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Clerk's Office
N.C. Utilities Commission

December 5, 2012

VIA HAND DELIVERY

Ms. Gail Mount
Chief Clerk
North Carolina Utilities Commission
Fifth Floor, Room 5063
430 N. Salisbury Street
Raleigh, NC 27603

FILED

DEC 05 2012

Clerk's Office
N.C. Utilities Commission

**Re: In the Matter of Biennial Determination of Avoided Cost Rates for
Electric Utility Purchases from Qualifying Facilities-2012
Docket E-100, Subs 127 and 136**

Dear Ms. Mount:

Enclosed for filing in the above-referenced dockets is an original and thirty-one (31) copies of the Reply Comments of the Renewable Energy Group to Motion to Suspend Availability of Avoided Cost Rates.

Please stamp the extra copy as "Filed" and return to me via our courier.

Thank you for your assistance with regard to this matter. If you have any questions concerning this submission, please do not hesitate to contact me.

Regards,



Charlotte A. Mitchell

Enclosures

cc: All parties of record

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

FILED

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Clerk's Office
N.C. Utilities Commission

DOCKET NO. E-100, SUB 127
DOCKET NO. E-100, SUB 136

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION:

In the Matter of:

Biennial Determination of Avoided Cost
Rates for Electric Utility Purchases from
Qualifying Facilities - 2012

**REPLY COMMENTS TO
MOTION TO SUSPEND
AVAILABILITY OF
AVOIDED COST RATES**

NOW COME Argand Energy Solutions, LLC ("Argand"), Birdseye Renewable Energy, LLC ("Birdseye"), Carolina Solar Energy, LLC ("CSE"), Community Energy Solar, LLC ("CES"), ENlight Solar, LLC ("ENlight"), FLS Energy, Inc. ("FLS"), Mid-Atlantic Renewable Energy Coalition ("MAREC"), National Renewable Energy Corporation ("NARENCO"), O2 Energies, Inc. ("O2"), SfL+a Architects, PA ("SfL+a"), Solbridge Energy, LLC ("Solbridge"), Strata Solar, LLC ("Strata"), SunEdison ("SunEdison"), Sunpower Corporation ("Sunpower"), and Sustainable Energy Solutions ("Sustainable") (collectively referred to as "REG"), by and through their undersigned attorneys, and respectfully submit comments in response to the order of the North Carolina Utilities Commission (the "Commission") issued November 8, 2012 requesting comments on the motion of Progress Energy Carolinas, Inc. ("PEC") to suspend availability of avoided cost rates.

1. On December 4, 2012, counsel for PEC informed counsel for REG of PEC's intent to file comments indicating agreement with the process proposed by the Public Staff in its comments filed on November 21, 2012. In short, PEC agrees that, QFs that

filed applications for CPCNs no later than November 1, 2012, and receive CPCNs by Orders issued by January 16, 2013, are entitled to any of the avoided cost rate options in Schedule CSP-27. With respect to QFs that filed applications for CPCNs after November 1, PEC agrees to sign contracts at whichever of the new, proposed rates the QFs chooses, subject to an upward adjustment, as of the effective date of the PPA, if the Commission ultimately approves higher rates. PEC agrees to apply the same process to QFs that are under two MW in size. REG supports tying a QF's right to long-term fixed rates to the filing of the CPCN application or the report of proposed construction ("ROPC") for the smaller QFs and with making proposed long-term fixed rates available to those QFs that do not meet the deadline subject to upward adjustment, however, REG disagrees with several components of PEC's proposal as set forth below.

2. Establishing November 1 as the suspension date—which would effectively deprive QFs of advanced notice—is inconsistent with past practice of the Commission. In addressing a motion by Duke Power to suspend rates in the 1994 avoided cost proceeding, which was a request for interim relief like that sought by PEC, the Commission established a suspension date as of the date of its order on the motion, which was two and one-half months after the filing of the motion. See Order on Pending Motions, N.C.U.C. Docket No. E-100, Sub 74, February 13, 1995. Thus, when previously addressing an analogous request, the Commission suspended rates after QFs had more than two months notice of the proposed reduction in rates—in effect, giving the QFs more than two months notice of the suspension.

3. Allowing PEC to give, in effect, no notice of its intent to suspend rates is fundamentally unfair. In the last avoided cost proceeding, Duke Energy Carolinas, LLC

("DEC") and Dominion North Carolina Power ("DNCP") were only allowed to suspend rates prospectively through amendment to their standard contracts. PEC, in contrast, did not make a similar request, thereby creating a false impression for QFs and inducing reliance on the CSP-27 rates. In addition, PEC's 2012 Integrated Resource Plan ("IRP") and related Renewable Energy and Energy Efficiency Portfolio Standard ("REPS") Compliance Plan filed on September 4, 2012 provided no indication of a projected decline in its avoided cost rates from those approved in the previous biennial proceeding and, in fact, provided affirmative contrary information. In contrast, in its analogous filing made on August 31, 2012, DNCP, as required by Commission Rule R8-67(b)(1)(v), provided both the current and projected avoided cost rates, which clearly indicate a projected decline from those approved in the previous biennial proceeding. For additional information, see page D-7 the REPS Compliance Plan of the PEC IRP filing in N.C.U.C. Docket No. E-100, Sub 137, as well as page 10 of Addendum-1 to the DNCP IRP filing in that same docket.

