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PSEG
Services Corporation

October 19, 2011

BY ELECTRONIC DELIVERY

John R. Teague, P.E., P.P.
Research Scientist-2
New Jersey Board of Public Utilities
Office of Clean Energy
44 S. Clinton Avenue, 7th floor
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Re: BPU Net Metering and Interconnection Rules Stakeholder Process
Public Service Electric and Gas Company Comments on Staff
Draft/Straw Proposal for Amendments to Net Metering Regulations

Dear Mr. Teague:

This letter is submitted to the Board of Public Utilities ("Board") on behalf of Public Service Electric and Gas Company ("PSE&G") and Rockland Electric Company ("RECO") (collectively, "PSE&G/RECO") in response to Board Staff's October 6, 2011 informal request for comments concerning the "Staff Draft/Straw Proposal ("Straw Proposal") for amendments to the Board's net metering and interconnection rules, set forth at N.J.A.C. 14:8-4 and 8-5. It presents high level views, however, PSE&G/RECO reserve their rights to make further legal and substantive arguments in the future if deemed necessary or appropriate.

Most significantly, PSE&G/RECO agree with Rate Counsel's July 29, 2011 comments and also remains concerned that the attempt to apply the definition of "on-site generation facility" in N.J.S.A. 48:3-51 to the Net Metering Law in N.J.S.A. 48:3-87e. would be an inconsistent and improper expansion of what constitutes on-site generation as set forth in EDECA. Under

N.J.S.A. 48:3-87(e)(l), the Board's net metering standards "shall require electric power suppliers and basic generation service providers to offer net metering" (emphasis supplied), not electric distribution companies. Further, an expansion of the term "customer generator" to include a pair of entities acting together is wholly inconsistent with the definition of a utility customer. The term "customer" is defined in EDECA as a "person that is an end user and is connected to any part of the transmission and distribution system within an electric public utility's service territory ... within this State." N.J.S.A. 48:3-51.

An end-use customer that has solar panels on one piece of property and then seeks to apply the net metering of that solar to properties multiple easements away and to construct distribution lines to distribute that solar to others would cease to be an end-use customer.[1] That entity would in fact become a third party supplier engaging in sales of generation for resale – transactions which, depending upon the circumstances, may in fact be Federal Energy Regulatory Commission ("FERC") jurisdictional. Although supporting OCE's intent to encourage the continued development of solar and other generating resources, PSE&G/RECO agree with Rate Counsel that not only would the proposed expansion be inconsistent with EDECA, but it has the potential to harm ratepayers with unjust costs associated with maintaining the transmission and distribution system which must be ready to serve load at all times. Moreover, adoption of the Straw Proposal will improperly encourage the proliferation of redundant and uneconomic (from a general ratepayer perspective) facilities. Such encouragement would constitute misguided public policy, particularly in the current difficult economic environment.

PSE&G is also concerned that the Straw Proposal may raise safety issues for the public and for utility workers. Although the Straw Proposal attempts to address some of the issues discussed below, further careful consideration should be made of these issues, including perhaps

[1] In fact, the geographical distance between the participants in the expanded net-metering transaction envisioned by the Straw Proposal would be limited only by the length and location of the easements and rights-of-way assembled, gerrymander-like, by the participants.

whether the existing One Call enforcement process can handle the potential additional burdens associated with what is included in the Straw Proposal.

- It is possible that electric lines, many at voltages higher than 600 volts could be installed underground with no discernable marking.

- There does not appear to be a provision in the Straw Proposal for such installations to be integrated into the NJ One Call System that requires utilities to mark out the facilities they operate, including those located on private property. Who will have the obligation to mark out buried lines owned and/or operated by the customer-generator? Since they are not owned by the utility they may not be available on utility drawings of the area.

- The proposal should require that buried electric lines be permanently marked, preferably with above ground markers, or that provision be made to obligate the customer-generator to mark out the lines as part of the NJ One Call System.

- PSE&G is aware of a project where a large solar array is being used to supply several buildings on different lots. The customer-generator's distribution system is 13 kV and is buried near the PSE&G electric and gas lines (and other utility facilities) serving the various buildings on the property. Without an obligation on the part of the customer-generator to mark these 13kV lines, it is possible that PSE&G workers or other contractors digging on the site may not be aware of their existence.

