



Jon S. Corzine
Governor

Kristi Izzo
Board Secretary

NOTICE¹

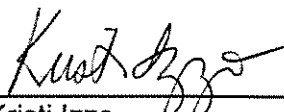
IN THE MATTER OF THE PETITION OF PUBLIC SERVICE ELECTRIC AND GAS COMPANY
FOR APPROVAL OF A SOLAR ENERGY PROGRAM AND AN ASSOCIATED COST
RECOVERY MECHANISM

BPU DOCKET NO. EO07040278

A petition in the above-captioned matter was filed with the New Jersey Board of Public Utilities ("Board") by Public Service Electric and Gas Company ("PSE&G") on April 19, 2007. This petition is available for review at the Board's offices located at Two Gateway Center, Newark, New Jersey 07102, or at the Board's website located at www.bpu.state.nj.us.

Board Staff has determined to convene a conference of potential interested parties prior to the Board's determination as to whether to retain this matter for hearing at the Board or transmit it to the Office of Administrative Law

Accordingly, please be advised that a conference has been scheduled for Thursday, May 31, 2007, at 10:00 AM in the Board's eighth-floor Hearing Room located at its offices at Two Gateway Center in Newark. PSE&G, the Division of Rate Counsel and other interested parties are requested to attend the conference and be prepared to discuss those items enumerated in N.J.A.C. 14:1-7.1(b).



Kristi Izzo
Secretary of the Board

Dated: May 10, 2007

Persons interested in attending the above Meeting who require special accommodations because of disability should contact the Office of the Secretary of the Board at (973) 648-3426 at least three (3) days prior to the Meeting date so that appropriate arrangements can be made.

¹ Not a Paid Legal Advertisement

April 19, 2007

Kristi Izzo, Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**IN THE MATTER OF THE PETITION OF
PUBLIC SERVICE ELECTRIC AND GAS COMPANY
FOR APPROVAL OF A SOLAR ENERGY PROGRAM AND AN
ASSOCIATED COST RECOVERY MECHANISM
BPU Docket No. _____**

Dear Secretary Izzo:

Please find enclosed for filing an original and ten copies of Public Service Electric and Gas Company's (PSE&G) verified Petition for Approval of a Solar Energy Program and an Associated Cost Recovery Mechanism.

PSE&G is filing this Petition seeking Board approval of an innovative solar energy initiative (the "Program"). Under the initiative, PSE&G will implement a solar photovoltaic (PV) development program across all customer classes within its electric service territory, with segments for residential, residential low-income, municipal/public entities, and commercial/industrial (C&I) and not-for-profit customers. PSE&G will provide financing for the installation of solar photovoltaic systems, which will generate solar energy. The Program will be a collaborative effort among PSE&G, its customers, the BPU, and the solar industry, in which solar photovoltaic systems will be installed on customers' premises "behind the meter," using PSE&G as the necessary source of capital. The Program is intended to reduce the overall cost of project development, installation, financing and maintenance, while providing the best solar energy value for all stakeholders. PSE&G is proposing to recover the costs of the Program, including an incentive, through its electric Societal Benefits Charge.

PSE&G is initially filing the enclosed verified Petition and its accompanying exhibits. Within thirty days, PSE&G will file direct testimony providing additional details about the Program's components, its overall benefits, and the Company's proposed cost recovery mechanism.

The Program will help New Jersey meet its goal of acquiring 20% of its electricity from renewable resources by 2020 and will also help reduce greenhouse gas emissions in accord with Governor Corzine's recent Executive Order. The Program will provide economic opportunities for solar developers and installers and other equity investors in New Jersey, thereby stimulating economic development and job growth within the State.

PSE&G seeks a Board Order approving the Program and cost recovery mechanism in a timely manner, so the Company can begin Program implementation in the fourth quarter of 2007, with actual solar photovoltaic system installation starting in 2008. PSE&G is committed to work in a collaborative effort with the Board, the solar energy industry, and all interested stakeholders to make the Program a success.

Respectfully submitted,

Original Signed by:

Frances I. Sundheim

c: Victor Fortkiewicz, Executive Director
Lance Miller, Chief of Policy and Planning
Noreen Giblin, Chief of Staff
Michael Winka, Director, Office of Clean Energy
Nusha Wyner, Director, Division of Energy
Samuel Wolfe, Chief Counsel
Ronald Chen, Public Advocate
Paul Flanagan, Division of Rate Counsel

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE PETITION OF)
PUBLIC SERVICE ELECTRIC AND GAS)
COMPANY FOR APPROVAL OF A SOLAR)
ENERGY PROGRAM AND AN)
ASSOCIATED COST RECOVERY)
MECHANISM)

P E T I T I O N

Public Service Electric and Gas Company (PSE&G, the Company, Petitioner), a corporation of the State of New Jersey, having its principal offices at 80 Park Plaza, Newark, New Jersey, respectfully petitions the New Jersey Board of Public Utilities (Board or BPU) pursuant to N.J.S.A. 48:2-1, *et seq.* as follows:

INTRODUCTION

1. Petitioner is a public utility engaged in the distribution of electricity and the provision of electric Basic Generation Service (BGS), and distribution of gas and the provision of Basic Gas Supply Service (BGSS), for residential, commercial and industrial purposes within the State of New Jersey. PSE&G provides service to approximately 2.1 million electric and 1.7 million gas customers in an area having a population in excess of 5.5 million persons, and which extends from the Hudson River opposite New York City, southwest to the Delaware River at Trenton and south to Camden, New Jersey.

2. Petitioner is subject to regulation by the Board for the purposes of setting its retail distribution rates and to assure safe, adequate and reliable electric distribution and natural gas distribution service pursuant to N.J.S.A. 48:2-21 *et seq.*

3. Petitioner has been involved in the provision of demand-side management (DSM), demand response (DR), energy efficiency (EE), and renewable energy (RE) initiatives and programs since the 1980s. PSE&G's Standard Offer program, implemented pursuant to the Board's orders and DSM regulations, has provided more than 12 million MWhs of energy savings since commencing in the early 1990s. PSE&G has had an appliance cycling program, through which air conditioners and certain other electric appliances are cycled to provide peak demand reductions during summer months, since the early 1990s. More recently, after the enactment of the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 *et seq.* (EDECA), PSE&G has administered both energy efficiency and renewable energy programs as part of the Board's Clean Energy Program. Even as the Board has transitioned some of these programs to market managers, PSE&G continues to administer the Comfort Partners Low-Income Energy Efficiency Program and provides support to the Clean Power Choice Program.

4. PSE&G is filing this Petition seeking Board approval of an innovative solar energy initiative. Under this initiative, PSE&G would implement a solar photovoltaic (PV) program (the "Program") across all customer classes within its electric service territory, with segments for residential, residential low-income, municipal/public entities, and

commercial/industrial (C&I) and not-for-profit customers. PSE&G will provide financing for the installation of “behind the meter” solar photovoltaic systems, which will generate solar energy. The financing will allow the solar industry in New Jersey to continue to play a key role in the marketing and development of solar energy systems. PSE&G, as a large public utility with expertise and experience in energy efficiency and renewable energy programs, as well as sufficient capital resources to support such an endeavor, is uniquely situated to implement and administer this program.

EXECUTIVE SUMMARY OF THE PROGRAM, ITS BENEFITS, COST RECOVERY MECHANISM, AND BPU APPROVALS SOUGHT

5. PSE&G proposes to implement and administer the Program, which will have the following major elements and segments:

Program Design Applicable to All Segments

6. PSE&G will provide loans to solar photovoltaic system developers, large commercial or industrial customers, or other qualifying entities, to assist in the financing of qualified solar photovoltaic systems.

7. The loans will provide financing for part of the expected project cost; an equity partner or the customer would provide the remaining financing.

8. The borrower will fully repay the loans made by the Company by providing PSE&G with Solar Renewable Energy Certificates (SRECs) (or cash that PSE&G will use to purchase SRECs), to repay principal and interest.

9. PSE&G will allocate the SRECs for the benefit of its electric customers to all load-serving entities (LSEs) (i.e., BGS providers and Third-party Suppliers (TPSs)) serving retail load within the PSE&G electric distribution service territory.

10. Customers will either: (a) own the solar PV system and receive the benefit of the solar power directly; or (b) enter into an agreement (“Customer Agreement”) with the owner/developer to purchase the energy at a negotiated rate. The Board’s net metering rules will apply to any excess electricity delivered to the PSE&G distribution system.

11. Customers must have a maintenance agreement in place to maintain the solar PV system. The facility owner may contract for such maintenance service with any qualified entity.

12. The Program will have the following segments:

C&I/Not-for-Profit Segment (40 %)

- The project owner is a solar developer or customer.
- For projects in which a developer is involved, the host customer receives the energy through an agreement with the developer. The system output will be metered and PSE&G will bill the developer’s charges to the customer on the PSE&G electric bill.
- If the customer is the project owner, it will own the system and receive the solar energy directly, under the Board’s net metering rules.

Residential Segment (20%) and Residential Low-income Segment (10%)

- Model is substantially similar to the C&I Segment
- PSE&G will provide financing to developers or to an agency such as the New Jersey Housing and Mortgage Finance Agency (HMFA), which would be responsible for loan origination.
- Customers may be eligible for rebates from the BPU Clean Energy Program, if available.
- Low-income segment will target existing multi-family, new construction and single family homes.

Municipal Segment (30%)

- Model is similar to the C&I segment
- PSE&G will provide financing to the project owner, which would likely be an equity partner.
- The participating municipal entity would benefit from receiving solar electricity that the PV system generates under an agreement with the project owner.
- The system output will be separately metered and PSE&G will bill the developer's charges to the customer on the PSE&G electric bill.

Program Benefits:

- Supports the developing solar photovoltaic industry in New Jersey, along with the attendant environmental and societal benefits
- Will help achieve the State's renewable energy portfolio and Energy Master Plan targets, including increased renewable energy, reduced greenhouse gas emissions, and sustainable economic development
- Will provide clean, low-cost electricity to municipalities and other qualifying governmental entities, to help ease the property tax burden in New Jersey
- Supports the market-based approach to renewable energy funding, by providing for the development of a vibrant SREC market
- Provides a stable source of capital for renewable energy development, with no increase in customers' electric delivery bills

Cost Recovery:

- PSE&G will recover the program costs, including the amortization of the loan principal over the term of the loan, a return on the unamortized loan balance at 12.08% (including income tax effects), and its incremental administrative costs through its electric Societal Benefits Charge (SBC)

- PSE&G will also recover “make whole” payments to recover otherwise foregone electric distribution fixed cost contributions until such cost contributions are reflected in base rates following a base rate case.
- There is no net impact on PSE&G’s electric customers’ delivery bills expected.

BPU Approvals Sought:

- Approval for PSE&G to implement the Program
- Approval for the cost recovery mechanism set forth in this Petition
- Approval of a model loan agreement.

DESCRIPTION OF THE PROGRAM

13. The Program is a distributed photovoltaic solar initiative, which will be a collaborative effort among PSE&G, its customers, the BPU and the solar industry, in which solar photovoltaic systems will be installed on customers’ premises “behind the meter,” using PSE&G as an essential source of capital. The Program is intended to reduce the overall cost of project development, installation, financing and maintenance, while providing the best solar energy value for all stakeholders.

14. PSE&G seeks approval for a 30 MW Phase 1 Program at this time. PSE&G may seek future Board approval of additional phases. The 30 MW Phase 1 is designed to fulfill approximately one-half of the Board’s Renewable Portfolio Standard (RPS)

requirements for load served in the PSE&G service territory during the energy years 2008/2009 and 2009/2010 (~57MW).

15. PSE&G will provide loans to solar photovoltaic developers or C&I customers (Project Owner) for a portion of a project's cost. The Project Owner will repay the loan over a 15-year period by providing SRECs (or an equivalent amount of cash) to PSE&G. If PSE&G receives cash payments, it will purchase SRECs¹ and allocate them as discussed below.

16. The interest rate on the loan would be based on PSE&G's weighted average cost of capital as determined in the Company's most recent base rate case, plus 100 basis points on the cost of equity, including income tax effects.

17. The SRECs, for purposes of this Program, will have an established floor value, which PSE&G currently estimates will be \$475, for the 15-year loan repayment period. For purposes of loan repayment, the actual SREC market value will be determined monthly, using data from a published index of the average SREC price for the year to date, as approved by the SREC Program Administrator appointed by the BPU or its successor agency.

18. If the market value of the SRECs is above the floor price, the loan may be repaid sooner than its 15-year term.

¹ For example, if PSE&G receives a \$100 cash loan payment from a borrower, it will purchase \$100 worth of SRECs.

19. PSE&G will allocate all the SRECs it acquires in connection with this program for the benefit of its electric customers to all LSEs (BGS providers and TPSs) serving retail load within the PSE&G electric distribution service territory.

20. For projects where the host customer does not own the solar PV system, the customer will enter into a Customer Agreement with the Project Owner to purchase the solar energy the system produces. A meter will be installed to separately record the output of the solar PV system (except for certain residential systems). PSE&G will bill the Project Owner's charges to the customer on the PSE&G bill, much in the same way PSE&G bills TPS charges or the Green Power Marketers' charges for customers who participate in the Board's Clean Power Choice Program. PSE&G will remit the charges it collects to the Project Owner. PSE&G will assume the receivables associated with the Project Owner's charges, using the criteria in place for electric TPSs in the retail choice program. Once PSE&G assumes the Project Owner's receivables, the receivable will be treated utilizing PSE&G collection practices and procedures applied to delivery charges, including potential disconnection for non-payment. A billing services agreement between PSE&G and the Project Owner will be executed for all projects where PSE&G will bill the Project Owner's charges.

21. For projects where the host customer owns the solar PV system, the customer will receive the output of the system, under the existing Board rules and PSE&G tariff provisions concerning net metering.

Customer Offer

22. Customers may choose a developer to work with or, in the C&I segment, may apply to the program directly. If requested to do so, PSE&G will provide assistance to customers in locating potential developers to work with, including posting a list of solar developers on the PSE&G website.

23. Customers host and potentially own the system. In some cases, the systems will be owned by an equity partner that can take advantage of the Federal Investment Tax Credit (ITC).

24. All PV system installations will be generally sized to meet all or a portion of the customer's load.

25. All systems must be eligible for net metering pursuant to the BPU's net metering regulations and under the terms and conditions of PSE&G's Tariff, create SRECs, and be located in PSE&G's electric distribution service territory.

26. PSE&G will provide financing to the Project Owner in the form of a loan secured, at a minimum, by the project equipment and related agreements. There will be a loan agreement between PSE&G and the Project Owner that addresses the conditions pursuant to which the financing is made, including repayment, security/collateral, and maintenance on the project.

27. Borrowers will repay the loan by providing PSE&G with all of the project's SRECs (or cash, with which PSE&G will purchase SRECs) over a term of 15 years or

until the loan is repaid in full. After the loan obligation has been fully repaid, the system owner will retain title to the SRECs; however, if the loan is repaid prior to the 15-year term, PSE&G will have the option to call on the SRECs produced by the project at a pre-determined price, over the remaining time left in the original loan term (but not thereafter).

28. For any cash loan payments it receives, PSE&G will purchase SRECs and allocate them to LSEs as discussed herein.

29. All SRECs PSE&G obtains in connection with this Program will be used to offset the LSEs' RPS obligations for PSE&G load by proportional allocation on a quarterly basis. PSE&G will provide a projection at the start of each energy year of how many SRECs will be provided to each LSE, thereby allowing for contracting of other SREC purchases with minimal disruption.

30. The project developer, if different than the customer, will enter into an agreement with the customer regarding the electricity the solar PV system produces. PSE&G will bill the developers' charges to the customer on the PSE&G bill, similar to the manner in which PSE&G currently bills the charges of electric TPSs and Green Power Marketers participating in the Board's Clean Power Choice Program.

31. The owner must enter into a maintenance agreement for the system. The owner may contract with any qualified service provider.

Customer Segment Details

32. The percentage caps and MW sizes for each segment will be “hard” caps for the initial year of the Program, except for the Residential-General Segment. Based on market conditions and the status of projects accepted into each segment during the initial year, PSE&G reserves the right to convert these percentages into “soft” caps starting in the second year of the Program.

Municipal Segment – 9MW (30%)

33. PSE&G will lend money to the Project Owner to pay for a portion of the capital costs of the project. The Project Owner would likely be an equity partner.

34. Municipalities and other units of local government (government entities) will serve as host sites.

35. The government entities enter into agreements for the output of the systems, as discussed above. The solar PV system output will be separately metered and PSE&G will bill the charges due under the agreement on the PSE&G bill and remit the sums due to the Project Owner.

Residential – General Segment – 6MW (20%)

36. For most residential projects, the customer will own the system and will be able to claim the federal tax credit.

37. The customer obtains energy directly from the system and is eligible for net metering.

38. The customer pays a portion of the project capital themselves, obtains a rebate from Clean Energy Program (if available) or takes advantage of a tax credit (if approved by Congress).

39. For the residential segment, some level of rebate from the Clean Energy Program would likely be required.

40. PSE&G provides a secured loan, which is amortized over 15 years.

41. There must be a maintenance agreement in place to insure system performance.

42. The 20% is a “soft cap.” The entire residential segment is 30% and if the low-income segment becomes subscribed more rapidly, the soft cap would apply.

Residential – Low Income Segment – 3MW (10%)

43. PSE&G will seek to partner with the New Jersey Housing and Mortgage Finance Agency’s (HMFA) “Sun Lit” Program.

44. Multi-family, New Construction (multi-family or single family), and existing single family homes would be eligible.

45. For the multi-family segment, PSE&G would provide financing to the project owner (either solar developer or site developer) in the form of a secured loan. The loan will be amortized over 15 years.

46. The New Construction component would be structured similar to the proposal for the C&I Segment.

47. A residential “soft cap” will apply, subject to the total 30% cap for both residential segments.

Commercial and Industrial/ Not-For-Profit Segment – 12MW (40%)

48. The system owner will be either the customer or a Project Owner that can take advantage of the Investment Tax Credit (ITC).

49. The customer provides the host site, and if not the owner, obtains energy through a Customer Agreement with the Project Owner.

