



Agenda Date: 02/27/19

Agenda Item: 8H

STATE OF NEW JERSEY
Board of Public Utilities
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CLEAN ENERGY

IN THE MATTER OF THE MODIFICATION OF THE)	ORDER IMPLEMENTING
SOLAR RENEWABLE PORTFOLIO STANDARD AND)	P.L. 2018, c. 17
SOLAR ALTERNATIVE COMPLIANCE PAYMENT)	
SCHEDULES AND THE REDUCTION OF THE)	
QUALIFICATION LIFE FOR SOLAR RENEWABLE)	
ENERGY CERTIFICATES FOR SOLAR FACILITIES)	DOCKET NO. QO18070698

Party of Record:

Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

BACKGROUND:

On May 23, 2018, Governor Murphy signed P.L. 2018, c. 17 ("Clean Energy Act" or "Act"). The Act addresses the Renewable Portfolio Standard ("RPS") rules establishing the market for Solar Renewable Energy Certificates ("SRECs") and requires the Board:

Adopt rules to close the SREC program to new applications upon the attainment of 5.1 percent of kilowatt hours sold in the State ... from solar electric power generators connected to the distribution system.

Provide for an orderly and transparent mechanism that will result in the closing of the existing SREC program on a date certain but no later than June 1, 2021.

No later than 24 months after the date of enactment ... complete a study that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State

For all applications for designation as connected to the distribution system of a solar electric power generation facility filed with the board after the date of enactment of P.L. 2018, c. 17 (C.48:3-87.8 et al.), the SREC term shall be 10 years.

[N.J.S.A. 48:3-87(d).]

Board Actions Taken to Implement the Clean Energy Act

On June 22, 2018, the Board proposed rule amendments to N.J.A.C. 14:8-2.4 to close the SREC Registration Program ("SRP") to new submittals following a determination by the Board that 5.1 percent of kilowatt hours sold comes from solar electric power generators¹ ("5.1% Milestone"). The rule proposal was published in the New Jersey Register on August 6, 2018 with comments due by October 5, 2018. The Board approved the adoption of these amendments on December 18, 2018 and they took effect upon publication in the New Jersey Register on January 22, 2019.

On October 29, 2018, the Board addressed the provisions reducing the SREC term or Qualification Life ("QL") for solar facilities in the Clean Energy Act. By action memorialized in an Order, the Board found the legislative intent was to reduce the QL to ten years for all applications submitted after the effective date of the Order and directed to Staff to initiate rulemaking.²

Additionally, in a separate agenda item, the Board approved a rule proposal that would amend the Renewable Portfolio Standards ("RPS") rules at N.J.A.C. 14:8-2 to implement various provisions of the Act. Proposed amendments to N.J.A.C. 14:8-2.2 would change the definition of QL for a solar electric generation facility, during which a facility is eligible to create an SREC, from 15 years to 10 years.³ Electricity must be generated during a facility's QL to be eligible for an SREC. N.J.A.C. 14:8-2.4(b). According to this rule, a solar facility's QL applies not only to the facility in its entirety, but also to each piece of equipment included in the facility. The QL runs regardless of any interruption in the solar facility's operation or of any disassembly, relocation, sale, or transfer of any piece of equipment included in the facility.

The rule proposal included other amendments to the RPS rules affected by the Clean Energy Act. Amendments to N.J.A.C. 14:8-2.3 implemented the changes to RPS solar compliance obligations contained in the Act. Proposed N.J.A.C. 14:8-2.4 implements the application approval process and escrow requirements for solar electric power generation projects which must submit an application to the Board for designation as connected to the distribution system. The proposed amendments to N.J.A.C. 14:8-2.10, which revise the Solar Alternative Compliance Payment ("SACP") Schedule making it consistent with the Act, are still pending.

Immediately following the October 29, 2018 agenda meeting, Staff posted notice to the Renewable Energy ("RE") email distribution list and the NJCleanenergy.com website that registrations in the SRP received after midnight would be eligible for a ten-year QL. Registrations in the SRP prior to the deadline that fulfill all conditions established by the Board shall receive a 15-year SREC QL. The same timelines apply to applications received by the Board for Conditional Certifications pursuant to Subsection t.

