

Agenda Date: 4/29/13
Agenda Item: 8D

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 L. 2012, C.24, THE SOLAR ACT OF 2012; AND)	ORDER
)	
IN THE MATTER OF THE IMPLEMENTATION OF L. 2012, C. 24, <u>N.J.S.A. 48:3-87(Q) (R) AND (S)</u> –)	
PROCEEDINGS TO ESTABLISH THE PROCESSES)	
FOR DESIGNATING CERTAIN GRID-SUPPLY)	
PROJECTS AS CONNECTED TO THE DISTRIBUTION)	
SYSTEM – SUBSECTION (Q) APPLICATION AND)	DOCKET NOS. EO12090832V &
ESCROW AGREEMENT)	EO12090880V

Party of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

On July 23, 2012, L. 2012, c. 24 (“Solar Act”) was signed into law by Governor Chris Christie. The Solar Act amends certain aspects of the statute governing generation, interconnection, and financing of renewable energy. Among other actions, the Solar Act requires the New Jersey Board of Public Utilities (“Board”) to conduct proceedings to establish new standards and to develop new programs to implement its directives. On October 4, 2012, the Board directed Board staff (“Staff”) to initiate proceedings and convene a public stakeholder process to fulfill the directives of the Solar Act including those under N.J.S.A. 48:3-87(q) (“Subsection q”) (Docket No. EO12090832V) (“October 4 Order”).

Subsection q of the Solar Act provides that:

During the energy years of 2014, 2015, and 2016, a solar electric power generation facility project that is not: (a) net metered; (b) an on-site generation facility; (c) qualified for net metering aggregation; or (d) certified as being located on a brownfield, on an area of historic fill or on a properly closed sanitary landfill facility, as provided pursuant to subsection t. of this section may file an application with the board for approval of a designation pursuant to this subsection that the facility is connected to the distribution system. An application filed pursuant to this subsection shall include a notice escrow of \$40,000 per

megawatt of the proposed capacity of the facility. The board shall approve the designation if: the facility has filed a notice in writing with the board applying for designation pursuant to this subsection, together with the notice escrow; and the capacity of the facility, when added to the capacity of other facilities that have been previously approved for designation prior to the facility's filing under this subsection, does not exceed 80 megawatts in the aggregate for each year. The capacity of any one solar electric power supply project approved pursuant to this subsection shall not exceed 10 megawatts. No more than 90 days after its receipt of a completed application for designation pursuant to this subsection, the board shall approve, conditionally approve, or disapprove the application. The notice escrow shall be reimbursed to the facility in full upon either rejection by the board or the facility entering commercial operation, or shall be forfeited to the State if the facility is designated pursuant to this subsection but does not enter commercial operation pursuant to paragraph (2) of this subsection.

(2) If the proposed solar electric power generation facility does not commence commercial operations within two years following the date of the designation by the board pursuant to this subsection, the designation of the facility shall be deemed to be null and void, and the facility shall not be considered connected to the distribution system thereafter.

[N.J.S.A. 48:3-87(q)]

On November 9, 2012, the Board held a public hearing presided over by Commissioner Joseph Fiordaliso. In addition, the public was invited to submit written comments through November 23, 2012. Over one hundred stakeholders representing the electric distribution companies ("EDCs"), solar market participants, landfill developers, environmentalists, municipalities, and ratepayers participated in the public hearing and submitted comments. Based in part upon the comments received from the public, Staff has developed an application and a form of escrow agreement to implement the requirements of Subsection q.

SUMMARY OF COMMENTS FROM PUBLIC STAKEHOLDERS

The following summarizes the comments provided regarding the implementation of Subsection q, either at the public hearing or as written comments submitted to the Board. The Office of Clean Energy's ("OCE's") responses are also included.

The following persons testified at the November 9, 2012 public hearing: Katie Rever, Solar Energy Industries Association ("SEIA"); Justin Murphy, Comet Land Development and American Energy and Utility Consultants ("Justin Murphy"); Dennis Wilson, Mid-Atlantic Solar Energy Industries Association ("MSEIA"); Larry Barth, New Jersey Resources Clean Energy Ventures, ("NJR"); Jim Calore, Public Service Electric & Gas ("PSEG"); Andrew Scher, Greenberg, Traurig; Tom Tuffey, Community Energy; Elliott Shanley, PV One ("PV One"); Pin Su, Blue Sky Technologies ("Blue Sky"); Fred Zalcman, SEIA; Hugh DeFazio; Lyle Rawlings, MSEIA; Paul Raducha, Savannah Energy and Providence Energy Group; Sean Jackson, Bellmawr Borough ("Bellmawr"); Henry King, Reed Smith ("Reed Smith"); Rick Ragan, Solar Wind Energy; Thad Culley, Interstate Renewable Energy Council, Inc. ("IREC"); Jim McAleer, Solar Electric NJ, LLC ("Jim McAleer"); Lance Miller; Greg Handshy, and South Toms River.

In addition, written comments were received from Justin Murphy; Michael Torpey, A.F.T. Associations ("A.F.T."); PV One; SEIA; Ralph Laks, Day Four Solar, LLC; Felicia Thomas-Friel, Division of Rate Counsel ("Rate Counsel"); Michael Maynard, NJ Land, LLC ("NJ Land"); Anthony Favorito, Pittsgrove Solar, LLC ("Pittsgrove"); James J. Dixon, ConEdison Development ("Con-Ed"); Keissler Wong, Rock Solid Realty, Inc. ("Rock Solid"); John Jenks, Quantum Solar ("Quantum"); KDC Solar, LLC ("KDC"); MSEIA; David G. Gil, NextEra Energy Resources, LLC ("NextEra"); Lawrence D. Neuman, EffiSolar ("EffiSolar"); Brian Fratus and Tim Ferguson, Garden Solar, LLC ("Garden Solar"); Brent Beerley, Community Energy Solar, LLC ("Community Solar"); Scott Lewis, Green Energy Solar, LLC ("Green Energy"); Lou Weber, Mohawk Associates, LLC ("Mohawk"); David Van Camp; IREC; Trevan J. Houser, Land Resource Solutions, LLC ("LRS"); Henry King, Reed Smith ("Reed Smith"); Kenneth Bob, RenewTricity; Michael Bruno, EAI Investments ("EAI"); Blue Sky; NJR; T&M Associates; PSE&G; Gary N. Weisman, New Jersey Solar Energy Coalition ("NJSEC"); Michael Bruno, Esq., on behalf of Holmdel Road Solar Project and Elmer Road Solar Project ("Holmdel"); Stephen Pearlman, Gabel Associates and Inglesino, Pearlman, Wyciskala & Taylor ("Pearlman"); George Piper; David Reiss; Jim McAleer, Solar Electric NJ, LLC; Stephen R. Jaffe, Brownfield Coalition of the Northeast ("BCONE"); Ryan J. Scerbo, Esq., on behalf of Beaver Run Solar Project ("BRSP"); Janice S. Miranov, New Jersey State League of Municipalities ("League"); Thomas and Mary Van Windergarden ("Windergarden"); Heather Rek, Pro-Tech Energy Solutions ("Pro-Tech"); and Harlan Vermes, Absolutely Energized Solar Electric ("Absolutely Energized"), and Jim Baye.¹

Comment: Garden Solar asserts that grid-supply projects benefit all New Jersey ratepayers by reducing wholesale electric prices and bypassing local congestion, thus distributing marginal cost benefits to all ratepayers. The commenter states that "timely guidance" from Board Staff is necessary because many projects are in "critical stages" of development, "at or near construction." Garden Solar recommends the Board use the following criteria in any evaluation of projects:

- Description/documentation of status of all municipal land use approvals, including evidence of local government support;
- Description/documentation of all State-related approvals, such as DEP permits;
- Description/status/evidence of financing, defined as "ability to construct within one year";
- Evidence of regional Soil Conservation approval;
- Description/evidence of interconnection status;
- Disclosure of all capital costs and expenditures incurred;
- Estimated annual MWhs of production from the facility; and
- Description/status of engineering, procurement, construction (EPC) contracts.