50. The Project Owner develops the project, installs the system and executes a Customer Agreement with the host customer.

51. PSE&G provides financing through a loan to the Project Owner or customer. If a developer is involved, the solar PV system output will be separately metered and PSE&G will bill the charges for the system energy on behalf of the developer, as discussed herein above.

Program Rules and Application Process

52. The detailed Program Rules and Application Process are set forth in Exhibit A to the Petition. The following paragraphs provide a summary of the key elements of these rules and processes.

53. The Program will be open for 2 years (from the date of Board approval), but will run on recurring 3-month cycles. PSE&G will accept project applications during each cycle and at the end of each 3-month period apply the project allocation rules and then make an informational filing with the BPU for the proposed set of projects. Unless the BPU objects to any of the accepted projects within a 30-day period after the filing, the projects will be deemed approved, and PSE&G will issue project commitments upon the execution of the necessary agreements with the Project Owner and host customer. This process will proceed for 2 years, or until the entire 30MW program is allocated, whichever comes first.

54. There is a maximum capacity allocation cap of 10 MW per cycle. The program will not issue project commitments above this level within a given cycle.

55. For the first year of the Program there will be hard caps of 9 MW (30%) for municipal, 9 MW (30%) for residential, and 12MW (40%) for the C&I/Not-for Profit segment. Based on market conditions and the status of projects accepted into each segment during the initial year, PSE&G reserves the right to convert these percentages into “soft” caps starting in the second year of the Program.

56. For the residential segment, the program will set soft caps of 6MW (20%) of the total 30 MW block for general residential, and 3MW (10%) for the low-income/affordable housing.

57. Projects must meet certain performance criteria as determined by the software program PV Watt.

58. Project approvals will be granted on a first-come, first-served basis within each 3 month cycle, so long as: (a) the capacity limits for the cycle are not exceeded, and (b) the soft caps per segment are not exceeded. The application process will accept projects according to commercially reasonable performance and credit criteria. More particularly, creditworthiness determinations will be based upon an assessment of an applicant's ability to fully collateralize the loan. Because of the relationship between the total project costs, equipment costs and loan amount, in many instances the applicant will provide PSE&G with a first lien and security interest in the project equipment and related project collateral. An application fee will be charged. Any project that is incomplete or does not meet eligibility requirements will be returned with a statement as to why it was rejected. An applicant will have an opportunity to remedy the specified defect within a prescribed amount of time, and continue to be considered part of the current cycle.

59. If there are fewer project applications than the capacity limit (or overall program limits), all qualifying projects within that segment would be approved.

60. If there are project applications in excess of the capacity limit within a cycle, projects will be accepted on a first-come/first served basis, and the excess projects will be placed at the head of the line for the following three-month cycle.

61. If a project is not installed within a one-year period after PSE&G has approved it, made the informational filing with the BPU, and issued a commitment, it will be

cancelled and the associated capacity will become available for reallocation to other projects waiting in line.

62. All non-residential projects, as well as any residential projects in which a developer is involved, will be metered and all Project Owners must register with the BPU's SREC administrator. Residential projects may use deemed savings.

63. PSE&G will post the status of block subscriptions on its web site, and make the information available to all developers.

TRANSITION STRATEGY

64. The Program will assist the Board's transition of its renewable energy programs from a rebate-oriented approach to a market-based approach based on tradable SRECs.

Background

65. In 2003, Governor McGreevey formed the Renewable Energy Task Force and charged it with providing recommendations to strengthen New Jersey's RPS rule. The Task Force adopted a goal to achieve 120,000 MWh of solar PV generation in the state by 2008. In a rulemaking following submission of the Task Force's recommendations, the Board adopted the solar goal as a carve-out of the Class I RPS requirement. *See* N.J.A.C. 14:8-2.3 and -2.4.

66. To facilitate a market for solar energy in New Jersey, the Board has

supported PV installations through a combination of rebates and the issuance of SRECs, which can be sold in the open market to LSEs required to comply with the RPS. Rebate levels differ depending on the size of the project and the customer class.

67. The solar alternative compliance payment (SACP), the price level at which an LSE may elect to make a payment to the Clean Energy Fund in lieu of purchasing SRECs, was set initially at \$300 per SREC. This price level reflected the fact that PV installations are partially rebated. The Board has indicated that the SACP will likely increase in the near future, given market conditions and the Board's desire to transition its solar program away from a rebate-based model. Without rebates in place, a \$300 SACP would not be likely to support the development of PV projects.

Current Status of the Solar Market

68. Through the end of 2006, the Board has rebated approximately \$120 million toward the installation of 27 MW of solar. The Board believes that it has sufficient funding through the SBC to rebate a total of about 84 MWs of PV installations. While this is a sufficient level of funding to meet the RPS targets through the 2007/2008 energy years, funding levels are insufficient to meet RPS targets beyond May 2008 at the current SACP level.

69. In addition to the lack of sufficient funding to meet future targets, all solar rebates through the 2008 are already "spoken for." Further dampening the solar market is the fact that no clear path exists to move away from the current hybrid combination

rebate/SREC-driven market to a new regulatory paradigm without rebates. A project owner today would have to install a project off-cost and at-risk, hoping that they would get fair treatment under a yet to be determined future regulatory scenario.

SREC Market Transition

70. Given the insufficiency of SBC funding to provide sufficient rebates to meet RPS targets beyond May of 2008, market participants realized it was necessary to transition away from rebates to a more sustainable market structure. During the summer of 2006, the solar industry proposed a number of potential solutions to transition away from rebates, stabilize the market, and provide some longer-term certainty to the market.

71. The Board ultimately proposed to implement a pilot program that involved moving away from a rebate for future projects and raising the SACP level to reflect the fact that the project costs would be fully captured through the SREC. However, the pilot program and proposed increase in the SACP level are still under consideration.

72. The Board retained the services of a consultant (Summit Blue) to provide a rate impact analysis of various regulatory scenarios. In their preliminary finding, Summit Blue made two general observations.² First, they note the “immediate need for a market transition.” *Id.* at p. 1. Summit Blue recognizes that new projects cannot be developed until the future of the solar market is clear. *Id.* They also recognize the financial strain on

² PRELIMINARY REVIEW OF ALTERNATIVES FOR TRANSITIONING THE NEW JERSEY SOLAR MARKET FROM REBATES TO MARKET-BASED INCENTIVES, Summit Blue Consulting, February 22, 2007.

the solar industry in the state today. *Id.* Without a quick and decisive move toward a new market structure, it is possible that the developing solar industry in New Jersey could be threatened. Secondly, Summit Blue recognizes the need for risk sharing in the solar market. *Id.* at p. 29. Currently, solar projects operate as merchant SREC generators, taking on all of the regulatory and market risk. Because SRECs are a creation of the Board and only have value to the extent that the Board continues to support the solar RPS, the market heavily discounts the future value of SRECs. This means that hefty risk premiums and short payback times are built into SREC prices. This is not optimal for solar developers or ratepayers.

PSE&G's Program

73. PSE&G's Program, developed with extensive collaboration with the solar industry in New Jersey, proposes a market transition solution that the Board can approve and PSE&G can implement under the Board's existing statutory authority. *See* discussion, *infra*. While Summit Blue recognized that other market models could also support the solar market, some of these potential solutions would require legislative changes or the cooperation of other agencies.

74. The Program, described more fully in the preceding sections of this Petition, operates similarly to the underwriter model detailed in the Summit Blue Report, where the underwriter mitigates regulatory and merchant risk by guaranteeing a floor price for participating PV systems.

75. In this case, the PSE&G's role would be similar to an underwriter. PSE&G would provide take-out term financing for a portion of the total project cost. This loan would be repaid in SRECs. The loan would include a floor price for SRECs designed to fully amortize the loan over a fixed period of time. If SREC prices exceed the floor price, the loan will amortize faster. If SREC prices drop, the project would benefit from the certainty of being able to recover its costs, up to the floor price.

Disposition of SRECs

76. Through this program, PSE&G customers will support the installation of PV systems through their electric delivery charges. PSE&G proposes to distribute SRECs acquired through this Program to its customers via LSEs serving load in PSE&G's service territory. This allocation of SRECs would reduce the compliance obligation of LSEs, which should be reflected in reduced electric supply charges. Therefore, PSE&G customers would benefit from the SRECs generated by the PV systems they support. Currently, the cost of the solar program is reflected in the SBC charge and is also embedded in the electric commodity charge of the LSEs.

77. Because this allocation of SRECs will only cover a portion of an LSE's solar RPS requirement, the LSE would still need to acquire SRECs through the merchant solar market. This requirement to procure additional SRECs will ensure that the merchant market for SRECs remains viable. The growing RPS requirement, coupled with the stabilizing effect a long-term market participant like PSE&G, should complement the

merchant SREC market and encourage stability.

78. SRECs created through the Program would be allocated to all LSEs, both BGS suppliers and TPSs, in proportion to the amount of load served using the formula in *Figure 1*.

Figure 1

$$\left(\frac{\text{Load Served by LSE}}{\text{Load Served By All LSE's}} \right) \times \text{Total SRECs Received by PSE\&G}$$

PSE&G would provide timely information to the marketplace as to the number of systems in operation, so that LSEs could estimate the number of SRECs they will need to purchase in the marketplace.

Tracking & Distribution of SRECs

79. SRECs will be tracked through the current New Jersey SREC trading system. SRECs are created on a monthly basis by the New Jersey SREC Program Administrator, which tracks the production of solar PV systems in New Jersey. Through monthly meter readings (for systems 10 kW or larger) or engineering estimates (for systems smaller than 10 kW), solar electricity production is tracked. For each 1 MWh produced, the Program Administrator deposits one SREC into the appropriate account. Currently, all LSEs and solar PV system owners wishing to sell SRECs are required to register for an SREC trading account for RPS compliance purposes. Accordingly, all PV

system owners or “responsible agents”, LSEs, and PSE&G would be required to register for an SREC trading account.

80. On a monthly basis, PV system owners or responsible agents would transfer their SRECs to PSE&G’s SREC trading account (or pay to PSE&G the cash equivalent, with which PSE&G will purchase SRECs). After PSE&G calculates the final load served by LSEs in its service territory, typically 60 days after the close of the month, PSE&G will transfer SRECs to LSE accounts based on the formula described in Figure 1.

81. PSE&G will continue to file annual RPS compliance reports on behalf of BGS suppliers serving load in its territory. Third party suppliers will file their RPS compliance filings directly with the Board, as is currently the practice.

TRANSITION OF CLEAN ENERGY PROGRAM FUNDING MECHANISM

82. PSE&G anticipates that its investment in the 30 MW Phase I will be approximately \$100 million over the period of 2008-2010. In addition, PSE&G estimates that its incremental administrative costs will be approximately \$3 million per year.

83. The Program will mark a transition away from the current rebate/SREC funding mechanism for solar projects in New Jersey. Therefore, it is also appropriate to transition PSE&G’s current funding mechanism for renewable energy programs.

84. Accordingly, PSE&G requests that the Board recognize PSE&G’s costs associated with the Program in its calculation of the Company’s overall funding level for

renewable energy programs. For example, if PSE&G's funding level for renewable energy projects would otherwise be \$XX million in 2008, it would instead be \$XX million minus the annual program costs and make whole payments for the Program. This mechanism should, all else being equal, eliminate any electric delivery rate changes from the implementation of the Program.

BENEFITS TO CUSTOMERS, THE ENVIRONMENT, AND ECONOMIC DEVELOPMENT IN NEW JERSEY

85. The Program will provide benefits to customers and the environment, and help stimulate economic growth in New Jersey.

86. New Jersey has an ambitious goal of acquiring 20% of its electricity from renewable resources by 2020. Recently, Governor Corzine has issued Executive Order No. 54, with a goal of reducing greenhouse gas emissions by approximately 20% by 2020. PSE&G's proposed Program will help the State achieve these goals.

87. One of the cornerstones of the State's Energy Master Plan is economic growth and development in the State. The Program will provide economic opportunities for solar developers and installers and other equity investors in New Jersey. These economic opportunities will, in turn, facilitate increased job growth.

88. The Program will also provide a measure of market stability to the Board's renewable energy program. PSE&G's willingness to deploy significant capital for solar projects, to be repaid in SRECs for a 15-year period, will send a signal to other market

participants that long-term players are in the solar market and expect the solar RPS to continue well into the future. This should have a stabilizing effect on the overall SREC market, which should benefit customers. Ratepayers are currently paying high risk premiums associated with an SREC market that lacks a clear future. With a long-term financial commitment to the solar market, and regulatory assurances for approved projects, LSEs should feel more comfortable about entering longer-term contracts with PV projects. These longer-term contracts should help moderate SREC prices by reducing risk premiums and lengthening expected project cost recovery times.

89. The Program will also mitigate rate impacts from the Board's planned transition to an SREC model. The Board's planned transition from a rebate model to an SREC model raises the potential for "rate shock" if subsidies for solar projects are eliminated and the SACP is raised to reflect the capture of more value through the SREC. This could be a particular concern in the next few years, because solar panels remain in short supply and, as a result, prices will likely not moderate significantly in the near term.

90. The Program will reduce the rate impact of increased RPS requirements by spreading the cost of a solar PV system to customers over a longer period of time. While the loan will amortize based on the market value of SRECs (subject to the floor price), ratepayers will not bear the full market cost of the SRECs in the early years of the program for solar PV systems under this program.

91. The Program will also stimulate increased participation in solar energy

projects across customer classes. Under the current rebate system, residential and governmental installations are offered higher rebate levels to compensate for the higher transactional costs associated with smaller projects and the lack of the Investment Tax Credit available to commercial and industrial customers. This acts to level the playing field between different customer classes and allow all customers to participate in the SREC market.

92. With rebates being phased out, it is unclear how the residential and governmental market segments would continue to remain on a level playing field with commercial and industrial projects. This gives rise to an equity issue, with residential and governmental customer dollars being shifted toward subsidizing commercial and industrial customers. PSE&G's Program would ensure the continued participation of all market segments.

COST RECOVERY

COST RECOVERY PROPOSAL

93. PSE&G is proposing that the Board authorize the recovery of costs related to the Program through the electric SBC. The details of the costs proposed to be recovered, as well as the mechanism for such recovery is detailed in this section of the Petition.

94. PSE&G is proposing to recover the revenue requirements associated with the direct costs of program, plus the foregone electric distribution fixed cost contribution,

also known as “make whole payments”, which would otherwise have been recovered through base electric distribution rates. Direct costs include the loans for the solar PV systems, incremental PSE&G labor and other similar incremental costs associated with the initial and ongoing administration of this program. The forgone electric distribution fixed cost contribution equals the electric delivery revenue, less taxes (TEFA and NJ SUT) and adjustment charges (except the Base Rate Distribution Kilowatt-hour Adjustment), which will no longer be recovered as the result of the decreased delivery of electricity to the customers where the solar facilities have been installed.

95. PSE&G is proposing that the revenue requirements and make whole payments related to this program be recovered through the Energy Efficiency and Renewable Energy Program component of the electric SBC charge.

Calculation of revenue requirements of direct cost

96. As previously mentioned, PSE&G is proposing to recover the revenue requirements associated with the direct cost of this program. The loan amounts provided to the Project Owner for the solar facilities, PSE&G metering equipment costs, advertising costs, and the initial costs for processing applications are proposed to be treated as a regulatory asset, and amortized over 15 years as described below. PSE&G is proposing that all of the continuing costs, such as periodic inspections and maintaining the measurement and verification (M&V) system to determine solar energy production,

be treated as expenses. The revenue requirements associated with these direct costs would be expressed as:

$$\text{Revenue requirements} = (\text{Cost of Capital} * \text{Net Plant}) + \text{Amortization} + \text{Expenses}$$

The details of each of the above terms are described as follows:

Cost of Capital – This is PSE&G’s overall weighted average cost of capital (WACC) authorized by the Board in the most recent base rate case, plus an incentive return of 100 basis points on the Return on Equity, including income tax effects.

Net Plant – This is the net balance of the regulatory asset account, less the ongoing amortization.

Amortization – This is the amortization of the regulatory asset. These investments would be amortized over 15 years. The amortization would be based on a vintaging methodology instead of the mass property accounting typically used for utility property.

Expenses – This would include any incremental PSE&G labor and other related on-going costs required to run the program.

Cash payments received by PSE&G from the Project Owner for early termination of a contract or insurance recovery related to damage to the solar installation will be credited against the Net Plant of the specific project. Cash payments received by PSE&G in lieu of SRECs, as described elsewhere in this Petition, will be used to purchase SRECs in the

market.

Method for recovery of direct cost

97. PSE&G is requesting that the Board grant approval for deferred accounting treatment of the revenue requirements associated with the direct costs of the program, for recovery through the Energy Efficiency & Renewable Energy component of the SBC. This would be accomplished by subtracting each month's calculated revenue requirements from that month's required payment to the BPU's Office of Clean Energy (OCE) for energy efficiency and renewable energy programs to be recovered through the Energy Efficiency and Renewable Energy Programs component of the electric SBC.

Calculation of foregone fixed cost contribution

98. Due to the current variations in rate design and current PSE&G electric billing meter capabilities, two different methodologies for the calculation of the foregone electric distribution fixed cost recovery are required. The primary difference in these methodologies involves the calculation of the reduction in the customer's peak kW demand, which requires knowledge of the hourly net alternating current produced by the solar PV systems (termed the "net ac output") at each customer's site.

99. As a balance between costs and extreme technical precision in the calculation of the impacts to distribution revenue, PSE&G is proposing an alternative to

the installation of hourly recording meters on each solar PV facility and replacing each customer's billing meter with an hourly recording meter. The measurement and verification system of both net solar ac output and the foregone distribution fixed cost recovery for non-residential installations will be based on the development of an hourly solar net ac output load profile, similar to the current process used for the retail settlement of electric supply, where the hourly energy usage for non-hourly metered customers is developed based on a customer's monthly kWh usage and the hourly load profile from a sample set of customers.

