



Agenda Date: 11/13/19  
Agenda Item: 8C

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u>	)	ORDER
2012, <u>C.</u> 24, THE SOLAR ACT OF 2012	)	
	)	
ENTERSOLAR, LLC - REQUEST FOR SREC	)	
EXTENSION - SIGNATURE FLIGHT SUPPORT- TEB	)	DOCKET NOS. EO12090832V
SOUTH-NJSSRE-1537861832	)	and QO19101419

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel  
**Joseph Accardo, Esq.**, Public Service Electric and Gas Company  
**Steve Burns**, Entersolar, LLC

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities ("Board") considers the petition of Entersolar, LLC ("Entersolar" or "Petitioner") dated August 7, 2019 and received by the Board on October 15, 2019. Petitioner seeks an extension of time to complete a solar energy project ("Project") under the Board's Solar Renewable Energy Certificate ("SREC") Registration Program ("SRP").

The Board's Renewable Portfolio Standard ("RPS") rules, found at N.J.A.C. 14:8-2, are designed to encourage the development of renewable sources of electricity; minimize the environmental impact of air pollutant emissions from electric generation; reduce possible transport of emissions and minimize any adverse environmental impact from deregulation of energy generation; and support the reliability of the supply of electricity in New Jersey. N.J.A.C. 14:8-2.1.

N.J.A.C. 14:8-2.4 establishes the process and eligibility criteria for new solar electric generation projects to register in the SRP and become eligible to generate energy upon which SRECs can be created. SRECs can be used to satisfy New Jersey's RPS. Upon determining that a project application meets SREC eligibility requirements, the SRP issues a conditional registration to the project. If the solar facility completes construction as described in the initial registration package; submits a post-construction certification package; and passes inspection, if required, the SRP issues a certification number to the facility. N.J.A.C. 14:8-2.4(h)(4)(n).

Pursuant to N.J.A.C. 14:8-2.4(i), construction of a solar electric generating facility shall be completed prior to expiration of conditional registration in the SRP. A registrant for facilities that are net-metered, provide on-site generation, or provide power for a qualified customer engaged in aggregated net metering may request an extension of six months prior to expiration of the conditional registration. The rules do not provide for a second extension, which must therefore be sought by seeking a waiver of the rules from the Board. If the conditional registration or extension expires before completion of construction, and no second extension is granted, the registrant shall begin the entire registration process again.

On or about April 19, 2018, the application for the Project received a conditional registration from the SRP. The Project, sized at 888 kW dc, is intended to be located at 101 Charles A. Lindbergh Drive, Teterboro, New Jersey ("Site") and to be net-metered. The Board's SRP administrator issued the project its conditional registration with a registration length of twelve months and an SRP application expiration date of April 19, 2019. On April 2, 2019, Entersolar received a six-month extension for the Project to October 19, 2019 from the SRP administrator.

Petitioner attributes the need for an extension to the federal government shutdown from December 22, 2018 through January 25, 2019. According to Petitioner, all solar projects seeking permit approvals on an airport facility are required to obtain Federal Aviation Administration ("FAA") approval on a system glare study to ensure there will be no glare impacting the air traffic control tower or incoming and outgoing aircrafts. The Petitioner states that it submitted a revised glare study to accommodate a planned control tower in December 2018 and that additional information requested by the FAA on January 9, 2019 was provided within a week. However, Petitioner states that the FAA did not approve the glare study until May 28, 2019. Altogether, Petitioner calculates that the FAA approval took 133 days instead of the usual 30-60 days.

Entersolar further states that although the Port Authority approved all designs on February 8, 2019, it could not issue construction permits until the FAA had approved the glare study. Petitioner received the permits the day after the May 28, 2019 FAA approval and construction began on June 21, 2019. Petitioner asserts that had the FAA reviewed its glare studies in a timely manner it would have been granted its permits for construction in February and would not be at the risk of losing the incentive. Petitioner believes that the delay in the Port Authority permit approval process constitutes a significant unforeseen delay.

