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STATE OF NEW JERSEY
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NOTICE[1]

Staff Straw Proposal on Defining the Clean Energy Act of 2018's Statutory Cost Caps

Pursuant to the "Open Public Meetings Act", N.J.S.A. 10:4-6 et seq., the New Jersey Board of Public Utilities ("Board") hereby gives notice of a Public Meeting and opportunity to comment on a Straw Proposal to define the statutory cost caps ("Cost Caps") in the Clean Energy Act of 2018 ("CEA"), which will guide the Board in its development of the solar market in New Jersey.

The issuance of this Staff Straw was directed by the Board, as part of its adoption of the Transition Incentive program ("TI Program") on December 6, 2019 ("TI Program Order"). The CEA places a cap on the total costs that New Jersey ratepayers are required to pay for Class I renewable energy requirements, starting in 2020, but does not describe in detail the method of calculating the Cost Caps. The CEA does specify that the programs covered by the Cost Caps include: (1) the legacy Solar Renewable Energy Certificate ("SREC") program; (2) the TI Program; (3) any successor program that may be adopted by the Board in the future ("Successor Incentive Program"); and (4) any Class I Renewable Energy Certificates ("RECs"). Collectively, we refer to these programs as the "Cost Cap-Applicable Programs."

The goals of this proceeding are to:

1) determine whether the Board should adopt a multi-year approach to compliance with Cost Cap, including the use of a "banking mechanism" to allocate available Cost Cap headroom;

2) gather stakeholder input as to how the Cost Caps should be determined and implemented; and

3) explore reforms to the Legacy SREC program that ensure a robust solar market while conforming to the statutory limitations on cost.

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In order to address these items as expeditiously as possible, Staff is requesting that stakeholders provide written comment on:

- Item #1, addressing whether the Board should employ a banking mechanism to administer the Cost Caps, by 5:00 p.m., on **January 16, 2020**;

- Item #2, addressing how the Cost Caps should be determined and implemented, by 5:00p.m. on **January 31, 2020**; and

- Item #3, addressing reforms to the Legacy SREC program, by 5:00 p.m. on **January 31, 2020**.

Written comments must be submitted to Aida Camacho-Welch, Secretary, New Jersey Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, Trenton, New Jersey 08625. Written comments may also be submitted electronically to Charles.Gurkas@bpu.nj.gov in PDF or Microsoft Word format. Please note that these comments may be considered "public documents" for purposes of the state's Open Public Records Act. Stakeholders may identify information that they wish to keep confidential by submitting them in accordance with the confidentiality procedures set forth in N.J.A.C. 14:1-12.3.

Additionally, Staff will hold an in-person stakeholder meeting on **January 15, 2020**, to receive oral comments. The meeting details are as follows:

Date:	Wednesday, January 15, 2020
Location:	Thomas Edison State College Thomas Edison Room 111 West State Street Trenton, New Jersey 08608
Time:	10:00 a.m. – 2:00 p.m.

Stakeholders who wish to speak at the meeting are asked to register in advance to Charles.Gurkas@bpu.nj.gov by 5:00 p.m. on Wednesday, January 8, 2020. Please provide a short description (2-3 sentences) of which questions the speaker intends to address. Staff may group pre-registered speakers into segments based on topic.

Stakeholders who wish to speak without prior registration will be allowed to sign up to do so upon arrival to the Public Meeting, and will be called to speak following the preregistered speakers.

I. Background

The CEA adopted Cost Caps to manage the total amount of ratepayer spending devoted to Cost Cap-Applicable Programs while expressing clear support for ensuring the ongoing health of the solar industry. To ensure that future solar incentives involved lower levels of financial commitment by ratepayers, section 38(d)(2) reads as follows:

> … the board shall ensure that the cost to customers of the Class I renewable energy requirement imposed pursuant to this subsection shall not exceed nine percent of the total paid for electricity by all customers in the State for energy year

2019, energy year 2020, and energy year 2021, respectively, and shall not exceed seven percent of the total paid for electricity by all customers in the State in any energy year thereafter.

The CEA further directed that the Board "shall take any steps necessary to prevent the exceedance of the cap on the cost to customers including, but not limited to, adjusting the Class I renewable energy requirement.

The CEA's statutory text determines compliance with the Cost Caps through the use of the following equation ("Cost Cap Equation"):

$$\left[\frac{(Cost\ to\ Customers\ of\ the\ Class\ I\ Renewable\ Energy\ Requirement)}{(Total\ Paid\ for\ Electricity\ by\ all\ Customers\ in\ the\ State)}\right] \mathbf{x}\ 100\%$$

Finally, the statute specifically omits costs of Offshore Wind Renewable Energy Certificates ("ORECs") from the calculation.