Garden Solar claims that projects that lack some of these criteria and are not approved under Subsection s, but "remain viable," should be "conditionally approved" under Subsection q.

Response: The statutory criteria for approval under Subsections s and q are different; projects which applied under Subsection s may not be eligible under Subsection q. Rather than issue conditional approvals to any projects denied under Subsection s, Staff recommends that the Board establish a process for projects to apply under Subsection q and encourages such projects which remain viable to act on that option.

¹ Only the comments pertaining to Subsection q are described in this Order.

Comment: Day Four Solar, a grid supply developer, requests that the Board push back the one-year deadline for the SREC Registration Program and the 80 MW cap imposed by Subsection q by a period of time equivalent to the time between passage of the Solar Act on July 23, 2012 and the date on which the Board designates projects as "connected to the distribution system."

Response: The statute clearly directs the Board to approve up to 80 MW of grid supply projects in Energy Years 2014, 2015, and 2016.

Comment: SEIA, a national trade association for the U.S. solar industry, advocates a "holistic" approach to Subsections q, r, and s with special consideration or "grandfathering" given to "very advanced" projects which become operational during Energy Year 2013. Noting that Subsection q does not provide criteria for approval, SEIA urges the Board to establish an orderly queuing process based, to the extent possible, on project milestones which can be verified through publicly available information.

Response: Staff recommends that applications for project approvals under Subsection q be submitted for a specific Energy Year, so that developers will consider the estimated date of completing construction when making this application. The statute provides for applicants to post a significant escrow, which they would lose if construction is not complete within two years of the date of designation.

Comment: Rate Counsel offers interrelated comments on Subsections q, r, and s, suggesting that the criteria laid out in Subsection r be used to evaluate applications submitted under Subsection s, and that filings under all three subsections should include a statement explaining why designating the applicant's project to be "connected to the distribution system" would be in the public interest. Rate Counsel asks to be served with applications at the same time as they are submitted to the Board and that the Board establish a "completeness" requirement so that the ninety-day clock for review under Subsections q and r does not begin to run unless and until the application is complete. For applications under Subsection (q)(2), the Rate Counsel states that the Board should define a process for determining how the 80 MW allowed in each of the three relevant energy years will be allocated, and if and how carry-overs will be processed in later years. The commenter suggests that the Board establish a timetable and consider auctioning off the rights to the 80 MW for each energy year.

Response: The Solar Act specifies the requirements for applications submitted under Subsection q and does not provide for an explanation of why qualification would be in the public interest. Rate Counsel's request for service of applications appears reasonable. Staff anticipates recommending to the Board that incomplete applications be denied and returned to applicants to be completed if they seek subsequent approval for additional capacity that remains unfilled. The ninety-day period for review will begin to run upon the close of the application period. The process for allocations and carry-overs is addressed in Staff's recommendation below.

Comment: David W. Van Camp comments that criteria for Subsection q, r, and s projects should limit the impact on open space, eligible project size and detrimental impact on the SREC market as well as consider impacts on the distribution system.

Response: Subsection r provides for the criteria suggested by the commenter, but Staff does not agree that these criteria can be read into Subsection q where they do not appear.

Comment: New Jersey Resources Clean Energy Venture (“NJR”) proposes that new projects be solicited under Subsection q because that subsection limits the amount of grid supply, and suggests that projects falling outside of those limits can be denied in the Board’s discretion under Subsection r. The commenter makes several recommendations regarding the processing of Subsection q applications, including making the 10 MW cap a site cap (that is, a 20 MW project could not be re-engineered to be two 10 MW projects on same site); informing applicants that their escrow payment will not be returned unless they complete their projects within required timeframes; requiring proof of site control, appropriate PJM agreements, and demonstration of financing; accepting only projects which target completion within two years; keeping the initial application window open for a number of days after 80 MW of applications are received; ranking applications by several proposed criteria; and issuing a new SRP letter for approved projects with an expiration date set two years from the approval date. NJR also strongly recommends exempting projects which went into operation after July 23, 2012 from application under any of the subsections, suggesting rather that such project applicants be asked to demonstrate only proof of interconnection and approval to operate.

Response: Staff shares the commenter’s concern about the potential for applicants to skirt the legislative intention behind the 10 MW limitation. Staff has recommended that projects larger than 10 MW which have been denied under Subsection s be required to demonstrate that system size has been reduced to comply with the 10 MW limit in Subsection q. Staff further recommends that only one facility of 10 MW dc may be interconnected per interconnection queue point. With respect to escrow payment notification, completion within two years, and the length of the application window, Staff refers the commenter to Staff’s recommendation presented later in this Order. The application proposed for Board approval contains the requirements that will be imposed. Staff does not believe that Subsection q provides for ranking applications by criteria not contained in the subsection, nor does Staff see a statutory basis for exempting projects which went into operation following the effective date of the Solar Act from the requirements of the statute.

Stephen B. Pearlman, on behalf of Morris and Somerset Counties (“the Counties”), urges the Board to adopt a strict interpretation of Subsections q, r, and s, limiting grid supply projects to the maximum extent feasible in order to promote the stability of the SREC market. Noting that the Counties have pledged their full faith and credit on the improvement authority bonds which have underwritten numerous solar projects developed through public-private partnerships, the commenter states that the Counties would be adversely affected if a plunge in SREC prices causes the solar developers involved to default on their financial obligations. Mr. Pearlman states that such a plunge is inevitable if too many projects are designated “connected to the distribution system.” To avoid such an occurrence, Mr. Pearlman urges the Board to review applications under Subsection s against the criteria laid out in Subsection r; to find that any project which has an SRP number but was not in commercial operation by July 23, 2012 is a “proposed” project subject to Subsection r review; and to require these projects to apply under Subsection q if the applicants wish to be designated as “connected to the distribution system.” The commenter urges the Board to act expeditiously, arguing that until the Board has ruled, uncertainty will hang over the SREC market, depressing prices and freezing development.

Response: Staff refers the commenter to the description of the Subsection q application process.

Comment: BRSF alleges that the language of Subsection q requires the Board to approve the first 80 MW of projects presented to it for Energy Year 2014 and that, by virtue of having submitted an application under Subsection q in September 2012, BRSF should be first in the queue. In addition, BRSF states that the Board must consider the extent to which a project owner has relied upon the rules and policy existing prior to the Solar Act and that BRSF has expended hundreds of thousands of dollars and signed several significant agreements in reliance upon that pre-existing policy.

Response: Staff refers to the description of the Subsection q application process. Until the application process is approved by the Board, Staff has no authorization to accept Subsection q applications, even though several submissions purporting to be "applications", including that of BRSF, have been submitted.

STAFF RECOMMENDATION

As a threshold matter, Staff notes that in a companion Order, the Board is ruling on a large number of applications under a separate subsection of the Solar Act, N.J.S.A. 48:3-87 (s)(2) ("Subsection s(2)"). Staff is recommending that a number of these applications be denied, and anticipates that many of those unsuccessful applicants under Subsection s(2) will apply under Subsection q as the alternative means to qualify their proposed projects as "connected to the distribution system" so that the proposed projects will be eligible to generate solar renewable energy certificates ("SRECs"). N.J.S.A. 48:3-51. Thus Staff recommends that the implementation of Subsection q should be coordinated with the Subsection s(2) process to the extent feasible.

As indicated by the statutory language quoted above, Subsection q provides that the Board shall approve designation as connected to the distribution system for any system which files a written notice applying for designation, posts a notice escrow of \$40,000 per megawatt ("MW"), is no greater than ten (10) MW, and does not bring the total number of MW approved in the applicable energy year ("EY") to over eighty MW. The escrow will be returned to developers that successfully develop an eligible project within two years of the date of designation, and will be forfeited by developers unable to complete the approved project within two years of designation. The Board shall approve, conditionally approve, or disapprove applications within 90 days of receipt of a completed application.

