State of New Jersey

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January 23, 2012

Via Overnight Delivery and Electronic Mail
Honorable Kristi Izzo, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, New Jersey 08625-0350

Re: Solar Transition Working Group-Comments on OCE's Proposed Options to Revise the Solar Renewable Portfolio Standards dated January 5, 2012

Dear Secretary Izzo:

Enclosed please find an original and ten copies of comments submitted on behalf of the New Jersey Division of Rate Counsel in connection with the above-captioned matters. Copies of the comments are being provided to all parties by electronic mail and hard copies will be provided upon request to our office.

We are enclosing one additional copy of the comments. Please stamp and date the extra copy as "filed" and return it in our self-addressed stamped envelope.

Thank you for your consideration and assistance.

Respectfully submitted,

STEFANIE A. BRAND
Director, Division of Rate Counsel

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New Jersey Rate Counsel Comments on OCE's Proposed Options to Revise the Solar RPS

Introduction

The New Jersey Division of Rate Counsel ("Rate Counsel") appreciates the opportunity to provide comments on the two solar transition proposals offered by the Office of Clean Energy dated January 5, 2012. Both options would purportedly address the volatility in the Solar Renewable Energy Certificate ("SREC") market while maintaining downward pressure on SREC prices.

The first option is to increase the solar RPS by establishing a set-aside for the EDC SREC programs. This increase would be based upon a cost-benefit analysis performed by the Rutgers Center for Energy, Economic, and Environmental Policy ("CEEEP") and would purportedly keep downward pressure on SREC prices.

The second option would be to leave the solar RPS as it is, but to increase the share of EDC program capacity by establishing a set-aside for the EDC SREC programs.

Solar Market Transition

Rate Counsel is opposed to rapid or dramatic changes to the current solar RPS and questions the needs for such changes. While recent market trends are claimed to have negatively impacted solar energy developers, they have not negatively impacted ratepayers. In fact, if anything, New Jersey ratepayers are finally beginning to see a return on the solar investments dollars they have put into the industry for the past decade.

While the solar industry has expressed significant concern about the recent decrease in solar delivery costs, and SRECs, Rate Counsel sees those changes as being the result of a wide range of changes in a developing market influenced by a number of state, regional, national and international considerations. There is simply no evidence that any changes New Jersey may make will influence those factors, nor is there any evidence that these recent market changes will last or are permanent in nature.

It is Rate Counsel's position that New Jersey has an attractive, if not the most attractive solar energy market in the country and one that has very robust public policy support. The strength of this market, and the likely temporary nature of the changes in this market over the past year, clearly indicate that no dramatic changes are necessary, and to the extent any changes are made, they should be done in a concerted and methodic manner with a longer-term view in mind.

For more than a decade, New Jersey has been a leader among states in fostering solar development and installations. (See Figure 1 below). Currently, New Jersey ranks second only to California in terms of installed solar capacity. No other state is prepared to, nor is proposing to challenge New Jersey's leadership position in solar development. New Jersey is still the best solar energy market in the eastern U.S. and affords solar developers a significant number of benefits and opportunities that do not exist in other state solar energy markets.

