



Agenda Date: 9/18/13
Agenda Item: 8D

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF GLC (NJ) NACR 2, LLC)
EXTENSION REQUEST FOR SOLAR RENEWABLE)
ENERGY CERTIFICATE (SREC) PURCHASE SALE)
AGREEMENTS (PSA) WITH JERSEY CENTRAL)
POWER & LIGHT COMPANY)

ORDER

DOCKET NO. EO12010066V

Parties of Record:

James H. Laskey, Esq., Norris, McLaughlin & Marcus, P.A., on behalf of GLC (NJ) NACR 2, LLC

Jane Batzofin, Esq., Green Lake Capital

John L. Carley, Esq., General Counsel for Rockland Electric Company

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities ("Board") considers the petition of GLC (NJ) NACR 2, LLC ("GLC" or "Petitioner") for a second extension of time, as within time, to complete a solar energy project under its Solar Renewable Energy Certificate ("SREC") long-term contract for financing with Jersey Central Power & Light ("JCP&L").

On or about February 25, 2011, as a winning bidder in JCP&L's SREC financing auction, GLC entered into a SREC Purchase and Sale Agreement ("PSA") with JCP&L for the SRECs from approximately 230 kilowatts ("kW") of solar energy to be produced by the solar electric facility. GLC would build at the Gate of Heaven Cemetery owned by the Archdiocese of Newark. The PSA provided for completion within one year of the date of the PSA, or by February 25, 2012 ("Commencement Date"). On January 18, 2012, GLC filed a petition with the Board for an extension of time to complete and represented that it had made substantial progress toward completion and that the delays encountered in the local permitting process had been unavoidable and unforeseeable at the time of entering into the PSA. By Order dated February 10, 2012, the Board granted Petitioner a six month extension to July 23, 2012 to complete its project ("Extension Order").

By petition dated April 8, 2013, Petitioner now seeks a second extension of time.¹ According to the petition, the installation of Petitioner's new solar energy facilities was completed and operational just prior to the July 23, 2012 date established by the Extension Order; however, the process of re-registering Petitioner's project in the SREC Registration Program ("SRP") was only completed in March 2013, approximately six months later. Petitioner maintains that installation was delayed by the local permitting process and has submitted a certification from its site supervisor in support of this contention ("Certification"). Further delay was caused by an initial determination by the Board's renewable energy Market Manager that re-registration was not possible after such an extended delay, but following an appeal to the Board's Program Coordinator, Petitioner was permitted to re-register in the SRP. Petition at 2-3. On August 9, 2013, Mr. Charles Hughes submitted a supplemental certification attesting to the fact that the project was completed and is generating SRECs, and re-affirming the statements regarding the unavoidable and unforeseeable nature of the delay.

Petitioner asserts that allowing this second extension would serve the public interest because the project is complete and also because denial will cause substantial financial loss to the parties who invested capital for the project in reliance on the PSA. Petition at 3.

On August 7, 2013 JCP&L submitted a letter stating that it takes no position with respect to the request for a further extension but that it installed an SREC meter on July 20, 2012, rather than the July 10, 2012 date referenced in the Petition, and that July 20, 2012 should be the Commencement Date.

DISCUSSION AND FINDINGS

In addressing Petitioner's request for an extension of time to complete pursuant to its SREC financing contract with JCP&L, the Board looks to its previous rulings under the SREC financing program. In reviewing such requests, the Board has looked first at whether the applicant could document significant progress toward completion of the project, and, second, whether the delay was unavoidable and unforeseeable at the time of the execution of the PSA. I/M/O Smart Energy Capital, LLC. – Extension Request for SREC Purchase Sale Agreement with JCP&L, Dkt. No. EO12010081V (2/10/12) ("Smart Energy"); I/M/O GLC(NJ) NACR2,LLC - Extension Request for SREC PSA with Rockland Electric Company, Docket No. EO12060555V (August 15, 2012).

Applying this standard to the matters at hand, the Board looks at the representation made in the petition as well as in the Certification and supplemental certification that the project is complete and generating solar energy. See, e.g. Smart Energy, supra. (The Board found substantial progress where approximately 7% of total costs had been expended and all solar panels had been purchased and were on site). The Board **FINDS** that Petitioner has satisfied this part of the test.

Turning to the second prong of the analysis, the Board looks at whether the cause of the delay was unavoidable and unforeseeable at the time Petitioner requested its first extension by letter dated June 21, 2012. In his supplemental certification, Mr. Hughes states that: 1) local approvals were not received until April 2012, two months later than anticipated at the time of the request for a first extension; 2) Petitioner's subcontractor encountered difficulties in scheduling

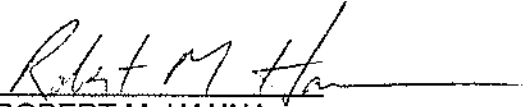
¹ Petitioner sought an extension of time to April 30, 2013, but the Board will consider the request in relationship to the Agenda on which it is being heard.

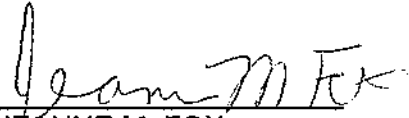
necessary site visits with the host in order to prepare final as-built paperwork, such that the paperwork was not submitted until September 2012; 3) in November 2012, the Board's renewable energy Market Manager informed Petitioner that too much time had elapsed since the expiration date to permit recertification. Petitioner's project was finally re-registered in the SREC Registration Program in March 2013. The Board **FINDS** that the series of delays encountered subsequent to the approval of the first extension were unavoidable and unforeseeable at the time the first extension was granted. The Board therefore **CONCLUDES** that Petitioner has met the Board's criteria for granting an extension, and **GRANTS** Petitioner's request for an extension as within time which maintains GLC's eligibility under the PSA.

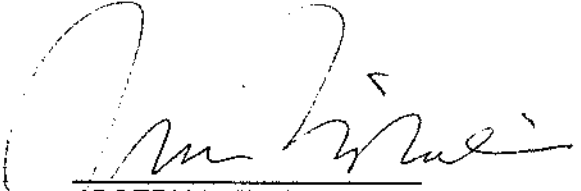
With respect to the determination of the Commencement Date under Petitioner's PSA with JCP&L, the Board notes that the Petitioner entered into a PSA to commence commercial operations within one year of the date of that PSA. The cost of the SRECs which are the subject of that PSA are ultimately borne by ratepayers. The Board **FINDS** that ratepayers should not bear any additional cost as the result of Petitioner's inability to complete its project within the time frame of the first extension granted to Petitioner. Therefore, the Board **ORDERS** that the Commencement Date shall be deemed to be July 20, 2012 and shall not be changed by the approval of this second extension

DATED: 9/18/13

BOARD OF PUBLIC UTILITIES
BY:

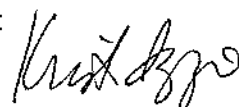

ROBERT M. HANNA
PRESIDENT

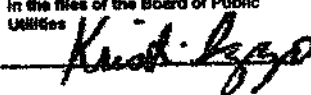

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities


IN THE MATTER OF GLC (NJ) NACR 2, LLC EXTENSION REQUEST FOR SOLAR
RENEWABLE ENERGY CERTIFICATE (SREC) PURCHASE SALE AGREEMENTS (PSA)
WITH JERSEY CENTRAL POWER & LIGHT COMPANY (JCP&L)
DOCKET NO. EO12010066V

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