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October 11, 2007

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Via Hand Delivery

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Bldg., 2nd Floor
400 North Street
Harrisburg, PA 17120

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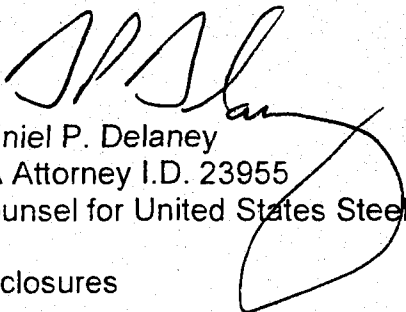
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004.
Docket No. L-00060180

Dear Secretary McNulty:

Enclosed please find an original and 15 copies of United States Steel Corporation's additional comments in response to the Public Utility Commission's Secretarial Letter dated September 13, 2007 which reopened the public comment period at this docket. An electronic copy of these additional comments has also been provided to the Bureau of Conservation, Economics and Energy Planning.

Very truly yours,



Daniel P. Delaney
PA Attorney I.D. 23955
Counsel for United States Steel Corporation

Enclosures

cc: Shane M. Rooney, Esquire (w/Enclosures)
Amy Jo Rudy (electronic copy)

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INDEPENDENT REGULATORY
COMMISSION

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Implementation of the Alternative
Energy Portfolio Standards Act of
2004.

Docket No. L-00060180

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S OFFICE

ADDITIONAL COMMENTS OF UNITED STATES STEEL CORPORATION
TO PROPOSED RULEMAKING ORDER.

United States Steel Corporation ("US Steel") files these additional comments in response to the Public Utility Commission's ("Commission's") Secretarial Letter dated September 13, 2007 which reopened the public comment period at this docket to provide interested parties the opportunity to advise the Commission on how the Act 35 of 2007 amendments to the Alternative Energy Portfolio Standards Act of 2004, 73 P.S. § 1648.1, et seq. ("AEPS" or "Act"), should be reflected in the final form of the Commission's AEPS regulations. US Steel previously filed comments on the Commission's proposed regulations in this docket on December 13, 2006 and participated as a member of the Commission's Demand Side Management/Energy Efficiency Working Group. US Steel's Mon Valley Works has been issued an interim qualification as a Tier II alternative energy system under the Act by the Commission and the Pennsylvania Department of Environmental Protection in January 2006. US Steel provides the following additional comments concerning the Act 35 AEPS amendments and their inclusion in the Commission's proposed regulations appended to the July 25, 2006 Order at this docket.

Summary of Comments

The success of the Alternative Energy Portfolio Standards Act of 2004 will depend in large measure on the establishment and maintenance of a robust alternative energy credit market in Pennsylvania. Electric Distribution Companies ("EDCs") and Electric Generation Suppliers ("EGSs") will rely on this market to procure the credits required for compliance with the Act. Parties which have been qualified as an alternative energy system under the Act will rely on the credit market as a marketplace for the sale of the Tier I and Tier II credits. The declaration of force majeure by the Commission may be necessary under some circumstances but such declarations have the potential to adversely affect the development of an alternative energy credit market in Pennsylvania. The declaration of a force majeure is a significant commercial event which should be carefully and completely evaluated by the Commission prior to a decision.

The revised definition of force majeure contained in Section 1 of Act 35 identifies a number of additional considerations the Commission must examine before declaring force majeure. In considering a force majeure declaration, the Commission should establish a procedure which allows all interested parties an opportunity to comment on these additional considerations prior to a Commission decision. An expedited and flexible comment procedure could satisfy due process requirements and meet the market exigencies presented. In light of the additional considerations identified in the revised definition, the Commission's decision would benefit from the comments of interested and knowledgeable parties. Adoption of a comment procedure should not be

unduly burdensome on the EDCs or EGSs or the Commission in determining whether a force majeure is appropriate under the circumstances.

Additional Comments

§ 75.37 General Force Majeure.