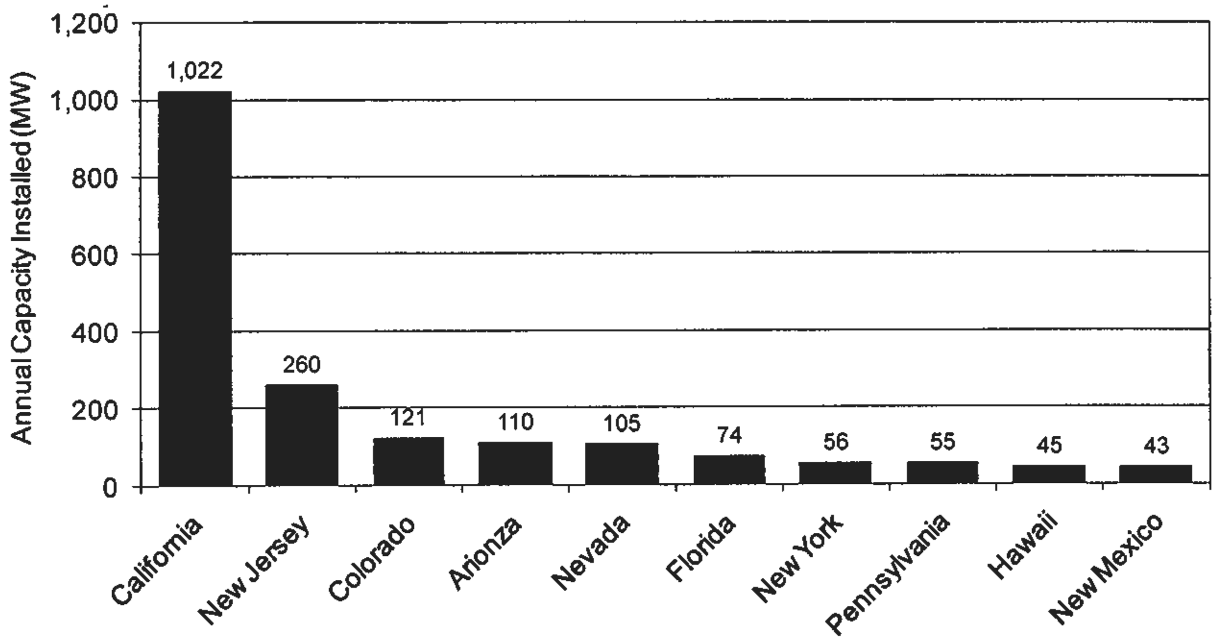

Figure 1. Installed PV Capacity in Top 10 States, 2010
Source: Interstate Renewable Energy Council, Accessed at: http://irecusa.org/.

New Jersey has gone to great lengths to promote and facilitate vibrant and healthy solar energy markets represented by a large number of buyers and sellers, free entry and exit conditions, healthy long- and short-term contracting opportunities, and a significant amount of installation diversity. Recent decreases in SREC prices are not a problem, but instead, represent a clear and visible sign that New Jersey's past policies in developing competitive solar energy markets are bearing fruits and providing rewards to those that have taken the biggest stake, and made the biggest investments: ratepayers.

Option 1: Increasing the Solar RPS through an EDC Program Set-Aside

The OCE proposal to increase the solar RPS in order to address the perceived crisis in solar energy markets and fast track development will create a new degree of scarcity which, in turn, will increase prices above levels considered by many solar developers to be "depressed."

Some solar developers have indicated that their proposals for advancing solar energy development rest more with forcing a new degree of business activity than on trying to create a new degree of market scarcity that would drive up prices and create new excess profits for solar energy developers.

If this is truly the case, then Rate Counsel would be willing to discuss certain types of changes to the solar RPS provided there is a fair balancing of risks and rewards between solar developers and rate payers as envisioned in the EMP:

> In light of New Jersey's fiscal challenges, efforts must be made to strip away any largesse that constitutes a transfer of wealth from New Jersey's ratepayers to EE/DR program developers.[1]

Rate Counsel believes that any front-loading or rebalancing of the State's solar RPS must be done, at minimum, on a revenue-neutral basis in net present value ("NPV") terms. One of two specific conditions, therefore, would need to be imposed on any rebalancing of the solar RPS.

The first potential condition for a revenue-neutral front-loaded solar RPS would be that solar capacity development goals would have to be substantially reduced in later RPS years, if the current SREC pricing trends continue to hold. These recent SREC pricing trends have seen SREC prices at levels that are close to the Solar Alternative Compliance Payment ("SACP") cap: in fact at levels far in excess of the 75 percent of SACP amounts originally envisioned when the solar RPS was first established, as demonstrated in Figure 2 below.