100. For this program, the first 10 solar PV installations will be designated as "sample units." A PSE&G hourly recording type meter measuring the actual ac output of the solar PV system will be installed only on these units and this hourly data will be used to develop a load profile representing the net ac output of a typical solar PV system, most likely expressed on a per kW of installed solar capacity. Although these are referred to as "hourly" calculations, these will actually be performed based on either 15 minute or 30 minute intervals, based upon the rate schedule specific methodology used to determine the customer's peak demand for billing purposes. This solar load profile will be used in most cases to determine the forgone electric distribution fixed cost recovery for rate schedules where the rate design is such that at least a portion of the fixed costs are recovered through peak demand (per kW) charges. The details of this calculation will be described later in this section.

101. The different methodologies required for the calculation of the forgone distribution fixed cost recovery are described as follows:

Type #1 – Where the distribution fixed cost recovery, other than the Service Charge, is recovered only through energy (per kWh) charges. This includes residential Rate Schedules RS, RHS and RLM:

- Electricity produced each month (the net solar ac output) will be based upon the then current estimates of monthly kWh produced provided by the Board’s Office of Clean Energy for a system of the size, shape, and configuration of that installed (termed “deemed net solar ac output”).
- Foregone electric distribution fixed cost recovery will equal to the then current per kWh electric delivery charges in the appropriate rate schedule, less taxes (TEFA and NJ SUT) and adjustment charges (except the Base Rate Distribution Kilowatthour Adjustment), times the then current BPU approved deemed net solar ac output from each solar installation. These calculations will be done each month for each solar facility.

Type #2 - Where at least a portion of the distribution fixed cost recovery, other than the Service Charge, is recovered through peak demand (per kW) charges. At present, this includes the vast majority of customers on Rate Schedule GLP and all customers on Rate Schedules LPL and HTS. In these instances, the calculation of the peak demand impacts due to the solar PV facilities require the use of two hourly load shapes - the hourly net ac

output of the solar system and the net hourly use of the customer at the PSE&G billing meter. Both of these load shapes will be determined by either direct measurement or by calculation, as described below:

- For most installations, a watthour type meter will be installed to measure the monthly net ac output, in kWh, of the solar PV system (other than those making up the load profile sample, which will have recording metering installed as previously described). The electricity produced on an hourly basis for each customer's billing month will be calculated by allocating the kWh (as determined from the watthour meter) by the hourly load shape of the solar load profile for the appropriate monthly period.
- Where the customer already has an hourly PSE&G recording meter installed for billing purposes, and there is a spare data channel available on that meter, and no data interface problems exists, and there is physical access to the metering for the net solar ac output available from the PSE&G billing meter location, this spare data channel could be used to record the actual hourly net solar ac output in lieu of the development of a solar load shape as described above.
- Where an hourly electric billing meter is not installed, the hourly electric usage at the PSE&G electric billing meter will be calculated identical to the current process used in the retail settlement of electric supply, where the hourly energy usage for

non-hourly metered customers is developed based on a customer's total monthly kWh usage and an hourly load profile from a sample set of customers.

- Where an hourly electric billing meter is installed, the actual hourly load profile of the customer at the PSE&G billing meter will be used instead of a calculated load shape.

102. The calculation of the foregone electric distribution fixed cost recovery will be done as follows:

- If the rate schedule serving the customer provides for some fixed cost recovery through the energy (per kWh) charges, the foregone electric distribution fixed cost recovery related to the reduced kWh consumption will be calculated. This will equal the kWh electric delivery charges in the appropriate rate schedule, less taxes (TEFA and NJ SUT) and less adjustment charges other than the Base Rate Distribution Kilowatt-hour Adjustment, times the monthly net ac output for each solar installation. These calculations will be done each month based upon the measured net ac output, in kWhs, and the then current electric rates.
- If the rate schedule serving the customer provides for some fixed cost recovery through the peak demand (per kW) charges, the foregone electric distribution fixed cost recovery related to this reduction in peak demand will be calculated. The reduction in the customer's peak kW billing demand will be determined by calculating the difference between the customer's actual billed peak kW demand

and the peak kW demand of the load shape that would have been billed if the solar PV system were not installed. This latter load shape is equal to the net hourly usage at the PSE&G electric billing meter plus the hourly solar ac output. Foregone electric distribution per kW fixed cost recovery will equal the per kW charges from the appropriate rate schedule, less taxes (NJ SUT), times the calculated reduction in customer's peak kW demand. This calculation will be done based upon the calculated demand reduction for each month and the then current electric rates. In the event that future adjustment charges are recovered on a per kW basis, these values would be subtracted from the total kW related charges, similar to the methodology applied to the per kWh charges previously discussed.

Method for recovery of foregone fixed cost contribution

103. PSE&G is requesting that the Board grant approval for deferred accounting treatment of the foregone electric distribution fixed cost recovery amounts as previously described. The foregone electric distribution fixed cost recovery will be calculated each month and subtracted from that month's required payment to the Office of Clean Energy for energy efficiency and renewable energy programs, in a method identical to that proposed for the direct cost of this program.

SBC accounting

104. When resetting the EE & RE Programs component of the SBC rate,

PSE&G is proposing to include the estimated costs to be incurred under the program in the upcoming period, along with the amortization of any prior period over or under recovery.

PROJECTED BILL IMPACTS

105. There will be no impacts on any individual customer's total electric delivery bill because PSE&G's program-related costs will count towards the Company's overall funding level for renewable energy programs.

106. Energy supply cost to customers should be lower than they otherwise would be due to the SRECs being provided to LSEs at no charge and the establishment of the long term contracts, which will lower the regulatory and financial risks to developers.

**LEGAL/REGULATORY FRAMEWORK FOR THE PROGRAM
AND THE COST RECOVERY PROPOSAL**

107. Pursuant to EDECA, gas and electric utilities are authorized to recover renewable energy program costs through the SBC. *N.J.S.A. 48:3-60*. In all segments of this Program, PSE&G will be providing funding for renewable solar energy systems and administering the Program. Moreover, the Board has broad discretion under Title 48 of the New Jersey Statutes, including *N.J.S.A. 48:3-60*, to determine how renewable energy programs should be delivered to customers. Accordingly, PSE&G's request to implement

the Program and recover the Program costs through the SBC is appropriate and in accord with the statutory authority for such programs.

108. PSE&G's request to earn a return on its investment in the Program is also appropriate. PSE&G will be deploying significant capital to provide environmental, health, and economic benefits to the State and the Company's customers. These are goals the Board and the State have endorsed. These goals are also in accord with a utility's statutory duty to "furnish safe, adequate and proper service, including furnishing and performance of service in a manner that tends to conserve and preserve the quality of the environment" N.J.S.A. 48:2-23. Accordingly, PSE&G should earn a return on its investment in the Program, as it would on any utility capital investment.

109. EDECA also authorizes the Board to award financial incentives to encourage the development of renewable energy facilities. The pertinent section of EDECA provides that

Such programs shall include a program to provide financial incentives for the installation of Class I renewable energy projects in the State

[N.J.S.A. 48:3-60(a)(3)].

Solar photovoltaic installations are Class I renewable energy projects. *N.J.S.A.* 48:3-51. Accordingly, PSE&G's request to earn an incentive return on its investment in this Program is authorized pursuant to EDECA. Moreover, the entire program furthers EDECA's and the Board's goal to encourage the development of renewable energy in New Jersey.

110. New Jersey is not alone in authorizing incentives for utilities to encourage the development of renewable energy facilities. Several other states have authorized incentives to utilities that deploy renewable energy projects. For example, the Public Utility Commission of Nevada's regulations allow it to award an "enhanced return on equity" for certain utility investments that are designated as "critical facilities." NAC 704.9484. Such critical facilities may include those whose purpose is "[d]eveloping renewable energy resources." NAC 704.9484(1)(c).

Similarly, in Kansas, the State Corporation Commission is authorized to grant a utility an incentive return for renewable investments:

"[u]pon a showing by a public utility before the state corporation commission at a public hearing and a finding by the commission that such utility has invested in projects or systems that can be reasonably expected (1) to produce energy from a renewable resource other than nuclear for the use of its customers, **the commission may allow a return on such investment equal to an increment of from 1/2% to 2% plus an amount equal to the rate of return fixed for the utility's other investment** in property found by the commission."

[K.S.A. 66- 117(e), emphasis added].

In Texas, the Public Utility Commission may "authorize additional incentives for conservation, load management, purchased power, and renewable resources." Vernon's Texas Statutes and Codes Annotated, Utilities Code § 36.204.

111. PSE&G's request for an incentive return on its investment is in accord with EDECA, consistent with the approach several other states have taken to encourage utility

investment in renewable energy projects, and is an integral component of PSE&G's implementation of the Program.

112. In addition to approving the cost recovery mechanism set forth in this Petition, PSE&G also requests that the Board provide assurance of future recovery of prudently-incurred Program costs. Similar to the Board's Orders approving recovery of DSM program costs, PSE&G needs regulatory assurance of the right to continue to recover prudently-incurred Program costs. Accordingly, PSE&G requests that the Board include in its Order approving this Petition the following language: "PSE&G may recover all prudently-incurred Program costs, including make whole payments, as well as a return on its investment in the Program at the rate of 12.08% (including income tax effects), on a full and timely basis through its electric Societal Benefits Charge or through such successor clause or rate mechanism as the Board may hereafter approve."

113. PSE&G's request to recover "make whole" payments (the foregone fixed cost contribution) is well-founded in BPU precedent. To encourage the development of energy efficiency initiatives, the Board's DSM regulations allow utilities to recover similar costs (called fixed cost revenue erosion). *See* N.J.A.C. 14:12-4.2. In addition, subsequent to EDECA, the Board has allowed PSE&G and other utilities to recover "lost revenues" associated with the Board's Clean Energy Programs.³ Pursuant to the Board's orders,

³ *I/M/O the Petition of the Filings of the Comprehensive Resource Analysis of Energy Programs, et al.*, BPU Dkt. No. EX99050347 *et al.*, (Order dated March 9, 2001, at p. 73).

PSE&G has recovered such fixed cost revenue erosion from its gas and electric customers through its former Demand-Side Adjustment Factor and through the electric and gas SBCs.

114. Make whole payments are necessary to ensure that PSE&G does not suffer erosion to its fixed cost recovery as a result of a large-scale deployment of solar photovoltaic facilities throughout its service territory. The near-term installation and energization of 30 MW of solar in the PSE&G service territory will result in an erosion of electric distribution revenues. Thus, the Company's recovery of its fixed costs through electric base rates will be reduced. Accordingly, the requested make whole payments, to be calculated and recovered through the SBC as discussed herein above, are a necessary element of the Program.

COMMERCIAL TERMS AND CONDITIONS, INCLUDING A MODEL LOAN AGREEMENT TO BE EXECUTED BY PSE&G AND THE SOLAR DEVELOPERS.

115. PSE&G has developed a model solar program loan agreement (Model Loan Agreement), which includes the commercial terms and conditions that will apply to all projects approved under the Program. The Model Loan Agreement addresses the risk of the borrower's non-performance, including creditworthiness, collateral requirements, and related issues. A copy of the Model Loan Agreement and related agreements is being filed herewith as Exhibit B. PSE&G requests that the Board approve the form of Model Agreement and related agreements. Any material modification to the Model Loan Agreement would require Board review.

COMMUNICATIONS

116. Communications and correspondence related to the Petition should be sent as follows:

Frances I. Sundheim
Public Service Electric and Gas Company
80 Park Plaza, T8C
P. O. Box 570
Newark, New Jersey 07101
Phone:(973) 430-6928
Fax: (973) 648-0838

Gregory Eisenstark
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80 Park Plaza, T8C
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Newark, New Jersey 07101
Phone: (973) 430-6281
Fax: (973) 648-0838

CONCLUSION AND REQUESTS FOR APPROVAL

For all the foregoing reasons, PSE&G respectfully requests that the Board issue an Order approving this Petition and specifically finding that:

1. The Program is in the public interest and that PSE&G is authorized to implement and administer the Program under the terms set forth in this Petition and accompanying Exhibits;

2. The cost recovery proposal and mechanism set forth in this Petition is just and reasonable and is approved; and that PSE&G may recover all prudently-incurred Program costs, including make whole payments, as well as a return on its investment in the Program at the rate of 12.08% (including income tax effects), on a full and timely basis through its electric Societal Benefits Charge or through such successor clause or rate mechanism as the Board may hereafter approve; and

3. The Model Loan Agreement and related agreements are appropriate for use between PSE&G and all applicants whose projects are approved for the Program.

Respectfully submitted,

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

By _____
Frances I. Sundheim
Public Service Electric and Gas Company
80 Park Plaza, T-8C
P. O. Box 570
Newark, New Jersey 07101
Phone (973) 430-6928
Fax (973) 648-0838

DATED: April 19, 2007
Newark, New Jersey

STATE OF NEW JERSEY)
 :
COUNTY OF ESSEX)

FRANCES I. SUNDHEIM, of full age, being duly sworn according to law, on her oath deposes and says:

1. I am Vice President and Corporate Rate Counsel of Public Service Electric and Gas Company, the Petitioner in the foregoing Petition.

2. I have read the annexed Petition, and the matters and things contained therein are true to the best of my knowledge and belief.

Frances I. Sundheim

Sworn and subscribed to)
before me this 19th day)
of April, 2007)

Exhibit A

**PSE&G's Solar Initiative
Program Rules and Application Process**

General Rules

This program is offered in a block of 30 MW. Applications for this block will be accepted starting 60 days after the BPU issues a final order approving this program.

The program will be open for 2 years (from the date of Board approval), but will run on recurring 3-month cycles. PSE&G will accept project applications during each cycle and at the end of each 3-month period apply the project allocation rules and then make an informational filing with the BPU for the proposed set of projects. Unless the BPU objects to any of the accepted projects within a 30-day period after the filing, the projects will be deemed approved, and PSE&G will issue project commitments upon the execution of the necessary agreements with the Project Owner and host customer. This process will proceed for 2 years, or until the entire 30MW program is allocated, whichever comes first.

There is a maximum capacity allocation cap of 10 MW per cycle. The program will not issue project commitments above this level within a given cycle.

If there are fewer project applications than the capacity limit (or overall program limits), all qualifying projects within that segment would be approved.

If there are project applications in excess of the capacity limit within a cycle, projects will be accepted on a first-come/first served basis, and the excess projects will be placed at the head of the line for the following three month cycle.

A new round of project approvals will be announced every three months until the 30 MW capacity of Phase One is utilized.

Once the 30 MW block is fully subscribed no additional applications will be accepted by PSE&G.

PSE&G will communicate the amount of the block remaining on a web page. The block information will be updated weekly until it is 80% subscribed, and daily when the block is more than 80% subscribed.

Approved projects must be completed within 12 months after PSE&G issues a loan commitment.

If a project is not installed within one-year after PSE&G has approved it, made the informational filing with the BPU, and issued a commitment, it will be cancelled and the associated capacity will become available for reallocation to other projects waiting in line.

Standard Loan and Mortgage Agreements developed by PSE&G and approved by the BPU will be used for the program.

No single entity (developer, company or customer) will be allocated more than 25% (7.5 MW) of the block.

All non-residential projects, as well as any residential projects in which a developer is involved will be metered and all projects must register with the BPU's SREC administrator. Residential projects may use deemed output amounts.

PSE&G will provide metering and billing services for developers for agreements executed between the customer and the developer relating to the electricity the solar system produces. These energy charges will be billed on the PSE&G monthly bill and PSE&G will remit payment to the developer.

Procedures for Filling Subscription Blocks

The matrix below shows how the blocks will be allocated among the market segments.

Block	C&I	Residential	Low Income Residential	Municipal	Total
Totals	12 MW	6 MW	3 MW	9 MW	30 MW

For the first year of the Program, there will be hard caps of 9MW for municipal, 9 MW (30%) for residential, and 12 MW (40%) for the C&I/Not-for-Profit segment. Based on market conditions and the status of projects accepted into each segment during the initial year, PSE&G reserves the right to convert these percentages into “soft” caps starting in the second year of the petition.

For the residential segment, the program will set soft caps of 6MW (20%) of the total 30 MW block for general residential and 3 MW (10%) for the low income/affordable housing segment.

Eligibility Requirements

Definition of Solar Project – A system that converts sunlight into measurable and verifiable alternating current (AC) electric power.

Any project must be installed within PSE&G's service territory at a customer location that receives (or will receive for new construction) retail electricity service from PSE&G.

The solar panels must be covered by a 20 year warranty.

PSE&G will have final authority on whether any particular application is eligible.

With the exception of residential projects, any project accepted under this program will be ineligible for any other benefits from other PSE&G or BPU renewable energy programs, except for net metering. Residential projects may take advantage of rebates that may be available from the BPU's Clean Energy Program.

Project Size – All projects which are eligible for net metering are eligible for this program.

Only one application can be submitted for each project.

Applicant must be registered to do business in New Jersey.

Applicant must meet minimum Insurance Requirements as specified in the Solar Program Loan Agreement

Applicant must satisfy PSE&G's credit check. PSE&G credit requirements will be consistent with commercial lending practices by banks and other lenders.

Applicant must have a maintenance contract on the Solar PV System.

Application Process

Threshold Requirements

Application requirements are necessary to enable PSE&G to determine that the project has a reasonable likelihood of being developed.

The Application must include the following information:

- PSE&G customer name and address.
- Customer PSE&G account number.
- Signatures of the host customer or site owner.
- Contact information including name of project developer, address and telephone number.
- Size of solar project, rated in direct current (DC) watts.
- Completed PVWatt worksheet showing system performance.
- An estimate of the number of monthly SRECs to be generated, by year over the life of the project.

- Cost of project.
- Identification of project participants and management team.
- Specifications regarding solar equipment to be installed.
- An operation and maintenance plan.
- Each application must contain a binding agreement from the owner of the site that allows for the installation and construction of the solar project and the delivery of measurable energy for 15 years. This agreement must specify that PSE&G has the right to inspect the site during the time PSE&G is receiving SRECs.
- Demonstration that Insurance requirements will be met.
- Financial information of Borrower as will be further specified in the application to allow PSE&G to evaluate Borrower's creditworthiness.

Basis for Rejection

Receipt by PSE&G of an application after the open block is fully subscribed.

