

The amount of solar installed in New Jersey has continued to grow at record and near-record levels throughout 2021 and 2022, despite the significant regulatory changes involved in the transition from the Solar Renewable Energy Certificate (“SREC”) Program to the Transition Incentive (“TI”) Program and subsequent SuSI Program, and the enormous challenges caused by the COVID-19 global pandemic. The SuSI Program serves to support the growth of the State’s solar industry, which employs an estimated 6,237 New Jerseyans, at the lowest cost to ratepayers.⁵ Moreover, the SuSI Program has set the State on a path to double its solar capacity by 2026 with the installation of 3,750 MW of new capacity. In addition to providing green jobs, the Board is actively committed to making solar accessible for all electricity users, including low- and moderate-income consumers through community solar programs. The Board is further committed to promoting solar generation at reasonable costs to ratepayers.

In this first solicitation, the Board received a vigorous response from the industry, with submissions totaling over 300 MW of solar generation. However, all of the responsive bids were in excess of the pre-determined price caps put in place by the Board to protect ratepayers from excessive costs. Accordingly, in this Order, the Board rejects all bids received in the first solicitation, directs Board Staff (“Staff”) to conduct an analysis of price caps for further solicitation rounds, and directs Staff to open another CSI solicitation window.

BACKGROUND AND PROCEDURAL HISTORY

New Jersey has a long history of encouraging the development of solar energy production in the State. The Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (“EDECA”), enacted in 1999, first established the Renewable Portfolio Standards (“RPS”) by mandating that increasing percentages of Class I renewable energy sources be included in all retail electricity sold by Board-regulated Third Party Electricity Suppliers (“TPS”) and Basic Generation Service (“BGS”) providers (collectively, “TPS/BGS providers”). The Clean Energy Act of 2018 (“Clean Energy Act” or “CEA”) sets the RPS requirement at 21% by January 2020, 35% by January 2025, and 50% by January 2030. Additionally, EDECA mandated retail electric power suppliers to offer net metering of wind and solar to all residential and small commercial customers. Initially, EDECA set the State’s RPS goal for NJ Class I renewables at 4.0% of kilowatt-hours (“kWh”) sold by January 1, 2012; that goal has increased over time.

⁵ Interstate Renewable Energy Council, [National Solar Jobs Census 2021](https://irecusa.org/wp-content/uploads/2022/10/National-Solar-Jobs-Census-2021.pdf), irecusa.org at 17 (July 2022), <https://irecusa.org/wp-content/uploads/2022/10/National-Solar-Jobs-Census-2021.pdf>

The Board's RPS regulations, N.J.A.C. 14:8-2.1 et seq., implement the statutory RPS provisions. The rules specify separate minimum percentages for solar electric generation, Class I renewable energy, and Class II renewable energy as each of these categories of renewable energy is defined by N.J.A.C. 14:8-1.2. The rules provide that compliance may be achieved through the retirement of Renewable Energy Certificates ("RECs"); one REC represents the environmental attributes of a megawatt-hour of renewable energy. To comply with the solar electric generation portion of the RPS, TPS/BGS providers obtain and retire SRECs, Transition Renewable Energy Certificates ("TRECs"), and since August 28, 2021, SREC-IIs. An SREC, TREC, or SREC-II represents the environmental benefits or attributes of one (1) megawatt-hour of solar electric generation. N.J.A.C. 14:8-2.2. A supplier or provider who holds too few SRECs to meet the RPS can make up for the shortfall by paying a Solar Alternative Compliance Payment ("SACP"). N.J.A.C. 14:8-2.3(e); N.J.A.C. 14:8-2.10.

The Board authorized the creation of SRECs for rebated solar projects in 2004. Starting with a pilot SREC-only registration program in 2007⁶ that became a permanent program and was codified in rules in 2012,⁷ the Board used the SREC Registration Program ("SRP" or "SREC Program") as the mechanism for qualifying project incentive eligibility for solar owners, developers, and installers. The SRP required that, in addition to any statutory or other regulatory requirements, solar projects be registered in a timely manner and fulfill all requirements of that program to receive a New Jersey Certification Number and become eligible to create SRECs on the basis of the solar electricity generated. The SRP, a market-based incentive program, is generally recognized as having been very successful in stimulating the development of solar generation in New Jersey but was ultimately determined to be too costly to ratepayers to continue. As discussed further below, the Board closed the SREC Program to new entrants in May 2020, pursuant to a legislative directive.