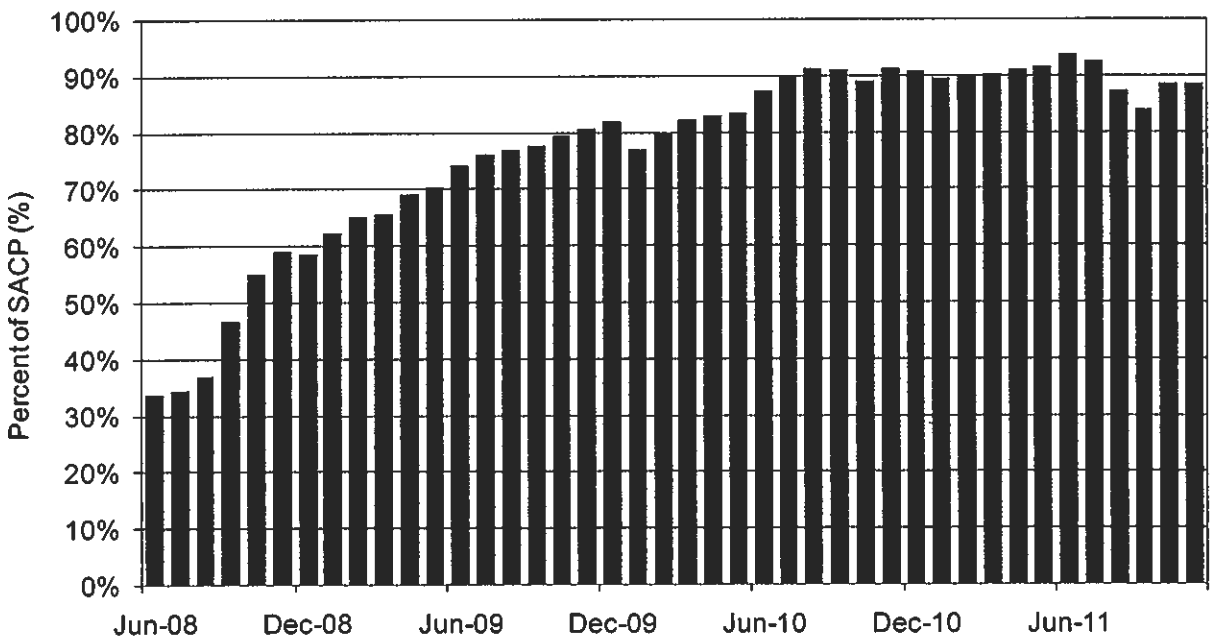

Figure 2. SREC as a Percent of SACP

Source: New Jersey Office of Clean Energy, Accessed at: http://www.njcleanenergy.com/renewable-energy/project-activity-reports/srec-pricing/srec-pricing.

[1] 2011New Jersey Energy Master Plan, December 6, 2011. (p. 55)

The second potential condition for a revenue-neutral front-loaded RPS would temper overall capacity development reductions in later years, but instead would require substantial decreases in both SREC and SACP levels to offset the initial year front-loaded costs.

Rate Counsel cannot agree with any proposal to increase the RPS without a corresponding decrease in latter years -- particularly when ratepayers are already committed to a potential solar cost exposure of between $6 billion to $7 billion under the current solar RPS.

Option 2: Increase in EDC Solar Contracting Program Capacity

There are currently two types of securitized programs for solar in New Jersey: (1) EDC long-term contracting; and (2) solar loan and other utility financed development programs. Both programs are defined for finite time periods. The EDC long-term contracting program will cease to hold solicitiations, and contract for new incremental capacity, starting in early 2012. The deadline for applications under the PSE&G Solar Loan II program expired December 31, 2011. Thus, OCE's proposals to "increase" the capacity under the EDC contracting program will, in effect, require each of the EDCs to offer new proposals for new incremental capacity.

Rate Counsel is open to the consideration of a moderate, and explicitly defined, extension of the EDC long-term contracting program under certain conditions:

- The shares secured under a long-term contracting extension do not exceed 40 percent, on average, across the duration of the extension period.
- No major modifications to the existing program design and solicitation process.
- Small development set-asides and goals are eliminated. Resources need to stand on their own and experience in these programs to date have shown that smaller systems can offer prices as competitive, if not more competitive, than larger systems.

Rate Counsel opposes the extension of any solar loan or other utility-financed solar energy program. While those programs may have made sense at the time they were approved, their need has passed. Comparable financing programs exist in competitive markets today, and utility intervention to provide patient capital is no longer necessary.

Any proposal examining changes or extensions of a utility-financed solar program must also address a number of issues that include: (1) has the program been successful in meeting its goals; (2) is the program cost-effective relative to other forms of long-term securitization like the EDC contracting program; and (3) a determination of the merits and demerits of maintaining non-uniformity in EDC securitization programs (i.e., utility financed programs versus utility contracting programs).