¹ I/M/O Rulemaking to Implement Certain Provisions of P.L. 2018 Chapter 17, Regarding Closing the SREC Program to New Registrations Following the Attainment of 5.1 Percent of Kilowatt-hours Sold in the State From Solar Electric Power Generators Connected to the State's Electric Distribution System, Docket No. QO18060647 (June 22, 2018).

² I/M/O the Modification of the Solar Renewable Portfolio Standard and Solar Alternative Compliance Payment Schedules and the Reduction of the Qualification Life for Solar Renewable Energy Certificates for Solar Facilities, Docket No. QO18070698 (October 29, 2018) ("October 29 Order").

³ I/M/O N.J.A.C. 14:8 Rulemaking Regarding Amendments to Certain Solar Energy Provisions Pursuant to P.L. 2018 c 17, Docket QX18101098 (October 29, 2018).

On November 5, 2018, the Board approved the engagement of a consultant to complete a study evaluating how to modify or replace the SREC program in a way that encourages the continued efficient and orderly development of solar renewable energy generating sources as required by the Act. The scope of work for the study includes significant stakeholder engagement; development and analysis of the available alternatives; and a recommendation for megawatt targets for the statutorily defined market segments. Staff anticipates that the study will provide valuable insights into the incentive requirements for current and future solar electric generation facilities, including those in the SRP pipeline.

On December 26, 2018, Staff issued a straw proposal and request for comments on SREC Transition Principles, Program Assumptions, and initiated a Stakeholder Process for implementing an SREC Transition in compliance with statutory requirements. The Staff straw also requested public comment on the assumptions and methodology for determining when the 5.1% Milestone has been met. One of the SREC Transition Principles states that Staff will "provide disclosure and notification to developers that certain projects may not be guaranteed participation in the current SREC program[.]" The comment period closed on February 22, 2019.

The first of two stakeholder meetings to take initial comments on the staff straw, transition principles and request for comments was held on Friday, January 18, 2019 in New Brunswick. The second stakeholder meeting was held on February 12, 2019 in Newark was cancelled due to inclement weather and was rescheduled for February 22, 2019. In the first meeting, several stakeholders commented on the transition principles, particularly the suggestion to provide transparency and notice to market participants that projects remaining in the pipeline upon attainment of 5.1% Milestone may not be eligible for SRECs.

Attainment of the 5.1% Milestone

One interpretation of the statutory requirement to close the SRP to new registrations upon attainment of the 5.1% Milestone would utilize solar kilowatt hours and total statewide retail kilowatt hours sold to determine when that milestone is met. A rough forecast could be calculated by dividing forecast solar kilowatt hours sold by forecast retail electricity sales in kilowatt hours (or its equivalent megawatt hours). Retail electricity sales for Energy Year 2018 declined to approximately 73.7 million megawatt hours from more than 75 million megawatt hours in the previous energy year.⁴ To produce 5.1% of 73.7 million megawatt hours from solar generation, New Jersey would need 3,132 MWdc of installed solar capacity. This figure is calculated by multiplying 73.7 million megawatt hours by 5.1% and dividing the product by 1,200, the standard estimated kilowatt hour production from one megawatt of installed capacity.

The Board provides information on solar market activity to the public through the New Jersey Clean Energy Program website, NJcleanenergy.com. On January 16, 2019, the Board's program administrator for the NJ Clean Energy Program, TRC, posted the monthly solar activity reports for the SRP, including solar installation and pipeline reports ("January 16 Report").⁵ The January 16 Report shows a total of 2.7 gigawatts (2,701 MWdc) of installed solar capacity through December 31, 2018. A significant amount of this capacity had recorded the receipt of a Permission to Operate ("PTO") between October 1, 2018 and December 31, 2018.

⁴ RPS Compliance Results for Energy Year 2018, posted February 6, 2019.

⁵ To provide market participants equitable access to the reports, the reports are posted at 2:00 pm on the third Wednesday of every month. January 16 was the third Wednesday in January 2019.