Entersolar submits that Project construction has been completed; all equipment is installed and the system is capable of operation. Petitioner has attached a letter from the engineer of record supporting this claim. According to Petitioner, it received its Port Authority inspection at this location last week, and the only comment holding up the certificate of occupancy was a determination that a sprinkler head would need to be relocated due to the proximity to one of our conduits. Entersolar states that this relocation will take some time to complete; it has requested a letter of non-conformance from the Port Authority, but has not received one to date.

## **DISCUSSION AND FINDINGS**

The Board is authorized to waive its rules pursuant to N.J.A.C. 14:1-1.2, which provides that the rules may be liberally construed to permit the Board to carry out its statutory functions. In considering whether to grant a request for a waiver, the Board applies the two-pronged test set forth at N.J.A.C. 14:1-1.2(b)(1) and determines: (1) whether the request is in accord with the general purposes and intent of the rules; and (2) whether full compliance with the rules would adversely affect ratepayers, a utility or other regulated entity, or the public interest.

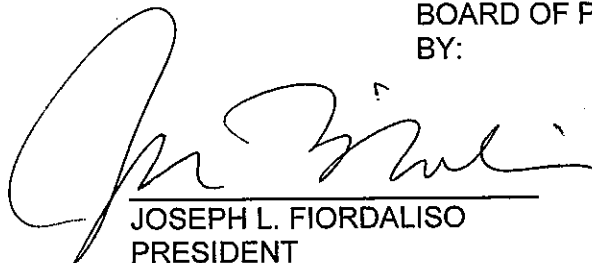
As noted above, the RPS rules are designed to encourage the development of renewable sources of electricity. Entersolar's submission details a chronology that indicates timely responses to regulatory requests for revisions and information. Petitioner has precisely detailed the dates at issue and the extent of the delay. Under these circumstances, the Board **FINDS** that the delay in receiving the FAA approval of the glare plan described in the petition was unavoidable and unforeseeable. Moreover, Petitioner describes significant progress; a final inspection by the Port Authority resulted in only one requested change. Therefore, the Board **FINDS** that Petitioner has substantially completed the Project. The Board **FURTHER FINDS** that granting Petitioner an extension to make the change requested or to receive the letter of non-conformity sought by Petitioner comports with the general intent and purpose of the rules by furthering the State's goal of encouraging the development of renewable sources of electricity.


Entersolar has not identified the length of the extension requested. The Board notes that Petitioner states that making the change requested will take "some time" to complete. While Petitioner has requested a letter of non-conformance, it has not received that letter yet. Therefore, the Board **FINDS** that an extension of thirty (30) days is reasonable to avoid the need to consider a second petition. The Board **GRANTS** the petition and **WAIVES** the requirement to re-apply to the SRP set forth at N.J.A.C. 14:8-2.4(i). The Board **DIRECTS** Staff to issue full certification to the project upon Petitioner's demonstration that all requirements, including the SRP requirements at N.J.A.C. 14:8-2.4, have been satisfied.

This order shall be effective November 23, 2019.

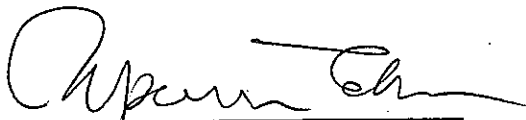
DATED: 11/13/19

BOARD OF PUBLIC UTILITIES  
BY:

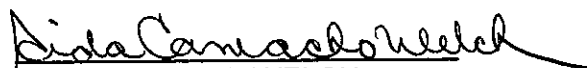
  
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COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

IN THE MATTER OF THE IMPLEMENTATION OF L. 2012, C. 24, THE SOLAR ACT OF 2012

IN THE MATTER OF REQUEST FOR A WAIVER OF SREC REGISTRATION RULES AT  
N.J.A.C. 4:8-2.4(l) – NEW BRUNSWICK BOARD OF EDUCATION HIGH SCHOOL  
DOCKET NOS. EO12090832V & QO19080916

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