



Agenda Date: 1/22/20  
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	)	
	)	
IN THE MATTER OF REQUEST FOR A WAIVER OF	)	
SREC REGISTRATION RULES AT N.J.A.C. 14:8-2.4(i)	)	
– NEW BRUNSWICK BOARD OF EDUCATION	)	DOCKET NOS. EO12090832V &
LINCOLN ANNEX – SMALL	)	QO19080914

**Parties of Record:**

**Joseph Accardo, Esq.**, Public Service Electric and Gas Company  
**Scott Kerner**, GSPP Onyx New Brunswick, LLC

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities (“Board”) considers the petition of GSPP Onyx New Brunswick, LLC (“GSPP” or “Petitioner”). Petitioner seeks a third 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; 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(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. If the conditional registration or extension expires before completion of construction, the registrant shall begin the entire registration process again. The rules do not provide for a second extension, which must therefore be sought by seeking a waiver of the rules from the Board.

On or about February 14, 2018, the Project received a conditional registration from the SRP. The Project, sized at 70.2 kilowatts dc, is intended to be located on the roof at a site referred to as the Lincoln Annex - Small ("Site") and to be net metered. The Board's SRP team issued the project its conditional registration on or about February 14, 2018 with a commitment length of twelve months and an initial SRP expiration date of February 14, 2019. GSPP requested and received from the SRP team a six-month extension of the twelve-month completion deadline to August 14, 2019 for the project. On August 13, 2019, Petitioner petitioned the Board for and was granted a second extension that ran through November 14, 2019.

By letter dated November 26, 2019, GSPP requests a third extension after its original application and second extension had expired. GSPP states that "[d]ue to the necessity to receive [Permission to Operate] for the systems before the end of the year to claim the Investment Tax Credit . . . . [GSPP] had to refile for the ten year SREC [qualifying life], losing claim on the fifteen year SREC [qualifying life]."1 Petition at par. 2. GSPP submitted the new SRP registration application on December 6, 2019 and the SRP issued an acceptance letter for the refiled application on December 17, 2019. Petitioner thus possesses an active and non-expired SRP application.

On December 11, 2019, GSPP received an email from PSE&G stating that the Project had a PTO effective December 9, 2019. However, Petitioner did not inform Staff of this approval until January 10, 2020.

In its petition, filed prior to either the receipt of the PTO or the new filing and acceptance, Petitioner requests a third extension for the original application to the deadline to January 31, 2020. Should the system receive its Permission to Operate ("PTO") by that date, Petitioner asks that the original application and associated fifteen year qualifying life be "re-activated." Petition at Par. 11. Petitioner supports its request for a third extension with the claim that during the pendency of its second petition it encountered delays from the town of New Brunswick's electrical permitting process that were "outside of our control." Petition at Par. 1. Petitioner states that it completed Project construction and received final municipal electrical approval prior to the November 14, 2019 second extension deadline.

## **DISCUSSION AND FINDINGS**

The Board is authorized to relax or 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 looks to the standards provided in this rule. In special cases upon a showing of good cause the board may relax or permit deviations from the rule. N.J.A.C. 14:1-1.2(b). Additionally, the board shall waive sections of the rule if it adversely affects ratepayers, hinders safe, adequate and proper service, or is in the interest of the general public. N.J.A.C. 14:1-1.2(b)(1).

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<sup>1</sup> The qualifying life of a solar project is the period during which it is eligible to generate energy upon which SRECs may be created. See N.J.A.C. 14:8-2.2.

As noted above, the RPS rules are designed to encourage the development of renewable sources of electricity. However, they are also intended to establish a regulatory framework that provides predictability and transparency to the regulated solar market. In this matter, GSPP has already re-applied to the SRP after its initial application had expired and its new filing has been accepted. Other than its own desire to retain the former fifteen-year qualifying life for the Project, Petitioner offers no rationale for the Board's intervention in the normal processes of the SRP. The Board **FINDS** that such an intervention is unwarranted and risks creating confusion and uncertainty in the market. The Board **FURTHER FINDS** that the out of time receipt of a PTO does not constitute justification for intervention.

In addition, as noted above, the RPS rules are designed to encourage timely development of renewable sources of electricity. This project already received two extensions that increased its initial time to complete. The local township inspection delays, while outside Petitioner's control, do not constitute such an extraordinary and startling development that they justify continuing to waive the procedural safeguards intended to ensure transparency in the amount of new generation coming on line.

Under these circumstances, the Board **FINDS** that there is no justification for an unprecedented "reactivation" of an application that has been superseded by a new acceptance. The Board **FURTHER FINDS** that the delay in receipt of local electrical permits was not an extraordinary occurrence such as would justify a third extension and a second waiver of the Board's rules. Therefore, the Board **DENIES** the petition.

DATED: 1/22/20

BOARD OF PUBLIC UTILITIES  
BY:




JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER



UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
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(I) – NEW BRUNSWICK BOARD OF EDUCATION LINCOLN ANNEX – SMALL  
DOCKET NOS. EO12090832V & QO19080914

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