Irrespective to the potential legal and procedural problems with the Straw Proposal, PSE&G/RECO believe that more study about the potential safety issues should take place with the Department of Community Affairs and the BPU's Division of Reliability & Security.

Thank you for this opportunity to comment on these important matters.

Respectfully submitted,

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

By: *Alexander C. Stern*
Alexander C. Stern, Esq.
Assistant General Regulatory Counsel

ROCKLAND ELECTRIC COMPANY

By: *John L. Carley*
John L. Carley, Esq.
Assistant General Counsel

Comments of the New Jersey Division of Rate Counsel on Staff's September 16, 2011 Revised Draft Straw Proposal for Amendments to Net Metering Regulations

October 19, 2011

These comments are submitted on behalf of the New Jersey Division of Rate Counsel ("Rate Counsel") in response the Office of Clean Energy's ("OCE's") request for comments on the September 16, 2011 revision of the "Staff Draft/Straw Proposal" ("Straw Proposal") for amendments to the Board of Public Utilities' ("Board") Net Metering regulations, N.J.A.C. 14:8. By e-mail circulated on October 6, 2011, the OCE invited comments on the revised Straw Proposal, to be submitted no later than October 19, 2011.

On July 29, 2011, Rate Counsel commented on an earlier version of the Straw Proposal. In those comments, Rate Counsel noted several serious concerns about the Straw Proposal, including the following:

- N.J.S.A. 48:3-51 allows met metering or "industrial, large commercial, residential and small commercial customers ... that generate electricity on the customer's side of the meter ..." (emphasis added), thus limiting net metering to customers that generate electricity for their own use. The Straw Proposal incorporates the concept of an "on site generating facility," a change that would open up net metering to large-scale non-customer generating operations that may serve multiple end users on "contiguous" properties, thus expanding the scope of net metering beyond that contemplated by the statute.

- Under the Board's current regulations, net metering customers are allowed to sell generation service to the electric distribution company ("EDC") through bill credits that include generation, distribution and surcharges including the Societal Benefits

Charge ("SBC"). Thus, a net metering customer with a system sized to produce 100% of the customer's electric usage on an annual basis can avoid all charges for delivery service, including the SBC and other surcharges. If net metering is extended as proposed by Staff, the cost to other ratepayers could be substantial.

- Further, the net metering credits provided under current regulations appear inconsistent with N.J.S.A. 48:3-87(e)(1), which appears to contemplate net metering credits that include only a generation component, and N.J.S.A. 48:3-77, which requires on-site electric generating facilities to collect the SBC and other surcharges for power delivered off-site.

The revised Straw Proposal dated September 16, 2011 does not address any of the concerns raised in Rate Counsel's earlier comments.

In its July 29, 2011 comments, Rate Counsel raised serious concerns about the consistency of the existing regulations and the proposed amendment with the applicable statues. With regard to the Board's existing regulations, the revised Straw Proposal does not address limiting the net metering credit to applicable rate for generation service as contemplated in N.J.S.A. 48:3-87(e)(1), and N.J.S.A. 48:3-77. With regard to the proposed expansion of net metering, the revised Straw Proposal also does not address limiting net metering to "customers ... that generate" as provided in N.J.S.A. 48:3-51.

Indeed, the revised Straw Proposal appears to further expand the class of generating facilities that could be eligible for net metering. The original Straw Proposal required that the generation provider be located on the same property as the end user, or on a "contiguous" property, as that term is used in the definition of "on-site generation facility." N.J.S.A. 48:3-51. The statutory definition provides, with regard to sales of electric generation, that the properties

on which the generator and end user are located "shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by an easement, public thoroughfare, transportation or utility' owned right-of-way ...." Id. This provision, which allows the properties to be separated by no more than a single easement, public thoroughfare, or right-of-way, is in contrast to the treatment of sales of "thermal energy services." Id. Thermal energy sales may be treated as "on-site" sales even though the properties on which the provider and end user are located are "separated ... by more than one easement, public thoroughfare, or transportation or utility-owned right-of-way." Id. Notwithstanding the limitation set forth in the statute, Section 1.ii of the revised Straw Proposal suggests a significant change to the statutory definition of "contiguous" as it applies to electric generation providers: "... that a public thoroughfare may be encumbered by a third party easement does not alter a determination as to whether two properties would be considered contiguous." The additional language would appear to allow properties to be considered "contiguous" even if separated by multiple easements, a result not contemplated by the statutory definition as it applies to electric generation providers.

