



Agenda Date: 4/12/23
Agenda Item: 8F

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE COMMUNITY SOLAR)	DECISION AND ORDER
ENERGY PILOT PROGRAM)	
) DOCKET NO. QO18060646
IN THE MATTER OF PETITION OF SOLAR)	
LANDSCAPE, LLC FOR MODIFICATION OF THE)	
COMMUNITY SOLAR YEAR 1 BILL CREDIT)	
REGULATIONS FOR EIGHT COMMUNITY SOLAR)	DOCKET NO. QO21111218
PROJECTS)	

Parties of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel
Howard O. Thompson, Esq., Russo Tumulty Nester Thompson & Kelly, on behalf of Solar Landscape, LLC
Matthew M. Weissman, Esq., Public Service Electric and Gas Company

BY THE BOARD:¹

By this Order, the New Jersey Board of Public Utilities (“Board” or “NJBPU”) considers the petition of Solar Landscape, LLC (“Solar Landscape” or “Petitioner”) for a modification of the regulations regarding bill credits in the Community Solar Energy Pilot Program (“Pilot Program”).

BACKGROUND

On May 23, 2018, the Clean Energy Act of 2018 (L. 2018, c. 17) (“CEA”) was signed into law and became effective immediately. The CEA directed the Board to adopt rules and regulations establishing a pilot program for community solar in New Jersey.² The Board established the Pilot Program through rules published in the New Jersey Register on February 19, 2019.³ The Pilot Program enables New Jersey electric utility customers to participate in a solar energy project that

¹ President Fiordaliso recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

² N.J.S.A. 48:3-87.11(f).

³ 51 N.J.R. 232(a); N.J.A.C. 14:8-9.

may be remotely located from their properties and receive a credit on their utility bills. Community solar therefore enables access to clean energy generation for utility customers currently unable to place solar generation directly on their own properties. The Board particularly emphasized its interest in ensuring that low-and moderate-income ("LMI") customers are able to access community solar and that the Pilot Program did not compromise the preservation of open space or protected lands in New Jersey. The Pilot Program was designed to provide the necessary experience and to lay the groundwork for the development and implementation of a full-scale permanent Community Solar Energy Program.

The Board selected community solar projects for participation in the Pilot Program via a competitive solicitation process, as directed by N.J.A.C. 14:8-9.3(c). During the first program year ("PY1") solicitation, the Board received 252 applications and selected 45 applications on December 20, 2019, representing approximately 78 MW.⁴ These projects initially had a deadline to become fully operational within 12 months (i.e., December 20, 2020), with the possibility of extensions for projects that demonstrated substantial progress towards completion. On December 15, 2021, the Board issued an Order extending the project completion deadlines for the PY1 projects to April 30, 2022.⁵ In July 2020, the Board conducted a stakeholder process regarding lessons learned from PY1 and possible improvements to the Pilot Program. During the second program year ("PY2"), the Board received 412 applications and selected 105 applications on October 28, 2021, representing approximately 165 MW.⁶ These projects have a commercial operation deadline of November 4, 2023.

The electricity produced by a community solar project is delivered to the grid, and subscribers receive bill credits for the energy that is allocated to them. In case a community solar project's capacity is not fully subscribed and some generation is not allocated to customers, the excess generation may be banked by the project operator in a dedicated project electric distribution company ("EDC") account.⁷ The excess generation may be banked for an annualized period of up to 12 months starting on the date the project reaches commercial operation, during which time it may be distributed to new or existing subscribers in conformance with subscription requirements. At the end of the 12-month period, any remaining generation credits are to be compensated at the EDC's or basic generation service ("BGS") provider's avoided cost of wholesale power, calculated at the nearest node to the point of delivery of the community solar project.

PROCEDURAL HISTORY

On November 10, 2021, Solar Landscape filed a petition with the Board requesting that the Board amend its rules relating to the treatment of community solar bill credits that have not been allocated to community solar subscribers in the month in which the associated generation

⁴ [In re a Community Solar Energy Pilot Program](#), 2019 N.J. PUC LEXIS 464 (Dec. 20, 2019).