Staff has interpreted the relative lack of standards in this subsection's description of an approval process, other than the filing of the application and provision of the escrow, as requiring the Board to approve qualifying applications based upon a first in time review. Staff recommends that the Board conduct an initial application process enabling developers to seek approval pursuant to Subsection q in any one of the three energy years -- 2014, 2015 or 2016-- to increase notice to the solar community of potential grid supply project development during those years. Developers will be required to choose the energy year for which they seek Board approval, and may only submit one application for any one project during the initial application period. If a developer fails to specify the energy year for which it seeks approval, or specifies more than one energy year, Staff will recommend that the Board deny the application. If a developer had previously applied for this project under Subsection s with a project size that exceeds 10 MW, the developer will be required to demonstrate that project size has been reduced to meet the 10 MW limit of Subsection q.

Staff recommends that the Board approve a Subsection q approval process that allows for conditional approvals for proposed facilities seeking designations for EY15 and EY16, and for

final approvals for proposed facilities seeking designation for EY14. To obtain final or conditional approval of a Subsection q application, the developer of a proposed facility must submit a Subsection q application, the proposed system size must be 10 MW or less,³ the appropriate escrow amount must be noticed as properly secured, and all applicable SREC registration requirements must be fulfilled. In addition, the applicant must agree to the application terms and conditions, including facility completion within two years or forfeiture of the escrowed funds.

To be deemed complete and receive release of its escrowed funds, all of the following must be satisfied:

- 1) the developer of a proposed facility must have submitted Subsection q application and received conditional approval from the Board;
- 2) the facility must have completed construction and received authorization to energize,
- 3) the completed system size must be 10 MW or less, and
- 4) all SREC registration requirements must have been maintained throughout the conditional approval process.

All applicants, including those seeking approval in EY 2015 or EY 2016, must demonstrate, via the escrow agreement, that the required amounts are currently held in escrow. Applicants seeking approval for designation in EY 2015 must acknowledge that the two year escrow forfeiture time period will not begin until June 1, 2014, and those seeking approval for designation in EY 2016 must acknowledge that the two year period begins on June 1, 2015.

With respect to the timing of application submittal, Staff recommends that the Board conduct the initial application process enabling developers to seek approval in any one of the three Energy Years 2014, 2015 or 2016 pursuant to Subsection q with the application period running from May 15, 2013 through May 31, 2013. Applications that meet the conditions described above will be conditionally approved on a ‘first come, first served’ basis for the energy year selected on the application - energy year 2014, 2015, or 2016. Staff believes that one week will provide an adequate amount of time for developers to complete the simple application form and to arrange for an escrow account with an accredited financial institution, given that developers have been indicating their desire and readiness for this application process since November 2012. Conditional approval is reserved for those developers with completed applications for eligible projects and satisfactory escrow agreements that seek approval of designation for EY 2015 or EY 2016. Designation of projects for the “out years” will be effective as of June 1 of the relevant energy year, subject to the amount of capacity remaining available for that energy year. Staff further recommends that the Board approve the attached forms for the Subsection q application and escrow agreement and that applications be provided to Rate Counsel.

Staff believes that the recommended process also minimizes the risk that speculative projects which are unlikely to achieve completion within two years will tie up the 80 MW of new grid-

³ All references to MW in this Order are to Direct Current, or MW dc, unless otherwise specified. Subsection q limits facilities to 10 MW but does not state whether the capacity is to be measured in MW alternating current (ac) or MW direct current (dc). A limit of 10 MW ac would enable a larger project capacity both individually and state-wide compared to a limit of 10 MW dc since expressing the capacity in MW ac accounts for system derating in the calculation. Using the nominal capacity expressed in megawatts dc versus ac is responsive to the market wide oversupply of SRECs as well as the intent of the legislature to limit the land consumption related impacts from larger solar installations. Additionally, OCE has used MW dc as the standard in connection with the SRP and the preceding rebate programs.

supply capacity permitted for each of the three energy years under Subsection q. This approach reduces the motivation for developers that are uncertain of their ability to develop their projects within two years to compete for EY 2014 approval. While the statute does require the escrow of \$40,000 per MW, presumably to guard against speculative applications, this is a novel approach in New Jersey's solar market and we cannot at this point know if it will prove to be effective at limiting speculative applications. The approach recommended here will buttress the escrow requirement in deterring speculative applications by providing the option for developers of less advanced projects to select EY 2015 or EY2016 rather than rushing to "stake a claim" in EY 2014. Thus this approach furthers the over-arching policy goal of providing greater stability in this market.

DISCUSSION AND FINDINGS

The Solar Act presents little guidance on how the Board should implement the approval process under Subsection q. In implementing this subsection, however, the Board is mindful of the Solar Act's over-arching goal of stabilizing the SREC market, expressed in the acceleration of the SREC requirements at N.J.S.A. 48:3-87 (d)(3), and the limitations placed on the ability of grid-supply projects to generate SRECs by Subsections q, r, s and t. These subsections provide the Board with the authority and the tools to review proposed grid-supply solar project applications for their consistency with the State's Energy Master Plan and the implementation of the Renewable Portfolio Standards. By bringing its expertise and experience with New Jersey's solar market to bear upon this process, the Board can structure the implementation of Subsection q in such a way as maximize the transparency and predictability of prospective grid supply projects in energy years 2014, 2015, and 2016 while minimizing the impact upon the SREC market.

Projects were in various stages of development when the passage of the Solar Act in July 2012 changed both the eligibility criteria and the approval processes for certain grid-supply developers seeking to enter the SREC market. In the comments summarized above, the developers have expressed a variety of opinions upon the level of scrutiny to be applied by the Board in its review and oversight of grid-supply projects. The Board has carefully reviewed the comments from stakeholders received during and after the public hearings on the implementation of Subsection q, as well as Staff's recommendations. The Board **FINDS** that the process initiated by the October 4 Order has provided notice and an opportunity to be heard to all interested members of the public. The Board **FINDS** that by accelerating the RPS requirement and providing the Board with the authority to review grid-supply projects pursuant to Subsections q, r, s and t, the Legislature intended the Solar Act to help stabilize New Jersey's SREC market.

Therefore, the Board **FINDS** that an initial application process allowing developers to seek approval for any one of the three energy years 2014, 2015, or 2016, will further the legislative intent. An applicant may not apply for more than one energy year for the same project. By opening each energy year covered by Subsection q to applicants in an initial application period, the Board has the opportunity to approve 240 MW, the full capacity provided for under the subsection, at the earliest time possible giving increased notice of potential development to the balance of the solar market. This approach should help pace development in a more orderly manner because developers that are uncertain of their ability to complete a project in Energy Year 2014 will not feel they must rush to apply in that energy year; they will have the option of applying for Energy Year 2015 or 2016.

The Board **HEREBY APPROVES** the approval process recommended by Staff, including the recommendation for both a conditional and a final approval. To obtain final or conditional approval of a Subsection q application, the developer of a proposed facility must file a Subsection q application with the Board, with a copy provided to Rate Counsel, the proposed system size must be 10 MW or less, be the only facility proposed for interconnection at a distinct interconnection point, the appropriate escrow amount must be noticed as properly secured, and all appropriate SREC registration requirements must be fulfilled.

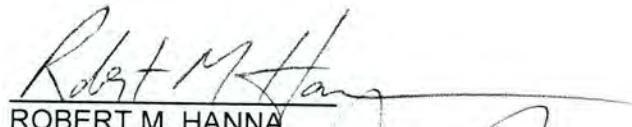
To obtain final approval of a Subsection q application for EY 2015 or EY 2016, the developer of a proposed facility must have submitted a Subsection q application and received conditional approval from the Board; be the only facility interconnected at a distinct interconnection point, the facility must have completed construction and received authorization to energize; the completed system size must be 10 MW or less; and all applicable SREC registration requirements must have been maintained throughout the conditional approval process. All applicants, including those seeking approval in EY 2015 or EY 2016, must demonstrate, via the escrow agreement, that the required amounts are currently held in escrow. Applicants seeking approval for designation in EY 2015 must acknowledge that the two-year escrow forfeiture time period will not begin until June 1, 2014, and those seeking approval for designation in EY 2016 acknowledge that the two year period begins on June 1, 2015.