Failure to meet eligibility and/or threshold requirements

Failure to submit required supporting documentation within the required time frame or the inability to verify or document any material representation within the application.

Willful or material misrepresentations in the solar project application.

Illegal conduct of the applicant or attempts by applicant to influence PSE&G's acceptance.

Changes in laws or regulations affecting this program.

Failure to permit disclosure of information contained in an application to the BPU, PSE&G, or PSE&G agents or contractors charged with evaluating the solar project application.

Determination by PSE&G that the solar application does not represent a bona fide project, or that the applicant will be unable to fulfill the requirements of this solar program.

Objection by the BPU to the solar project application after PSE&G has made the requisite informational filing for the cycle in which the project application is included.

Program Procedures

Applications must be submitted on forms provided by PSE&G. These forms may require specific project information to be submitted electronically and/or entered on a web site.

Project approvals will be granted on a first-come, first-served basis within each 3 month cycle, so long as: (a) the capacity limits for the cycle are not exceeded, and (b) the soft caps per segment are not exceeded. The application process will accept projects according to commercially reasonable performance and credit criteria. More particularly, creditworthiness determinations will be based upon an assessment of an applicant's ability to fully collateralize the loan. Because of the relationship between the total project costs, equipment costs and loan amount, in many instances the applicant will provide PSE&G with a first lien and security interest in the project equipment and related project collateral.

An application fee is required. Applicants must pay PSE&G \$10.00 per kW installed kW to a maximum fee of \$2,500 per application. Projects that are rejected for any reason other than a fully-subscribed program block, PSE&G will retain the application fee and use it offset administrative costs. Applicant will be allowed thirty days to cure any application deficiencies.

Applications received after the block has been fully subscribed will be returned along with the application fee.

Applications will be submitted to PSE&G for evaluation. PSE&G will date and time stamp each application. Applications will be reviewed in the order they were received by All communications with PSE&G will be directed to: (Contact information to be determined at a later date)

Applicant will make reasonable accommodations to allow PSE&G to audit the project. At its sole discretion PSE&G may conduct audits before, during and after the solar project is constructed. The period for potential audits will begin with receipt of the solar project application and end when PSE&G no longer has right to the SRECs generated by the project.

Exhibit B

SOLAR PROGRAM LOAN AGREEMENT

THIS SOLAR PROGRAM LOAN AND SECURITY AGREEMENT ("Agreement"), dated as of _____, 2007, is made and entered into by and between PUBLIC SERVICE ELECTRIC AND GAS COMPANY, a New Jersey corporation (the "Lender"), having its general offices at 80 Park Plaza, Newark, New Jersey 07102, and _____, a _____ (the "Borrower"), located at _____, New Jersey _____. From time to time throughout this Agreement, each of Borrower and Lender is referred to as, individually, a "Party" and together, collectively, as the "Parties."

RECITALS

- A. The State of New Jersey's Renewable Portfolio Standard ("RPS") mandates that electricity suppliers provide a percentage of their electricity sales from solar generation. To facilitate said mandate, the New Jersey Board of Public Utilities, through its Office of Clean Energy, established the use and trading of Solar Renewable Electricity Certificates ("SRECs") by means of the New Jersey Clean Energy Program's Website: www.njcep.com/srec the ("SREC Program Administrator"). These SRECs, once created, represent solar energy actually generated and used, and are bundled in minimum denominations of one megawatt hour of electricity production. New Jersey's SREC program allows for SRECs to be created, verified, tracked, sold to, and eventually retired by, electricity suppliers to meet their RPS solar requirement. All electricity suppliers are required to use the SREC program to demonstrate compliance with this part of the State's RPS.
- B. Lender, in order to reduce electricity supply costs to its ratepayers and assist the State in achieving its environmental objectives under the New Jersey RPS and its Energy Master Plan, has developed a Solar Program (the "Program") pursuant to which it will provide financing to developers of solar projects and to electric distribution customers of Lender who develop solar-powered generation projects at commercial, residential and/or industrial facilities that are located within Lender's electric distribution service territory and satisfy the eligibility and the Program requirements set forth in the Program Application. A copy of Borrower's Program Application is hereto attached as Exhibit E, and made a part hereof. Lender's Solar Program was approved by the New Jersey Board of Public Utilities by its Order, dated _____, 2007, in Docket No. _____.
- C. An Equipment Provider has entered, or is about to enter, into an agreement with the Borrower, for purposes of developing, designing, procuring, and installing a solar-powered generation system (the "Project") at the facility owned and operated by Borrower, or, in the case that Borrower is an Equipment Provider, the facility where the Equipment Provider has the right to install and operate the Project (the "Facility"). The Facility is located at _____, New Jersey.
- D. Upon completion of the Project, and satisfaction of the terms and conditions of this Agreement, Borrower, in order to facilitate the payment to Equipment Provider of a portion of the costs of the completed Project by extending the

repayment period of such costs, has asked Lender to provide financing to repay a portion of the Project costs incurred by Borrower.

- E. Lender is willing to provide Borrower with, and Borrower accepts such financing, in accordance with the terms of this Agreement.

NOW THEREFORE, in consideration of the promises and the mutual covenants and agreements hereinafter set forth, the Parties hereto agree as follows:

1. Definitions. As used herein, unless the context clearly requires otherwise, the following terms shall have the following corresponding meanings:

"Agreement" has the meaning ascribed to that term in the Recitals.

"Borrower" has the meaning ascribed to that term in the Recitals.

"Business Day" means any day other than a Saturday, a Sunday or any other day on which commercial banks in the City of Newark, State of New Jersey are required or permitted by law to close.

"Collateral" means: (a) the SRECs arising throughout the term of this Agreement by means of Borrower's continued and ongoing operation of the Project, and all related rights to said SRECs, including, without limitation, any other Environmental Attributes arising from and/or out of the Project; (b) the Project Equipment; (c) the Project Documents and (d) all accessions, additions, substitutions, products and Proceeds to and of the foregoing.

"Commercial Operation" means that point achieved when the Project begins generating electricity for usage at the Facility, and the Project meets all technical, financial and performance requirements associated with its intended use and pursuant to the performance specified in the Program application and the Project Documents.

"Customer" means: (a) Borrower; or (b) if not the Borrower, the Person receiving the benefit of the electricity generated by said Project at the final completion thereof.

"Customer Agreement" means the agreement between Equipment Provider and Customer for the procurement, engineering, installation and operation of the Project, including any sale of electric energy therefrom.

"Delivery Period" has the meaning ascribed to such term in Section 2.7

"Energy Year" means the period beginning June 1 of any year and ending May 31 of the succeeding year.

"Equipment" means all of the Borrower's now owned and hereafter acquired rights, title, and interests in and to any and all fixtures, machinery, equipment, components, wiring, meters, replacement parts and consumables comprising the Project.

"Equipment Provider" has the meaning ascribed to such term in the Recitals.

"Events of Default" has the meanings ascribed to that term in Section 11.1.

"Environmental Attribute" has the meaning set forth in Section 6.

"Facility" has the meaning ascribed to that term in the Recitals.

"Floor Price" means the minimum price of a SREC used to discharge the payment obligations of Borrower as to the Loan, and is the lowest price credited to Borrower for purposes of repaying the Loan and accrued interest. The Floor Price for a SREC for purposes of this Agreement is \$475.00

"kW" means kilowatts.

"Lender" has the meaning ascribed in that term in the Recitals.

"Lender's Call Option" has the meaning ascribed to that term in Section 2.7.

"Liens" means any and all mortgages, liens, charges, security interests and/or encumbrances of any kind, or pledges or deposits of any nature.

"Loan" has the meaning ascribed to that term in Section 2.1.

"Loan Documents" means this Agreement, the Note, the Mortgage and Security Agreement and such other documents, instruments and certificates delivered in connection with one or more of the foregoing.

"Market Value" for purposes of determining the value of SRECs at the time of their use to repay the outstanding balance of the Loan and accrued interest, means the average monthly cumulative weighted price of SRECs as published on the New Jersey Clean Energy Program Website bulletin board during the calendar month preceding the month of repayment of the outstanding balance of the Loan and accrued interest. In the absence of the above, the Market Price will be defined as the average of three (3) independent broker quotes.

"Mortgage and Security Agreement" means that certain Mortgage and Security Agreement, dated concurrently herewith, setting forth the terms, conditions, obligations and rights of the Parties as to the Collateral.

"MW" means megawatts.

"MW-hour" means megawatt-hours.

"NJCEP" means the New Jersey Board of Public Utilities' New Jersey Clean Energy Program, or any successor program thereto.

"Note" has the meaning ascribed to that term in Section 2.2.

"Obligations" means any and all obligations, liabilities, covenants and agreements of the Borrower under this Agreement, the Mortgage and Security Agreement and the Note, and any and all costs and expenses of, or incurred by, the Lender in collecting any of the foregoing and in enforcing the provisions of this Agreement, including, without limitation, all court costs and/or reasonable attorneys' fees and expenses in any action between the Lender and the Borrower and/or the Lender and any third party based on this Agreement, the Mortgage and Security Agreement and/or the Note.

"Option Agreement" has the meaning ascribed to that term in Section 2.7.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity, party or government (whether national, federal, state, county, city, municipal, or otherwise), including, without limitation, any instrumentality, division, agency, body or department thereof.

"Proceeds" means any and all consideration received from the sale, exchange, collection or other disposition of any asset or property that constitutes Collateral, any value received as a consequence of the possession of any Collateral, any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any asset or property which constitutes Collateral, and shall include all cash and negotiable instruments received or held on behalf of Lender relating to the payment of Accounts and any and all property of whatever nature received and/or held by Borrower or on behalf of Lender.

"Project" has the meaning ascribed to that term in the Recitals.

"Project Documents" means: (a) a fully executed Customer Agreement; (b) lien waivers form executed by the Equipment Provider and each of its subcontractors on the Project; (c) Project specifications, maintenance agreements and other technical information regarding the Project; (d) any and all applicable permits, licenses, easements, variances and other authorizations; (e) Program application documents, project plans and pro formas, and other Program-related documents; and (f) any and all other appropriate documents as may be requested by the Lender.

"RPS" has the meaning ascribed to that term in the Recitals.

"SRECs" has the meaning ascribed to that term in the Recitals.

"SREC Account" has the meaning ascribed to that term in Section 2.5(b).

"SREC Program Administrator" has the meaning set forth for that term in the Recitals, or any successor to the SREC Program Administrator.

"Transaction Confirmation Letter" has the meaning ascribed to such term in Subsection 2.7(b).

2. Loan; General Terms.

2.1 Loan Agreement. Subject to the terms and conditions of this Agreement, and the satisfaction of all requirements set forth in this Agreement, the Lender agrees to make available to the Borrower for the sole purpose of reimbursing a portion of the costs incurred in engineering, procuring, installing and constructing the Project, and Borrower accepts for such sole purpose under the terms of this Agreement, the amount of _____ AND 00/100 DOLLARS (\$_____), which amount is hereafter referred to as the "Loan."

2.2 Promissory Note. The Loan shall be evidenced by a secured promissory note, to be made by the Borrower and delivered to the Lender (the "Note"), which Note is substantially in the form as that attached hereto as Exhibit A.

2.3. Interest Rate. The Loan shall bear interest at the rate of **twelve and eight-one-hundredths percent (12.08%)** per year, the amount of such interest shall be calculated on the basis of the actual number of days elapsed over a 360-day year.

2.4. Term. This Agreement shall have a term of fifteen (15) years from the date on which Lender advances the Loan to Borrower (the "Term"). Subject to Lender's Call Option as provided for in Section 2.7, Borrower may prepay the Loan prior to the end of said fifteen (15) year term by paying to Lender the appropriate amount stated on the attached Loan Amortization Schedule attached hereto at Exhibit B, and hereof made a part.

2.5. Repayment of Loan; Payment in Value of Quantity of SRECs Produced by Operation of Project. (a) The full amount of the Loan, and all interest due thereon, is payable in periodic installments as set forth in the Note. All amounts due under this Agreement and the Note are due and payable in cash and/or the comparable value of the quantity of SRECs created by operation of the Project and held by Borrower in its SREC Account at the time said SRECs are used by Borrower to pay down the outstanding amount of the Loan and accrued interest thereon. Payments are due from Borrower in periodic installments of principal and interest, in accordance with the Note.

Payments will be prorated in the event a Project commences operation in the middle of an Energy Year.

(b) If Borrower wishes to use the SRECs created by the Project to pay the Loan and accrued interest to Lender, it may do so; PROVIDED, however, that the following conditions are met:

- (i) Borrower has established and maintains an electronic account with the NJCEP to use the SREC Program Administrator, or any successor thereto recognized by the State of New Jersey, for the sale and trade of SRECs (the "SREC Account"), and Borrower provides Lender with access to such SREC Account;
- (ii) Borrower shall be responsible for ensuring that all SRECs generated by the Project each month during the Term are credited to the SREC Account in a timely manner. (Please note that, in accordance with the NJCEP: (A) solar generators smaller than 10kW are required to use an engineering estimate to calculate the resulting SRECs created; while (B) solar generators having systems equal to or larger than 10kW are required to ensure that all information and monthly meter readings and/or production information is submitted to, and properly recorded through, the SREC Program Administrator;)
- (iii) For purposes of using the Market Value of SRECs to pay the Loan and accrued interest, Borrower must apply all SRECs in its SREC Account at the time of its use of SRECs for repayment purposes, or SREC proceeds, towards the repayment of the Loan;
- (iv) Borrower must use the SREC Program Administrator and its SREC Account to transfer SRECs to Lender's account;
- (v) The value of the quantity of SRECs created by operation of the Project for purposes of repaying the Loan and accrued interest shall be determined at the time of such repayment and shall be no less than the Floor Price, but no greater than the Market Value;
- (vi) In the event that the value of the quantity of SRECs created by the operation of the Project exceeds the amount due from Borrower to satisfy its periodic obligations under this Agreement and the Note for such period, Lender will apply the additional amount to Lender's obligations under this Agreement and the Note for the immediately succeeding period, thereby using such excess amount to accelerate the amortization of the Loan and payment of accrued interest; and
- (vii) In the event, however, that the value of the quantity of SRECs created by operating the Project in a calendar quarter is less than ninety percent (90%) of the amount needed to pay the corresponding quarterly installment of the principal amount of the Loan and accrued interest (the "Ninety Percent Threshold"), Borrower, by the end of the next succeeding calendar quarter, shall pay the difference between the value of the quantity of SRECs created by operating the Project in such quarter from the Ninety Percent Threshold in cash or equivalent value of SRECs, subject to the terms of the Biennial True-Up Mechanism stated in Subsection 2.5(d), below. By the foregoing method,

the Party is deemed to have satisfied the ongoing requirement that the Project meet, on a quarterly basis, the Ninety Percent Threshold.

(c) All payments whether in cash and/or the value of SRECs generated by the operation of the Project, will be first applied to the payment of accrued interest, then to the repayment of the principal amount of the Loan.

(d) During the Term of this Agreement, and for so long as the Loan remains outstanding, in the event that the value of the quantity of SRECs created by operation of the Project falls below the Ninety Percent Threshold for a given calendar quarter during the Term, Lender will afford Borrower the opportunity to continue operating the Project in the succeeding quarter in order to make up the shortfall in the value of the quantity of SRECs created from the operation of the Project from the amount representing the Ninety Percent Threshold; this opportunity continues from quarter to quarter for the remainder of the then current Energy Year. At the end of such Energy Year, Lender will review the operation of the Project and, if the total shortfall in the value of the quantity of SRECs created from the operation of the Project during such Energy Year results in a total annual shortfall from the Ninety Percent Threshold, Borrower will repay to Lender the amount equal to the difference between the value of the quantity of SRECs created from the operation of the Project and the Ninety Percent Threshold. This payment will be due from Borrower during the period from June 1 through August 30 of the Energy Year following the Energy Year in which the shortfall occurred. Thereafter, Lender will monitor to see how the Project performs in the subsequent year, and take the results into account in determining Borrower's repayment obligations under the Loan. At the end of the two-year period composed of the year during which the shortfall occurred and the following year, Lender shall take the annual average of the value of the quantity of SRECs created during such two-year period (the "Biennial True-Up Mechanism"); if the annual average of SRECs created during such two-year period falls below the Ninety Percent Threshold, Borrower agrees to pay to Lender in either the then-current value of the quantity of SRECs or, if no such SRECs are available, in cash, the amount equal to the value of the actual shortfall in the value of the quantity of SRECs created from the operation of the Project from the full amount of the principal of the Loan and accrued interest due for such two-year period, as stated on the attached Loan Amortization Schedule.

By no later than thirty (30) days following the expiration of the Term, Borrower will pay to Lender all outstanding amounts of accrued interest and principal of the Loan, including, without limitation, all amounts representing the difference between the full amount of all installments of the Loan and accrued interest due and the amounts actually paid and received by Lender.

2.6. Prepayment of Loan. Subject to Lender's Call Option set forth in Subsection 2.7(a), Borrower may pay all or a portion of the outstanding amount of the Loan and accrued interest thereon at any time prior to the end of the Term by paying to Lender the amount specified on the attached Loan Amortization Schedule in cash and/or SRECs, which SRECs are to be valued at the market price set by the NJCEP through the SREC Program Administrator.

2.7 Lender's Call Option. Borrower hereby grants to Lender an option, exercisable at Lender's discretion, to all SRECs created by the continued operation of the Project during the Term ("Lender's Call Option"). In the event Borrower repays to Lender the full amount of the Loan and accrued interest prior to the end of the Term, the terms of Lender's Call Option are as follows:

(a) Call Option: In the event that the Loan is repaid prior to the expiration of the Term, Lender shall have the Option to purchase, pursuant to the terms of this Section 2.7, up to 100% of SRECs produced by the Project ("Maximum Contract Quantity"). Lender's Call Option shall remain in effect until such time as the Term expires. "Option" shall mean that Lender has the right, but not the obligation (unless exercised) to purchase all or a portion (at Lender's election) of the SRECs produced by the Project.