⁵ [In re the Community Solar Energy Pilot Program](#), 2021 N.J. PUC LEXIS 495 (Dec. 15, 2021).

⁶ [In re the Community Solar Energy Pilot Program Year 2 Application Form and Process – Application Awards](#), 2021 N.J. PUC LEXIS 410 (Oct. 28, 2021).

⁷ N.J.A.C. 14:8-9.7(h).

occurred (“Petition”). Solar Landscape is a limited liability corporation that operates eight solar projects approved for participation in PY1 of the Pilot Program. Petitioner also has 46 solar projects approved for participation in PY2 of the Pilot Program.

N.J.A.C. 14:8-9.7(h) states that such unallocated generation bill credits may be banked for an annualized period of up to 12 months, during which time the banked credits may be allocated to any new or existing subscriber. The Petitioner stated that it understands this 12-month annualized period to begin on the project’s commercial operation date and that energy generated in the twelfth month of this annualized period must be allocated during that month.

The Petitioner further stated that because the rules do not provide additional detail on how banking works, particularly with respect to subscriber churn and that appropriate subscription sizes may be estimated, the regulations are unclear and that the current interpretation is problematic.

Solar Landscape requests that the 12-month banking period be implemented as a rolling 12-month bank from the month in which the generation occurred, rather than a single 12-month annual period beginning on the anniversary of the project’s date of commercial operation. The Petitioner claimed that this change represents the mitigation of an administrative problem encountered during pilot programs.

Solar Landscape stated that data errors or discrepancies between the EDCs and project may not be reconciled in time to avoid the loss of bill credits.

Solar Landscape also requested that the Board direct Public Service Electric and Gas Company (“PSE&G” or “Company”) and the other EDCs to adjust their software and internal processes to allow for banking of bill credits from 12 months from the end of the month in which the bill credit is generated, as well as for monitoring of bill credit applications to reduce loss of bill credits. Solar Landscape further requested that, in the interim, the Board relax or waive its regulations to allow bill credit banking for two years from commercial operation, rather than one, for either all PY1 projects or specifically for its eight projects.

The Petitioner believes this relief is warranted because it has experienced attrition of customers that may result in loss of bill credit value and because it is in the public interest to serve LMI subscribers.

On December 14, 2021, PSE&G, an electric public utility that provides electric distribution service to all of Solar Landscape’s PY1 projects, filed a motion to intervene pursuant to N.J.A.C. 1:1-16.1. PSE&G argued that Solar Landscape’s Petition and the relief sought therein would have a direct impact on PSE&G’s operations and finances. Specifically, the Company maintained that software and internal process adjustments as requested in the Petition will cause it to incur additional costs, and no other party would represent PSE&G’s interests in this case. Further, the Company asserted that its intervention would add constructively to the proceeding and submitted that it will not cause undue delay or confusion. No party filed opposition to the motion.

On January 26, 2022, the Board granted PSE&G’s motion to intervene and designated President Fiordaliso as the presiding officer with authority to rule on all motions that arise during the pendency of this proceeding and to modify any schedules that may be set as necessary to secure

a just and expeditious determination of the issues.⁸ Subsequent to this designation, President Fiordaliso identified a potential conflict in the Solar Landscape petition and recused as the presiding officer, taking no further action as the presiding officer. This matter was returned to the Board for a determination on the Petition.

STAFF RECOMMENDATION

Community solar is an important way to help customers and residents in New Jersey, particularly those who are LMI, who are unable to install their own solar systems to participate in the clean energy transition and receive direct benefits of solar energy. The Pilot Program, including the projects described in the Petition, has already provided thousands of customers with more than one million dollars in net savings from bill credits. The Pilot Program was also designed to be of a limited size and duration to provide an opportunity to learn how community solar projects would be developed and implemented and to lay the foundation for a lasting permanent program to be developed in the future. Staff used lessons learned in the PY1 solicitation to inform the PY2 solicitation in 2021. The Board chose to forego a third solicitation in the Pilot Program, directing Staff to instead use the experience gained in the first and second solicitations to develop rules for a permanent community solar program.⁹