US Steel previously filed comments on this proposed section (prior comments at p. 11) which requested the Commission to identify procedures for a force majeure determination which would provide adequate notice and opportunity for interested parties to respond to such requests prior to Commission action and those comments are incorporated herein by reference. Those comments proposed that any request for a force majeure determination, whether upon the Commission's own initiative or upon the request of an EDC or an EGS, should be published for comment in the Pennsylvania Bulletin. If the force majeure request was made by an EDC or EGS, that party should be also required to serve a copy of the request upon all parties with whom the EDC or EGS has agreements for the purchase of alternative energy credits. Those comments also proposed that the Commission consider and address the comments filed by interested parties in making its determination on the force majeure declaration.

US Steel's additional comment on this section is that it must be revised to incorporate the revised definition of force majeure contained in Section 1 of Act 35 and the additional considerations identified therein. The revised definition now directs the Commission to consider additional factors in making a force majeure determination. The additional factors include: (1) whether the EDC or EGS has made a good faith effort to acquire sufficient alternative energy to comply with the Act's requirements, including banking alternative energy credits during their transition periods, seeking

credits through competitive solicitations or entering into long-term contracts. In making its determination, the revised definition now directs the Commission to assess the availability of credits in the PJM GATS system and the general availability of credits in Pennsylvania and other PJM jurisdictions. The Commission is also authorized to require solicitations for credits as part of default service before requests for force majeure can be made by an EDC. US Steel submits that the addition of these requirements in the revised force majeure definition supports US Steel's original comment that a flexible procedure for a decision must be developed. The amended definition requires the Commission to establish a procedure that enables the Commission to collect information on these determinations and to provide interested parties a due process opportunity to comment on them. Requests by EDCs or EGSs for force majeure declarations should include information and evidence on the additional issues included in the revised force majeure definition.

The AEPS Act provides a substantial property interest in alternative energy credits for parties qualified as alternative energy suppliers and in the ability to transfer them in an alternative energy credit program established and supervised by the Commission. See Section 3(e) of the Act, 73 P.S. § 1648.3(e). The declaration of a force majeure by the Commission may adversely affect this property right and therefore is subject to due process procedures. See e.g., Allegheny Ludlum Steel Corporation v. Public Utility Commission, 447 A.2d 675, 681 (Pa. Commonwealth Ct. 1982), aff'd, 459 A.2d 1218 (Pa. Supreme Ct. 1983) (due process adequacy of Section 1307 procedures). The Commission should include in its regulations a procedure where the due process rights of parties certified as alternative energy suppliers can be recognized

when considering the possibility of a force majeure declaration under the Act. The filing of comments by all parties will permit the Commission to act with the benefit of the information and positions contained in those comments. Adoption of this procedure should not be unduly burdensome and will allow the Commission to be fully informed prior to making its determination.

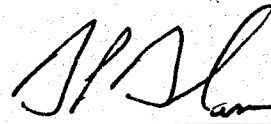
§ 75.38 Special Force Majeure.

US Steel also previously filed comments on this section (prior comments at p. 12) and those comments are incorporated herein by reference. Those comments requested the Commission to develop a procedure to allow interested parties to respond to a request for a force majeure determination under this section before it was declared. Although subsection (b) of the proposed regulations does provide for public notice, it does not specifically provide an opportunity for interested parties to file a comment in response to the EDC or EGS petition for a force majeure determination. As stated in the above comment to proposed Section 75.37(a), Act 35's revised definition of force majeure requires a number of determinations by the Commission before declaring a force majeure. The filing of comments by interested parties will permit the Commission to make an informed decision concerning whether a force majeure declaration is appropriate under all of the circumstances. Expedited procedures for notice and the filing of comments would allow the Commission to act quickly on a request if circumstances warrant. The declaration of a force majeure could affect the market for alternative energy credits in Pennsylvania and entities qualified as alternative energy systems should have an opportunity to comment on such a declaration prior to its issuance.

US Steel appreciates the opportunity to have provided these additional comments concerning the Commission's proposed AEPS regulations.

WHEREFORE, United States Steel Corporation respectfully requests the Commission to incorporate these comments and US Steel's prior comments in adopting final regulations for the implementation of the Alternative Energy Portfolio Standards Act of 2004, as amended by Act 35 of 2007.

Respectfully submitted,



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Counsel for United States
Steel Corporation

Dated: October 11, 2007

COPY

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)

Hand Delivered
October 11, 2007

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OCT 11 2007

Submitted by: *Maureen Mulligan*
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

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.