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THE
Vote Solar
INITIATIVE

November 1, 2010

Ms. Alisa Carrow Bentley
Delaware Public Service Commission
861 Silver Lake Boulevard
Cannon Building, Suite 100
Dover, DE 19904

Re: **In the Matter of the Adoption of Rules and Procedures to Implement the
Renewable Energy Portfolio Standards Act, 26 DEL. C. §§ 351-363, as Applied
to Retail Electricity Suppliers
PSC Regulation Docket No. 56 (Re-Opened September 7, 2010)**

Dear Ms. Carrow Bentley:

Enclosed for filing in the above captioned docket are an original and ten copies of the
Comments of the Vote Solar Initiative.

Sincerely,

Peter A. Olmsted
Mid-Atlantic Solar Policy Advocate

Enclosure

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE ADOPTION OF)
RULES AND PROCEDURES TO IMPLEMENT) PSC DOCKET NO. 56
THE RENEWABLE ENERGY PORTFOLIO)
STANDARDS ACT, 26 DEL. C. § 351-363,)
AS APPLIED TO RETAIL ELECTRICITY)
SUPPLIERS (OPENED AUGUST 23, 2005;)
REOPENED SEPTEMBER 4, 2007;)
AUGUST 5, 2008; SEPTEMBER 22, 2009;)
AND SEPTEMBER 7, 2010))

COMMENTS
OF THE
VOTE SOLAR INITIATIVE

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November 1, 2010

I. INTRODUCTION

On September 7, 2010 the Public Service Commission of the State of Delaware (“Commission”) entered Order No. 7834 reopening PSC Regulation Docket No. 56 to revise the Commission’s Rules and Procedures to Implement the Renewable Energy Portfolio Standard (“RPS Rules”), originally adopted by Order No. 6931 (June 6, 2006) and subsequently revised from time to time since original adoption. Signed into law on July 28, 2010, Senate Substitute No. 1 for Senate Bill No. 119 (“SS1 for SB119”) amends several provisions and adds several new sections to Delaware’s Renewable Energy Portfolio Standards Act 26 *Del. C.* §§ 351-363 (“RPS Act”). Pursuant to Order No. 7834, the Commission proposes to update the RPS Rules to reflect the amendments to the RPS Act. Pursuant to 29 *Del. C.* §§10115(a) and 10116, the Commission has solicited written comments, suggestions, compilations of data, briefs, or other written materials from interested persons or entities.

The Vote Solar Initiative (“Vote Solar”) is a nonprofit organization with over 60,000 members throughout the U.S. that aims to address energy and environmental issues by bringing solar energy to the mainstream. Vote Solar sincerely appreciates the opportunity to provide comments to the Commission regarding the promulgation of RPS Rules for the implementation of SS1 for SB119. As an active stakeholder in the development of solar policy and RPS Rules in many states throughout the country, Vote Solar has recently established offices in the Mid-Atlantic recognizing the surge in activity surrounding solar development and solar policy formation in this region, especially in Delaware.

Vote Solar seeks to work cooperatively with the Commission, the solar industry, utilities and other stakeholders to ensure that Delaware is able to build a robust

renewables market and increase renewable energy resources with the least impact on ratepayers. With diverse benefits including grid reliability, job creation, mitigation of air pollution and climate change, enhanced energy security and price volatility hedging, solar energy represents a viable energy resource for all Delawareans. Vote Solar commends the state for prioritizing renewables development and wishes to submit comments in support of the promulgation of the proposed RPS Rules.

