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AZ CORP COMMISSION
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Arizona Corporation Commission
DOCKETED

JUL 13 2010

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

DOCKETED BY

**Re: Notice of Inquiry Regarding Feed-In-Tariffs/Docket No.: E-00000J-09-0505;
Comments to Chairwoman Mayes' Proposed Policy Statement**

Dear Chairwoman Mayes and Honorable Commissioners,

This firm represents Clear Peak Energy Ventures ("Clear Peak") in regards to opportunities for solar development in Arizona. As you may recall, we previously provided comment in this Docket and actively participated in the workshops to advocate for a robust and well designed Feed-In-Tariff ("FIT") program.

We would like to thank the Commission for its hard work thus far on this issue and its commitment to renewable energy in general. Without your policy leadership on the Renewable Energy Standard ("RES") Clear Peak would not be pursuing solar development in AZ. Nonetheless, we believe the greatest business opportunity and thus the greatest potential for solar development in AZ, remains the adoption of a strong, well tailored FIT program. Clear Peak applauds the Commission for pursuing a FIT program and for Chairwoman Mayes' policy statement indicating that the State's regulated utilities should propose a FIT program in their 2011 RES implementation plans. We believe this is the most efficient and effective way of implementing a FIT and ensuring it compliments the existing RES program.

Clear Peak is supportive of the proposed policy statement in general. In particular we believe the establishment of a "true" FIT with fixed pricing and first come first served reservation process is an essential element to a successful program. Also, the requirement that the Renewable Energy Credits ("RECs") from the FIT program count towards the utility side of the RES program (not the 30% Distributed Generation carve out) is vital to ensure that existing, functioning incentive programs are not disturbed. Additionally, we feel it is appropriate that the ultimate funding for the FIT program should come from the Power Supply Adjustor or otherwise built into rate base. The very premise of a FIT is acquisition of wholesale energy and thus, for rate recovery purposes, it should be treated like any other wholesale acquisition of energy by the utility.

However, Clear Peak also has some concerns and suggestions regarding the Chairwoman's proposed FIT policy. We discuss these individually below.

1. The Commission Can and Should Adopt a True FIT for All Project Sizes

During the FIT workshops we believe it was well established that a “true” FIT program requires fixed pricing with first come first served reservations. Without this essential element a FIT becomes nothing more than a revised Request for Proposal (“RFP”) process. While we are cognizant of the Commission’s concern that fixed pricing for projects above 1MW will create jurisdictional conflicts with FERC, we continue to believe that this issue can be resolved by creating a pricing structure where the fixed FIT price consists of the PURPA avoided cost rate and an additional price for RECs that is equivalent to the difference between the fixed FIT price and the PURPA avoided cost. The California Public Utility Commission (“CAPUC”) is supportive of this viewpoint and, as you are likely aware, has filed a petition for FERC seeking a declaration that fixed FIT pricing is permissible.

Clear Peak believes that the Commission should also adopt this viewpoint and propose fixed FIT pricing for all project sizes. In the event that FERC does not validate CAPUC’s position, the Commission can suspend and revise the program as necessary. In the alternative, if the Commission wishes to maintain a conservative stance on this issue for the present time, in the event that FERC does validate CAPUC’s petition on fixed FIT pricing, we strongly encourage the Commission to revise Arizona’s FIT program accordingly. Without fixed pricing, a FIT program is merely another iteration of the RFP process that has resulted in the very frustrations and time delays that the Commission seeks to remedy with this program.

2. The Commission Should Adopt Program Conditions to Avoid Existing RFP Pitfalls.

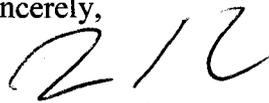
While we continue to believe that fixed FIT pricing is essential to ensure a successful program, whatever program the Commission adopts, it is essential that it be designed to avoid the existing problems with the RFP process. Currently the biggest perceived issues with this process are a lack of transparency and a reality gap between winning proposals and actual financeable, buildable projects. The result is that many RFPs have been awarded over the past two years, but not a single project has turned dirt. Additionally, we believe this process results in a lack of fair value paid for the renewable resource, which in turn discourages wide spread market participation and favors a small number of large developers. This is contrary to the Commission’s desired goals of spurring industry growth and encouraging a healthy and diverse marketplace. Thus, to address this problem the Commission must seek to ensure that the FIT program is different.

While the Chairwoman’s proposed policy statement discusses this issue and suggests a shorter bid period and standard contract terms as ways to remedy these problems, we believe that more is required. In fact the current RFP process essentially already requires a standard contract; bidders are informed that any significant revisions to the form Power Purchase Agreement will result in a non-winning bid. Clear Peak suggests that in order to avoid the issues of the RFP process (if fixed FIT pricing is not adopted) the Commission should require as conditions to participation: 1) complete site control with full entitlements; 2) significant pre-bid deposit requirements (e.g. \$20/kw); and 3) aggressive and enforced start of construction time-frame

requirements. Clear Peak believes that these elements will help ensure that projects that are bid get built in a timely fashion.

In Conclusion, Clear Peak is very enthusiastic about the potential growth of the solar industry in AZ under a FIT program. We are confident that the Commission's goals of rapid and cost effective solar deployment will be achieved via a FIT. We are hopeful you will consider and adopt our suggestions to make the program as successful as possible, and we look forward to the opportunity to continue to participate in the process. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Ryan Hurley". The signature is stylized and written in a cursive-like font.

M. Ryan Hurley