In addition to the legal issues noted above, it is not apparent that Staff has performed any type of market analysis to evaluate the potential impact of its proposal on New Jersey's ratepayers. Before proceeding further with the Straw Proposal, Rate Counsel recommends that Staff examine the following issues: (1) how broadly the proposal would expand eligibility for net metering; (2) how much the proposal would increase net metering load; (3) what amount of increased distribution level investments and increased maintenance, metering and voltage monitoring and regulation costs would be incurred as a result of the proposal; and (4) the scope of the potential benefits, as well as costs, that would arise from the proposed changes to the existing Net Metering regulations.

With regard to the potential costs of the Straw Proposal to ratepayers, Rate Counsel would like to clarify an inaccuracy in Staff's response to Rate Counsel's July 29, 2011 comments. The revised Straw Proposal as circulated by Staff and posted on the New Jersey Clean Energy Program website includes the following comment:

> In their response to Staff's straw Rate Counsel argues that other ratepayers are subsidizing this arrangement. But if an entity other than the EDC is providing the equipment then this argument is void.

Staff's response mischaracterizes the meaning of Rate Counsel's comment. Rate Counsel's comments included the observation that net metering customers can completely avoid distribution charges, as well as the SBC and other surcharges, even though net metering customers use, and place burdens on, the EDS's distribution systems. This occurs for all net metering customers because, by definition, all of them are connected to the EDCs' electric distribution system, and all of them may receive power from, and send power into, the EDCs' distribution systems. Contrary to Staff's comment, it is immaterial that the EDC does not own the wires that directly connect the generation facility to the end user. The end user is also connected to, and makes use of, the EDC's system. To the extent the net metering regulations allow the net metered customer to avoid paying distribution charges, the SBC, and other surcharges, the EDC's other ratepayers are providing a subsidy.

Rate Counsel is not necessarily opposed to exploring ways to create additional opportunities for non-customer generators to "put" power into the grid. However, such an endeavor requires a careful and methodical analysis of the costs and benefits of the proposed regulatory changes, including a clear identification, and quantification of the potential inefficiencies that could arise from expanding the current net metering customer definition. Further, this analysis should include some quantification or valuation of the reduced market risks

to this new set of electric generation service provides that would result from the creation of a guaranteed market for power produced by such generators. Payments received by these new generators should be valued at a rate that considers the costs (direct and avoided) and risks that would be assumed by other utility distribution ratepayers. The Straw Proposal in essence proposed to value the output of an expanded class of solar facilities at a retail generation rate plus the value of distribution service and surcharges. To date, Rate Counsel has seen no analysis of the potential costs that would be placed on other ratepayers, or any analysis of the benefits that Staff believes would justify imposing such costs on ratepayers. Rate Counsel, therefore, strongly recommends that the Board conduct the thorough analysis outlined in these comments prior to implementing such a policy.

COMMENTS OF THE
INTERSTATE RENEWABLE ENERGY COUNCIL

October 19, 2011

Submitted to the New Jersey Board of Public Utilities in
Response to Staff's Invitation to Comment on Its
Revised Straw Proposal Issued on October 5, 2011

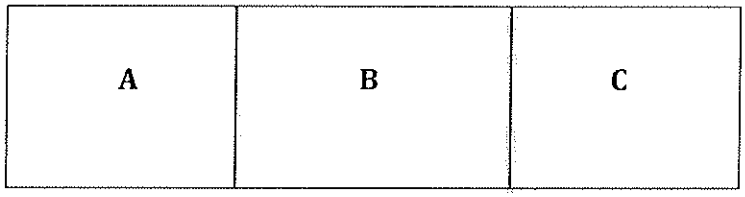
The Interstate Renewable Energy Council (IREC) welcomes the opportunity to submit these written comments to the Staff of the Board of Public Utilities (Staff) regarding Staff's revised straw proposal issued on October 5, 2011 (Revised Proposal), which reflects party comments from the September 16 stakeholders' meeting. IREC is a non-profit organization that has participated in over 30 net metering and interconnection rulemaking dockets across the country in the past three years. Funding for IREC's participation in state rulemakings is provided by the U.S. Department of Energy, which seeks to help states minimize regulatory barriers to deployment of distributed renewable energy while maintaining utility grid safety and reliability, and not adversely impacting utility rates.