A. Background on TI Program Order

Out of concern for maintaining compliance with the Cost Caps, the Board adopted a TI Program that included two pricing options. Specifically, the Board stated that it would adopt either: (1) a flat value for Transition Solar Energy Certificates ("TREC") over projects' 15-year qualification life; or (2) a TREC value that is lower in the first three years of projects' qualification life, referred to as the "kink years," but higher in the remaining 12 years. The kink years represent the energy years that have the greatest risk of exceeding the Cost Cap. Stakeholders raised concerns that "the revenues in the first three years would be too low to adequately support the solar industry, and that the existence of a 'kink period' would significantly complicate financing for these projects, therefore increasing financing costs."[2] Staff recognized these concerns but nonetheless recommended that the Board approve the lower TREC values in the kink years out of concern that eliminating the kink period could, potentially, result in an inadvertent breach of the Cost Caps or place an undue burden on the forthcoming Successor Incentive Program.

The TI Program Order largely accepted Staff's recommendations, but directed "Staff to initiate a proceeding on the calculation of the cost cap, and to report back to the Board regarding the recommendations and outcomes of said proceeding[.]"[3] The Board stated that the outcome of this proceeding would allow the Board to "provide further guidance on whether to remain with the shaped TREC methodology or adopt the alternative flat TREC value of $152/MWh."[4]

II. Options Under Consideration

During the TI Program proceeding, stakeholders suggested a number of options for ensuring that the total cost of the Cost Cap-Eligible Program remained under the requisite levels. Staff now requests comments on the following options for adequately funding the Cost Cap-Eligible Programs, while maintaining statutory compliance. Staff also invites stakeholders to suggest options that are not otherwise included here. Staff is also open to the idea that the optimal outcome may involve one or more of these options in combination.

[2] TI Program Order at p. 31.
[3] TI Program Order at p. 34.
[4] TI Program Order at p. 35.

A. Treatment of Cost Cap "Headroom" in the Clean Energy Act

Staff seeks comment on whether the Board can better implement the provisions of the CEA by determining compliance with the Cost Caps on a rolling basis of average expenditures over time or by transferring cost cap headroom between energy years. Staff generally refers to the gap between the statutory Cost Cap and the total customer expenditures on the Class I Renewable Energy requirement during any single energy year as "headroom."

During the TI Program proceeding, a number of parties suggested that the Board could use or "credit" monies not spent in one given Energy Year in another Energy Year, which parties generally refer to as "banking."[5] For example, one party noted that the level of ratepayer contribution to New Jersey solar program for the past two energy years has been about $480 million under the 9% cost limit, which more than offsets the estimated aggregate anticipated deficit of $320 million during the kink years. Other parties suggested averaging of solar costs over 3-, 4-, 5-, or 6-year periods in order to minimize the disruption caused by short-term variations in compliance costs.[6]

Staff's view is that such a mechanism could facilitate the task of ensuring that total costs to ratepayers remain under the cap over the life of the program. For example, total energy sales data typically lag three-to-six months past the end of the energy year. Thus, treating the Cost Caps as a multi-year cap on total expenditures rather than a succession of one-year caps would ease program administration. Further, the Board has historically looked to a true-up methodology where some of the inputs into a calculation are uncertain within the applicable energy year, as they are here.

Staff requests comments from parties on the following questions regarding the use of headroom in subsequent years:

1. Should the Board adopt a true-up banking methodology so that any expenditures above or below the Cost Cap in one Energy Year are carried forward to a subsequent year?
2. Would allowing for banking between Energy Years affect the total ratepayer impact?
3. Should the Board consider averaging costs over a period in order to more accurately reflect total compliance costs, while smoothing transient effects? How would such an average be constructed?
4. Should the Board adopt a true-up banking mechanism that can utilize unspent headroom from previous years as well as anticipated/projected headroom from future years?
5. How should the accounting for such transfers be done?

[5] Parties supporting some form of true-up included KDC Solar, NJRCEV, NJSEC, RCL Solar, SEIA, NJCF, and NRDC.
[6] Parties supporting some form of averaging included KDC Solar, NJSEC, and NJRCEV.

B. Defining the Terms of the Clean Energy Act

Staff proposes to define the numerator and denominator used in the Cost Cap Equation as follows:

- The numerator is the "Cost to Customers of the Class I Renewable Energy Requirement."
- The denominator is the "Total Paid for Electricity by All Customers in the State."

Several parties during the TI Program proceeding suggested ways in which the Board could define these two terms, and Staff seeks additional comment from all parties on how to best define these two terms. For example, RECO recommended including delivery charges in the definition of "Total Paid for Electricity by All Customers in the State" used in the Cost Cap Equation. Constellation urged Staff to implement an approach that will provide a formula for the Cost Cap Equation, including definitions for all terms. MAREC asserted that the Cost Caps should take into account: 1) the "merit order effect" whereby renewable energy and load reductions reduce the market price of capacity and energy rates to all customers; 2) the savings directly provided to customers who install on-site renewable energy; and 3) the value of volatility hedge benefits.