Therefore, the Board **HEREBY ORDERS** that the initial application period shall begin on May 15, 2013 and extend through May 31, 2013. Additional application periods may be opened if necessary.

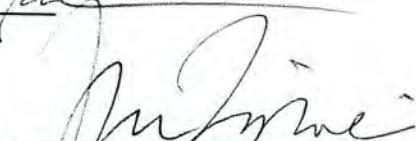
The Board **HEREBY APPROVES** Staff's recommendation for the conduct of an application process for approval under Subsection q, and the attached application and escrow forms. The Board **DIRECTS** Staff to post these forms upon the New Jersey Clean Energy Program website. The Board **DIRECTS** Staff to report to the Board the results of the application process with recommendations for approvals within 90 days of the close of the application period. The Board also **DIRECTS** Staff to develop recommendations in consultation with stakeholders for Subsection q reporting data and milestones for presentation to the Board with the aforementioned approval recommendations.

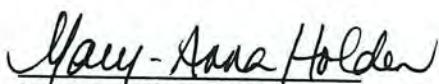
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BOARD OF PUBLIC UTILITIES
BY:

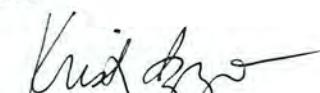

ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

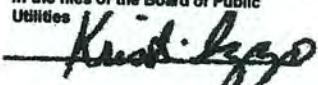

MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 2012; and
Docket No. EO12090880V – In the Matter of the Implementation of L. 2012, C. 24, N.J.S.A. 48:3-87(q), (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System – Subsection (q) Application and Escrow Agreement.

SERVICE LIST

Stefanie A. Brand, Director
Division of Rate Counsel
140 East Front Street 4th Floor
P.O. 003
Trenton, N.J. 08625
sbrand@rpa.state.nj.us

Felicia Thomas-Friel
Division of Rate Counsel
140 East Front St. 4th Fl
P.O. 003 Trenton, N.J. 08625
fthomas@rpa.state.nj.us

Sarah Steindel
Division of Rate Counsel
140 East Front St. 4th Fl
P.O. 003
Trenton, N.J. 08625
ssteindel@rpa.state.nj.us

Paul Flanagan
Division of Rate Counsel
140 East Front St. 4th Fl
P.O. 003
Trenton, N.J. 08625
[pflaganan@rpa.state.nj.us](mailto:pflanagan@rpa.state.nj.us)

Kristi Izzo, Secretary
NJ Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
Kristi.izzo@bpu.state.nj.us

Rachel Boylan, Legal Specialist
NJ Board of Public Utilities
44 South Clinton Avenue, 10th Floor
Post Office Box 350
Trenton, NJ 08625-0350
rachel.boylan@bpu.state.nj.us

Michael Winka
Senior Policy Advisor Smart Grid
NJBPU - President's Office
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
michael.winka@bpu.state.nj.us

Benjamin S. Hunter
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
b.hunter@bpu.state.nj.us

Betsy Ackerman, Acting Director
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
elizabeth.ackerman@bpu.state.nj.us

Allison E. Mitchell
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, NJ 08625-0350
allison.mitchell@bpu.state.nj.us

Caroline Vachier, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
P.O. Box 45029
Newark, NJ 07102
Caroline.Vachier@dol.lps.state.nj.us

Babette Tenzer, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
P.O. Box 45029
Newark, NJ 07102
Babette.Tenzer@dol.lps.state.nj.us

Marisa Slaten, DAG
Division of Law
Dept. of Law & Public Safety
124 Halsey Street
Newark, NJ 07102
Marisa.Slaten@dol.lps.state.nj.us

Harlan Vermes, Business Development Mgr
Absolutely Energized Solar Electric
974 Route 33 East
Monroe Township, NJ 08831
HVermes@aesolar.com

Michael P. Torpey, Managing Partner
A.F.T. Associates, LLC
15 West Front Street, 4th Floor
Trenton, NJ 08608
Mtorpey.aft@gmail.com

George Kotzias
Alethea Cleantech Advisors
34 Kingston Terrace
Kingston, NY 12401
gkotzias@aletheacleantech.com

Philip J. Passanante, Esq.
Associate General Counsel
Atlantic City Electric Company
500 N. Wakefield Drive
PO Box 6066
Newark, DE 19714-6066
Philip.Pasanante@pepcoholdings.com

Robert Demo
Atlantic Green Power Corp.
4525 Atlantic-Brigantine BLVD
Brigantine, NJ 08203
rdemos@atlanticgreenpower.com

Jim Baye
jimbaye@optonline.net

Ryan J. Scerbo, Esq.
Beaver Run Solar Farm LLC
DeCotiis, FitzPatrick & Cole, LLP
Glenpointe Centre West
500 Frank W. Burr Boulevard
Teaneck, NJ 07666
RScerbo@decotiislaw.com

Shuping Cong
Blue Sky Technologies
182 Whitman Avenue
Edison, NJ 08817
Scong2001@yahoo.com

Pin Su, President
Blue Sky Technologies USA
1967 Lincoln Hwy, Suite 12
Edison, NJ 08817
solar@blueskynj.com

Kevin Skudera
Brickyard Solar Farms, LLC.
566A State Hwy 35
Red Bank, NJ 07701
skuderakq@aol.com

Stephen Jaffee, President
Brownfield Coalition of the Northeast
c/o GEI Consultants, Inc.
18000 Horizon Way, Suite 200
Mt. Laurel, NJ 08054
sboyle@geiconsultants.com

Brent Beerley, Manager
Community Energy, Inc.
Three Radnor Corporate Center, Suite 300
100 Matsonford Road
Radnor, PA 19087
bbeerley@communityenergyinc.com
Brent.Beerley@CommunityEnergyInc.com

James J. Dixon
Chief Legal & Compliance Officer
ConEdison Development
NoyesM@coneddev.com

Ralph Laks, Sole Managing Member
Day Four Solar, LLC
1487 Cedar Row
Lakewood, NJ 08801
lariatlake@aol.com
Michael A. Bruno, Esq.
EAI Investments, LLC
Giordano, Halleran & Ciesla
125 Half Mile Road, Suite 300
Red Bank, NJ 07701-6777
MBRUNO@GHCLAW.COM

Lawrence Neuman, President
EffiSolar Development LLC
90 Woodbridge Center Drive
Woodbridge, NJ 07095
340 East 64th Street
New York, NY 10065
Ineuman@effisolar.com

Mark Noyes
Frenchtown III Solar
100 Summit lake Drive
Valhalla, NY 10595
noyesm@coneddev.com

Timothy D. Ferguson
Brian J. Fratus, CEO
Garden Solar, LLC
34 Coppermine Village
Flemington, NJ 08822
Tferguson@gardensolar.us

Scott Lewis
Green Energy Partners LLC
31 Fairview Hill Road
Newton, NJ 07860
klughill@aol.com

Bruce Martin
GreenPower Development, LLC.
100 Sharp RD
Marlton, NJ 08053
brmtnn@gmail.com

Joe Gennello
Honeywell Utility Solutions
5 East Stow Road, Suite E
Marlton, NJ 08053
joe.a.gennello@honeywell.com

Enio Ricci
Invenergy Solar Developmen, LLC.
One South Wacker Drive
Chicago, IL 60606
ericca@invenergylc.com
Thad Culley & Jason B. Keyes
Keyes, Fox & Wiedman LLP
Interstate Renewable Energy Council
436 14th Street Suite 1305
Oakland, CA 94612
tculley@kfwlaw.com
jkeyes@kfwlaw.com

Alan Epstein, President & COO
KDC Solar LLC
1545 US Highway 206, Suite 100
Bedminster, NJ 07921
Alan.epstein@kdcsolar.com

Scott Lewis
Klughill
31 Fairview Hill Road
Newton, NJ 07860
klughill@aol.com

Trevan J. Houser, President
Land Resource Solutions
30 Twosome Drive, Suite 1
Moorestown, NJ 08057
thouser@lrsrenewal.com