As IREC understands it, Staff continues to intend the Revised Proposal to permit a renewable generation facility located on one property to supply electricity to a contiguous property, and for that arrangement to qualify as net metering. As IREC stated in our comments on the original proposal, dated August 1, 2011, we appreciate Staff's efforts to make this change, since it will expand net metering to customers that may not have a property with electric load and poor prospects for solar generation, while having a much better site for generation on contiguous property. In addition, IREC supports Staff's clarification that property may still be considered "contiguous" despite being separated by an easement, public thoroughfare or right-of-way, even if that public or private thoroughfare is further encumbered by a third-party easement.

IREC has three remaining concerns about this proposal, the first two of which we raised in our August 1 comments, as well.

I. A Customer Should Be Able to Net Meter across Multiple Contiguous Properties that the Customer Owns.

As we noted in our August 1 comments, IREC believes that a customer-generator should be able to have a renewable generation facility on Parcel A, which he owns, and have the electricity generated serve load on Parcel C, which he owns and which is contiguous to Parcel B, which he a owns and is in turn contiguous to Parcel A, as illustrated below.



For a more detailed explanation of our position and suggested language, see IREC's August 1 comments.

II. A Single Customer Should Be Able to Be Served by Multiple Net-Metered Generators even if One Net-Metered Generator May Not Serve Multiple Customers.

IREC continues to be concerned by the proposed language in (3) that states that "[i]f a property contains more than one generation facility, each facility shall: (i) Serve a separate net metering customer of record; . . . ." IREC urges Staff not to limit the number of net metering facilities that can serve a single customer's load. Permitting this situation still only involves one customer and does not require meter aggregation, and therefore should not present any legal or practical challenges. For this reason, IREC recommends eliminating (3)(i) from the Proposal. For a more detailed explanation of our position, see IREC's August 1 comments.

III. Net Metering on Contiguous Property Should Be Permitted Regardless of Whether the EDC or Another Entity Owns the Wires and/or Equipment Used to Transport the Renewable Energy.

IREC does not support Staff's proposed requirement in (2) that the net-metered renewable energy be delivered across contiguous property lines via wires and/or other equipment installed, owned and operated by an entity other than the EDC. Use of the EDC's wires will almost certainly have a negligible impact on the EDC and the prohibition would vitiate the provision allowing for net metering on contiguous properties with a street in between.

An owner of two properties, one with a sunny rooftop and one in the shade, with a street between the properties, will have no practical way of serving the shaded property other than use of the EDC's lines. A wire owned by the EDC hangs across the street already; it would be wasteful and expensive to dig up the street to install a duplicative line under the street, if the property owner can secure approval to install the line at all. It would be far more practical to agree to a payment for use of the EDC's line at a fixed rate per kilowatt. Presumably, a charge based on the EDC's wheeling rates would be very low, given that modest amount of power would be wheeled less than 100 feet in the typical case.

Use of the EDC's lines for generation on contiguous property would add a step to the net metering billing process, with generation from one site being credited to the meter at a second site. With a privately-owned line between the properties, the generation would flow to the second site behind the customer's meter, just as it would from an on-site solar array, and the billing is simple. Use of the EDC's line would entail an election by the property owner to have all energy generated at the first site credited to the meter for the second site, or have only excess generation from the first site credited to the meter for the second site.

While it may be practical in many cases for generation on one site to be sent across a property line to contiguous property using a privately-owned line, as a policy matter it would be preferable to use the most economic means of accomplishing that transfer. In many cases, a small fee paid to the EDC may be the economic choice, and IREC sees no reason to preclude that choice. Where there is no practical alternative to use of EDC lines to allow generation on contiguous property, the BPU would be missing an opportunity for more solar facilities to be installed in New Jersey, only because it incorporated a restrictive provision into its rules.

