



Agenda Date: 11/19/18
Agenda Item: 8C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF MARINA ENERGY, LLC –)
SEEKING A DECLARATORY JUDGMENT PURSUANT)
TO N.J.S.A. 58:14B-1 ET SEQ. AND/OR A WAIVER)
PURSUANT TO THE WAIVER RULE, N.J.A.C. 14:1-)
1.2(b)) DOCKET NO. QO18030297

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Howard O. Thompson, Esq., Russo Tumulty Nester Thompson & Kelly, LLP, on behalf of Marina Energy, LLC
Gregory Eisenstark , Esq., Windels Marx, LLP, on behalf of Jersey Central Power & Light Company

BY THE BOARD:

This Order memorializes the New Jersey Board of Public Utilities' ("Board") decision on a petition for declaratory judgment on eligibility under the Board's net metering rules.

BACKGROUND

The statutory and regulatory authority for net-metering is codified at N.J.S.A. 48:3-87(e) and implemented through N.J.A.C. 14:8-4. The statute limits net metering to customers "that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period." N.J.S.A. 48:3-87(e)(1). The rules establish the criteria for determining whether a renewable generation facility is on the "customer's side of the meter" and therefore eligible for net metering.

On March 22, 2018, Marina Energy, LLC ("Marina" or "Petitioner") filed a petition with the Board for a declaratory ruling concerning the Board's net metering rules, found at N.J.A.C. 14:8-4.1 ("Petition"). Specifically, Petitioner seeks a declaratory ruling that if certain lots and blocks in the townships of Vernon and Hardyston are merged, Petitioner's solar electricity generation facility, located on and intended to serve the Crystal Springs Resort Development, LLC ("CSRD"), will meet the Board's requirements to be net metered as set out at N.J.A.C. 14:8-4.1;

or, in the alternative, a waiver of N.J.A.C. 14:8-4.2, pursuant to the Board's authority under N.J.A.C. 14:1-1.2(b).

By Order dated June 22, 2018, the Board granted Jersey Central Power and Light Company ("JCP&L")'s motion to intervene.

By letter dated October 19, 2018, the New Jersey Division of Rate Counsel filed a position of no objection.

STAFF RECOMMENDATION

As set out in the Petition, the 3.1 MW DC solar electricity generation facility ("Solar Facility"), the interconnection facilities, and the CSRD properties to be served are all located on the Resort. Petitioner represents that the Solar Facility is located in Vernon Township, while its interconnection with CSRD and the CSRD buildings themselves are located in Hardyston Township. Petitioner represents that CSRD and itself have entered into a power purchase agreement through which the Solar Facility is intended to serve several different locations at CSRD's commercial property ("Resort"). Petitioner states that CSRD is the customer of record with JCP&L for these locations and that its account with JCP&L is for the primary electric meter ("Master Meter") serving several operating assets at the Resort.

According to Petitioner, the Solar Facility has been substantially complete since prior to Petitioner's purchase of it in December 2015; however, says Petitioner, a dispute with the electric distribution company, JCP&L, over whether or not the Solar Facility is adjacent to the CSRD end user properties has prevented issuance of authorization to operate. At this time and to resolve this dispute, Petitioner represents that CSRD has agreed to pursue a formal tax lot consolidation plan ("Consolidation Plan") which will result in contiguity between the Solar Facility and all but two of the tax lots that comprise the Resort.

As currently constituted, the Solar Facility is located on Block 270, Lot 11.07 of Vernon Township ("SF Lot") and is adjacent to Block 270, Lot 11.06 of Vernon Township ("Other Lot"). The SF Lot is not adjacent to any of the blocks and lots on which the CSRD properties intended to be served are located; the Other Lot is adjacent to Block 16.31, Lot 1 of Hardyston, on which the interconnection point is located ("IP Block"). The CSRD properties intended to be served are located, variously, on the IP Lot and on lots 1.10, 1.09, 1, and 6.02 of Block 16. Ibid.

Under the Consolidation Plan, the SF Lot and the Other Lot in Vernon Township would be merged into a single tax parcel ("New Lot A"). The IP Lot and Lots 1.10 and 1.09 would be merged into a single tax parcel ("New Lot B") on which, among other facilities, the Grand Cascade's Lodge & Conference Center is located. New Lot A and New Lot B would then be adjacent to each other.

Petitioner represents that the Resort's annualized usage, measured in kWh on what would be New Lot B, would exceed the projected output of the Solar Facility. More precisely, the Solar Facility is projected to produce approximately 4,687,261 kWh annually, while the Resort's usage on New Lot B has historically averaged over 5 million kWh. (Petitioner Letter dated October 31, 2018; Response to RCR-6.)

DISCUSSION AND FINDINGS

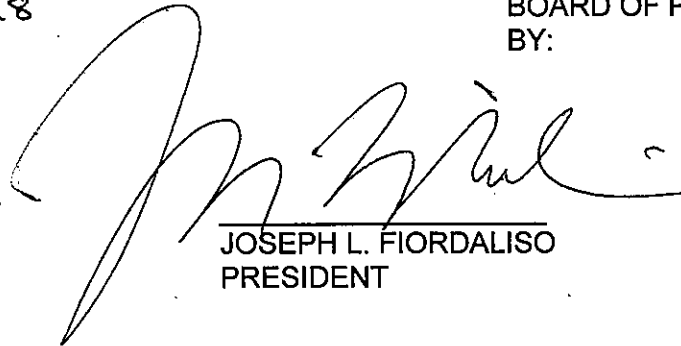
The Board has reviewed the Petition and the record in this matter.

The Board **FINDS** that New Lot A and New Lot B, if created as described in the Petition, will be contiguous under N.J.A.C. 14:8-4.1(b)(2). The Board **FURTHER FINDS** that average annual usage on New Lot B has historically exceeded the projected annual generation of the Solar Facility. Accordingly, the Board **HEREBY GRANTS** the declaratory judgment petition with respect to the request for a finding of contiguity between the proposed new lots.

This Order shall be effective on November 29, 2018.

DATED: 11/19/18

BOARD OF PUBLIC UTILITIES
BY:



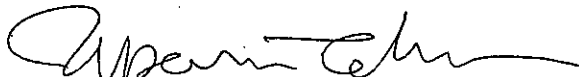
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MARYANNA HOLDEN
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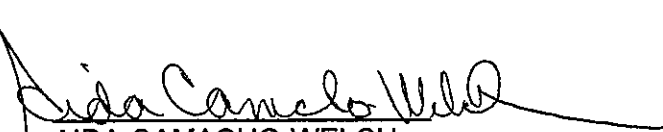
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ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

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

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WAIVER RULE, N.J.A.C. 14:1-1.2(b)**

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