The SRP pipeline report shows over 12,000 registrations as of December 31, 2018, with total capacity of over 661 MWdc pending in various stages of development. These over 12,000 registrations include over 9,000 SRP registrations that were submitted prior to October 29, 2018 and represents total capacity of approximately 500 MWdc. Also included in the total are twelve grid supply projects, for approximately 92 MWdc of capacity, attributable to applications submitted to the Board prior to the passage of the Clean Energy Act and submitted SRP registrations deemed complete prior to or on October 29, 2018. Given the long lead time for developing grid supply projects, Staff anticipates that a significant portion of this 92 MWdc is likely to commence commercial operations after the attainment of the 5.1% Milestone.

The January 16 Report shows 2,701 MWdc installed and 661 MWdc of capacity in the pipeline, which indicates that the project likely to produce the megawatt hour that puts solar generation at 5.1% of total retail electricity sales has already been registered. This estimate takes into account the modest level of attrition that occurs from the SRP pipeline. A more precise forecast of when the 5.1% Milestone will be achieved involves a more complex calculation based upon forecasts of installed capacity by month, solar irradiance by month, and a rolling estimate of retail sales by month.

Staff's latest estimate of the date when the 5.1% Milestone will be achieved appears in the chart below. Two scenarios are presented, both of which are based upon the assumption that retail sales will remain constant at 73.7 million MWh: (1) that the average installation rate will continue at 30 MW per month through May 2019; and (2) that irradiation values for each month will approximate historic averages. One scenario assumes an installation rate in EY20 of 20 MW per month and another assumes an installation rate of 40 MW per month. This second assumption results in an estimate that the 5.1% Milestone will be reached in April or May 2020. Higher retail sales, cloudy weather, or lower installation rates would result in the milestone being achieved later, while lower retail sales, unusually sunny weather, and higher installation rates cause this milestone to be reached earlier.

EY2020 Month	Low	Solar	% Solar	High	Solar	% Solar
	Capacity Growth @ 20 MW/mo. (MW)	Productivity with a 20 MW rate *(MWh)	MWh toward EY20 retail sales (%)	Capacity Growth @ 40 MW/mo. (MW)	Productivity with a 40 MW rate *(MWh)	MWh toward EY20 retail sales (%)
June 2019	2,829	367,705	0.499%	2,829	367,705	0.49%
July 2019	2,849	393,093	1.033%	2,869	395,853	1.04%
Aug. 2019	2,869	364,300	1.527%	2,909	369,380	1.54%
Sept. 2019	2,889	329,289	1.974%	2,949	336,129	1.99%
Oct. 2019	2,909	264,674	2.333%	2,989	271,954	2.36%
Nov. 2019	2,929	216,709	2.627%	3,029	224,109	2.67%
Dec. 2019	2,949	200,498	2.899%	3,069	208,658	2.95%
Jan. 2020	2,969	228,575	3.210%	3,109	239,355	3.28%
Feb. 2020	2,989	271,954	3.579%	3,149	286,514	3.66%
Mar. 2020	3,009	339,961	4.040%	3,189	360,301	4.15%
Apr. 2020	3,029	378,563	4.554%	3,229	403,563	4.70%
May 2020	3,049	396,305	5.092%	3,269	424,905	5.28%
Total		3,751,623			3,888,423	

STAFF RECOMMENDATIONS

Market participants require notice that the Board will restrict access to SREC market participation for certain projects that do not achieve commercial operations prior to the Board's

determination that the 5.1% Milestone has been reached. Further clarification of the October 29 Order, which reduced the QL to ten years for new SRP submittals, would be helpful in this regard. Staff recommends that the Board further clarify that projects that were: (1) registered prior to October 29 or that (2) submitted complete Subsection t applications by October 29, 2018 will receive SREC eligibility for fifteen years. Staff recommends that the Board clarify that the fifteen-year eligibility will apply regardless of when these projects commence commercial operation.