The Pilot Program rules allow for the banking of unallocated generation for the first 12 months after a project's operation date to give a project time to fully subscribe its capacity. While customers may subscribe to a project ahead of its start of operations, a project may not be fully subscribed if a project's marketing efforts have not yet led a subscriber organization to sign up enough customers or customers drop out of the program. This banking of unallocated generation allows new projects that do not yet have a subscriber base that meets the size of the project to save those bill credits for future customers. Staff believes that a project should be able to subscribe enough customers to meet its full capacity within 12 months after it begins operation.

Staff does not recommend unallocated generation be banked indefinitely, but rather that banking only be permitted for up to 12 months. Staff recognizes that unallocated generation created during the final month or months of the banking period may not have enough time to be allocated. There may also be irregularities in billing data that would not be able to be reconciled if occurring at the end of the 12-month period. Therefore, Staff recommends that after the initial 12-month period during which unallocated generation may be banked, there be an additional 12-month period during which banked generation may be allocated to new or existing subscribers. Staff believes that 24 months of operation, in addition to time before completion of construction, should be enough time to both subscribe customers for the full capacity of the project and allocate any banked generation credits.

After the initial 12 months, to avoid unallocated generation being compensated at the avoided cost of wholesale power due to month-to-month subscriber churn, projects would need to remain fully subscribed. One option would be to maintain waitlists of potential subscribers and another would be to enlist an anchor subscriber who can temporarily increase or decrease its subscription size in response to changing allocation rates. While some generation may still be unallocated

⁸ In re the Petition of Solar Landscape LLC for the Modification of the Community Solar Year 1 Bill Credit Regulations for Eight Community Solar Projects, 2022 N.J. PUC LEXIS (Feb. 2, 2022).

⁹ In re the Community Solar Energy Pilot Program Year 2 Application Form and Process – Application Awards, 2021 N.J. PUC LEXIS 410 (Oct. 28, 2021).

after this initial period, Staff must weigh the competing interests of providing bill credits to subscribers, incentivizing efficient sign-up of new subscribers, and ease of the method of administration.

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).

Community solar is an important program to increase access to solar energy for all ratepayers in the State, particularly LMI residents. The Board remains committed to assessing and refining the Pilot Program to better reflect real-world implementation and to ensure LMI access to community solar. The Petitioner has demonstrated that the rule at N.J.A.C. 14:8-9.7(h), as implemented, creates an undue burden on the distribution of community solar bill credits to customers, particularly those credits generated in the twelfth month after the start of a project's commercial operation. Having reviewed the petition and Staff's recommendations, the Board finds good cause to grant the petition in part and **HEREBY WAIVES** N.J.A.C. 14:8-9.7(h) in order to grant relief. The Board therefore **ORDERS** that all projects approved to participate in the Pilot Program shall have 24 months from the date of commercial operation to distribute banked community solar bill credits to the projects' subscribers.

The effective date of this Order is April 19, 2023.

DATED: April 12, 2023


BOARD OF PUBLIC UTILITIES
BY:



MARY ANNA HOLDEN
COMMISSIONER

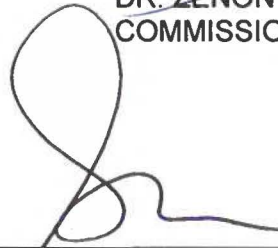


DIANNE SOLOMON
COMMISSIONER



DR. ZENON CHRISTODOULOU
COMMISSIONER

ATTEST:



SHERRIL L. GOLDEN
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 COMMUNITY SOLAR ENERGY PILOT PROGRAM
DOCKET NO. QO18060646

IN THE MATTER OF PETITION OF SOLAR LANDSCAPE, LLC FOR MODIFICATION OF THE COMMUNITY
SOLAR YEAR 1 BILL CREDIT REGULATIONS FOR EIGHT COMMUNITY SOLAR PROJECTS
DOCKET NO. QO21111218

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