Justin Michael Murphy, Esq.
Millenium Land Development
20 Worrell Road
Tabernacle, NJ 08088
justinmichaelmurphy@verizon.net

Lyle K. Rawlings, P.E., Vice President
MidAtlantic Solar Energy Industries Assoc.
c/o Rutgers Eco Complex, Suite 208-B
1200 Florence-Columbus Road
Bordentown, NJ 08505
Lyle@renewablepowerinc.com

Dennis Wilson
Millennium Development
108 Route 46 West
Parsippany, NJ 07054
dennis@renewablepowerinc.com

Louis Weber
Mohawk Associates LLC
47 Woodport Road
Sparta, NJ 07871
louweber@earthlink.net
Gregory Eisenstark
Morgan, Lewis & Bockius LLP
89 Headquarters Plaza North, Suite 1419 |
Morristown, NJ 07960
geisenstark@morganlewis.com

Stephen B. Pearlman, Esq.
Inglesino Pearlman Wyciskala & Taylor LLC
Morris County & Somerset County
600 Parsippany Road
Parsippany, N 07054
spearlman@iandplaw.com

David Gil
Manager - Regulatory & Political Affairs
NextEra Energy Resources, LLC
700 Universe Blvd.
Juno Beach, FL 33408
david.gil@nexteraeenergy.com

Michael Maynard
NJ LAND, LLC
217 10th Street
Lakewood, NJ 08701
michaelmaynard2@gmail.com

Janice S. Mironov, Mayor, E.Windsor, Pres.
William G. Dressel, Jr., Exec. Dir.
NJ League of Municipalities
222 West State Street
Trenton, NJ 08608
league@njslom.com

Christopher Savastano
Larry Barth, Director Business Development
Richard Gardner, Vice President
NJR Clean Energy Ventures
1415 Wyckoff Road
PO Box 1464
Wall, NJ 07719
csavastano@njresources.com
lbarth@njresources.com
rgardner@njresources.com

Gary N. Weisman, President
Fred DeSanti
NJ Solar Energy Coalition
2520 Highway 35, Suite 301
Manasquan, NJ 08736
info@njsec.org
Fred.desanti@mc2publicaffairs.com
Paul M. Whitacre
OCI Solar Power, LLC.
300 Convent Street, Suite 1900
San Antonio, TX 78205
pwhitacre@ocisolarpower.com

Jane Quinn, Esq.
Orange & Rockland
390 West Route 59
Spring Valley, NY 10977
QUINNJ@oru.com

George Piper
Gepsr65@aol.com

Antony Favorito
Pittsgrove Solar
331 Husted Station Road
Pittsgrove, NJ 08318
tfavorito@gmail.com

Paul Shust & Heather Rek
Pro-Tech Energy Solutions
3322 US Rte 22W, Suite 1502
Branchburg, NJ 08876
pshust@pro-techenergy.com
hrek@pro-techenergy.com

Matthew M. Weissman, Esq.
Public Service Electric and Gas Company
80 Park Plaza - T5, PO Box 570
Newark, NJ 07102-4194
Matthew.Weisman@pseg.com

Fabio Ficano
PVOne/ Moncada NJ Solar
101 California Street, Suite 3160
San Francisco, CA 94111
f.ficano@moncadaenergy.com

Elliott Shanley
PVOne, LLC
771 Shrewsbury Ave.. Suite 105
Shrewsbury NJ, 07702
eshanley@pvone.com

Scott Acker
Quakertown Farms
P.O. Box 370
Quakertown, NJ 08868
scott@gardenstategrowers.com

John Jenks
Quantum Solar
P.O. Box 368
Collingswood, NJ 08108
jwjenks01@gmail.com

Henry R. King
Reed Smith LLP
Princeton Forrestal Village
136 Main Street, Suite 250
Princeton, NJ 08540
Hking@reedsmit.com

David Reiss
Davideiss48@comcast.net

Michael Greenberg
Renewtricity
85 Challenger Road, Suite 501
Ridgefield Park, NJ 07660
mgreenberg@renewtricity.net

Keissler Wong
Rock Solid Realty, Inc.
1069 RTE 18 South

East Brunswick, NJ 08816
Keissler88@gmail.com

Jim McAleer, President
Solar Electric NJ, LLC
916 Mt. Vernon Avenue
Haddonfield, NJ 08033
Jim@SolarElectricNJ.com

Katie Bolcar Rever, Director, Mid-Atlantic States
Solar Energy Industries Association (SEIA)
505 9th Street NW Suite 800
Washington, DC 20005
krever@seia.org

Fred Zalcman
Director Govt. Affairs Eastern States
SunEdison
fzalcman@sunedison.com

Willy Chow
Sun Perfect Solar, Inc.
3101 N. First Street, Suite 107
San Jose, CA 95134
willychow@sunperfect.com

Clifford Chapman
Syncarpha Ty, LLC
645 Madison Avenue, 14th Floor
New York, NY 10022
cliff@synarpha.com

Richard A. Morally
T&M Associates
11 Tindall Road
Middletown, NJ 07748
rmorally@tandmassociates.com

Jim Spano
Tetratech
516 Rt. 33 West,
Building 2, Suite 1
Millstone Township, NJ 08535
jimspano@spanopartners.com

Clay Rager
United Solar Works
420 Barnsboro Road
Sewell, NJ 08080
clay@ragerenergy.com

David Van Camp
Burlington Twp., NJ
vancamp@Princeton.EDU

Thomas & Mary Van Wingerden
138 Morris Turnpike, Newton[<] NJ 0860
maryvw@yahoo.com

Instructions for Applicants under the Solar Act of 2012's Subsection (q)

The following Notice and application instructions are intended only for developers of grid-supply solar electric power generation facilities ("Facilities") seeking approval from the New Jersey Board of Public Utilities ("NJBPU" or "Board") to qualify pursuant to N.J.S.A. 48:3-87 (q) as "connected to the distribution system" for purposes of Solar Renewable Energy Certificate ("SREC") eligibility. Applicants must file Notice according to the following instructions to be eligible for consideration.

1. Applications will be accepted by staff as described below toward making recommendations for approval on a first-in-time basis for each energy year until complete applications for 80 MW dc of total capacity have been received. Time of receipt for purposes of ranking applications will be determined based upon initial receipt of this one-page Notice of Intent to Apply (Notice), provided that the applicant submits the full application, as described below.
2. Applications will be accepted in two parts:
 - a. A one-page Notice will be distributed via the New Jersey Clean Energy Program (NJCEP) Renewable Energy stakeholder email distribution list and will be available on both the NJBPU and NJCEP websites. This one page form must be printed, filled out, signed in ink, scanned and saved as a "pdf" file, then sent as an attachment via electronic mail to Qnotice@bpu.state.nj.us. Only the completed one-page form will be accepted; forms with additional attachments will be rejected.
 - b. Applicants will have five (5) calendar days following submission of a Notice, or until May 31, 2013, whichever comes first, to submit the completed application with all required attachments to: **Secretary, New Jersey Board of Public Utilities, 44 South Clinton Avenue, 9th floor, P.O. Box 350, Trenton, New Jersey 08625-0350.**
3. An escrow agreement executed on or prior to May 15, 2013, using the form of agreement available on the NJBPU and NJCEP websites, must be included with the application.
4. Application period opens at 4 p.m. on Wednesday, May 15, 2013, and runs through 4 p.m. on Friday, May 31, 2013. No Notice will be accepted prior to 4 p.m. on May 15, 2013. The time stamp of the NJBPU's server will control.
5. Only one application per project will be accepted. Notice for each project must be separately submitted. Only one Notice per email transmission will be accepted. Duplicate applications, applications for more than one Energy Year, applications for projects greater than 10 MWdc, and applications proposing more than one project per PJM interconnection queue position will be rejected.
6. Applicants should send via electronic mail no earlier than 4 pm on Wednesday May 15, 2013 an email message containing the applicant's contact information and facility identification with the only email attachment being the one-page scanned Notice in "pdf" file format as described.
7. Applicants under the Solar Act's Subsection s. that were not approved on April 29, 2013 are eligible to apply under Subsection q. Subsection s. applicants that were not denied on April 29, but were deferred pending the Board's development of additional reporting requirements, may also apply under Subsection q, and will not forfeit their ability to continue to seek approval under Subsection s. should the facility not be approved under Subsection q. Applicants approved under Subsection q. will not be required to comply with data submission and reporting requirements anticipated to be required of Subsection s. applicants.