With respect to the RPS rule amendments noted above, Staff notes that the Clean Energy Act revised the RPS solar obligation schedule so that the solar percentage requirements extend to Energy Year 2033. To ensure a sufficient supply of SRECs beyond 2029, a viable market for SRECs, and prices that are not determined by the SACP, a significant number of projects eligible for a 15-year SREC QL should enter the SREC market in calendar year 2019 and 2020. Otherwise, the ability of smaller projects to complete construction in a shorter timeframe would threaten the ability of larger projects with a 15-year QL to commence commercial operations prior to the 5.1% Milestone.

To establish a clear demarcation of eligibility for 15-year vs. 10-year of QL, Staff recommends that the Board address the point at which solar generation facilities qualify. The Board's interconnection rules provide a uniform set of procedures for Electric Distribution Companies ("EDCs") to grant net metered Class I renewable generators an authorization to energize that meet the applicable requirements. N.J.A.C. 14:8.5. The EDCs provide a similar authorization for grid supply solar electric generation facilities that interconnect using PJM's interconnection protocols. Standard practice, for instance in judging compliance with Subsection q's two-year application time limit or the commencement of a project's QL, has been to use the date a PTO is issued to a solar electric generation facility as evidence that the facility has commenced commercial operations. Staff now recommends that the Board formally authorize this practice for purposes of determining whether a facility is eligible to participate in the SREC market with a 15 or 10 year QL.

Staff further recommends that the Board clarify the relationship of the recent amendments to N.J.A.C. 14:8-2.4 to grid supply projects which must apply to the Board for designation as "connected to the distribution system." The Solar Act of 2012 (P.L. 2012, c. 24) ("Solar Act") created the classes of solar electric generation facilities that must submit an application to the Board for designation as connected to the distribution system. These classes, which are all grid supply projects, are referred to by the name of the Solar Act subsections that created them as Subsection q, Subsection r, and Subsection s. The application process created by Subsection q ended in 2013⁶ and the Subsection s application process closed in 2014.⁷ The Board has not yet opened an application window for Subsection r projects. Although rules to implement Subsection r have been promulgated ("Subsection r Rules"), the Board subsequently suspended them pending completion of a separate proceeding.⁸ Prior to this suspension,

⁶ I/M/O the Implementation of L. 2012, c.24, The Solar Act of 2012; N.J.S.A. 48:3-87(Q) (R) AND (S) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System – Subsection (Q) Round Two Application Approvals, Docket No. EO12090880V, (January 29, 2014).

⁷ I/M/O the Implementation of L.2012, C.24, The Solar Act of 2012; and I/M/O the Implementation of L.2012, C.24, N.J.S.A. 48:3-87 (Q)(R) and (S) - Proceedings to Establish the Processes for Designating Certain Grid Supply Projects as Connected to the Distribution System – Request for Approval of Grid Supply Solar Electric Power Generation Pursuant to Subsection (s) – Additional Application Criteria, Docket No. E012090880V (October 22, 2014).

⁸ I/M/O the Board's Establishing a Generic Solar Proceeding to Review the State of the Solar Market; I/M/O the Implementation of N.J.S.A. 48:3-87 (R), Docket No. QO16020130 (January 17, 2019).

Expressions of Interest were received pursuant to the Subsection r Rules; the Board recently directed Staff to seek comment from interested parties on further steps to be taken with respect to the suspended Subsection r Rules and the Expressions of Interest received pursuant to those rules.⁹ Staff recommends that the Board clarify that the escrow requirements mandated by the Clean Energy Act and implemented via the amendments to N.J.A.C. 14:8-2.4(r) discussed above apply only to the Subsection r grid supply projects.

Additionally, Staff recommends that the Board address the eligibility of projects for which Subsection t applications for conditional certification were submitted to the Board after the October 29, 2018 deadline. While the Solar Act of 2012 does not require "applications for designation" by projects proposed for siting on land meeting the definition of "properly closed sanitary landfill," "brownfield," or "area of historic fill," these type of projects do require submission to the Board of an application for Conditional Certification. As discussed earlier, following the October 29 Agenda Meeting, Staff provided notice to market participants of the change in QL including treatment of Subsection t applications. The same timelines as applied to registrations for net metered projects apply to applications received by the Board for Conditional Certifications pursuant to Subsection t. Staff recommends that the Board clarify that applications for Conditional Certification pursuant to Subsection t received by Staff after October 29, 2018 may be eligible for an SREC if a PTO is issued prior to the attainment of the 5.1% Milestone.