(b) Exercise Date: Notification by Lender of its intent to exercise Lender's Call Option must be provided by Lender by notifying Borrower via telephone ((____) ____-____) prior to 10:00 AM (Eastern Prevailing Time) on 25th of the month prior to the commencement of a Delivery Period, or on the next succeeding Business Day if the 25th of such month does not fall on a business day. In the event that the Parties are unable to communicate with each other by telephone, a facsimile transmission by Lender to Borrower to Borrower's facsimile machine ((973) ____-____) prior to 11:00 AM (Eastern Prevailing Time) on 25th of the month prior to the commencement of a Delivery Period, or on the next succeeding Business Day if the 25th of such month does not fall on a business day shall constitute sufficient notice for purposes hereof. In such oral notice, Lender will specify: (a) the Contract Quantity of SRECs that Lender has elected to purchase up to the Maximum Contract Quantity; (b) the Contract Price as determined in accordance with Exhibit C of this Agreement; and (c) the Delivery Period. Each such exercise shall be memorialized in a written Transaction Confirmation Letter, substantially in the form contained in Exhibit C, and shall be governed by its terms, which terms are deemed accepted by Lender and Borrower upon execution of this Agreement. Each Transaction Confirmation Letter shall be effective upon delivery by Buyer to Seller within three (3) Business Days of verbal notification of Lender's intent to exercise of such Transaction Confirmation Letter via facsimile or other delivery method.

(c) Delivery Period: Each Delivery Period shall commence on the first day of the quarter following Lender's verbal notice of its intent to exercise and end on the last day of the third month of the quarter following commencement of the Delivery Period.

(d) Contract Price: The Contract Price to be paid by Lender for SRECs delivered by Borrower during a Delivery Period shall be the amount equal to the product of 0.75 multiplied by the then-current Market Price; however, if the Market Price is not ascertainable, the Parties will solicit three (3) independent broker quotations and utilize the average of all three quotations to determine the Contract Price.

2.8. Inspections. Prior to executing the Loan and during the Term, the Lender, at its sole election and cost, may make inspections, and/or retain a third party to

make any such inspections on its behalf, of the Project to ensure the timely and complete progression of the construction and installation of such Project in accordance with approved plans and specifications for such Project, and the Project is being operated and maintained in accordance with prevailing industry standards. All inspections by the Lender are for its credit review purposes only, and are not to be deemed to constitute the Lender's approval of the Project and/or its continued operation.

2.9 Regulatory Changes; Acceleration of Loan.

(a) Change in Rate Treatment. Each Party, having entered into this Agreement in good faith, hereby waives all rights on its part now or hereafter to undertake any proceeding for the express purpose of having this Agreement set aside or the regulatory treatment accorded Lender's recovery of Solar Program Costs, (i.e. revenue requirements at the rate of x% and foregone electric distribution fixed cost contribution as determined by the New Jersey Board of Public Utilities in its Order dated _____ in Docket No. _____ (the "_____, 2007 Order")) set aside pursuant to a change in rate treatment. In addition, while neither Lender nor Borrower are waiving its right to claim that an agency does not have the authority to do so, in the event any legislative, judicial or governmental entity of competent jurisdiction impairs or disallows the full and timely recovery through Lender's Societal Benefits Charge or a like successor clause or rate mechanism of any Program Costs, including recovery of revenue requirements at the rate of x% or foregone electric distribution fixed costs contribution, as provided for in the _____, 2007 Order, for ratemaking purposes, then, at the option of Lender and upon written notice to Borrower, the outstanding balance of the Loan Amount and any other amounts due Lender under this Agreement shall be determined after taking into account all payments previously made by Borrower, either in cash or in the form of SRECs valued in accordance with this Agreement and such outstanding amount shall become due and payable in cash by the Borrower within thirty (30) days of the date of Lender's written notice to Borrower.

(b) Change in Regulation. If the existing New Jersey regulations governing the Solar Program are amended, superseded and/or otherwise no longer in force, Lender will not accelerate the repayment of the unpaid portion of the Loan and accrued interest, ***PROVIDED, HOWEVER, that:***

- (i) Borrower continues to operate the Project in accordance with this Agreement;
- (ii) The value of the quantity of SRECs created by operation of the Project is, and will continue to be, the amount of the Floor Price for each SREC, and that the terms in this Agreement governing the amortization of the Loan and payment of all accrued interest remain in full force and effect; and
- (iii) Despite the change in regulation, the BPU continues to allow Lender to enjoy the comparable treatment, as described more fully in Section 2.9(a) above, with regard to those Projects in operation and creating SRECs as Lender enjoyed prior to such change in regulations.

3. No Assumption of Liabilities. The Lender shall not assume, and the Borrower shall retain and be responsible for, any and all liabilities and obligations of the Borrower

of any kind or nature whatsoever, including, without limitation, any and all liabilities and obligations of the Borrower under the Project Documents, including, without limitation, the Customer Agreement.

4. Conditions Precedent to Advancing the Loan. The Lender shall not be obligated to provide the Loan unless the following conditions are satisfied, in form and substance satisfactory to the Lender and its counsel, on or prior to the date when the Borrower requests disbursement of the Loan:

(a) The Loan Documents, including, without limitation, the Note shall have been completed, duly executed and delivered by the Borrower;

(b) The Lender shall have received: (1) the duly executed Security Agreement and Mortgage (with Borrower's lot and block numbers therein provided) for filing with the registry of deeds and mortgages in the county where the Facility is located; (2) the duly executed financing statements in form and substance reasonably acceptable to the Lender for filing with the appropriate governmental agency or agencies in all jurisdictions necessary or, in the opinion of the Lender, desirable to perfect the Liens created by this Agreement; (3) record searches identifying all financing statements on file with respect to Borrower in all jurisdictions referred to under (1) and (2), above, indicating that no Person, other than Lender and the holder of the Permitted Liens, has any Lien or Liens on any of the Collateral; (4) satisfactory evidence of all requisite insurance coverages, as required in this Agreement; and (5) any and all other documents related to the Collateral that Lender reasonably requests;

(c) The Lender shall have received all Project Documents with respect to the Project, each duly executed by each person that is a party thereto, each of which Project Documents shall be in full force and effect, and in form and substance satisfactory to Lender;

(d) The installation of the Equipment is complete, Borrower notifies Lender in writing that the Project is substantially complete (the "Notice of Project Completion"), and Lender has verified that the Project has achieved Commercial Operation. For purposes of this Agreement, "Project Completion" means that Equipment Provider has installed, and/or Borrower has arranged for the installation of, all Equipment constituting the Project, and that the Project _____, subject, in all events, to Lender's inspection rights in Section 2.8. For purposes of this Agreement, the date of Commercial Operation shall occur by no later than one year after Lender's notification to Borrower of Project approval ("Commercial Operation Date"); otherwise, Lender shall have the right, exercisable upon written notice to Borrower, to terminate this Agreement.

(e) Metering equipment capable of measuring the electricity generated from the continued operation of the Project throughout the Term ("Metering Equipment") will be installed in accordance with the program requirements

(f) Borrower has opened a SREC Account and provides Lender with a corresponding, valid SREC Account tracking number and password;

(g) There shall be at such time no: (1) injunction, writ, preliminary restraining order, or any order of any nature issued by an arbitrator, court or other governmental authority directing that the transactions provided for herein and/or in the Project Documents or any of them not be consummated as herein or therein provided; or (2) suit, litigation, investigation hearing or proceedings of or before any arbitrator, court or other governmental authority pending or threatened against the Borrower and/or the Customer, or any of their respective properties, revenues or assets, with respect to this Agreement, the Mortgage and Security Agreement, the Note, the Project Documents, and/or any of the transactions contemplated hereby or thereby that could result in a material and adverse change thereto;

(h) No Event of Default under this Agreement or any other agreement applicable to the Borrower or the Equipment Provider has occurred and is continuing or will result from the making of such Loan;

(i) The representations and warranties of the Borrower contained in this Agreement shall be true and correct as of the date of such requested Loan with the same effect as though made on such date, except, however: (i) for such changes as are specifically permitted hereunder; and (ii) to the extent made solely as of a previous date, such warranties shall have been true and correct as of such previous date;

(j) The Solar Loan Program, or any direct successor program thereto, remains in effect at the BPU; and

(k) No event shall have occurred since the date of the execution and delivery of this Agreement which, in the good faith opinion of the Lender, is likely to materially and adversely affect the financial and/or credit prospects of the Borrower, the operability of the Project as contemplated or otherwise impair the ability of the Borrower to perform its obligations under this Agreement, the Mortgage and Security Agreement, the Note, the Project Documents and/or other Loan Documents.

5. Mortgage and Security Agreement. As security for the payment and performance of the obligations of the Borrower hereunder and Note and the Loan Documents, the Borrower, concurrently with its execution of this Agreement, will execute and deliver to Lender a fully executed Mortgage and Security Agreement, in form and substance similar to that attached hereto as Exhibit D.

6. SRECs and Environmental Attributes.

(a) In the event that a third party offers Borrower a higher price for SRECs than the then-current Market Price, Lender permits Borrower to sell SRECs to said third party: PROVIDED, HOWEVER, that Borrower notifies Lender in writing of its intent to sell SRECs to such third party, which writing is to include the quantity of SRECs to be sold and the price for such quantity of SRECs, and Borrower utilizes the entire sale price paid by said third party towards (1) the payment of all accrued interest on the Loan, then (2) the amortization of the Principal Amount of the Loan in the month Borrower receives the proceeds of such sale to a third party.

(b) For purposes of this Agreement, an "Environmental Attribute" is an instrument used to represent the environmental costs and/or benefits associated with a fixed amount of electricity generation from the Project. For the Project, Environmental Attributes represent the general environmental benefits of renewable generation such as, for example, and not by means of exclusion, air pollution avoidance. The exact quantity of the environmental benefit (*e.g.*, pounds of emission reductions of a given pollutant) is not indicated by an environmental attribute, though it can be quantified separately in pollution trading markets and through engineering estimates. The Environmental Attribute represents all environmental benefits, whether or not trading markets for such pollutants or benefits exist. Lender will quantify any and all Environmental Attributes, and have the right to trade said Environmental Attributes for its own account.

7. Representations and Warranties.

7.1. Organization. Standing and Power. The Borrower is a _____ [*form of business*] duly organized, validly existing and in good standing under the laws of _____. The Borrower has qualified to do business in each and every jurisdiction where the failure of the Borrower to so qualify would have a material and adverse impact of the Borrower's ability to perform under this Agreement, the Mortgage and Security Agreement, the Note and/or any other Loan Document. The Borrower has all requisite power and authority to own, lease and operate its properties, to carry on its business as now being conducted, to operate the Project substantially as contemplated by the Project Documents, and to execute, deliver and perform this Agreement, the Note, the Loan Documents and all writings relating hereto and thereto. All of the Borrower's federal, state, local and foreign income, profits, franchise, sales, use, occupation, property, excise and other tax returns and tax reports, if any, required to be filed with respect to the business and assets of the Borrower have been filed, as of, at a minimum, the date hereof with the appropriate governmental agencies.

7.2. Authorization of the Borrower. The execution, delivery and performance by the Borrower of this Agreement and all other writings relating hereto and thereto have been duly and validly authorized by the Borrower. No consent or approval of or notification to any party, other than any consent or approval that has been obtained, is required in connection with the execution, delivery and performance by the Borrower of this Agreement, the Mortgage and Security Agreement, the Note, the other Loan Documents and/or any writing relating hereto and thereto or the consummation of the transactions contemplated hereby or thereby.

7.3. Litigation Claims and Proceedings. No litigation, suits, claims, and/or judicial or administrative proceedings of any nature is pending or, to the best knowledge of the Borrower, threatened against the Borrower or Borrower's property or the Project, the effects of which, in Lender's judgment, would have a material adverse effect on Borrower, its business, its financial condition and/or the Project.

7.4. Laws and Regulations. The Borrower is not in any violation of federal, state or local laws, ordinances or regulations pertaining to this Agreement, the Mortgage and Security Agreement, the Note, any the Project Documents and/or any of the transactions contemplated in any of the foregoing or the Project.

7.5. Disclosures. No representation or warranty by the Borrower contained in this Agreement, and no statement contained in any certificate, schedule, exhibit, list or other writing furnished to the Lender in connection with this transaction and/or in connection with the Project contains any material untrue statement of fact or omits to state any material fact necessary in order to make the statements contained herein or therein not materially misleading. All copies of all writings furnished to the Lender hereunder, or in connection with the transactions contemplated hereby, are true and complete in all material respects. All schedules and exhibits to this Agreement are true and complete in all material respects.

8. Representations and Warranties of the Lender. As of the date hereof, the Lender represents and warrants that the Lender is a corporation duly organized, validly existing and in good standing under the laws of the State of New Jersey and has all requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby.

9. Covenants of the Borrower.

9.1. Performance of Customer Agreement and the Project. From and after the date hereof the Borrower shall:

(a) forward to the Lender copies of all notices, requests, correspondence and other communications relating to the Project Documents and/or the Project promptly upon receipt thereof;

(b) name the Lender as an additional insured on each policy of insurance obtained in compliance with the Project Documents. Each such policy of insurance shall provide that the Lender shall be entitled to thirty (30) days' prior written notice from the insurer prior to any termination or modification thereof;

(c) develop, manage, operate and maintain the Project as currently contemplated, in compliance with all provisions of the Customer Agreement, Project Documents, manufacturer's specifications and with all applicable federal, state and local laws, ordinances and regulations;

(d) maintain and/or cause to be maintained all tangible assets relating to the Project in good operating condition, reasonable wear and tear excepted;

(e) file when and as due all federal, state, local and foreign income, profits, franchise, sales, use, occupation, property, excise and other tax returns and tax reports required to be filed with respect to the business and assets of the Borrower

with the appropriate governmental agencies, and pay, when and as due, all such taxes to all such appropriate governmental agencies;

(f) advise the Lender in writing of any breach or default, or any circumstances that constitute, or with the passage of time will come to constitute, a breach or default under, or in any way impair the validity or enforcement of any obligation or tend to reduce the amount payable from the amount under, any of the Project Documents;

(g) advise the Lender in writing of any material and adverse change or any event, occurrence or circumstance that is likely to cause a material and adverse change in Project and/or the condition, financial or otherwise, business or operations of the Borrower; and

(h) Borrower hereby authorizes Lender to access and review, from time to time, Borrower's SREC Account, and Borrower will provide Lender with all SREC Account information so as to afford Lender with such access.

9.2 Conduct of Business. Except as otherwise permitted in this Agreement or with the prior written consent of the Lender, which consent the Lender shall not unreasonably withhold, from and after the date hereof, the Borrower shall not:

(a) mortgage, pledge, or otherwise encumber or subject to lien or suffer to be encumbered or subjected to lien, or dispose of, or agree to dispose of or lease or license to others or agree to so lease or license, any of the assets used or useful in the Project, including, without limitation, any real or tangible personal property and, or commit to do any of the foregoing, except, however, as specified in the Mortgage and Security Agreement;

(b) cancel or change any material existing policy of insurance relating to the Project, unless, however, replaced by an insurance policy providing substantially the same coverage; or

(c) merge or consolidate with any partnership, corporation or other entity of any nature, or change either its name or the address of its principal offices without first giving the Lender thirty (30) days' prior written notice of the Borrower's intent to do so, or dissolve, liquidate or wind up its affairs, or sell, lease, transfer or otherwise dispose of a significant portion of its assets, or agree to do any of the foregoing.

9.3. Information: Access to Properties; Books and Records.

(a) The Borrower shall make available for inspection during normal business hours, as the Lender may request and at the Lender's expense, promptly and in the form requested, any and all information, including, without limitation, all books and records reasonably requested by the Lender in connection with the Project.

The Borrower shall permit the Lender to make copies of books and records relating to the Project. Should the Lender, in the course of inspecting any such books and records, discover any material defect therein which amounts to, or reasonably will amount to, an Event of Default under Section 11.1, below, the costs and expenses incurred by the Lender in performing such inspection shall be solely borne by the Borrower.

(b) The Borrower shall afford the Lender and the Lender's authorized representatives reasonable access to the real and tangible personal property relating to the Project for the purpose of conducting investigations and examinations thereof. No investigation by the Lender or any of the Lender's representatives pursuant to this section shall affect any representation, warranty and/or covenant of any Party hereto.

9.4. Insurance.

(a) The Borrower, at a minimum, shall maintain the following insurance coverages on the Project and the Collateral:

(i) Commercial General Liability insurance, for casualty and property damage, with limits not less than: ONE MILLION DOLLARS (\$1,000,000) per occurrence and ONE MILLION DOLLARS (\$1,000,000) annual aggregate, and naming Lender as an additional insured under such policy;

(ii) All Risk Property insurance covering, at a minimum, the replacement costs of the Project and naming Lender as an additional insured and loss payee; and

(iii) such other insurance as the Lender may reasonably require.

(b) Throughout the term of this Agreement, Borrower shall carry the foregoing insurance coverages, issued by one or more nationally-known insurance underwriters, each underwriter having an A.M. Best's rating of "A-/VII" or better, or, for underwriters not rated by A.M. Best, a quality equivalent to that of an A.M. Best rating of "A-/VII" or better, as decided by Lender in its sole discretion.

(c) Borrower shall instruct each and every insurance company providing the foregoing coverages to notify Lender promptly of any cancellation or material change of said coverages, in whole or in part. Borrower is to submit annually during the Term evidence that all insurance required under this Agreement is in full force and effect.

9.5. Maintenance of Equipment. During the Term, the Borrower shall keep and maintain the Project and all related Equipment in good operating condition and repair, ordinary wear and tear excepted. The Borrower shall ensure that any and all necessary repairs and replacements are made so that the value and operating efficiency thereof shall at all times be maintained and preserved. In the event Borrower, at Lender's reasonable judgment, fails to maintain the Equipment to ensure its continued operation in accordance with the Project Documents, the Lender shall have the right to require Borrower to retain the services of an experienced thirdparty maintenance provider to maintain the Equipment. The Borrower shall not permit any such items to become affixed

to real estate unless the Borrower shall have delivered to the Lender such documents as are reasonably necessary to perfect the Lender's interest in such fixture.

9.6. Maintenance of Collateral. The Borrower will properly maintain the Collateral, defend same against any adverse claims and demands and protect and maintain the Collateral.