II. COMMENTS ON THE PROPOSED RULES

A. Rate Impact

In Section 3.2.16 of the proposed rules, the Commission describes provisions intended to limit the impact on ratepayers from the cost of compliance (“Cost Cap”) with the requirements of the RPS Act. As the synopsis of SS1 for SB119 describes, “[t]he act also provides consumer protections by limiting any rate impacts.” Clearly the intention of the Cost Cap provisions is to protect ratepayers in regards to the cost of compliance with the RPS Act. Section 3.2.16 specifically stipulates that, “the minimum percentages from Eligible Energy Resources and Solar Photovoltaic Energy Resources as shown in Schedule 1 may be frozen for Commission-regulated electric companies,” upon a finding by the Delaware Energy Office, “that the cost of complying with the requirements of this Regulation exceeds, for Solar Photovoltaic Energy Resources, 1%, and for Eligible Energy Resources, 3%, of the total retail cost of electricity for Commission-regulated electric companies during the same compliance year.”

Vote Solar appreciates the intent of the Cost Cap provisions for protecting ratepayers, and supports the inclusions for calculating “total cost of compliance” as detailed in Section 3.2.16, as well as the promulgation of Cost Cap procedures as specified in Sections 3.2.16.1 and 3.2.16.2. Although the total cost of compliance is

substantiated in Section 3.2.16, it is critical to also define the “total retail cost of electricity” metric employed for the Cost Cap. The method by which this metric is calculated will clearly have consequence on the overall effect of this cost containment mechanism. Considering that the Cost Cap provision is specifically intended to protect ratepayers, we submit that it is reasonable for the “total retail cost of electricity” to be quantified based on the retail cost of electricity for end-users. The proposed rules are unclear, however, as to how the total retail cost of electricity will be determined.

Vote Solar therefore requests that the Commission initiate a transparent process in order to provide clarity for determining the total retail cost of electricity pursuant to 26 *Del. C. § 354(i)-(j)* and specified in RPS Rules Section 3.2.16. Considering that a variety of states with RPS Acts have employed different variations of the Cost Cap provisions for protecting ratepayers, drawing from the experience of other states may prove useful in this regard.

B. Market-Based Price Threshold

In consideration of the increase and adjustment to the minimum cumulative percentage requirements for Eligible Energy Resources and Solar Photovoltaic Energy Resources under the RPS Act amendments of SS1 for SB119, it is clear that the state and its stakeholders are encouraged by the potential of market-based mechanisms for the development of renewable energy resources. Recognizing that these market dynamics are highly influenced by a wide variety factors, we appreciate the flexibility that is granted to the Commission and the Delaware Energy Office under Sections 3.2.15 and 3.3.5 to help ensure that market mechanics are balanced for the appropriate deployment of renewable energy resources in pursuit of RPS Act goals.

In regards to the provisions of Section 3.2.15, we would like to take this opportunity to urge the Commission to reflect upon its responsibilities to “establish the predetermined market-based price threshold” as the baseline for considering adjustments to accelerate the scheduled percentage requirements of Schedule 1 under Section 3.2.1. Although we recognize that the provisions of Section 3.2.15 do not take effect until Compliance Year 2014, the rapid emergence of Renewable Energy Credit (“REC”) and Solar Renewable Energy Credit (“SREC”) markets in Delaware and throughout the region demand attentiveness for nurturing the structures that will stimulate appropriate investments in renewable energy resources while protecting ratepayers. We therefore request that the Commission, in concert with the Delaware Energy Office, take a proactive role and develop a plan for considering its future responsibilities under Section 3.2.15. It is our belief that such a proactive approach will offer opportunity for greater market certainty and lead to increased investor confidence.

III. CONCLUSION AND RECOMMENDATIONS

Vote Solar believes that the proposed rules are consistent with the intent of the RPS Act amendments as signed into law through SS1 for SB119. Vote Solar recommends that the Commission provide explicit definition for total retail cost of electricity as specified under Section 3.2.16 in order to provide the necessary transparency for ratepayer protection and for the growth of the renewable energy development. We further request the Commission to take a proactive role in considering its responsibilities for establishing a market-based price threshold for the benefit of market certainty and investor confidence. Finally, we are encouraged by the efforts of the Renewable Energy Taskforce initiated through SS1 For SB119, and look forward to working with the Commission and stakeholders on the implementation of Taskforce

recommendations. We sincerely appreciate the opportunity to comment upon these important issues.

Respectfully submitted,



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