DISCUSSION AND FINDINGS

The Legislative Statement accompanying the Clean Energy Act explains that the bill impacts "any new applications," without further qualification. After reviewing this statement in conjunction with the reduction of the QL to ten (10) years, the Board **FINDS** that the Legislature intended to limit access to the SREC market upon the attainment of the 5.1% Milestone. The Board **FINDS** that solar projects in the SRP pipeline that have not commenced commercial operations at the time the State reaches this milestone may not be eligible to participate in the SREC market. The Board **HEREBY REAFFIRMS** its interpretation of the Act as setting the QL for all new projects seeking eligibility for SRECs to ten (10) years, both projects which require Board determination that they are "connected to the distribution system" and projects that do not. The Board **FURTHER CLARIFIES** that projects in the SRP pipeline that did not submit a completed registration or application for designation or conditional certification before midnight of October 29, 2018 and that have not commenced commercial operations when the Board determines that the 5.1 percent milestone has been reached may not be eligible for SRECs.

The Board **HEREBY ORDERS** Board Staff to apply a 15-year SREC QL to all complete registrations and applications properly submitted to the Board *before* midnight on October 29, 2018. The Board **CLARIFIES** that projects previously determined to be eligible for SRECs by meeting the October 29, 2018 deadline and satisfying all other applicable requirements shall continue to be eligible to create SRECs after the State's attainment of the 5.1% Milestone.

The Board **HEREBY ORDERS** Board Staff to apply a 10-year SREC QL to all applications submitted *after* midnight on October 29, 2018. The Board **HEREBY CLARIFIES** that SREC eligibility for this group of registrants is contingent upon commencing commercial operations prior to the attainment of the 5.1% Milestone. The Board **AUTHORIZES** Staff's use of the date on the Permission to Operate as a proxy for the commencement of commercial operations. The

⁹ I/M/O The Implementation of N.J.S.A. 48:3-87(R), Designating Certain Grid-Supply Projects as Connected to the Distribution System - Order Implementing Certain Provisions of N.J.A.C. 14:8-2.4(G) for Energy Year 2018, Docket No. Q016020130 (January 17, 2019).

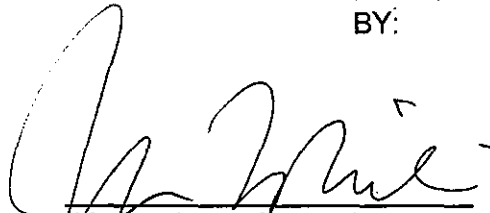
Board **DIRECTS** Staff to commence a rulemaking proceeding to incorporate this authorization into the Board's rules.

The Board **HEREBY CLARIFIES** that the rules proposed on October 29, 2018 as N.J.A.C. 14:8-2.4(r) to implement the Clean Energy Act's escrow requirements only apply to the class of grid supply projects required to file an application for designation.

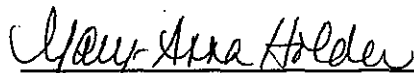
The effective date of this Order is March 9, 2019.

DATED: 2/27/19

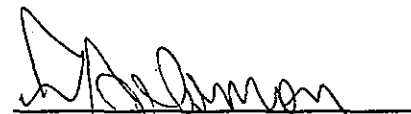
BOARD OF PUBLIC UTILITIES
BY:



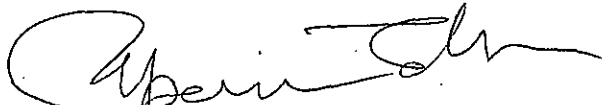
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COMMISSIONER

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.

**IN THE MATTER OF THE OF MODIFICATION OF THE SOLAR RENEWABLE PORTFOLIO
STANDARD AND SOLAR ALTERNATIVE COMPLIANCE PAYMENT SCHEDULES AND THE
REDUCTION OF THE QUALIFICATION LIFE FOR SOLAR RENEWABLE ENERGY
CERTIFICATES FOR SOLAR FACILITIES**

DOCKET NO. QO18070698

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