9.7. No Other Interests Granted. Except as otherwise disclosed by the Borrower to Lender, the Borrower has not executed, will not execute, and has not had or will have executed on their or its behalf, any assignment, pledge, security or other similar agreement or financing statement covering the Collateral, or any portion thereof, except to the Lender, and the Borrower will keep the Collateral free from any and all liens, claims, security interests and encumbrances of any kind or nature, except for the assignment, pledge and security interest herein granted to the Lender.

9.8. Change of Place of Business. The Borrower will notify Lender in writing prior to any change in Borrower's place of business, or, if Borrower has or acquires more than one place of business, prior to any change in either the Borrower's chief executive office and/or the office or offices where Borrower's books and records are kept.

9.9. Change in Name. Borrower will notify Lender immediately in writing of any proposed or actual change of Borrower's name, identity and/or corporate structure.

9.10 Further Assurances. Borrower agrees that, at any time and from time to time after the date hereof, upon the request of Lender, Borrower shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered on its behalf, all such further acts, deeds, assignments, conveyances, transfers, powers of attorney or assurances as may be reasonably required in order fully to grant, assure and confirm to the Lender a perfectable, first priority security interest in the Collateral.

10. Covenants of the Borrower and the Lender. The Borrower and the Lender shall cooperate and use all reasonable efforts, in good faith, to make all registrations, filings and applications and to give all notices and obtain all governmental and regulatory consents, authorizations, approvals, licenses, permits, orders, qualifications and waivers necessary or desirable for the consummation of the transactions contemplated hereby.

11. Events of Default: Remedies: Cure Rights.

11.1. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default":

(a) any failure of the Borrower to make any payment of principal and interest as provided in the Note and/or hereunder;

(b) any material representation or warranty made by either Party herein, or any material statement, information or certification made or provided by either Party to the other in connection with this Agreement, the Note and/or the Project, shall prove to have been false or incorrect in any material respect at the time made or given;

(c) an assignment of this Agreement or any rights created hereunder in violation of the provisions hereof;

(d) the failure by either Party to perform or observe any of the material covenants, agreements, terms, conditions or provisions of this Agreement not otherwise specified in this section;

(e) Borrower: (i) makes an application for the appointment of a receiver, trustee or custodian for the Collateral and/or any other of the Borrower's assets; (ii) files a petition under any chapter of the Bankruptcy Code or any similar federal and/or state law or regulation providing for the relief of debtors; (iii) makes an assignment for the benefit of its creditors; (iv) has a petition in bankruptcy, or other similar relief, filed against it, and such petition is not withdrawn or discharged within ninety (90) days after the date of its filing; (v) institutes any proceeding or action for the dissolution, liquidation, or termination of the Borrower;

(f) the Borrower fails to pay, when due, any amount required to be paid to the Lender;

(g) Borrower commits an Event of Default under the Mortgage and Security Agreement, which continues thereunder;

(h) an Event of Default, as such term is defined in any of the Project Documents occurs and continues;

(i) the Borrower breaches and/or defaults under any agreement between the Borrower and the Lender; and/or

(k) the Lender fails to pay any amount required to be paid to the Borrower pursuant to this Agreement and the Note.

11.2 Cure Rights; Remedies.

(a) Upon the occurrence of an Event of Default, the non-defaulting party shall provide written notice of such Event of Default to the other party. Following receipt of such notice, the defaulting party shall have: (i) a two-business-day (2-business-day) period within which to fully cure any Event of Default involving the payment of money; and (ii) a thirty-day (30-day) period within which either to cure any other Event of Default not involving the payment of money or, if the Event of Default does not involve the payment of money and cannot be fully cured within such thirty-day

(30-day) period, to institute action satisfactory to the non-defaulting party and to pursue such corrective action diligently.

(b) Upon the occurrence of an Event of Default that is not cured as per subsection 11.2(a), the Lender, in its sole discretion, may declare the entire outstanding amount of all Advances and all accrued and unpaid interest thereon to be immediately due and payable.

(c) Upon Borrower committing an Event of Default, the Lender shall have the right to exercise, at its option, any and all rights and remedies available at law and/or in equity and/or other proceeding. If such Event of Default involves the payment of any amount due under this Agreement, such amount shall bear interest from the date due to the date paid at a rate equal to the interest rate stated in Subsection 11.2(h), calculated in conformance with Section 2.3.

(d) Upon the occurrence and during the continuance of any condition that, after notice or lapse of time or both, would constitute an Event of Default, the Lender shall have the right, as the true and lawful agent of the Borrower, with power of substitution for the Borrower and in either the Borrower's name, the Lender's name or otherwise, for the use and benefit of the Lender: (i) to offset any amounts owed by Borrower to Lender, which are not paid when due, against any amounts due and owing by Lender to Borrower from any source whatsoever; (ii) to receive, endorse, assign and/or deliver any and all notes, acceptances, checks, drafts, money orders or other evidences of payment relating to the Collateral or any part thereof; (iii) to demand, collect, receive payment of, give receipt for and give discharges and releases of all or any part of the Collateral; (iv) to commence and prosecute any and all suits, actions or proceedings at law or in equity or otherwise in any court of competent jurisdiction to collect or otherwise realize on all or any of the Collateral or to enforce any rights in respect of any Collateral; (v) to settle, compromise, compound, adjust or defend any actions, suits or proceedings relating or pertaining to all or any portion of the Collateral; and (vi) to use, sell, assign, transfer, pledge, make any agreement with respect to or otherwise deal with all or any of the Collateral and to do all other acts and things necessary to carry out the purposes of this Agreement, as fully and completely as though the Lender were the absolute owner of the Collateral for all purposes;

(e) If, in the good faith business judgment of the Lender, the Borrower is not performing its obligations under this Agreement or, after the Borrower's receipt of a written request by the Lender to provide adequate assurances of performance, is likely to breach any of its obligations under any of the Loan Documents, the Lender may, at the cost and expense of the Borrower, but is not obligated to, take such steps as are necessary to remedy such failure to avoid such breach.

(f) The Borrower shall reimburse the Lender promptly for all reasonable costs and expenses the Lender incurs in exercising any and all of its remedies, including, without limitation, the costs and expenses incurred by Lender in inspecting the Borrower's books and records, as per Subsection 9.3(a), plus interest on the amount of

such costs and expenses from the date incurred by the Lender to the date reimbursed by the Borrower, calculated in accordance with Section 2.3, and the Lender shall be entitled to offset such amounts against payment of any amounts owed to the Borrower from any source whatsoever.

(g) Upon the occurrence of an Event of Default, the Lender may institute a suit directly against the Borrower without first foreclosing on or liquidating the Collateral.

(h) Upon the occurrence of an Event of Default, the Lender, in its sole discretion, may increase the rate of interest accruing on the Loan and payable hereunder to the rate of ONE AND ONE-HALF PERCENT (1 1/2%) per month, calculated in accordance with the appropriate provision of Section 2.3, for each month after the Event of Default that the Loan remains outstanding.

11.3 The Lender's Right to Dispose of Collateral. The Borrower agrees that the Lender shall have the right, subject to the mandatory requirements of current law, to sell or otherwise dispose of all or any part of the Collateral, at public or private sale or at any broker's board or on any securities exchange, for cash, upon credit or for future delivery as the Lender shall deem appropriate. The Lender shall be authorized at any such sale, if it deems it advisable to do so, to restrict the prospective bidders or purchasers to persons who will represent and agree that they are purchasing the Collateral for their own account for investment and not with a view to the distribution or sale thereof, and upon consummation of any such sale the Lender shall have the right to assign, transfer and deliver to the purchaser or purchasers thereof the Collateral so sold. Each such purchaser at any such sale shall hold the property sold absolutely free from any claim or right on the part of the Borrower, and the Borrower hereby waives to the fullest extent permitted by law, all rights of redemption, stay and appraisal which the Borrower now has, or may have at any time in the future, under any rule of law or statute now existing or hereafter enacted. The Lender shall recognize any right of the Customer to quiet enjoyment of the Collateral.

11.4. Application of Proceeds. The Lender shall apply any Collateral consisting of cash and the proceeds of any collection or sale of any other Collateral as follows:

FIRST, to the payment of all costs and expenses incurred by the Lender in connection with such collection or sale or otherwise in connection with this Agreement, any other agreement in connection with the Loan and accrued interest, including, but not limited to, all court costs and the reasonable fees, disbursements and other charges of its agents and legal counsel -- whether incurred in any action or proceeding either between the parties or between the Lender and any third party;

SECOND, to the payment in full of the accrued interest on the Loan;

THIRD, to the payment of the principal of the Loan; and

FOURTH, to the Borrower and its successors or assigns, or as a court or agency of competent jurisdiction may otherwise direct.

The Lender shall have absolute discretion as to the time of application of any such proceeds, moneys or balances in accordance with this Agreement. Upon any sale of the Collateral by the Lender, including, without limitation, pursuant to a power of sale granted by statute or under a judicial proceeding, the receipt of the Lender or of the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold and such purchaser or purchasers shall not be obligated to see to the application of any part of the purchase money paid over to the Lender or such officer or be answerable in any way for the misapplication thereof.

12. Amendment and Waivers.

12.1. Amendments, Modifications and Supplements. This Agreement may be amended, modified or supplemented only by an instrument in writing executed by, and delivered on behalf of, each of the parties hereto.

12.2. Waivers. The representations, warranties, covenants and conditions set forth in this Agreement may be waived only by a written instrument executed by the party so waiving. The failure of any party at any time or times to require performance of any provision hereof shall in no manner affect the right of such party at a later time to enforce the same. No waiver by any party of any condition, or breach of any term, covenant, agreement, representation or warranty contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a waiver of any other condition or of the breach of any other term, covenant, agreement, representation or warranty contained in this Agreement.

13. Survival of Representations, Warranties and Covenants. All representations, warranties and covenants of the Parties contained in this Agreement and/or the Note and/or made pursuant hereto or thereto shall survive until this Agreement expires or is sooner terminated or, in the case of any covenants, until such covenants have been performed fully.

14. Indemnification. Borrower indemnifies and holds harmless the Lender and the Lender's shareholders, subsidiaries, affiliates, officers, directors, successors and assigns, and the agents, representatives and employees of any and all of the foregoing, from and against any and all liability (including, without limitation liability in tort, whether absolute or otherwise), obligations, losses, penalties, claims, suits, costs and disbursements, including without limitation, legal fees and disbursements in any way relating to, or arising out of, the Loan Documents, the Project Documents and/or the Collateral; provided, however, that there shall be no indemnity for liability caused by the Lender's gross negligence or willful misconduct. This provision shall survive the expiration or sooner termination of this Agreement.

15. Notices. Any and all notices or other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally by courier, or by overnight delivery by a nationally recognized overnight delivery service, or five (5) days after mailing if sent by registered or certified mail, postage prepaid, addressed as follows:

If to the Lender:

Attention:

With a copy to the Lender's legal counsel at the same address.

If to the Borrower:

Attention:

Any party may change the address to which notices or other communications are to be sent to it by giving written notice of such change in the manner provided herein.

16. Assignment. This Agreement may not be assigned by any Party without the prior written consent of the other Party. Notwithstanding the foregoing, however, that the Lender, without the Borrower's consent, may: (a) assign its rights and delegate its obligations hereunder to one or more subsidiaries or affiliates of the Lender; or (b) assign its rights to receive moneys and/or SRECs hereunder and under the Note to any unaffiliated third party for financing purposes only. In all regards, however, no such assignment or delegation by the Lender shall relieve the Lender of its obligations hereunder. Subject to the foregoing, this Agreement shall bind and inure to the benefit only of the parties hereto and their respective successors and permitted assigns. In the event that the real property where the Project is located is transferred or assigned to a third party, Borrower shall notify Lender prior to such transfer or assignment so as to afford Lender the opportunity to review the creditworthiness of such third party, and, if such creditworthiness is substantially similar to that of Borrower's, allow such third party to agree to be obligated under the terms and conditions of this Agreement and the other Loan Documents to the same extent as Borrower. If such third party does not agree to be bound by this Agreement and/or the Loan Documents or does not have a similar level of creditworthiness to Borrower's, then Borrower shall pay Lender within thirty (30) days the full amount of the Loan Amortization and accrued interest

17. Entire Agreement. This Agreement, together with the schedules and exhibits hereto and the Notes and the other documents and instruments referred to herein and/or therein, sets forth the entire agreement and understanding of the parties hereto in respect of the transactions hereby contemplated, and supersedes all prior agreement, arrangements and understandings relating to the subject matter hereof.

18. No Third Party Beneficiary. Nothing in this Agreement is intended or shall be construed to give any person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein, other than the parties hereto.

19. Recitals. The clauses above set forth in the Recitals are herein incorporated by reference as though herein set forth at length.

20. Counterparts. This Agreement may be executed in any number of counterparts, all of which together shall be considered to constitute one instrument.

21. Section Headings. All section headings are inserted for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement and have no independent significance.

22. Interpretation. In this Agreement the singular includes the plural and the plural the singular; words importing any gender include the other genders; the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to agreements and other contractual instruments shall be deemed to include all subsequent amendments and other modifications thereto, without prejudice to any provisions of this Agreement prohibiting such amendments and other modifications; and references to persons include their respective permitted successors and assigns.

23. Applicable Law. **THIS AGREEMENT IS GOVERNED EXCLUSIVELY BY AND CONSTRUED IN STRICT ACCORDANCE WITH THE LAWS OF THE STATE OF NEW JERSEY APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN THE STATE OF NEW JERSEY WITHOUT REGARD TO NEW JERSEY'S CONFLICT OF LAWS PROVISIONS THAT MAY DEFEAT THE APPLICATION OF NEW JERSEY'S SUBSTANTIAL LAW TO THIS AGREEMENT, THE NOTE AND THE UNDERLYING TRANSACTIONS.**

24. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any Person not a party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of Lender's system or any portion thereof to Borrower or to the public, nor affect the status of Lender as an independent public utility corporation, or Seller as an independent individual or entity. Lender's review or acceptance of the Project and its operation shall not be construed as confirming or endorsing the design or as any warranty of safety, durability, reliability and/or performance, Lender shall not by reason of such review or failure to review be responsible for the strength, safety, details of design, adequacy, capacity, reliability and/or operation of the Project, nor shall Lender's extension of the Loan to Borrower be deemed to be an endorsement of the Project, in whole or in part.

25. Relationship of the Parties. For purposes of this Agreement, Lender and Borrower expressly agree that the relationship of Lender to Borrower is that of a lender only. The intent of this provision is to clarify and stipulate that Lender is not a partner, fiduciary and/or coventurer of Borrower and that Lender's sole interest in the Collateral is for the purpose of security for repayment of the obligations of Grantor to Secured Party.

IN WITNESS WHEREOF, each party hereto has caused its duly authorized representative to execute and deliver this Agreement as of the date first above written.

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print Name)

Name: _____
(Print Name)

Title: _____

Title: _____

EXHIBIT A
(Form of Secured Promissory Note)

EXHIBIT B
(Loan Amortization Schedule)

Exhibit C

DRAFT - TRANSACTION CONFIRMATION LETTER

To: _____, 2007
PSE&G Ref. # _____

Attn: Phone: Fax:
From Phone: Fax:

In accordance with Section ____ of the Solar Loan and Security Agreement by and between Public Service Electric and Gas Company (“Lender” or “Buyer”) and _____ (“Borrower” or “Seller”) dated _____ (“Loan and Security Agreement”), this is to confirm Buyer’s exercise of its option to purchase Solar Renewable Energy Certificates (“SRECs”) from Seller’s Facility (ies)¹ pursuant to the following terms and conditions set forth below.

Trade Date: _____, 2007

Product

and Creation: Solar Renewable Energy Certificates (“SREC”), as defined in the New Jersey Renewable Energy Portfolio Standards 14:4-8.2, as amended. SRECs are created on a monthly basis by the New Jersey SREC Program Administrator, which tracks the production of solar Photovoltaic (“PV”) systems in New Jersey. Through monthly meter readings (for systems greater than or equal to 10 KW) or engineering estimates (for systems less than 10 KW), electricity production is tracked. When 1,000 KWh, or 1 MWh, are produced, the Program Administrator deposits 1 SREC into the Seller’s or its Agent’s account on the SREC website (www.njcep.com/srec).

Delivery Period:

¹ Unless a different meaning is expressly stated herein, terms used with initial capitalization shall have the meaning ascribed to them in the Loan and Security Agreement.

Facility (ies): The SRECs will be based on the generation from certain generation facilities physically located within the state of New Jersey and owned by the Seller, as such Facility is identified in the Loan and Security Agreement Collectively, referred to herein as the “Facility (ies)”.

Contract Quantity Approximately [REDACTED] SRECs (not to exceed the Maximum Contract Quantity), as produced by the Facility.

Contract Price: \$_____ per SREC in accordance with Exhibit 2.7(d) of the Loan Agreement.

Delivery Schedule: Monthly, during Delivery Period.

Delivery to Buyer and Payment:

Seller will deliver the Contract Quantity of certified SRECs to Buyer each month during the Delivery Period using the New Jersey Solar Renewable Energy Certificate Program Internet website (www.njcep.com/srec) or its equivalent, as sanctioned by the NJ BPU (the “Website”). Buyer’s registered account name on the Website is “Public Service Electric and Gas Company”. Seller’s registered account name on the Website is “_____”. Seller’s delivery of SRECs to Buyer, in accordance with the Website’s protocol, shall be deposited into an escrow account on behalf of Buyer as title holder of such SRECs. Immediately following expiration of the Delivery Period, Seller shall invoice Buyer for the amount of SRECs delivered times the Contract Price. Payments shall be due and payable upon receipt of invoice by Buyer delivered by Seller on or after the 10th of the month (or if such date is not a Business Day, the next succeeding Business Day) following expiration of a Delivery

Period. Payments not received within ten (10) Business Days following receipt of invoice will be considered delinquent, and will be assessed a late fee at the rate of 1% of the unpaid amount per month. Within two (2) Business Days after receipt of payment, Seller shall notify the administrator for the Website (the “Administrator”) that Buyer’s payment has been received and Seller shall request that the remaining escrow period be rescinded thereby allowing for the immediate and permanent physical transfer of the SRECs to Buyer. SREC delivery by Seller shall be deemed complete when the Administrator has been notified to release the SRECs from the escrow account into the Buyer’s Website Account, which notification shall fulfill Seller’s obligations.