Clean Energy Act of 2018

Governor Phil Murphy signed the Clean Energy Act into law on May 23, 2018. Among other mandates, the Clean Energy Act directed the Board to fundamentally reshape New Jersey's solar incentive programs, culminating in the creation of a long-term, durable solar incentive program that puts the State on a path toward meeting its goal of 100% clean energy by 2050. As noted above, the CEA implements that goal in large part by significantly increasing the RPS requirements: it mandates that, by January 1, 2020, 21% of kWh sold in the State be from Class I renewable energy sources and increases this percentage to 35% by January 1, 2025, and to 50% by January 1, 2030.

The CEA directed the Board to adopt rules and regulations to close the SRP to new applications once the Board determined that 5.1 percent of the kWh sold in the State by TPS/BGS providers had been generated by solar electric power generators connected to the distribution system ("5.1% Milestone"). In addition, the CEA directed the Board to complete a study that evaluates how to modify or replace the SREC Program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State. The Board

⁶ In re Renewable Portfolio Standard - Recommendations for Alternative Compliance Payments and Solar Alternative Compliance Payments for Energy Year 2008, A Stakeholder Process Regarding Alternative Compliance Payment and Solar Alternative Compliance Payment Levels for Energy Years 2009 and 2010 or Longer, And a Solar REC-Only Pilot, BPU No. EO06100744, Final Decision, Order dated January 19, 2007.

⁷ 44 N.J.R. 1703(a) (June 4, 2012).

fulfilled this requirement in a report submitted to the Legislature in January 2021, discussed more fully below.

Furthermore, the CEA codified the priority that ratepayer funds be used prudently and efficiently by setting a limit on the expenditures that may be made to incentivize renewable energy. The CEA established a statutory Cost Cap (“Cost Cap”) at N.J.S.A. 48:3-87(d), that prohibits the cost of the Class I renewable energy requirement (excluding the cost of offshore wind renewable energy certificates, or “ORECs”) from amounting to more than 9% of the total paid for electricity by customers in the State during Energy Years 2019, 2020, and 2021 and to more than 7% of that cost during subsequent Energy Years. The Cost Cap was amended in January 2020 to provide the Board with more flexibility in its implementation.⁸ The statute was further amended as part of the Solar Act of 2021 to include new directives on how to calculate the costs and associated benefits of the portions of the Class I renewable energy requirement covered by the Cost Cap,⁹ and to specifically exclude projects awarded under a competitive procurement from counting towards the Cost Cap.¹⁰

New Jersey’s 2019 Energy Master Plan

New Jersey’s 2019 Energy Master Plan (“EMP”), which has the subtitle “Pathway to 2050,” includes a pathways analysis to reach 100% clean energy by 2050 and includes projections of associated costs.¹¹ The analysis identified a target for 32 GW of total solar installed by 2050. Modeling from New Jersey’s Integrated Energy Plan, completed as part of the larger EMP, suggests that New Jersey should seek to install 5.2 GW of solar by 2025, 12.2 GW by 2030, and 17.2 GW by 2035 to put New Jersey on a least-cost path to 100% clean energy by 2050. The solar development undertaken as the State works to meet these goals provides solar installers and companies more opportunities than ever before.

Transition Incentive Program

On December 6, 2019, the Board approved New Jersey’s TI Program, intended to provide a transition between the SREC Program and a successor incentive program.¹² The closure of the SREC market was mandated by the Clean Energy Act, which required the Board to adopt rules and regulations to close the SREC program to new entrants once solar generation reached 5.1 percent of total retail sales. The Board found that solar generation reached the target level on April 30, 2020, and the SREC market was closed to new entrants as of that date.

The key feature of the TI Program was the creation of a new solar incentive, the TREC. A qualifying project receives one TREC for each MWh of qualified solar production for 15 years.

⁸ See L. 2019, c. 448.

