplier risk translates to higher prices. Long term contracts reduce the price of SRECs because they reduce the financing costs of solar projects." In addition, we include Table I which demonstrates the likely SREC prices at various contract terms. For example, under the 1-3 year or short term contract term, the likely price of a MW SREC is $810 but under a 20 year term, that same MW's price drops to $405. Although the Commission does not mandate long term contracts for AEPS supply in its Final Default Service Policy Statement, it does state long term contracts should be mainly used to meet AEPS requirements. Any filing of Force Majeure should take into account the option for long term contracts.)

3. Tier I Alternative Energy Source now includes under (1) and solar thermal. We suggest the definition of "solar thermal" should be as follows: "A process that uses equipment to collect, store and transfer solar energy to heat water or other liquids."

4. Amended "ramp up" schedule for solar AEPS requirement (Section 3 (B) (2)).

   We support the amended language in Act 35. This language represents a significant improvement over the original language that had "step-up" increases in solar REC requirements scheduled every 5 years. Such irregular "step-up" increases would result in an irregular "stop-start" pattern of market demand for solar REC's, which would inhibit investment by the solar industry and its customers, and delay the maturation of the in-state solar PV market. The amended language does not alter the original "solar share" targets, but does lay out a smoother "ramp-up" in solar REC requirements.

5. Ownership of solar REC's (Section 3 (E) (12)). We support the amended language in Act 35, confirming that solar PV system owners retain the ownership of solar REC's generated by their systems, unless transferred to another party by the solar PV owner through contractual agreements.

6. Valuation of ACP for solar REC's (Section 3 (F) (4)). We support the amended language in Act 35. 'This language will ensure that the "200 percent of average market value" formula for setting the ACP will be based on an "apples-to-apples" comparison with other regional solar REC markets.

7. Voluntary solar REC's not automatically included for AEPS compliance (Section 4). We support the amended language in Act 35, which clarifies that solar REC's that are purchased voluntarily by homeowners and business owners should not automatically be included in AEPS compliance, unless those solar REC's have been explicitly sold to an electric distribution company or an electric generation supply company.

8. Annualized true-up for excess generation (Section 5) We support the amended language in Act 35. Provision for an annualized true-up is important for solar PV systems, given the seasonal fluctuations in electricity output from PV systems (highest output during summer peak demand periods, lowest output during winter months). However, in order for the system owner to be fairly compensated for excess electricity generated, excess generation should be based on utility meter readings recorded at the beginning and end of the reporting year (total monthly accumulation of net energy usage for the year). Accumulating excess generation monthly is *not* the same as the annualized excess generation. For example, an EDC shall carry over credits earned by a customer-generator from a billing month to successive billing months. Any unused credits shall accumulate until the end of the annualized period.

The Solar Alliance and MSEIA will provide additional comments on net metering and Interconnection to address the Commission Secretarial Letter dated October 4, 2007 upon publication in the Pa. Bulletin. We appreciate the opportunity to comment on all of the positive changes that were made in Act 35. Act 35 codifies the kinds of policies important for growth of the solar industry in Pennsylvania.