IREC appreciates the opportunity to submit these comments.

Respectfully submitted,

/s/ Jason B. Keyes
Jason B. Keyes

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for the Interstate Renewable Energy Council

Dated: October 19, 2011

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October 19, 2011

VIA EMAIL

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Re: BOARD OF PUBLIC UTILITIES
Net Metering and Interconnection Stakeholders Meeting
Straw Proposal Dated 10-6-2011 Regarding Net Metering Definitions

Dear Mr. Teague:

Please accept these informal comments on behalf of Jersey Central Power & Light Company ("JCP&L" or "Company") regarding the Board of Public Utilities Staff's ("Board"; "Staff") Straw Proposal dated October 6, 2011 in the above-referenced matter. JCP&L is pleased to submit the following comments to assist the Board in its implementation of its renewable energy initiatives.

JCP&L understands the purpose of the Straw Proposal is for the Board to clarify its Net Metering regulations. More specifically, the Board would like to clarify the definition of renewable energy "generated on the customer's side of the meter", as well as when two

properties are considered "contiguous" for the purpose of net metering a single Class I renewable energy system and a single end-use customer. With this understanding, JCP&L generally supports Staff's Straw Proposal and offers the following comments and suggested edits to further clarify the existing rules.

1. In regard to easements, JCP&L requests that the language be amended to specify that the definitions only apply to existing easements. Entities should not be permitted to create new, private easements for the purpose of making non-contiguous properties "contiguous." Based on the discussions at the stakeholder meetings, JCP&L believes that the Board Staff did not intend to allow entities to create new easements solely for the purpose of making non-contiguous properties appear to be contiguous. Therefore, the language of the Straw Proposal should be amended as follows:

For the purposes of this subchapter, class I renewable energy that meets all of the following criteria shall be deemed to be generated on the customer's side of the meter:

1. The renewable energy generation facility is located either:
   i. Within the legal boundaries of the property on which the energy is consumed (The legal boundary of a property is set forth in the deed for the property); or
   ii. Within the legal boundaries of a property that is contiguous to the property on which the energy is consumed. The property on which the energy is consumed and the property on which the renewable energy generation facility is located shall be considered contiguous if they are geographically located next to each other, but may be otherwise separated by <u>existing</u> easements, public thoroughfares, transportation or utility-owned right-of ways and, but for that separation, would share a common boundary. The fact that a public or

private thoroughfare may be encumbered by existing third party easements does not alter a determination as to whether two properties would be considered contiguous.

2. JCP&L concurs with the proposed language that makes the owner/operator of facilities used to transmit renewable energy on the customer's side of the meter responsible for complying with all applicable codes and safety requirements, including the Board's regulations governing underground facility operators at N.J.A.C. 14:2-4. The Board should go a step further and review its underground facility operator regulations to ensure that they adequately address underground facilities on the customer's side of the meter that may be owned and operated by non-utilities.

JCP&L appreciates the opportunity to provide these informal comments and looks forward to continuing to participate in the Board's stakeholder process.

Respectfully submitted,

/s/ Gregory Eisenstark
Gregory Eisenstark
Attorney for Jersey Central Power
& Light Company

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atlantic city electric

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VIA ELECTRONIC MAIL to OCE at OCE@bpu.state.nj.us

October 19, 2011

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Re: In the Matter of BPU Net Metering and Interconnection Rules Stakeholder Process, Atlantic City Electric Company Comments on Staff Draft/Straw Proposal dated October 5, 2011 for Amendments to Net Metering Regulations.

Dear Mr. Teague:

Thank you for providing Atlantic City Electric Company ("ACE") and the other New Jersey Electric Distribution Companies ("EDCs") the opportunity to comment on this proposal. ACE respectfully submits the following comments on the Board of Public Utilities Staff Draft/Straw Proposal ("Proposal") titled "What does it mean to be 'on the customer's side of the meter' for net metering purposes?" dated October 5, 2011.

First, ACE acknowledges and agrees with the comments submitted by Public Service Electric and Gas Company ("PSE&G") and Rockland Electric Company ("RECO"). ACE also concurs with Jersey Central Power & Light Company's ("JCP&L") comment that customers should not be able to create new private easements for the purpose of making non-contiguous properties contiguous. In addition to PSE&Gs comments, ACE provides herein an additional comment on safety. Yellow placarding or designators should always be used at the PV system and on the associated facility and clearly indicate the connection, along with a red designator at the meter.