⁹ See N.J.S.A. 48:3-87(d)(2)

¹⁰ See N.J.S.A. 48: 3-117(h)

¹¹ 2019 New Jersey Energy Master Plan: Pathway to 2050, nj.gov, https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf.

¹² In re a New Jersey Solar Transition Pursuant to P.L. 2018, c. 17, 2019, BPU Docket No. QO19010068, Order dated December 6, 2019.

The TRECs are purchased and retired by the electric distribution companies (“EDCs”) on behalf of TPS/BGS providers as a part of New Jersey’s RPS. While the program established a base TREC value of \$152/MWh of eligible solar generated, the value of the TREC assigned to an individual project varies, based on the type of project and the factor assigned to that project class by the Board’s implementing orders and subsequent rules. The value of each TREC is calculated by multiplying the base compensation rate of \$152/MWh by the project’s assigned factor, where all factors are smaller than or equal to 1.

The TI Program was designed to be a temporary program that would remain in effect only until the Board opened the new Successor Program. Opening on May 1, 2020, it closed to new registrations on August 27, 2021, with the opening of the SuSI Program. The Board effectuated the SuSI Program, as described below, through the SuSI Order and its companion orders.¹³

2021 Solar Laws: SREC-IIs

On June 9, 2021, Governor Murphy signed the Solar Act of 2021. The Act directed the Board to establish a program to incent the development of 3,750 MW of solar by 2026, by establishing a new program for incentivizing solar in New Jersey through the mechanism of SREC-IIs. As noted above, an SREC-II represents the value of the environmental attributes of one MWh of solar electric power generation. The Act directed the Board to create a small solar facilities program with administratively set incentive values and a solicitation process for awarding contracts for grid supply solar facilities and net metered solar facilities greater than five (5) MW. The Solar Act of 2021 further changed the calculation method for the Class I renewable energy requirement Cost Cap and exempted the cost of the solicitation, including any resulting incentives, from inclusion in the Cost Cap.

Section 6 of the Act (C.48:3-119) directs the Board, in consultation with the New Jersey Department of Environmental Protection (“NJDEP”) and the Secretary of the New Jersey Department of Agriculture, to establish solar siting rules that will apply to projects eligible to participate in the CSI Program. The siting criteria determine where it is permissible for solar projects to be located, where solar construction is subject to restrictions, and where it is prohibited. For some prohibited locations, the Act allows the Board to grant a waiver if it deems the project to be in the public interest after consultation with NJDEP or the Secretary of Agriculture, as appropriate.¹⁴

Successor Solar Incentive and Administratively Determined Incentive Programs

The Board took a major step forward in implementing the Solar Act of 2021 with the creation of the SuSI Program in July 2021. The SuSI Program aims to ensure that New Jersey’s solar industry continues to thrive, while meeting all Cost Cap requirements and adapting to changing market conditions. Like the Act itself, the SuSI Program is divided into an administrative “small solar facilities” program, and a competitive procurement: the ADI and CSI Programs. Following the structure of the TI Program, the ADI Program provides incentives in the form of fixed value SREC-

¹³ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, 2021, BPU Docket No. QO20020184, Order dated July 28, 2021 (“SuSI Order”).

¹⁴ See L. 2021 c. 169 § 6(f)

Its for net metered residential projects, net metered non-residential solar projects of five (5) MW or less, and all community solar programs. The fixed incentive value was set administratively following comprehensive modeling of costs and multiple rounds of stakeholder involvement. Incentive values vary by market segment; in some cases, they vary according to project size and siting. The ADI Program opened to new registrations on August 28, 2021. Since the opening of the ADI Program, it has incented the development of over 200 MW of solar.¹⁵

THE COMPETITIVE SOLAR INCENTIVE PROGRAM

On December 7, 2022, the Board launched the CSI Program via the CSI order. The CSI Program forms the first incentive structure designed to facilitate large-scale grid supply solar development in the State, a type of solar development which has been shown in other states to provide clean energy at competitive prices. Additionally, the program incentivizes the development of large net metered projects, specifically those greater than five (5) MW in capacity. As highlighted in the CSI Order, the CSI Program uses competitive principles to ensure that the cost of the SREC-II awards represent the lowest incentive contribution from New Jersey ratepayers. The CSI Program will provide incentives for 300 MW of new solar annually in New Jersey and thus forms a critical element in pursuing the interrelated goals of 5.2 GW of solar by 2025, 12.2 GW by 2030, and 17.2 GW by 2035, all of which form part of New Jersey's least-cost path to 100% clean energy by 2050. While the statute specifies that solicitations should be held at least once every 18 months the Board intends to hold annual solicitations to promote industry growth and competition; the first solicitation opened for prequalification on February 1, 2023.

