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Re: Implementation of January 26 Order in Docket #QO20020184

On January 26, 2022, the Board modified prior Orders to facilitate the ability of certain solar generation facilities registered in the Transition Incentive Program (“TI Program”) to re-register in the Administratively Determined Incentive Program (“ADI Program”). The Board ordered that projects registered in the TI Program that commenced construction but failed to meet the TI deadline for commercial operation shall be eligible to apply to the ADI Program (“January Order”). As a result, such projects including those that had commenced construction prior to submitting a new application in the ADI program are not required to petition the Board for a waiver of the rules at N.J.A.C. 14:8-11.4(b).

An Order dated April 6, 2022 was issued by the Board to address a different class of projects (“April Order”). The Board granted a limited waiver of N.J.A.C. 14:8-11.4(b) to projects which had not previously registered in the TI Program but had commenced construction prior to receiving a conditional acceptance for an application in the ADI Program. This limited waiver extends to projects which began construction on or before May 31, 2022.

Market participants have requested clarification of the applicability of the April and January Orders. Developers of projects which had registered in the TI Program and commenced construction after May 31, 2022 but failed to meet the TI program deadlines have asked if the April Order bars them from registration in the ADI program without a Board waiver of N.J.A.C. 14:8-11.4 (b).

Staff has instructed the ADI program registration processing team that projects which were registered in the TI Program on January 26, 2022 and commenced construction after May 31, 2022 but failed to meet their TI program deadlines are eligible to apply in the ADI Program without petitioning the Board for a waiver of N.J.A.C. 14:8-11.4(b).

Additionally, projects meeting the above criteria that commenced commercial operations after the August 28, 2021 opening of the ADI portal can register in the ADI program without petitioning the Board. However, projects that received permission to operate prior to the launch of the ADI Program, regardless of whether they were previously active in the TI Program, are required to petition the Board for ADI eligibility.