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Michael Winka  
[M.Winka@bpu.state.nj.us](mailto:M.Winka@bpu.state.nj.us)  
Scott Hunter  
[B.Hunter@bpu.state.nj.us](mailto:B.Hunter@bpu.state.nj.us)  
Charlie Garrison  
[charlie.j.garrison@honeywell.com](mailto:charlie.j.garrison@honeywell.com)

POB 350-44 S. Clinton Ave.  
Trenton, NJ 08625

RE: Next Steps in the Solar Transition – 11/30/2011 Board Order

Dear Mike, Scott, and Charlie:

Thank you for convening the Solar Transition Working Group and for your indefatigable efforts on these matters. Per your instructions, we hereby submit comments for consideration by the Board in the form of the full Joint Transparency Proposal previously submitted by Constellation Energy, the Solar Alliance, and RESA.

We look forward to continuing to work with you on these matters.

Best regards,

*Bryan S. Miller*

Bryan S. Miller  
Constellation Energy  
Vice President, Energy Policy, Sustainable Energy  
410 470 3266 (office)  
240 744 6067 (cell)

Cc:

Solar Alliance  
Katie Bolcar  
Director, Mid-Atlantic  
[katie@solaralliance.org](mailto:katie@solaralliance.org)  
202-841-7599

RESA  
Murray E. Bevan  
Bevan, Mosca, Giuditta & Zarillo, PC

MBevan@bmgzlaw.com  
908-753-8300

With further copy to:

[solartransition@njcleanenergy.com](mailto:solartransition@njcleanenergy.com)

[OCE@bpu.state.nj.us](mailto:OCE@bpu.state.nj.us)

# **Initial Joint Proposal of Constellation Energy, the Solar Alliance, and RESA to Improve Pipeline Transparency**

## **I. Background**

### **A. The Joint Parties**

In response to recent significant price declines in the New Jersey SREC market, the New Jersey BPU and other state officials have solicited stakeholder suggestions on ways to improve the health of the SREC market. The Joint Parties to the following proposal represent an unusually broad coalition of stakeholders, but have come together to propose modest but important reporting requirements, which would significantly improve transparency into the project pipeline and increase market efficiency. The Joint Parties consist of the following:

#### 1. Constellation Energy

Constellation Energy is a diversified Fortune 200 energy company, serving customers throughout the U.S., including two-thirds of the Fortune 100. In New Jersey, Constellation operates from over nine locations, and serves retail and wholesale customers state-wide. Constellation is also one of the nation's leading solar developers, designing, financing, and constructing solar projects that are helping New Jersey meet its renewable portfolio standard and solar carve-out.

#### 2. The Solar Alliance

The Solar Alliance is a coalition of thirty-three of the world's leading manufacturers, developers, and financiers of solar photovoltaic generation equipment whose mission is to promote effective state-based solar energy policy. The Solar Alliance works with state policy makers and regulators to establish cost effective and successful solar policies and programs that capture associated economic development opportunities. The Solar Alliance strives to increase the number and capacity of solar installations of all types, ensuring the market is vibrant, competitive, and diverse.

#### 3. RESA (Retail Energy Supply Association)

The Retail Energy Supply Association is a broad and diverse group of retail energy suppliers who share the common vision that competitive retail energy markets deliver a more efficient, customer-oriented outcome than a regulated utility structure. RESA is devoted to working with all stakeholders to promote vibrant and sustainable competitive retail energy markets for residential, commercial, and industrial consumers.

## **II. Overview of Need for Transparency in the Project Pipeline**

In general, the Joint Parties believe that the recent price volatility in the New Jersey SREC market is the result of normal, albeit painful, market influences. The most important goal

that the BPU can pursue at this important time is regulatory stability. Market-based mechanisms such as the SREC program have proven their effectiveness at creating a long-term and sustainable solar market, and regulatory interventions that undermine market fundamentals would have an extremely detrimental impact. However, the Joint Parties believe that important reforms should be made that promote transparency and efficiency, and therefore stronger market fundamentals.

A system is needed to enable market participants to obtain an accurate view of the solar project supply pipeline. Under the current structure, the market has little information regarding pending projects other than SRP registrations, which are easy to obtain, and even easier to keep, regardless of whether a project is still being pursued. This necessary reliance on SRP registrations confounds forecasting of the magnitude and timing of future SREC supply, and at worst artificially inflates supply calculations. This lack of transparency has been a significant factor in the recent SREC price volatility. Such volatility makes investment decisions difficult for solar developers, retail load serving entities, and wholesale energy providers.

