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BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Comments of the Mid-Atlantic Solar
Energy Industries Association
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IMPLEMENTATION OF THE
ALTERNATIVE ENERGY PORTFOLIO
STANDARDS ACT OF 2004

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Docket No. L-00060180

The Mid-Atlantic Solar Energy Industries Association ("MSEIA") submits these comments in response to the Pennsylvania Public Utility Commission's Proposed Rulemaking Order, entered July 25, 2006 and published in the *Pennsylvania Bulletin* October 10, 2006. MSEIA is a trade association of solar energy installers, developers, manufacturers and designers that work and live in Pennsylvania, New Jersey and Delaware. A list of MSEIA current members is set forth in Attachment A to these comments. MSEIA is affiliated with the national Solar Energy Industries Association. Our members have been working to help build the solar market in New Jersey and Pennsylvania. We appreciate the efforts of the Commission to assist the growth of the solar industry in the Commonwealth and submit these comments in support of those efforts.

MSEIA is in complete agreement with the statement in the Proposed Rulemaking that "The solar photovoltaic requirement represents unique challenges." Putting in place the necessary regulatory structure to meet those requirements is one of the most significant challenges this Commission will face. Recognizing the critical nature of formulating a structure that will not merely allow, but foster and ensure, the development of solar energy in Pennsylvania, MSEIA submits these comments and urges the Commission to address the following:

The Commission should authorize long term contracts for the purchase of SRECs.

Not counting environmental, societal and other externalized costs, the cost to produce a kilowatt of power from solar sources still exceeds the cost to produce a kilowatt of power from traditional fossil fuel. The cost differential is closing, however, as the costs of solar equipment is dropping. As structured under the Alternative Energy Portfolio Standards Act (the "Act"), the opportunity to sell solar renewable energy certificates ("SRECs") will help equalize the price differential. This means that the Commission must set in place the regulatory and administrative structure to support SREC prices so that renewable energy is a worthwhile and attractive investment. Owners of solar systems must have some confidence that long term they will be able to sell the SRECS generated by their systems. The large projects that will be needed to fulfill the Commonwealth's ambitious goals will be undertaken only if developers and investors have some level of confidence that there will be demand for SRECS. We recommend that the Commission endorse SREC contracts of fifteen to twenty years.

The Commission should support formulation of a standard SREC contract.

Because the solar energy base is made up of multiple discrete installations, each individual installation must enter into a contract for sale of its SRECs. This can be intimidating to individuals and small business persons who are not in the primary business of selling energy. To facilitate SREC sales and expectations, we endorse utilizing standard contract terms to the greatest extent possible to facilitate sales and minimize legal expenses and concerns.

The Commission should clarify the solar share requirements is a percentage of total retail electricity sales.

Section 75.31 of the Proposed Final Order states that alternative energy credits are to be acquired in quantities "equal to the percentage of their *total retail sales* of electricity to all retail electric customers...." (Emphasis added.) The proposed Rulemaking Order at 75.31(b)(1) sets a schedule for compliance that calls for the solar photovoltaic requirement to be a percentage of Tier I sales. Apart from the obvious inconsistency in these two statements, we think it clear from the original intent and statements in the Act that the intent of the Legislature was to express the solar share as a percentage of the total retail sales: not of the Tier I total. Clarify the process for establishing the Alternative Compliance Payment.

The Commission should clarify the process for setting the Alternative Compliance Payment (the “ACP”).

In establishing the value of the ACP, the Commission should recognize that where states such as New Jersey provide rebates to defray the initial cost of purchase, those rebates are reflected in the state’s ACP. As a result, the appropriate formula for setting the ACP in Pennsylvania at 200% of the market value must take into consideration the total economic value of the ACP—including the value of the rebate.

The Commission should clarify the intent and interpretation of the force majeure provisions.