Failure to make delivery on the day scheduled due to Buyer’s action or inaction or due to problems with the Website shall not be deemed to be a default by Seller. In such event, Seller shall deliver the applicable SRECs to Buyer within three (3) Business Days of Seller being advised of the correction of the problem that prevented transfer.

The Seller warrants that Buyer shall have the exclusive title and rights to any and all SRECs in an amount up to the Contract Quantity produced by the Facilities free and clear of all liens, security interests, encumbrances, and Claims or any interest therein or thereto by any other person arising prior to Delivery.

Certification: All SRECs included in the sale hereunder will be New Jersey Certified, as verified by an agent appointed by the NJ BPU.

Other Terms:

See the General Terms and Conditions attached hereto and by this reference made a part hereof.

Very truly yours,

Public Service Electric and Gas Company

By: _____

Name: _____

Title: _____

Date: _____

GENERAL TERMS AND CONDITIONS

1) WARRANTY; REPRESENTATIONS

Seller represents and warrants that all Product sold hereunder is delivered free and clear of all liens, encumbrances, and Claims or any interest therein or thereto by any person arising prior to Delivery. For the purposes of this Agreement, "Delivery" occurs when title and risk of loss related to Product has been transferred from Seller to Buyer and the transfer of SREC's are properly recorded within the New Jersey Solar Renewable Energy Certificate Program ("NJ SREC Program"). On and as of the Trade Date, each Party represents and warrants to the other Party that the term "Claim" for purposes of this Agreement shall mean all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of an indemnity, and the resulting losses, damages, expenses, attorneys' fees and court costs, whether such claims or actions are threatened or filed prior to or after the termination of this Agreement. Each of Seller and Borrower represent and warrant:

A) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;

B) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;

C) the execution, delivery and performance of this Agreement is within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

D) this Agreement and each other document executed and delivered in accordance with this Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms; subject to any equitable defenses, bankruptcy principles, or the like;

E) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt;

F) there is not pending or, to its knowledge, threatened against it or any of its affiliates any legal proceedings that could materially adversely affect its ability to perform its obligations under this Agreement;

G) no event of default with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement;

H) it is acting for its own account, has made its own independent decision to enter into this Agreement and as to whether this Agreement is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other Party in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Agreement;

I) it has entered into this Agreement in connection with the conduct of its business and it has the capacity or ability to make or take delivery of all Products referred to in the Agreement to which it is a Party; and

J) with respect to this Agreement, it is a producer, processor, commercial user or merchant handling the Product, and it is entering into such Agreement for purposes related to its business as such.

2) MOVEMENT OF PRODUCT

Subject to the terms and conditions of this Agreement, Seller shall sell and deliver, and Buyer shall purchase and receive, the Contract Quantity of Product at Delivery and Buyer shall pay the Contract Price for Product so delivered. Seller shall be responsible for any costs or charges imposed on or associated with the Product up to Delivery and Buyer shall be responsible for any costs or charges imposed on or associated with the Product at and from the Delivery.

3) PAYMENT

Payment shall be made in accordance with the Confirmation Letter. If Buyer in good faith disputes the correctness of an invoice, Buyer shall pay the undisputed amount when due and submit to Seller a written statement detailing the items disputed and the reasons therefore. The Parties shall attempt in good faith to resolve the dispute promptly through negotiations between executives who have authority to settle the discrepancy. If it is determined that Buyer owes all or a portion of the disputed amount, Buyer shall pay Seller that amount within five (5) Business Days of such determination, along with interest accrued from the original payment due date to the date the payment is made. The past due amount shall carry interest as provided herein.

4) ASSIGNMENT/DELEGATION

Neither Buyer nor Seller shall assign this Agreement nor delegate any of its duties hereunder without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; otherwise any such delegation or assignment shall be voidable at the option of the other Party. Notwithstanding the foregoing, either Party may, without the prior consent of the other Party, (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements (and without relieving itself from liability hereunder), (ii) transfer or assign this Agreement to an affiliate of such Party which affiliate's creditworthiness it reasonably determines is equal to or higher than that of such Party, or (iii) transfer or assign this Agreement to any person or entity succeeding to all or substantially all of the assets whose creditworthiness it reasonably determines is equal to or higher than that of such Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof and the transferring Party delivers such tax and enforceability assurance as the non-transferring Party may reasonably request.

5) WAIVER

The failure of Buyer or Seller to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights hereunder shall not be construed as a future waiver of any such provisions or the relinquishment of any such rights, but the same shall continue and remain in full force and effect for the term of this Agreement.

6) EVENT OF DEFAULT AND DAMAGES

A) In the event ("Event of Default") of (i) the failure of either Party to make when due, any payment required hereunder if such failure is not remedied within five (5) Business Days after notice of such failure is given to the defaulting Party by the other Party; (ii) the failure of either Party to comply with any or all of its other respective obligations in good faith as herein set forth and such noncompliance is not cured within thirty (30) Business Days after notice thereof to defaulting Party; or (iii) either Party (a) filing a petition in bankruptcy, (b) having such a petition filed against it, (c) becoming otherwise insolvent or unable to pay its debts as they become due, the non-defaulting Party may, for so long as such Event of Default is continuing, establish by notice to the defaulting Party a date on which this Agreement shall terminate early, and the non-defaulting Party shall calculate, in a commercially reasonable manner, its damages, including any associated costs, resulting from the early termination of this Agreement. Such damages and costs, if any, shall be paid or cause to be paid by the defaulting Party to the non-defaulting Party within ten (10) Business Days of the defaulting Party's receipt of notice of the damages amount. The non-defaulting Party may suspend performance of its obligations under this Agreement until such Event of Default is cured, or if the Event of Default is a failure to pay as set forth in (i), until such amounts plus interest at the interest rate made in accordance with the Confirmation Letter have been paid, and/or exercise any remedy available at law or in equity to enforce payment of such amount plus interest at the interest rate made in accordance with the Confirmation Letter.

B) If Buyer fails to accept all or any part of the quantity of Product to be delivered under this Agreement, Buyer shall pay Seller within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Sales Price from the Contract Price plus reasonable legal costs incurred by Seller in enforcement and protection of its rights under this Agreement. "Sales Price" means the price, determined by Seller in a commercially reasonable manner, at which Seller resells (if at all) the Product and any corresponding energy, or, absent such a sale, the market price for such quantity of Product at or during the time that Buyer fails to accept the Product.

For purposes of this Agreement, "Force Majeure" means an event or circumstances that prevents one Party from performing its obligations under a Confirmation Letter, which event or circumstance was not anticipated as of the date of the Confirmation Letter, which is not within the reasonable control of, or the result of the negligence of, the Party claiming Force Majeure, and which, by the exercise of due diligence, the claiming Party is unable to overcome or avoid or cause to be avoided. In the case of Seller, for purposes of excusing Seller's obligation to deliver the Contract Quantity of SRECs during the Delivery Period, Force Majeure shall include: _____ . In the case of Seller, Force Majeure includes any governmental action which impairs, in whole or in part, the value of SRECs to Buyer.

C) Unless excused by Force Majeure or Buyer's material failure to perform, if Seller fails to deliver all or any part of the quantity of Product to be delivered under this Agreement, Seller shall pay Buyer within five (5) Business Days of invoice receipt, an amount for such deficiency equal to the positive difference, if any, obtained by subtracting the Agreement Price from the Replacement Price plus reasonable legal costs incurred by Buyer in enforcement and protection of its rights under this Agreement. "Replacement Price" means the price, determined by Buyer in a commercially reasonable

manner, at which Buyer purchases (if at all) substitute Product and corresponding Energy for the deficiency or, absent such a purchase, the market price for such quantity of Product at or during the time that Seller fails to deliver the Product.

D) Each Party hereby stipulates that the payment obligations set forth in (B) and (C) above are reasonable in light of the anticipated harm and each Party hereby waives the right to contest such payments as an unreasonable penalty or otherwise. Except as set forth in the "Payment" section in the transaction Confirmation Letter, the remedy set forth in (B) and (C) of this Paragraph 6 shall be the sole and exclusive remedy of the aggrieved Party for the failure of the other to deliver or accept, as the case may be, the quantity of Product specified herein and all other damages and remedies are hereby waived as to such failure(s), except as set forth in Paragraph 7 below.

7) LIMITATION ON LIABILITY

No waiver of remedies or damages herein shall apply to Claims of anticipatory repudiation or remedies therefor provided by law, except that neither Seller nor Buyer shall be liable to the other for consequential, incidental, punitive, exemplary or indirect damages, lost profits, or business interruption damages, whether by statute, in tort or in contract, under any indemnity provision or otherwise.

8) FORWARD CONTRACT

Buyer and Seller each acknowledge that it is a "forward contract merchant" and that all transactions pursuant to this Agreement constitute "forward contracts" within the meaning of the United States Bankruptcy Code.

9) NETTING AND SETOFF

If Buyer and Seller are required to pay any amount under this Agreement on the same day or in the same month, then such amounts with respect to each Party may be aggregated and the Parties may discharge their obligations to pay through netting, in which case the Party, if any, owing the greater aggregate amount shall pay to the Party owed the difference between the amounts owed. Each Party reserves to itself all rights, setoffs, counterclaims, combination of accounts, liens and other remedies and defenses which such Party has or may be entitled to (whether by operation of law or otherwise). The obligations to make payments under this Agreement and/or any other contract between the Buyer and Seller may be offset against each other, set off or recouped therefrom.

10) CONFIDENTIALITY

The Parties and their respective affiliates shall keep confidential any and all matters relating to this Agreement for one (1) year after the term of this Agreement, except (as otherwise provided herein) those readily obtainable from public information, requested by a regulatory commission, or otherwise required by law to be disclosed or to enable a Party to demonstrate compliance with applicable law or regulation and provided further a Party may disclose confidential information to affiliates, consultants, accountants and its lenders ("Representatives") so long as they agree to maintain such information on a confidential basis. A Party shall be responsible for any breach of this agreement by its Representative.

11) ENTIRE AGREEMENT

This Agreement, together with any attachments or exhibits specifically referenced herein, constitutes the entire contract between the Seller and the Buyer with respect to the subject matter hereof, supersedes all prior oral or written representations and contracts, and may be modified only by a written amendment signed by Buyer and Seller.

12) COMPLIANCE WITH THE LAW

Seller and Buyer shall make good faith efforts to comply with the provisions of all federal, state, and other governmental laws and any applicable order and/or regulations, or any amendments or supplements thereto, which have been, or may at any time be, issued by a governmental agency.

13) GOVERNING LAW

This Agreement shall be construed, enforced, and performed in accordance with the laws of the State of New Jersey, without recourse to principles governing conflicts of law, any dispute or Claim arising hereunder shall be exclusively litigated in a federal courts located in Newark, New Jersey.

14) NOTICES

Notices provided for or required under this Agreement shall be exercised in writing. The Parties shall be legally bound from the date the notification is exercised. Notices provided for or required in writing herein shall be delivered by hand or transmitted by facsimile or sent by postage prepaid, certified mail, return receipt requested, or by overnight mail or courier. Notices hand delivered, shall be deemed delivered by the close of the Business Day on which it was hand delivered (unless hand delivered after the close of the Business Day in which case it shall be deemed received by the close of the next Business Day). Notices provided by facsimile shall be deemed to have been received upon the sending Party's receipt of its facsimile machine's confirmation of a successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. Eastern Prevailing Time on a Business Day, then such facsimile shall be deemed to have been received on the following Business Day. Notices provided by postage prepaid, certified mail, return receipt requested, or by overnight mail or courier, shall be deemed delivered upon mailing.

15) GOVERNMENTAL CHARGES

Seller shall pay or cause to be paid all taxes imposed by any government authority ("Governmental Charges") on or with respect to the Product arising prior to Delivery. Buyer shall pay or cause to be paid all Governmental Charges on or with respect to the Product at and from Delivery (other than ad valorem, franchise or income taxes which are directly related to the sale of the Product and are, therefore, the responsibility of the Seller). In the event Seller is required by law or regulation to remit or pay Governmental Charges which are Buyer's responsibility hereunder, Buyer shall promptly reimburse Seller for such Governmental Charges. If Buyer is required by law or regulation to remit or pay Governmental Charges which are Seller's responsibility hereunder, Buyer may deduct the amount of any such Governmental Charges from the sums due to Seller under this Agreement. Nothing shall obligate or cause a Party to pay or be liable to pay any Governmental Charges for which it is exempt under the law and timely asserts and diligently pursues such exemption, until final determination thereof.

16) INDEMNITY

Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident first occurring or existing during the period when control and title to Product is vested in such Party as provided for in Paragraph 1. Each Party shall indemnify, defend and hold harmless the other Party against any Governmental Charges for which such Party is responsible under Paragraph 16.

17) AUDITING

Seller shall maintain reasonable records relating to this Agreement for a period of two (2) years from the Trade Date.

18) RECORDING

Each Party consents to the recording of its trading, marketing and scheduling representatives' telephone conversations without any further notice. All recordings may be introduced into evidence and used to prove the oral agreements constituting a transaction between the Parties. The Parties agree not to contest or assert any defense to the validity or enforceability of a telephonic or electronic transaction entered into in accordance with this Agreement under laws relating to whether certain contracts are to be in writing or signed by the Party to be thereby bound, or the authority of any employee of the Party to enter into a transaction. The Parties intend that they are legally bound by the terms of each transaction from the moment they agree to those terms (whether orally or otherwise).

19) FORM OF AGREEMENT

This Agreement shall be entered into as soon as practicable and memorialized by an exchange of facsimile transmissions or in a portable document format on an electronic messaging system, including but not limited to, electronic mail, which shall constitute an original signed document for all purposes under law and this Agreement.

EXHIBIT D
(Form of Mortgage and Security Agreement)

**MORTGAGE AND
SECURITY AGREEMENT**

THIS MORTGAGE AND SECURITY AGREEMENT (this "Agreement"), effective as of _____, 2007, by and between _____, a _____ [jurisdiction of formation/form of business], having an address for purposes hereof at _____ ("Grantor") and PUBLIC SERVICE ELECTRIC AND GAS COMPANY, a New Jersey corporation having an address for purposes hereof at 80 Park Plaza, Newark, New Jersey 07101 ("Secured Party").

W I T N E S S E T H:

WHEREAS, concurrently with its execution of this Agreement, Secured Party and Grantor entered into that certain Solar Program Loan Agreement (the "Loan Agreement"), dated contemporaneously herewith; and

WHEREAS, in consideration of, and as security for, Secured Party's extension of the principal amount of the Loan (as such term is defined in the Loan Agreement), Grantor and Secured Party enter into this Agreement.

NOW, THEREFORE, in consideration of the mutual promises herein contained and for other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, Grantor and Secured Party hereby agree as follows:

**ARTICLE I
DEFINITIONS; INTERPRETATIONS**

Section 1.01 Definitions. As used herein, the following terms shall have the following meanings:

"Books and Records" has the meaning assigned to such term in Section 2.01(j) of this Agreement.

"Business Day" means any day other than a Saturday, a Sunday or any other day on which commercial banks in the City of Newark, State of New Jersey are required or permitted by law to close.

"Code" means of the Uniform Commercial Code as in force in the State of New Jersey, as amended or superseded at any time and from time to time.

"Collateral" has the meaning assigned to such term in Section 2.01 of this Agreement.

"Customer Agreement" means the agreement between Equipment Provider and Grantor for the procurement, engineering and installation of the Project.

"Documents" means all instruments, files, records, ledger sheets and documents covering, or relating to, any of the Collateral.

"Environmental Attributes," for purposes of this Agreement, means an instrument used to represent the environmental costs and/or benefits associated with a fixed amount of electricity generation from the Project. For the Project, Environmental Attributes represent the general environmental benefits of renewable generation such as, for example, and not by means of exclusion, air pollution avoidance. The exact quantity of the environmental benefit (*e.g.*, pounds of emission reductions of a given pollutant) is not indicated by an environmental attribute, though it can be quantified separately in pollution trading markets and through engineering estimates. The Environmental Attribute represents all environmental benefits, whether or not trading markets

for such pollutants or benefits exist. Lender will quantify any and all Environmental Attributes, and have the right to trade said Environmental Attributes for its own account.

"Equipment" means all fixtures, machinery, equipment, components, additions, wirings, meters, replacement parts and consumables used and/or useful with respect to the Project.

"Equipment Provider" means _____.

"Event of Default" has the meaning ascribed to such term in Section 4.01 hereof.

"Fixtures" means all of the Project-related property, personal or otherwise, whether now existing or hereafter arising, acquired, existing or created, now or hereafter attached to or incorporated into or used in or about the real property owned and/or leased by Grantor, including, without limitation, all furniture, appliances, furnishing, goods, equipment and machinery owned by Grantor and all other tangible personal property now or hereafter affixed, attached and/or related to such property or used or useful in connection therewith, and all replacements, substitutions and additions for or to any of the foregoing, and all accessories, attachments and other additions to, substitutes or replacements for, and improvements of, such personal property described above, together with all tools, parts and appurtenances now or at any time used in connection therewith.

"General Intangibles" has the meaning assigned to such term in the Code.

"Grantor" has the meaning ascribed to such term in the introductory paragraph hereof.

"Instruments" has the meaning assigned to such term in the Code.

"Liens" means any and all mortgages, liens, charges, hypothecations, assignments, security interests and/or encumbrances of any kind, and/or pledges and/or deposits of any nature.

"Obligations" means: (a) the principal amount of the Loan (as defined in the Loan Agreement) advanced by Secured Party to Grantor; (b) any and all interest accrued and to accrue on the Loan; (c) any and all fines, fees and penalties related to the Loan; (d) any and all liabilities of Secured Party to Grantor related to the Loan and the Loan Agreement; and (e) any and all costs and expenses of, or incurred by, Secured Party in collecting any of the foregoing and enforcing this Agreement, including, without limitation, reasonable attorneys' fees and disbursements incurred and court costs.

