



Agenda Date: 10/25/19
Agenda Item: 8G

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 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. 4:8-2.4(i) –)	
NEW BRUNSWICK BOARD OF EDUCATION MIDDLE)	DOCKET NOS. EO12090832V
SCHOOL)	AND QO19080917

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Joseph Accardo, Esq., Public Service Electric and Gas Company
Samantha Lennon, 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”) dated August 7, 2019 and received by the Board on August 13, 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 February 14, 2018, the Project received a conditional registration from the SRP. The Project, sized at 368.55 kilowatts dc, is intended to be located on a carport at the NBBOE Middle School ("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 expiration date of February 14, 2019. GSPP requested and received from the SRP team an initial six-month extension of the twelve-month completion deadline to August 14, 2019 from the SRP administrator.

In partial explanation of its need for a second extension, GSPP submits that on April 23, 2019, it received an overnight letter from a law firm which demanded that all work cease and that all materials be removed from the Site. Subsequently, Petitioner learned that the NBBOE wanted union labor used on the project. On May 16, 2019, following extensive discussions, the parties were able to settle this issue. However, the legal dispute delayed the project by seventeen (17) business days.

In addition, GSPP states that it encountered delays caused by actions of the electric distribution company ("EDC"), Public Service Electric and Gas ("PSE&G"). During July 2019, GSPP requested PSE&G to schedule electricity service shutdowns so the solar system electrical work could be done at the Site. PSE&G first scheduled and then cancelled the shutdowns, due to weather related issues. The shutdowns were eventually rescheduled for the middle of August, which resulted in the loss of an additional ten (10) business days. GSPP asserts that these litigation and EDC-related delays were unavoidable and unforeseeable and that therefore it should receive the requested 45-business day SRP registration extension.

The Petitioner conveyed to Board Staff that to date it has achieved the following milestones in connection with the Project:

- PSE&G approved the project Interconnection Application on February 28, 2018.
- The August electrical shutdowns took place and the solar system electrical work has been completed.
- GSPP is currently completing final inspections and is closing out its Independent Engineer report.
- Petitioner submits that the project have been completed by the October 18, 2019 requested extended deadline. However they have not received the Permission to Operate (PTO) from the EDC therefore request the deadline be extended to November 14, 2019.

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

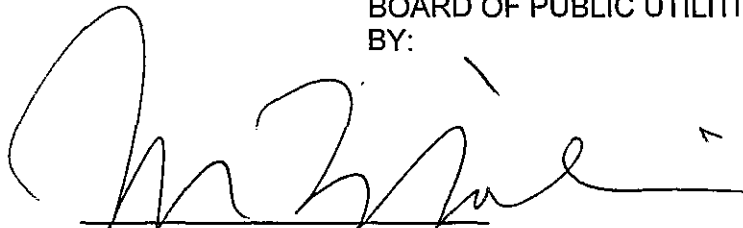
considering whether to grant a request for a waiver, the Board applies the two-pronged test set forth at N.J.A.C. 14:1-1.2(b)(1) and determines: (1) whether the request is in accord with the general purposes and intent of the rules; and (2) whether full compliance with the rules would adversely affect 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. GSPP's submission details a series of regulatory compliance actions that evidence their diligent pursuit of full certification of their solar generation project. Petitioner has precisely detailed the number of business days lost and asked for an extension only slightly longer. Under these circumstances, the Board **FINDS** that the litigation and EDC-related delays described in the petition were unavoidable and unforeseeable. Moreover, GSPP has notified Staff that they have made substantial progress as noted above. Therefore, the Board **FINDS** that Petitioner has substantially completed the Project. The Board **FURTHER FINDS** that extending the SREC registration period by three months 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. 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.

The effective date of this Order is November 4, 2019.

DATED: 10/25/19

BOARD OF PUBLIC UTILITIES
BY:




JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



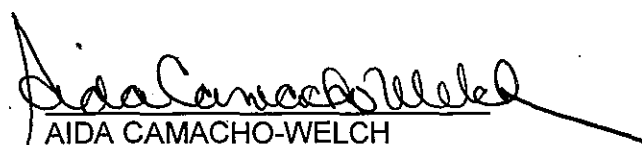
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COMMISSIONER



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 MIDDLE SCHOOL
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