Force majeure, in the context of Pennsylvania contract law, applies only when factors outside the actor’s reasonable control or anticipation make compliance or performance impossible. We urge the Commission to apply a narrow interpretation of force majeure to nonperformance under the AEPS which will allow it to be applied only when such circumstances are met. A clear signal from the Commission that it will narrowly apply force majeure relief to AEPS nonperformance will maximize the incentive to proactively plan for and promote renewable resources.

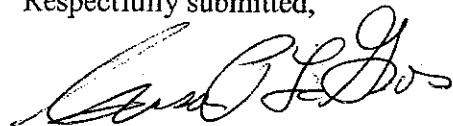
One way the Commission could assist such proactive plans is by recommending annual targets for the SREC requirements. Articulating the expectations in years when there is no step up in SREC requirements could assist in smoothing the “step up” in years where the solar requirement increases. For instance, the AEPS Administrator could recommend annual targets along the lines of the following for each Electric Distribution Company or Electric Generation Company based on their total retail sales:

- 2006/2007 : 0.0013% of Total Retail Sales**
- 2007/2008 : 0.0030% of Total Retail Sales
- 2008/2009 : 0.0063% of Total Retail Sales
- 2009/2010 : 0.0120% of Total Retail Sales
- 2010/2011 : 0.0203% of Total Retail Sales**
- 2011/2012 : 0.0325% of Total Retail Sales
- 2012/2013 : 0.0510% of Total Retail Sales
- 2013/2014 : 0.0840% of Total Retail Sales
- 2014/2015 : 0.1440% of Total Retail Sales
- 2015/2016 : 0.2500% of Total Retail Sales**
- 2016/2017 : 0.2933% of Total Retail Sales

2017/2018 : 0.3400% of Total Retail Sales
2018/2019 : 0.3900% of Total Retail Sales
2019/2020 : 0.4433% of Total Retail Sales
2020/2021 : 0.5000% of Total Retail Sales

The submittal to the Commission by PV Now in response to the Rulemaking Order, addresses many of the above issues in detail. Rather than restate that detail here, MSEIA affirms that it agrees with the positions and proposals set forth by PV Now.

Respectfully submitted,



Susan P. LeGros

Executive Director, MSEIA

Mid-Atlantic Solar Energy Industries Association
Members

1st Light Energy
Absolutely Energized
Advanced Solar Products
Alt Energy and Ecology Co., Inc.
Alternity Power
altPOWER, Inc.
American Capital Energy, Inc.
American Energy Technologies, Inc.
Aten Solar Corp.
Bald Eagle Solar Tech
Brother Sun Solar
Celentano Energy Services
Clean Power Markets
Demme Mech. Inspect
Dome-Tech Solar
Eastern Energy Services
Energy Enterprises, Inc.
Energy Innovations
Energy Photovoltaics
ETM SolarWorks
Evergreen Solar, Inc.
Fuzioninc, LLC
Gale Architectural and Engineering Services
GeoGenix
GeoTrans, Inc.
Global Resource Options, Inc.
Green Alternatives Inc.
J. A . Wig Const. and Elec. LLC
Jersey Solar
Krannich Solar, Inc.
KV Solar
LBI Solar
Madison Energy Consultants
Magnetek, Inc.
Main Line Electrical Company
MAK Technologies
MESA Environmental Sciences, Inc.
Metro Energy Solution
New Age Solar

New Jersey Solar Power, LLC
New Jersey Solarvision
NJ Solar Solutions, Inc.
Pfister Energy
Power Up Solar
PowerLight Corporation
Princeton Energy Systems
Princeton Power System
Prism Solar Technologies
Renewable Energy Concepts, Inc. (REC
solar)
Richard Hewitt
Schott Solar
Sea Bright Solar
Sharp Solar
Shell Solar Industries LP
Solar Energy Corp.
Solar Home Energy Solutions, LLC
Solar Resources
Soltage, Inc.
Spartacus Energy
Spire Corp.
Sun Farm Network
SunEdison, LLC
SunPower Builders
Sunpower Corporation
Suparna Kadam
The Solar Center
Trinity Heating & Air
TurtlEnergy LLC
WorldWater