In regards to calculating the Cost Cap, Staff requests responses to the following questions:

1. Do parties agree that Staff has correctly identified the numerator and the denominator?

2. Staff notes that the State's Class I REC programs have resulted in benefits to the citizens of the State of New Jersey, including improved public health, reduction in carbon emissions, and direct financial benefits, such as lower energy and capacity costs.

   a. Is it appropriate for the Board to factor these benefits into the Cost Cap Equation?
   b. If so, please comment on which categories of benefits, if any should be included, whether they should be included in the numerator or denominator, and how they should be calculated.

3. The numerator is defined as the "cost to customers of the Class I Renewable energy requirement."

4. Staff's current practice in calculating clean energy program costs is to aggregate retired quantities from the annual RPS compliance reports of load serving entities and apply the last price recorded in PJM-EIS Generation Attribute Tracking System ("GATS").

   a. Is there a better source of data and calculation methodology?
   b. If so, how would we measure those costs?
   c. Should the Board analyze what energy costs would have been without the Cost Cap-Eligible Programs to determine the appropriate net cost to consumers of the programs?
   d. If so, how should such an analysis be conducted?

e. How should Staff handle savings associated with the "merit order effect" whereby renewable energy and load reductions reduce the market price of capacity and energy rates to all customers?
f. How should savings received by customers who install on-site renewable energy be addressed?
g. Are there volatility hedge benefits that should be included?

5. The denominator of the Cost Cap Equation references "total paid for electricity by all customers in the state."

a. Should payments associated with solar installations be included in the denominator? Should the Board differentiate between host-owned and third-party owned systems?
b. Are there other types of customer-generated electricity whose costs should be considered? For example, should the Board include electricity costs incurred by owners of Combined Heat & Power systems, microgrids, or other large on-site generators?
c. Should associated finance costs be included?
d. Should delivery charges imposed by the Electric Distribution Companies ("EDCs") be included?
e. Should Staff calculate the costs just to Board-jurisdictional load, as is the case for RPS compliance currently?
f. Should Staff calculate the costs as the sum of all EDC sales to end-use customers?
a. Should we rely on Energy Information Administration ("EIA") sales data?
b. Is there a better source of data and calculation methodology?
c. How should the lag in EIA data be addressed?
d. Should non-bypassable surcharges, including such things as Zero Emission Credits, be included in our calculation of energy costs?

C. Reform of the Legacy SREC Program

One of the major challenges to keeping the Cost Cap-Eligible Programs compliant with the Cost Caps is the wide range of forecasted total costs for the Legacy SREC program, due to market uncertainty. For example, the Solar Transition Consultant provided different SREC price estimates, with modeled prices falling below $50/MWh sometime between 2027 and 2032.[7]

During the TI Program proceeding, a number of parties noted how this high degree of uncertainty makes it difficult to adopt a flat TREC incentive price or a Successor Incentive Program, particularly during Energy Years 2022, 2023, and 2024. During those years, there will be a large quantity of SREC-eligible projects, and the prices for SRECs are projected to be comparatively high. Ad Energy, NJCF, NRDC, among others, recommended addressing legacy costs by creating a "tight collar" around legacy SREC values so that investors are protected from low SREC costs just as ratepayers are protected from high subsidy costs by the Clean Energy Act's cost caps. A number of

[7] Modeling inputs are available on the New Jersey Clean Energy Program website: https://www.njcleanenergy.com/files/file/Solar%20Transition/Attachment%201%20Cadmus%20Transition%20Incentive%20Addendum%20-%20Detailed%20Inputs.xlsx.

parties likewise suggested some sort of market balancing mechanism, for example, implementing a buyer of last resort program.

Staff's view is that reform of the SREC program will aid in complying with the Cost Caps. Staff requests comments from parties on the following questions regarding how such reforms to the Legacy SREC program could be structured:

1. Should Staff consider reforms to the SREC market in order to reduce the variability in potential SREC outcomes?
2. Should owners of SREC contracts be required to take part in any restructuring of the program, or should participation be voluntary?
3. Should Staff examine moving toward converting SRECs to a fixed price product, or would it be better to look at a lower Alternative Compliance Payment ("ACP") and the institution of a floor price or buyer of last resort?
4. If Staff were to recommend setting a fixed price for SRECs, how should that price be set?
5. If Staff were to look at a lower ACP and buyer of last resort program, how should such a program be structured?
6. Should the Board consider a "tight collar"? How would such a program be implemented?
7. Are there other reforms that Staff should consider?

D. Other Options

Staff requests additional thoughts on ensuring compliance with the statutory cost caps while also allowing for a robust solar Legacy, Transition, and Successor Incentive programs.

Aida Camacho-Welch

Aida Camacho-Welch
Board Secretary

Dated: January 6, 2020