Notice of Intent to Apply under Subsection (q)

Applicant Contact Information

Applicant Company Name (if applicable): _____

Mr. _ Ms. _ Dr: _ First Name: _____ Last Name: _____

Daytime Phone: _____ Email: _____

Applicant Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Proposed Solar Facility Physical Characteristics; Size, Location, Point of Interconnection

Solar Facility Size: _____ MW dc _____ MW ac

Module Capacity: _____ Watts dc Proposed Module Quantity: _____

Solar Facility Location or Address: _____

Solar Facility Block and Lot Number(s): _____

Solar Facility Township: _____ Solar Facility Zip Code: _____

Electric Distribution Company (EDC) or MUA territory: _____

PJM Interconnection Queue Number: _____

Indicate which Energy Year the applicant seeks approval of a designation for the distinct solar electric generating facility described above. The project if completed in accordance with all requirements would be eligible to generate SRECs for compliance with the NJ RPS commencing, at the earliest at the start of the Energy Year selected or on the date of authorization to energize if later than the start of the Energy Year selected below. (check one):

EY14 (6/1/13 through 5/31/14): _____ with date of designation within EY14 upon approval by the Board

EY15 (6/1/14 through 5/31/15): _____ with date of designation being June 1, 2014, or

EY16 (6/1/15 through 5/31/16): _____ with date of designation being June 1, 2015.

Applicant Certification

The undersigned warrants, certifies, and represents that the information provided in this Notice is true, accurate, complete and correct to the best of the undersigned's knowledge, and realize that certain information in this Notice may be subject to disclosure under the Open Public Records Act N.J.S.A. 47:1A; and acknowledge that submission of false information may be grounds for denial of this application, and if willfully false, subject to punishment to the full extent of the law.

Signature: _____

Print Name: _____ Date: _____



Solar Act Subsection q. Application Form

Application Form: Requirements, Instructions, Terms and Conditions

The following application is intended only for developers of grid-supply solar electric power generation facilities ("Facilities") seeking approval from the New Jersey Board of Public Utilities ("NJBPU" or "Board") to qualify pursuant to N.J.S.A. 48:3-87 (q) as "connected to the distribution system" for purposes of Solar Renewable Energy Certificate ("SREC") eligibility. Applicants must choose and identify one Energy Year, EY14, EY15 or EY16 for which they seek the approval for a Facility. Facilities must be less than 10 MWdc to be eligible for approval, and only one Facility may be proposed per PJM interconnection location. **Before completing the attached Subsection q. application, please carefully read all of the information in I., II., and III. below.**

I. Minimum Qualification Requirements

1. Only those applications which meet all the statutory requirements under N.J.S.A. 48:3-87(q) will be considered for subsequent designation as "connected to the distribution system" for purposes of SREC eligibility pursuant to N.J.S.A. 48:3-87 (q). An applicant must choose and identify below one and only one Energy Year, EY14, EY15 or EY16, for which it seeks approval, and affirm by certification in Section G. below that the applicant has submitted only one application for the Facility identified in the application. A Facility must enter commercial operation within two (2) years of the EY start date for which designation is requested or the Facility will not be eligible to earn SRECs and the escrow described at I. 4 will be forfeited.

The Board will approve only complete, unique applications up to 10 MW dc in size until a maximum of 80 MW dc of cumulative capacity is reached for a particular Energy Year. Only one application per distinct facility will be considered, and applicants submitting multiple applications per distinct facility or more than one application per PJM queue position will have all of their applications denied.

2. The applicant must demonstrate that the Facility for which an application is submitted will be less than 10 MWdc in nameplate capacity upon completion, and affirmatively acknowledge, by certification in Section G. below, that should the final as-built capacity after construction be greater than 10 MWdc, the facility will not be designated as "connected to the distribution system" or approved to generate SRECs that can be used to satisfy New Jersey's Renewable Portfolio Standards.
3. The applicant must demonstrate that it will be the only Facility that will be interconnected at the location specified in the "PJM System Impact Study." The applicant must attach to this application, as Attachment 1, a copy of the entire PJM System Impact Study including the cover letter issued by PJM containing day, month and year of issuance, as well as the study's cover sheet which contains the month and year of issuance. Should the proposed system size in the PJM System Impact Study exceed 10 MWdc, the applicant must submit a signed affidavit that acknowledges the 10 MWdc limit for eligibility under subsection q. and pledge that the applicant will take all actions necessary to ensure that the final as-built system will be less than the 10 MWdc limit.
4. The applicant must enter into the affixed Escrow Agreement with an Accredited Financial Institution in the amount of \$40,000 per MWdc. The applicant must submit a copy of the executed Escrow Agreement as Attachment 2.



Solar Act Subsection q. Application Form

II. Instructions for Completing the Subsection q. Application Form

1. Complete each section A. through F. of this application form, and affix the attachments required under I. Minimum Filing Requirements, as described above, and in the questions contained in section F. below.
2. The complete subsection q. application package must be submitted to the Board at the address specified below within five calendar days of filing an electronic Notice of Intent form or by May 31, 2013 whichever is earlier.
3. Original signatures on all forms and within the certification in section G. are required.

III. Important Terms and Conditions

1. The "applicant" is defined to be the entity that submits the subsection q. application form (i.e. applicant could be a project developer, contractor, installer, land speculator, or agent of any thereof.)
2. The applicant, by signing the application and certification, acknowledges on behalf of all project participants, that approval pursuant to subsection q. is a condition of SREC eligibility but does not obviate the need to comply with the SREC Registration Program requirements, and the need to meet all relevant local, state or federal laws. In making its decision on an application, the Board may attach specific conditions, including setting the effective date of the project's qualification life.
3. The NJBPU reserves the right to modify the application information requirements or require the applicant to supplement the information in this application process.
4. By submitting an application, the applicant acknowledges on behalf of all project participants that the Information included in the application may be subject to disclosure under the Open Public Records Act. Aggregated information will be used by the Board and/or other state, federal, county, regional or local agencies in reports and evaluations, and the geographic location may be used to update GIS mapping. Application decisions will be made by the Board and communicated via Board Order which will be posted on the Board's website at www.nj.gov/bpu.

Any modifications to the requirements to satisfy the subsection q. application will be further communicated via the Board website at www.nj.gov/bpu and NJCEP website at www.njcep.com.

Any projects approved under the subsection q. application process must also comply with all appropriate provisions of the Renewable Portfolio Standards rules, including the SREC Registration Program ("SRP"), and must comply with all applicable local, state, and federal laws, permit requirements and regulations.

**Mail or hand deliver five (5) complete application packages to:
(Faxes and e-mails will not be accepted.)**



Solar Act Subsection q. Application Form

Solar Act Subsection q. Application Package
New Jersey Board of Public Utilities
44 South Clinton Avenue, 7th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
Attn: Division of Economic Development

A: Applicant Contact Information

Applicant Company Name (if applicable): _____
Mr. _ Ms. _ Dr: _ First Name: _____ Last Name: _____
Daytime Phone: _____ Email: _____
Applicant Mailing Address: _____
City: _____ State: _____ Zip Code: _____

B: Applicant Role (Indicate with checkmark the nature of the applicant, check all that apply)

Applicant is: Project Developer Proposed Facility Owner Contractor/Solar Installer
 Agent (if Agent, what role is represented) _____
 Other (if Other, describe applicant's role in project development) _____

C: Proposed Facility Owner (Who will own the Proposed Facility?)

Fill out if known. Duplicate data in A. above, if applicable

Company Name (if applicable): _____ Contact Person: _____
Mailing Address: _____
City: _____ State: _____ Zip Code: _____
Daytime Phone: _____ Email: _____

D: Contractor / Solar Installer (Who will construct the Proposed Facility?)