Per the CSI Order, projects will have one (1) month after an award to conditionally register with the Program Administrator, and upon registration, need to reach Permission to Operate ("PTO") within three (3) years. This timeframe is by itself significantly longer than the time allowed for projects in the ADI Program. The Board has recognized that projects in the CSI Program face additional complexity in interconnection, permitting, and construction, which warrants this longer timeline. On the other hand, project cost estimates will have less accuracy, the further a project is from construction, and a longer deadline to reach completion therefore runs the dual risk of increased risk premiums and projects submitting speculative bids, which would have a low likelihood of being built. In establishing the three-year deadline, the Board sought to strike a balance between these considerations.

Large-scale grid supply solar development comes at a risk of unintended impacts to vulnerable farmland and open space, which is already under significant pressure from other economic and social development trends. The Solar Act of 2021 directed the Board to implement siting criteria to be applied to all grid supply solar facilities and net metered solar facilities greater than five (5) MW in size (hereafter referred to as "CSI-eligible facilities"). In the CSI Order, the Board implemented this provision of the Solar Act of 2021 by specifying requirements for siting for all CSI-eligible facilities. These siting criteria were developed in cooperation with the NJDEP, the Department of Agriculture, and the State Agriculture Development Committee ("SADC"). To most fully effectuate the legislative intent to protect vulnerable lands, the Board made these siting criteria applicable to all CSI-eligible solar generation facilities, regardless of whether a project chooses to pursue an incentive or not. The universal applicability ensures that the State's interest in preserving open space and agricultural lands will be applied to all solar projects on an equal basis. As the solar market matures, should fewer projects choose to pursue an incentive through

¹⁵ Solar Activity reports, March 31, 2023 update, available at <https://njcleanenergy.com/renewable-energy/project-activity-reports/project-activity-reports>

the CSI Program, all projects will continue to be governed by the siting criteria. The Board Order further included specific construction requirements to minimize potential negative environmental impacts.

Following the Solar Act of 2021, the Board's siting criteria include provisions that require a project to submit a petition to obtain a waiver for construction of a CSI-eligible facility on certain prohibited lands. The Board will, after consultation with the Department of Agriculture or DEP as appropriate, only grant such waiver upon determination that the public interest in the specific project being allowed outweighs the presumptive greater public interest in preserving the land. Projects that would be constructed on prohibited land but for which the facility would be located exclusively on the built environment, the Board considers to be presumptively in the public interest and has designated the approval of such applications to Staff or the program administrator. This expedited process was devised to allow developers a quicker route to participation based on project type but does only apply to a specific subset of projects.

2023 Solicitation

The CSI Program awards SREC-IIs through a competitive solicitation, with separate solicitations for several selected market segments, or tranches: basic grid supply; grid supply projects located on the built environment; grid supply projects on contaminated sites and landfills; and net metered non-residential projects greater than 5 MW. An additional fifth tranche allows for storage in combination with a grid supply solar award. The Board established procurement targets for each tranche in the first solicitation as follows:

Tranche	Target (MW)
1. Basic Grid Supply	140
2. Grid Supply on the Built Environment	80
3. Grid Supply on Contaminated Sites & Landfills	40
4. Net Metered Non-residential above 5 MW	40
TOTAL	300
5. Storage Paired with Grid Supply Solar	160 MWh

All projects seeking to compete in the CSI Program solicitation must prequalify, providing evidence that they meet specific tranche eligibility criteria and other project maturity requirements. In implementing these and other requirements, the Board sought to balance the level of competition in the solicitation against the need to ensure that participating projects have a reasonable chance of reaching commercial operation within the timelines established by the program.