ACE further suggests that "geographically located next to each other," as specified in Section 1.ii. of the Proposal, be further clarified. ACE interprets this language to indicate that if any sides of each property touch, then they would be considered adjacent. If the corners touch or if they are not in contact, then they would not be considered adjacent or contiguous. If the properties are separated by an easement or right-of-way, and if such separations were hypothetically eliminated, then the previous statements would still apply in the same way.

In addition, ACE understands that the Staff Draft/Straw Proposal is intended to expand the limited scope of the application of Net Energy Metering in New Jersey. The applicable New Jersey regulation (N.J.A.C. 14:8-4.3(a)) currently requires the EDCs to "offer net metering to their customers that generate electricity on the customer's side of the meter." ACE submits that Section 1. ii of the Proposal is primarily focused on separate parcels of land under different ownership, with the generator located on one parcel and the end user on another (whether or not they cross an easement or right-of-way). ACE does not believe that the Proposal's primary focus is with a single customer crossing an easement or right-of-way using their own assets to self-supply on their own property or properties that would otherwise be adjacent without the easement or right-of-way. ACE maintains that the latter case of a single owner/customer is already addressed and would still be considered on "the customer's side of the meter," as specified in N.J.A.C. 14:8-4.3(a).

In conclusion, ACE believes that allowing a "customer generator" to consist of two separate entities (i.e., different ownership) raises many issues, including those addressed by PSE&G and RECO in their comments. Despite understanding that some projects approved in the past may not have qualified because of the limited scope of what constitutes "on the customer's side of the meter," ACE supports a Proposal that limits "on the customer's side of the meter" to a single entity/customer.

Respectfully Submitted,

Joshua Cadoret

Joshua Cadoret, Green Power Connection Lead
Consultant, Atlantic City Electric, A PHI Company

c: John Teague
Phil Passanante
Matt Segers
William Swink
Stephen Steffel

From: Valeri, John G. [jvaleri@wolffsamson.com]
Sent: Wednesday, October 19, 2011 4:50 PM
To: OCE
Subject: Staff Draft/Straw Proposal

Thank you for providing the stakeholder group an opportunity to comment upon the Staff Draft/Straw Proposal on the Net Metering Amendments for Multiple Properties. We have reviewed the board's draft, and offer the following comments:

Clarification of "The Legal Boundary of the Property"
We understand the Board's attempt to clarify the statute's use of the word property; however we would like to make sure that the straw proposal as currently drafted does not create the unintended consequence of limiting a property that consists of multiple tax lots. It is not uncommon for properties, particularly larger commercial properties, to consist of multiple tax lots. The combination of those lots; however, is considered one property. For example, if the generating facility is located on a property that consists of two lots, but the physical location of the facility is on a lot that is separated from the consuming facility by a the second tax lot that is also owned by the generator, the two lots are considered one property. As a policy matter, it should make no difference whether the property consists of multiple lots, as long as it is all part of one property. There is nothing in the statute which changes the common understanding of what constitutes a property. However, since the straw proposal introduces the limiting concept of a "legal boundary" to clarify the definition of a property, we want to ensure that the phrase does not call into question the common understanding of a single "property."

Properties Connected By an Easement
Our second comment attempts to clarify the concept of a "contiguous property." The language in the straw proposal is not clear as to the type of easement that should be included in this statute. Specifically, it is not clear whether properties are considered contiguous if the property on which the energy is consumed and the property on which the energy is generated is separated by a third property but has a dominant easement or other property rights connecting the generating property to the consuming property. We have reviewed the language in the straw proposal and believe it is the equivalent to the definition of "on-site generation facility" in the statute, which is equally unclear. Thus, we believe the Board should clarify that the property on which the energy is consumed and the property on which it is generated can be separated by a third property, as long as there is an easement or similar property right which connects both properties. Again, we believe that such a clarification is consistent with the legislative intent.

After you have reviewed the attached, please feel free to call me if you have any questions.

<<New Version.DOC>>

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