Fill out if known. Duplicate data in A. above, if applicable

Company Name: _____ Contact Person: _____
Federal Tax I.D. Number: _____
Daytime Phone: _____ Email: _____
Address: _____
City: _____ State: _____ Zip Code: _____

E: Proposed Solar Facility Physical Characteristics; Size, Location, Point of Interconnection

1. Complete the following description of the proposed solar electric generating facility:

Proposed Solar Facility Size: _____ MW dc

Proposed Module Make and Model: _____

Proposed Module Size: _____ Watts dc Proposed Module Quantity: _____

Proposed Solar Facility Location or Address: _____



Solar Act Subsection q. Application Form

Proposed Solar Facility Block and Lot Number(s): _____
Proposed Solar Facility Township: _____
Proposed Solar Facility Zip Code: _____
Electric Distribution Company accommodating facility interconnection: _____

2. Has the PJM Construction Service Agreement (CSA) and Interconnection Service Agreement (ISA) been executed, and have interconnection facility costs been funded? circle one: Yes or no
3. If yes, provide the executed pages of each document (CSA and ISA) with the construction schedule and scope of work as well as documentation of interconnection facility costs expended in compliance with the PJM requirements evidenced via either the demonstration of posting of security in the case of a three-party ISA or the demonstration of initial payment or security for interconnection costs to the EDC in the case of a two-party Wholesale Power Market Participation Agreement submitted as Attachment 3.
4. If the answer to E 2. above is yes, then state the system size of the facility proposed in the CSA or ISA:
_____ MWdc
5. If the system size identified in E4. above is greater than 10 MW dc, describe in an document submitted as Attachment 3. how the developer will bring the proposed facility capacity into compliance with the 10 MWdc capacity limitation.
6. Is the system currently operational, circle one Yes or No

F: Proposed Solar Facility Operational and Administrative Characteristics; Energy Year for Designation, Projected Construction Schedule, Escrow Notice

1. Choose one Energy Year for which the applicant seeks designation of the distinct solar electric generating facility described in E1:
EY14: _____ with date of designation within EY14 upon approval by the Board,
EY15: _____ with date of designation being June 1, 2014,
Or,
EY16: _____ with date of designation being June 1, 2015.
2. What is the current status of project development?
Circle each that applies to the project: Designed, Site Cleared, Majority of Materials Onsite, Construction Initiated, Construction Completed, Interconnection Completed, Authorized to Energize.
3. Have all final unappealable federal, state, regional and local approvals been secured? Yes or no: _____
4. Has equipment been purchased? Yes or no: _____
5. Has construction begun? Yes or no: _____
6. If yes, when was construction initiated: (month, day, year) ____ / ____ / ____
7. If no, when will construction be initiated: (month, day, year) ____ / ____ / ____



Solar Act Subsection q. Application Form

8. Are materials currently onsite? Yes or no: _____
9. If yes, when were materials delivered onsite: (month, day, year) ____ / ____ / ____
10. If no, when are materials to be delivered onsite: (month, day, year) ____ / ____ / ____
11. Is any part of the project currently installed? Yes or no: _____
12. If yes, what materials are installed _____
13. Attach pictures of completed construction as Attachment 4.
14. Date of execution of Escrow Agreement submitted in Attachment 2 (month, day, year) ____ / ____ / ____
15. State the amount of escrow deposited subject to Escrow Agreement submitted in Attachment 2.
16. Identify Depositor Who Executed as Counterparty in Escrow Agreement contained in Attachment 2.

17. Identify Accredited Financial Institution Who Executed as Counterparty in Escrow Agreement contained in Attachment 2. _____

G: Certifications

The undersigned warrants, certifies, and represents that:

- 1) the information provided in this application package has been personally examined, is true, accurate, complete and correct to the best of the undersigned's knowledge, based on personal knowledge or on inquiry of individuals with such knowledge; and
- 2) the system proposed in the application will be constructed, installed and operated as described in the application and in accordance with N.J.S.A. 48:3-87 (q) and all applicable Board rules, including but not limited to the SREC Registration Program and applicable laws, and
- 3) all signing parties realize that certain information in this application may be subject to disclosure under the Open Public Records Act; and
- 4) all parties including the
- 5) all signing parties acknowledge that **submission of false information may be grounds for denial of this application, and if any of the foregoing statements are willfully false, they are subject to punishment to the full extent of the law, including the possibility of fine and imprisonment.**

Applicant

Signature: _____
Print Name: _____
Date: _____

Project Developer (if known)

Signature: _____
Print Name: _____
Date: _____

Proposed Facility Owner (if known)

Signature: _____
Print Name: _____
Date: _____

Signed and sworn to before me on this _____ day of _____, 20____

Signature

Name



State of New Jersey
BOARD OF PUBLIC UTILITIES
ESCROW AGREEMENT
N.J.S.A. 48:3-87q

Name of Financial Institution

Name of Proposed Solar Electric Power Generation Facility Owner

Address _____

Address of Proposed Solar Electric Power Generation Facility _____

Telephone Number _____

SRP Facility Registration Number _____

Escrow Account Number _____

Address of Proposed Solar Electric Power Generation Facility Owner

Telephone Number _____

Pursuant to Subsection q of Section 2 of L. 2012, c.24, the Solar Act of 2012 ("Act"), codified at N.J.S.A. 48:3-87, this Escrow Agreement is made on this _____ day of _____, 20_____, between

Owner/Operator Name _____
(hereinafter called "Depositor"),
and

Accredited Financial Institution Name _____
(hereinafter called "Escrow Agent")

(1) Escrow Account/Purpose

The Depositor agrees to deposit, with the Escrow Agent, the funds described in N.J.S.A. 3-87q for the proposed solar electric power generation facility (Solar Facility) described above; and the Escrow Agent agrees to hold said funds in escrow in an interest bearing account pursuant to the Act, and the terms and conditions of this Agreement. The sole purpose of the escrow account shall be to insure that funds are set aside and kept available in the event that the Solar Facility is designated by the BPU as connected to the distribution system pursuant to N.J.S.A. 48:3-87 q, and fails to commence commercial operations within two (2) years of the date of designation.

(2) Approval of the Escrow Agreement

This Agreement shall be of no force and effect unless approved in writing by the BPU which approval may be withdrawn at any time by BPU within its sole discretion. This Agreement may only be amended by a written agreement approved in writing by BPU which may, from time to time, require such amendment in its discretion, or as otherwise set forth herein.

(3) Separation of Funds

The Depositor and the Escrow Agent agree that the escrow account shall be a separate account apart from all other accounts. The escrow account shall be the sole escrow fund maintained by the Depositor pursuant to the Act for the Solar Facility designated above. In cases where a Depositor has ownership or control over more than Solar Facility in the State of New Jersey, a separate escrow account shall be established for each facility.

(4) **Escrow Deposit**

The Depositor agrees to make the deposit into the escrow account of all monies required by N.J.S.A. 48:3-87 q to be deposited in connection with the above designated Solar Facility. The Depositor agrees to make no deposits into the escrow account except such funds as are so required. The Escrow Agent shall not be responsible for determining the amount to be deposited into the escrow account.

(5) **Investment of Escrow Account Funds**

In all cases, the escrow account shall be invested and maintained so as to maximize yield and minimize risk (subject to the approval of BPU). In the event this Agreement contains Investment Guidelines attached hereto, the escrow account shall also be invested and maintained in a manner fully consistent with such Guidelines. These Investment Guidelines may from time to time be revised or modified by BPU, in its discretion, as circumstances as prevailing financial market and economic conditions may change. Any such revisions or modifications by BPU to the Investment Guidelines shall be immediately incorporated into the terms of this Agreement upon receipt by the parties hereto, and thereafter the investment and maintenance of the escrow account shall be fully consistent with such revised or modified Investment Guidelines. Liquidity shall be maintained as directed by the BPU. ("Liquidity" shall mean the availability of funds for drawdown consistent with the BPU's strategy for commencement of commercial operation for the Solar Facility.)