4. At least seven members of REG, after months of project development in reliance on rates approved in CSP-27, filed applications for CPCNs or ROPCs on or after November 1.¹ These applications were made after months of project development –

¹ Between November 1 and December 1, the following applications for CPCNs or ROPCs for facilities in PEC service territory were filed: FLS Solar 110, LLC, N.C.U.C. Docket No. SP-2339, Sub 0, filed on November 26, 2012; Samarcand Solar Farm, LLC, N.C.U.C. Docket No. SP-2356, Sub 0, filed November 29, 2012; Kenansville Solar Farm, LLC, N.C.U.C. Docket No. SP-1923, Sub 2, filed on November 29, 2012; Broadway Solar Center, LLC, N.C.U.C. Docket No. SP-2290, Sub 0, filed on November 16, 2012; Red Hill Solar Center, LLC, N.C.U.C. Docket No. SP-2291, Sub 0, filed on November 16, 2012; Cornwall Solar Center, LLC, N.C.U.C. Docket No. SP-2297, Sub 0, filed on November 16, 2012; Graham Solar Center, LLC, N.C.U.C. Docket No. SP-2309, Sub 0, filed on November 16, 2012; Shankle Solar Center, LLC, N.C.U.C. Docket No. SP-2311, Sub 0, filed on November 16, 2012; Dessie Solar Center, LLC, N.C.U.C. Docket No. SP-2312, Sub 0, filed on November 16, 2012; Bearpond Solar Center, LLC, N.C.U.C. Docket No. SP-2313, Sub 0, filed on November 16, 2012; Harrell's Hill Solar Center, LLC, N.C.U.C. Docket No. SP-2314, Sub 0, filed on November 16, 2012; Sampson Solar LLC, N.C.U.C. Docket No. SP-2298, Sub 0, filed on November 19, 2012; Anderson Solar LLC, N.C.U.C. Docket No. SP-2299, Sub 0, filed on November 19, 2012; CSE II, LLC, N.C.U.C. Docket No. SP-2363, Sub 0, filed on

including site lease and/or purchase, interconnection agreement negotiation, project finance negotiation. In other words, in REG's experience, the filing of the application for a CPCN or an ROPC does not occur at the beginning of the project development process, rather it occurs towards the middle of the process after months, and in some cases, years of investment of time and money in the project. Had any notice been given of intent to suspend rates, many of these applications could have been filed prior to November 1. Allowing the type of last minute suspension of rates sought by PEC without adequate notice to those QFs that have relied on the rates throughout months of project development is fundamentally unfair and would have the likely effect of killing the development process and keeping these viable projects from being constructed.

5. Finally, a "received by" date of January 16 simply does not give QFs sufficient time to secure a CPCN, given the increasing number of applications filed, the increasing amount of time to receive and clear State Clearinghouse review, the holidays and Public Staff workload. The Commission should not approve a "received by" date that does not give QFs a realistic opportunity to complete the CPCN process. A three month period from filing of application to receipt of CPCN is more consistent with the experience of REG members and takes into account the foregoing factors.

November 30, 2012; CSE II, LLC, N.C.U.C. Docket No. SP-2363, Sub 1, filed on November 30, 2012; CSE II, LLC, N.C.U.C. Docket No. SP-2363, Sub 2, filed on November 30, 2012; Wayne Solar I, LLC, N.C.U.C. Docket No. SP-2273, Sub 0, filed on November 9, 2012; Wayne Solar II, LLC, N.C.U.C. Docket No. SP-2281, Sub 0, filed on November 14, 2012; Duplin Solar I, LLC, N.C.U.C. Docket No. SP-2316, Sub 0, filed on November 16, 2012; Duplin Solar I, LLC, N.C.U.C. Docket No. SP-2316, Sub 1, filed on November 29, 2012; and Wayne Solar III, LLC, N.C.U.C. Docket No. SP-2359, Sub 0, filed on November 29, 2012.

WHEREFORE, REG respectfully requests that the Commission consider these reply comments and—if so inclined to allow the suspension of rates as requested by PEC and approve a process such as that proposed by Public Staff—establish a suspension date of December 1 and allow at least three (3) months, or March 1, for receipt of CPCNs, such that QFs that filed applications for CPCNs (or ROPCs) on or before December 1, 2012, and receive CPCNs by by March 1, 2013, are entitled to any of the avoided cost rate options in Schedule CSP-27.

This the 5th day of December, 2012.

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing Reply Comments by Argand Energy Solutions, LLC (“Argand”), Birdseye Renewable Energy, LLC (“Birdseye”), Carolina Solar Energy, LLC (“CSE”), Community Energy Solar, LLC (“CES”), ENlight Solar, LLC (“ENlight”), FLS Energy, Inc. (“FLS”), Mid-Atlantic Renewable Energy Coalition (“MAREC”), National Renewable Energy Corporation (“NARENCO”), O2 Energies, Inc. (“O2”), Sfl+a Architects, PA (“Sfl+a”), Solbridge Energy, LLC (“Solbridge”), Strata Solar, LLC (“Strata”), SunEdison (“SunEdison”), Sunpower Corporation (“Sunpower”), and Sustainable Energy Solutions (“Sustainable”) (collectively referred to as “Renewable Energy Group”, “REG”, or “Petitioners”), has been served this day by hand delivery, electronic mail or by depositing copies of same in a depository under the exclusive care and custody of the United States Postal Service in postage prepaid envelopes and properly addressed as follows:

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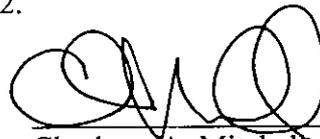
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This 5th day of December, 2012.



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