Enhanced reporting systems are a common characteristic of mature markets. PJM and most organized wholesale markets have comprehensive generation and transmission interconnection queues. Massachusetts has recently proposed a system for providing an assurance of available capacity within its net-metering program, and California has various queue management systems for its numerous renewable energy programs. Drawing on our substantial experiences in these other markets, the Joint Parties propose the following enhanced reporting system for the New Jersey SREC market.

## **II. Principles**

Any requirements to increase transparency in the project pipeline should adhere to the following principles:

- A. The system should minimize administrative burdens for all market participants, including large and small developers, retail and wholesale providers, utilities, and the market manager.
  
- B. Transparency is best achieved by clear and enforceable reporting requirements. Reporting milestones should consist of objective steps that cannot be gamed.
  
- C. Reported information should be publicly available and electronically searchable in a timely and consistent manner.

## **III. Applicability**

The Joint Parties propose that all solar projects applying for SRECs other than residential solar projects be required to comply with the following reporting requirements, and that a streamlined residential reporting system be investigated and designed at a later date. Exempting residential projects at this time is appropriate given that the costs of the proposed reporting requirements may disproportionately impact small projects, and individual small projects do not

affect supply calculations to the same extent that commercial and utility scale projects do. Creating such a streamlined requirement could be done at a later date without delaying issuance of the following requirements for commercial and utility scale projects.

With respect to projects already pending at the time this pipeline reporting system is adopted, the Joint Parties propose that all projects be granted a three month grace period to file the required reports.

#### **IV. Proposed Reporting Requirements**

The Joint Parties propose that all solar projects applying for SREC status be required to comply with the following reporting guidelines:

- A. As part of SRP registration, the developer must attest to site control in the form of a contract with appropriate regulatory and financing contingencies. A Letter of Intent or Option should not be permitted to meet this requirement as such agreements have little consideration between the parties, and have often been used to game similar reporting requirements in other jurisdictions. Grid supplied projects must include a signed Interconnection Service Agreement in the SRP registration application.
  
- B. Projects must report to the Market Manager within thirty days of having obtained all applicable construction and environmental permits or having obtained interconnection approval, and must file such permits or approvals with the market manager.
  
- C. Projects must report to the Market Manager within thirty days of having started construction. The Joint Parties recommend that this be defined as when work crews arrive on-site for site preparation.
  
- D. Based on information in its current databases, the Market Manager should indicate which projects have secured participation in an EDC SREC Finance Program or the Solar Loan Program.

#### **V. Administration of Reporting Requirements for Pipeline Transparency**

Given the time and cost required to start up a new reporting process and database, and the added confusion if project developers have to report to more than one entity, the Joint Parties recommend that the existing Market Manager amend its current SRP registration system to include the reporting requirements in this proposal.

To ensure that this information flows in a useful and timely way to market participants, it is critical that the database of reporting requirements is publically available in an electronically searchable format. The Joint Parties recommend that the Market Manager update its current database to be more accessible and electronically searchable.

The Joint Parties recognize that there are necessary costs implied for the Market Manager to implement and administer the recommendations in this proposal. The parties therefore propose that solar projects be assessed a small fee in proportion to their size to defray these administrative costs.

## **VI. Conclusion**

The Joint Parties appreciate this opportunity to present this proposal to BPU. To the extent that agreement on specifics of a pipeline transparency reporting system cannot be agreed upon in the larger Solar Transition Work Group, the Joint Parties urge the BPU to create a separate Work Group to develop and report out a plan to improve visibility into the project pipeline.

We believe that the public interest is best served by all market participants having visibility into the pending pipeline of projects, so that prices are set naturally by the market, rather than inherently flawed supply calculations. Better transparency may lead to a rise or fall in SREC prices, the consequences of which we will accept. The intent of this proposal is not to control prices, but to promote a more efficient market that benefits all market participants, and ultimately all ratepayers.

Contact Information for the Joint Parties:

Constellation Energy  
Bryan Miller  
Vice President, Energy Policy,  
Sustainable Energy  
bryan.miller@constellation.com  
240-744-6067

Solar Alliance  
Katie Bolcar  
Director, Mid-Atlantic  
katie@solaralliance.org  
202-841-7599

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Murray E. Bevan  
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908-753-8300