(6) **Interest and Other Income**

The Depositor and the Escrow Agent agree that all interest and other income earned as a result of investment of funds in the escrow account shall be deposited as earned into the escrow account, to be applied toward any BPU-approved fees charged by the Escrow Agent for administering the account. Such interest and other income shall be subject to the same restrictions applicable to the principal of the escrow account as set forth in the Act, and this Agreement.

(7) **Direction of investments**

The Depositor shall have no right to direct the investment of the escrow account funds. Investments shall be directed by the Escrow Agent, subject to the provisions of the Act, and the determination of BPU, as set forth in this Agreement.

(8) **Account as Non-Asset**

All funds deposited in the escrow account shall not be considered an asset of the Depositor and shall not be available to any creditor of the Depositor in the event of the bankruptcy, reorganization, insolvency or receivership of the Solar Facility or the Depositor, or for any other reason. Depositor and the Escrow Agent agree that funds deposited in the escrow account are for the sole benefit of the purposes established by this Agreement and N.J.S.A. 48:3-87 q, and may be withdrawn only pursuant to the express provisions of this Agreement and N.J.S.A. 48:3-87 q. Funds will only be available for use by the owner/operator, or by a court-appointed receiver or other legal representative of the owner/operator upon written approval of the BPU.

(9) **Quarterly Statement-Financial Institution**

The Escrow Agent hereby agrees to submit quarterly statements of the escrow account to the BPU. The statements shall report on all transactions charged and credited to the escrow account, and shall include an itemization of all accrued interest and all opening and closing balances of principal and income.

(10) **Withdrawal or Disbursement of Funds**

The Depositor and the Escrow Agent agree that withdrawals from the escrow account will not be made or permitted without the written approval or directive of the BPU. Written approval will be given only upon submission and approval of a written request identifying the specific provision(s) of N.J.S.A. 48:3-87 q supporting the withdrawal. Written directive may be issued to the Escrow Agent by BPU upon a written request or in the absence of a written request upon a determination by BPU, in its discretion, that a) the Depositor is entitled to return of the funds because designation of the Solar Facility as connected to the distribution system is denied, b) the Depositor is entitled to return of the funds because the Solar Facility has achieved commercial operation within two (2) years of the date of designation or c) the State is

entitled to the funds because the Solar Facility has failed to achieve commercial operation within two (2) years from the date of designation as connected to the distribution system. Upon the issuance and delivery to the Escrow Agent of such written approval or directive by BPU, the Escrow Agent shall immediately disburse the funds called for by said approval or directive, for use solely for the purposes and in the manner specified in said written approval or directive.

(11) **Compensation of Escrow Agent**

Notwithstanding the terms of paragraph 10 of this Agreement, the Escrow Agent shall be entitled to take reasonable compensation for its services in administering the escrow account to be established under this Agreement. Such compensation may be deducted by the Escrow Agent directly from the escrow account from time to time, but in no event more frequently than once a month, unless more frequent deductions are approved in writing by BPU. All such deductions shall be fully documented and shown as a debit to the escrow account by the Escrow Agent under the quarterly statements to be submitted to BPU, pursuant to paragraph 9 of this Agreement. In all cases, the amount or rate of such compensation shall be reasonable, shall not exceed the amount or rate of compensation customarily charged by the Escrow Agent for like services, and shall be subject to the written approval of BPU. For purposes of this Agreement, and unless and until written approval to modify such compensation is given by BPU, the amount or rate of compensation to be charged by the Escrow Agent hereunder shall be as follows (detailed):

(12) **Liability of the Escrow Agent**

The Depositor agrees to indemnify and hold the Escrow Agent harmless from and against all liabilities, fees, costs and expenses incurred by the Escrow Agent, with respect to the performance of its duties hereunder, unless said liabilities, fees, costs or expenses shall arise from the Escrow Agent's failure to perform its duties hereunder with reasonable cost and care.

(13) **Termination**

This Agreement may be terminated by either party on 90 days' written notice to BPU and to the other party to this Agreement, which notice shall state the reasons for such termination, and the provisions of this Agreement shall remain in full force and effect until the expiration of said 90 days' notice. In the case of termination by the Depositor, such termination shall be ineffective in the absence of prior written consent by BPU, on such terms as BPU, in its discretion, may require. In the event of termination, the Depositor shall submit a new escrow agreement to BPU, for review and approval as set forth in paragraph 2, within 60 days from the notice of termination. Upon such approval, BPU will give the Escrow Agent hereunder written approval to transfer the funds in the escrow account, with accumulated interest and other income from investment of the funds in the escrow account, to the new Escrow Agent under the new escrow agreement, and the Escrow Agent shall immediately transfer all such funds to the new Escrow Agent upon receipt of such written approval. No such transfer shall be made without such written approval by BPU. Such transfer of funds must be through an inter-financial institution transaction and shall not be transferred through the Depositor. Nothing herein shall limit the right of BPU to withdraw its approval of this Agreement at any time, in its discretion, as set forth in paragraph 2 herein.

(14) **Notice and Instructions**

All notices and instructions related to this Agreement shall be in writing and, except for bank statements to BPU under paragraph 9, shall be made by certified or registered mail, return receipt requested. All notices and instructions sent to the parties hereto shall be sent to the addresses of the parties set forth at the beginning of this Agreement. For purposes of this Agreement, and until notification of a change of address is supplied by BPU to the parties hereunder, all notices to the **NEW JERSEY BOARD OF PUBLIC UTILITIES** shall be addressed to,

**B. Scott Hunter
Renewable Energy,
Division of Economic Development and Energy Policy
44 South Clinton Ave.
P.O. Box 350, 7th Floor
Trenton, NJ 08625-0350**

In Witness Whereof, the parties to this Escrow Agreement have executed same on
this _____ day of _____, 20____.

(Owner/Operator Name)

By _____
Signature

Print or Type Name

ATTEST:

Title

By _____
Signature

Print or Type Name

(Accredited Financial Institution Name)

By _____
Signature

Print or Type Name

Title

APPROVED BY THE NEW JERSEY BOARD OF PUBLIC UTILITIES

By _____ Date _____
B. Scott Hunter
Renewable Energy, Division of Economic
Development and Energy Policy, NJBPU

NEW JERSEY BOARD OF PUBLIC UTILITIES
OFFICE OF CLEAN ENERGY
www.nj.gov/bpu

**SUBSECTION Q ESCROW ACCOUNTS
INVESTMENT GUIDELINES TO BE FOLLOWED BY ACCREDITED FINANCIAL INSTITUTION***

PORTFOLIO OBJECTIVES

Maximize Return, Minimize Risk

GUIDELINES

The Escrow Agent shall use all reasonable efforts to invest in funds at the highest available rates of interest, consistent with the timing of the escrow fund withdrawal requirements, in the following:

- A. *Obligations issued or guaranteed by an instrumentality or agency of the United States of America, whether now existing or hereafter organized;*
- B. *Obligations issued or guaranteed by any State of the United States or the District of Columbia;*
- C. *Repurchase agreements (including repurchase agreements of the Escrow Agent) fully secured by obligations of the kind specified in (A) or (B) above, as well as in money market funds and in common funds of the Escrow Agent invested in obligations specified in (A) and (B) above;*
and
- D. *Interest bearing deposits in any bank or trust company (which may include the escrow agent) which has combined capital surplus and retained earnings of at least \$50,000,000. Any interest payable on said funds shall become part of the escrow account balance.*
- E. *Maximum maturity of individual securities limited to 3 years.*
- F. *The average maturity should be between 1 and 2 years.*
- G. *For all county, municipal, and local governments, please refer to N.J.S.A. 40A:5-15.1, which provides specific guidance for the allowable investment of public funds.*

*Accredited financial institution" means any commercial bank, savings bank or savings and loan association with its principal office located in the State of New Jersey, and insured by the Savings Association Insurance Fund (SAIF) or the Federal Deposit Insurance Corporation (FDIC); or a limited purpose trust company that meets the requirements set forth in N.J.S.A. 17:9A-28 and 17:9A-31 with its principal office located in the State of New Jersey maintaining assets in excess of \$ 50,000,000.