"Permitted Encumbrances" means: (a) Liens expressly disclosed by Grantor to Secured Party, and approved by Secured Party, which approval Secured Party shall not unreasonably withhold; (b) Liens securing taxes, assessments and/or governmental charges and/or levies or the claims of materialmen, mechanics, carriers, warehousemen, landlords and other similar Persons, the payment of which are not currently due and payable; and (c) Liens in favor of Secured Party.

"Person" means any individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity, party or government.

"Proceeds" means any consideration received from the sale, exchange, collection or other disposition of the Collateral or any portion thereof, and any and all payments received from any insurer or other person or entity as a result of the destruction, loss, theft, damage, casualty or other involuntary conversion of whatever nature of the Collateral or any portion thereof.

"Project" means that certain solar generation system developed, designed, procured, installed and constructed by an Equipment Provider (as defined in the Loan Agreement) at the facility owned by Grantor, and located at the Real Property.

"Project Documents" means: (a) a fully executed Customer Agreement; (b) lien waivers form executed by the Equipment Provider and each of its subcontractors on the Project; (c) Project specifications, maintenance agreements and other technical information regarding the Project; (d) any and all applicable permits, licenses, easements, variances and other authorizations; (e) Program application documents, project plans and pro formas, and other Program-related documents; (f) any and all site leases, easement and similar instruments; and (g) any and all other appropriate documents as may be requested by the Lender.

"Real Property" means the premises, real property and improvements, now or hereafter, located on or about, affixed and/or otherwise connected to such real property and/or premises thereon, including, without limitation, the real property, premises and improvements situated, lying and being in the County of _____, and State of New Jersey, and located at _____, _____, New Jersey and inscribed on the tax map therefore as Lot _____ Block _____.

"Secured Party" has the meaning ascribed to such term in the introductory paragraph hereof.

"Security Interest" has the meaning ascribed to such term in Section 2.01 hereof.

"SRECs" means Solar Renewable Electricity Certificates that arise by the operation of the Project, and that are used and traded by means of the New Jersey Clean Energy Program's Website: www.njcep.com/srec (the "SREC Program Administrator"). These SRECs, once created, represent solar energy actually generated and used, and are bundled in minimum denominations of one megawatt hour of electricity production. New Jersey's SREC program allows for SRECs to be created, verified, tracked, sold to, and eventually utilized by, electricity suppliers to meet their RPS solar requirement. All electricity suppliers are required to use the SREC program to demonstrate compliance with this part of the State's RPS.

"SREC Account" means the electronic account Borrower has established and maintains with the NJCEP to use the SREC Program Administrator, or any successor thereto recognized by the State of New Jersey, for the sale and trade of SRECs.

Section 1.02 Interpretation. For purposes of this Agreement the singular includes the plural and the plural the singular; words denoting one gender include the other; the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to agreements and other contractual instruments shall be deemed to include all subsequent amendments, revisions and other modifications thereto, without prejudice to any provisions of this Agreement prohibiting such amendments, revisions and other modifications; and references to persons include their respective permitted successors and assigns.

Section 1.03 Relationship of the Parties. For purposes of this Agreement, Secured Party and Grantor expressly agree that the relationship of Secured Party to Grantor is that of a lender only. The intent of this provision is to clarify and stipulate that Secured Party is not a partner, fiduciary and/or coventurer of Grantor and that Secured Party's sole interest in the Collateral is for the purpose of security for repayment of the obligations of Grantor to Secured Party.

ARTICLE II SECURITY INTEREST

Section 2.01 Security Interest. As security for the full payment and performance of the Obligations, Grantor hereby assigns, transfers, pledges and grants to Secured Party, and Secured Party's successors and assigns, a perfectable, first priority lien, security interest, pledge and mortgage in and to, and agrees and acknowledges that Secured Party has, and shall continue to have, a security interest, lien and mortgage in and to, and assigns to Secured Party all of its right, title and interest in and to, and all of Grantor's power to transfer greater title than it has to, all Project assets of Grantor, including, without limitation, those assets and properties of Grantor related to the Project and/or the Project Documents (as defined in the Loan Agreement) of the types below described, wherever located, however arising or created, and whether now owned or existing or hereafter arising, created or acquired (collectively, the "Security Interest"):

(a) all Project Documents;

(b) all Equipment;

(c) all Fixtures affixed to the Real Property;

(d) all SRECs, including, without limitation, the SREC Account, all Environmental Attributes, all legal and economic attributes of the foregoing, whether now existing and hereafter arising, and all proceeds of the sale of the foregoing;

(e) all General Intangibles related to the Project and/or the Project Documents, including, without limitation, all *choses in action*, causes of action, records, registrations, licenses, franchises, claims under warranties, security interest or other security held or granted to secure performance of the Customer Agreement by Equipment Provider, all rights to indemnification and all other intangible property of every kind and nature;

(e) all Documents, computer programs, data processing records, computer software, source codes at any time evidencing, describing, pertaining to or in any way related to the property described in subsections (a) through (e), inclusive, above (collectively, the "Books and Records"); and

(f) all products, additions, accessions, substitutions and Proceeds of any of the above-described property, in any form whatsoever, and any and all proceeds of such Proceeds, including, without limitation, all cash and credit balances, all payments under any indemnity, warranty or guaranty with respect to any such property, all awards for taking by eminent domain, all proceeds of fire, theft or other insurance, including, without limitation, any and all refunds of unearned premiums in connection with any cancellation, adjustment or termination of any insurance policy or policies, any and all proceeds obtained as a result of any legal action or proceeding with respect to any of the foregoing property, and claims by Grantor against third parties for loss or damage to, or destruction of, any of such property.

The property described or referred to in subsections (a) through (f), inclusive, above, is hereinafter collectively referred to as the "Collateral."

Section 2.02 Financing Statements. Without limiting the foregoing, Secured Party is hereby authorized to file one or more financing statements, continuation statements, fixture filings and/or any other documents required for the purpose of perfecting, confirming, continuing, enforcing or protecting the Security Interest of Secured Party, with or without the signature of Grantor, naming the Grantor as "debtor" and Secured Party as "secured party" in each instance thereon.

Section 2.03 Further Assurances of the Grantor. Grantor, at its sole cost and expense, shall execute, acknowledge, deliver and cause to be duly filed any and all such further consents, instruments, certificates and documents and to take any and all such actions as Secured Party, at any time and from time to time, may reasonably request in order to preserve and protect the Security Interest and the rights and remedies created hereby, including, without limitation, a consent to assignment, substantially in form and substance to the consent to assignment attached hereto as Exhibit_____.

Section 2.04 Place of Business. Grantor represents that, as of the date hereof, its principal place of business is located at the address set forth in the introductory paragraph hereof. Grantor shall neither change or permit to be changed the location of either its principal place of business or its current place of business in the State of New Jersey — which place of business is located at _____,

_____, New Jersey _____ — unless and until all filings required under the Code or otherwise that are necessary to be made in order to assure and preserve its Security Interest have been made and Secured Party has a valid, legal and perfected first-priority security interest in the Collateral not subject to any Liens other than the Permitted Encumbrances.

Section 2.05 Security Interest Absolute. The Security Interest and any and all rights of Secured Party hereunder, and any and all obligations of Grantor hereunder, shall be absolute and unconditional irrespective of: (a) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the terms governing said Obligations; (b) any exchange, release or non-perfection of any Collateral, or any release or amendment or waiver of or consent to or departure from any guaranty, for any and all of the Obligations; or (c) any other circumstance that might otherwise constitute a defense available to, or a discharge of, Grantor in respect of the Obligations or in respect of this Agreement.

ARTICLE III GRANTOR'S REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 3.01 Representations and Warranties. Grantor represents, warrants and covenants, on behalf of itself and the Collateral hereunder pledged, to and with Secured Party that:

(a) Title and Authority. Grantor has rights in and good title to the Collateral and has full corporate power and authority to grant to Secured Party the Security Interest in such Collateral pursuant hereto and to execute, deliver and perform its obligations in accordance with the terms of this Agreement without the consent or approval of any other Person other than any consent or approval that has been obtained.

(b) Filings. Fully executed financing statements containing a description of the Collateral have been delivered to Secured Party for filing in each and every governmental, municipal or other office in every jurisdiction in which such filing is required in order to perfect or establish a valid and legal security interest in favor of Secured Party in respect of the Collateral.

(c) Validity of Security Interest. The Security Interest granted by Grantor constitutes a valid, legal and, upon the filing of the financing statements referred to in paragraph (b), above, perfected security interest in all the Collateral granted by the Grantor for payment and performance of the Obligations, and the Collateral granted by the Grantor is not subject to any Liens other than Permitted Encumbrances.

(d) Information Regarding Names and Locations. Grantor has disclosed in writing to Secured Party any and all trade names which Grantor used or currently uses to identify itself in its business or in the ownership of any of its assets.

(e) Absence of Other Liens. Grantor has neither filed nor had filed against it any financing statement under the Code, or its equivalent in any other jurisdiction, regarding in anyway the Collateral, or any portion thereof, except solely for the Permitted Encumbrances and the Security Interest herein granted.

(f) Automatic Warranty and Reaffirmation of Warranties and Representations. Each and every submission of an agreement, invoice, certification and/or other instrument by Grantor to Secured Party in order to obtain payment of an installment under the Purchase Agreement shall constitute as of the date of such submission: (i) an automatic representation and warranty by Grantor to Secured Party that no Event of Default or any event or condition that with notice or lapse of time would constitute an Event of Default; and (ii) a reaffirmation that all representations and warranties of Grantor contained in this Agreement are true and correct in all respects, except to the extent that such representations and warranties may be untrue or incorrect as a result of the occurrence of events subsequent to the date of this

Agreement that are expressly permitted by this Agreement or expressly permitted by Secured Party in writing.

Section 3.02 Inspection and Verification. Secured Party and such persons as Secured Party may reasonably designate shall have the right, at any reasonable time or times upon reasonable prior notice during the usual business hours of Grantor, to inspect all Books and Records which are in Grantor's possession and to make extracts, summaries and copies from such Books and Records.

Section 3.03 Protection of Security Interest. Grantor shall, at its sole cost and expense: (a) take any and all actions necessary to defend its respective title, rights and interests in and to the Collateral against all Persons and, further, to defend the Security Interest of Secured Party in the Collateral and the priority thereof against any Lien that is not a Permitted Encumbrance; and (b) advise Secured Party promptly, in reasonable detail, of any Lien made or asserted against any of the Collateral and of the occurrence of any event that may have an adverse effect on the aggregate value of the Collateral and/or on the Security Interest herein granted.

Section 3.04 Use and Disposition of Collateral. Grantor shall neither make nor permit to be made any assignment, pledge or hypothecation of the Collateral and/or grant any other security interest in the Collateral other than as permitted hereunder.

Section 3.05 Insurance. Grantor shall insure the Collateral for such coverages and in such amounts as required by the Loan Agreement.

Section 3.06 Maintenance of Collateral. Grantor will properly maintain and care for the Collateral, defend same against any adverse claims and demands and protect and maintain the Collateral in accordance with the highest standards customary for businesses similar to Grantor's;

ARTICLE IV EVENTS OF DEFAULT

Section 4.01 Events of Default. An "Event of Default" shall exist hereunder at any time that:

- (a) any representation or warranty herein contained is not be true and correct in each and every material respect;
- (b) Grantor breach as its obligation to perform any material covenant or agreement contained herein;
- (c) Grantor executes a general assignment for the benefit of its creditors;
- (d) Grantor becomes the subject, voluntarily or involuntarily, of any bankruptcy, insolvency or reorganization proceeding;
- (e) Grantor admits in writing its inability to pay its debts generally as they become due or fails to pay its debts as they become due;
- (f) Grantor applies for consent to the appointment of a custodian, receiver, trustee or liquidator of itself or of all or a substantial portion of its assets;
- (g) Grantor files a voluntary petition seeking protection under any debtor's relief or other insolvency law now or hereafter existing;
- (h) Grantor files an answer admitting the material allegation of, or consenting to, or defaulting in filing an answer to, any petition filed against it in any bankruptcy, reorganization or other insolvency proceedings;
- (i) institutes or voluntarily is or becomes a party to any other judicial proceedings intended to effect a discharge of its debts, in whole or in part, or a postponement of the maturity or the collection thereof, or a suspension of any of the rights or powers of Secured Party granted in this Agreement or in any instrument or other writing evidencing any of the Advances;
- (j) the dissolution, liquidation, merger or termination of Grantor;

(k) any order, judgment or decree for the payment of money which would have a material and adverse effect on the Collateral or the financial condition of Grantor is rendered against Grantor, and such order, judgment or decree shall not be satisfied and be in effect for twenty (20) consecutive calendar days without being vacated, discharged, satisfied or stayed or bonded pending appeal;

(l) any involuntary lien or encumbrance of any kind or character, other than any Permitted Encumbrances or the Security Interest herein granted, shall attach to the Collateral, or any portion thereof, or to any asset or property of Grantor, or any levy, seizure or attachment thereof or thereon;

(m) Secured Party's liens, mortgages or security interests in any of the Collateral becomes unenforceable; and/or

(n) Grantor breaches its obligations under the terms of any agreement, instrument or other writing evidencing the Loan.

Section 4.02 Remedies upon Event of Default. Upon the occurrence and during the continuance of an Event of Default, Grantor agrees to deliver each item of Collateral to Secured Party on demand. Further, the parties agree that Secured Party shall have the right to take any or all of the following remedies at the same or different times: (a) without notice to Grantor, except as required by law, and at any time and from time to time, charge, setoff and/or otherwise apply the amount of the Obligations, or any portion thereof, against the amounts held by Buyer for the benefit of Seller or owned by Buyer to Seller, with or without legal process and with or without prior notice or demand for performance to take possession of the Collateral or any portion thereof; and (b) without liability for trespass, to enter onto any of Grantor's premises where such Collateral may be located for the purpose of taking possession of or removing such Collateral; and (c) generally, to exercise any and all rights and remedies afforded to a secured party under the Code and/or other applicable law.

Section 4.03 Application of Proceeds. Secured Party shall apply any Collateral consisting of cash and the proceeds of any collection or sale of any other Collateral as follows:

FIRST, to the payment of all costs and expenses incurred by the Lender in connection with such collection or sale or otherwise in connection with this Agreement, any other agreement in connection with the Loan and accrued interest, including, but not limited to, all court costs and the reasonable fees, disbursements and other charges of its agents and legal counsel -- whether incurred in any action or proceeding either between the parties or between the Lender and any third party;

SECOND, to the payment in full of the accrued interest on the Loan;

THIRD, to the payment of the principal of the Loan; and

FOURTH, to the Borrower and its successors or assigns, or as a court or agency of competent jurisdiction may otherwise direct.

ARTICLE V SECURED PARTY

Section 5.01 Secured Party Appointed Attorney-in-Fact. Grantor hereby appoints Secured Party to act as attorney-in-fact on behalf of Grantor for the purposes of carrying out the provisions of this Agreement and taking any action and executing any instrument or other writing which Secured Party may deem reasonably necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest.

ARTICLE VI MISCELLANEOUS

Section 6.01 Notices. Notices and other communications provided for herein shall be in writing and given and mailed or delivered to the appropriate party at the address specified for such party in the introductory paragraph of this Agreement.

Section 6.02 Survival of Agreement. Any and all covenants, agreements, representations and warranties made by Grantor herein and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by Secured Party and shall survive the execution and delivery hereof.

Section 6.03 Binding Effect; Assignments. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except, however, that Grantor shall not, without the prior written consent of Secured Party, assign or delegate any of its rights, duties, liabilities or obligations hereunder or any of its interest herein or in the Collateral, or any part thereof, or otherwise pledge, encumber or grant any option or right with respect to the Collateral, or any part thereof, except as expressly permitted under either this Agreement or the Purchase Agreement.

Section 6.04 Expiration; Release. This Agreement and the Security Interest shall expire upon Secured Party's execution and delivery of a written termination and release thereof, at which time Secured Party shall execute and deliver to Grantor, or to such other person or persons as Grantor shall reasonably designate in writing, all termination statements, as per the Code, and similar documents prepared by Grantor, at Grantor's sole cost and expense, which Grantor shall reasonably request to evidence such termination and release.

Section 6.05 Applicable Law. THE PARTIES AGREE THAT THIS AGREEMENT SHALL BE CONSTRUED IN STRICT ACCORDANCE WITH AND GOVERNED EXCLUSIVELY BY THE LAWS OF THE STATE OF NEW JERSEY WITHOUT REGARD TO NEW JERSEY'S CONFLICT OF LAWS PROVISIONS WHICH MAY DEFEAT THE APPLICATION OF NEW JERSEY'S SUBSTANTIVE LAWS.

Section 6.06 No Waivers. No failure or delay of Secured Party or Grantor in exercising any power or right hereunder shall operate as a waiver thereof. No single or partial exercise of any right or power hereunder, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The respective rights and remedies of Secured Party and Grantor hereunder and under the Purchase Agreement are cumulative and do not exclude any rights or remedies that such party would otherwise have.

Section 6.07 Waiver of Jury Trial. Each party hereto hereby waives, to the fullest extent permitted by law, any right it may have to a trial by jury in respect of any litigation or other action directly or indirectly arising out of, under or in connection with this Agreement.

Section 6.08 Severability. In the event any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect with respect to either Grantor or Secured Party, no party hereto shall be required to comply with such provision with respect to either Grantor or Secured Party for so long as such provision is held to be invalid, illegal or unenforceable, but the validity, legality and enforceability of the remaining provisions contained herein, shall not in any way be affected or impaired thereby.

Section 6.09 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one contract.

Section 6.10 Headings. Article and Section headings are for convenience of reference only, are not part of this Agreement, have no independent substantive meaning and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

IN WITNESS WHEREOF, the parties have each caused its respective, duly authorized representative to execute and deliver this Agreement as of the day and year first above written.

Grantor: _____
By: _____
Name: _____
(Print Name)
Title: _____

Secured Party: PUBLIC SERVICE ELECTRIC AND GAS COMPANY

By: _____
(Signature)
Name: _____
(Print Name)
Title: _____

EXHIBIT A

Grantor's Facility