After prequalification, facilities determined to be CSI-eligible submit a bid for an SREC-II award, specified in dollars per MWh of solar electricity production, and compete on price only. Projects may compete in all tranches for which they are eligible but may only be awarded once. To compete in Tranche 5, a solar plus storage project provides a two-part bid: a solar-only SREC-II price (eligible to compete in tranches 1, 2 and 3) and a storage adder price that is considered separately in the storage tranche for award of a storage adder. As noted above, the prequalification window for the first solicitation opened February 1, 2023, and the bid submission closed on March 31, 2023, at 11:59:59 PM.

Price Cap

The regular schedule of the CSI solicitations ensures that incentive values will reflect current market conditions and also provides a long-term, guaranteed incentive structure for developer investment. At the same time, the competitive solicitation process was specifically intended to ensure that New Jersey ratepayers are incentivizing the projects that seek the lowest incentive contribution from the ratepayers. Thus, the Solar Act allows the Board the discretion to establish confidential high and low bid thresholds prior to the solicitation.¹⁶ Especially with respect to the first CSI solicitation, there was considerable uncertainty regarding how many qualified projects would elect to participate. In order to protect ratepayers against excessive awards in the event of low competition, the Board established confidential, pre-determined price caps by Board Order for all tranches before the close of the first solicitation on March 31, 2023.¹⁷ In determining awards, projects within a specific tranche are ranked on price, and awards are given to the lowest cost projects and proceed until the procurement target is met. If the Board determines that an award would breach a price cap, further procurement in the affected tranche or tranches would cease, regardless of whether the targeted MW capacity has been met. However, the Board recognized that the caps need be set sufficiently high to permit normal price discovery through the solicitation process.

The price caps differentiate among and are specific to the five tranches in the CSI Program. The tranche-specific price caps reflect the Board's recognition that the different project types per tranche carry different costs and revenues and sought to balance these with ratepayer protections. For example, tranche 3 represents a specific subset of grid supply projects on contaminated sites and landfills and associated disturbed areas. Projects competing in this tranche may face additional costs associated with mitigating contamination and securing permits. Competitors in tranche 4, which consists of net metered non-residential projects greater than five (5) MW, face a different cost structure and already receive some degree of subsidy in the form of net metering credits. Price cap differentiation recognizes these differing cost burdens and revenue streams and sought to tailor protection of both the ratepayers' dollar and the developers' ability to submit a bid for a viable incentive. By setting a price cap for each tranche independent of the others, the Board sought to ensure that the CSI Program would support the development of diverse solar projects while limiting excessive speculation on award value in any given tranche competition. Moreover, this type of differentiation comports with the Board's existing practice of setting different incentive levels set for different market segments; such differentiation is a feature of both the TI Program and the ADI Program.

To determine the price caps for the first CSI solicitation, Staff and consultant Daymark Energy Advisors ("Daymark") considered a number of project and financing considerations, including the following:

- Projects awarded under the CSI Program are generally larger scale, and therefore would need lesser incentives than those provided under the ADI Program.
- Project development costs in New Jersey will follow trends of similar development in other states within PJM, Interconnection, LLC ("PJM") but are expected to be somewhat higher because of the constraints on the availability of space that can be developed for solar and the novelty of the CSI Program.

¹⁶ N.J.S.A. 48:3-117(d)

¹⁷ In re Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, c.169 - Order Addressing Price Cap Determination, BPU No. QO21101186, Order dated March 6, 2023 ("Price Cap Order")

- The need for a specific SREC-II value is governed by both the levelized cost of solar generated energy and the expected wholesale energy and capacity revenue, both of which have increased over the last two (2) years.
- The price caps should provide sufficient room for price discovery and are therefore not based on the average estimated cost of development, but on somewhat higher costs.

To perform the incentive modeling, Daymark utilized the modeling software System Advisor Model (“SAM”), an industry-recognized and publicly accessible performance and financial model developed by the National Renewable Energy Laboratory (“NREL”). Cost data, provided by Board Staff, reflected projects participating in the legacy SREC and TI Programs.

Registration Requirement Modifications

Projects that receive an incentive award under the CSI Program will be required to submit a complete CSI Program registration with the CSI Program registration manager prior to beginning construction on the facility. The CSI Program registration manager opened the CSI registration portal to new registrations at 12:00:00 AM on April 15, 2023. With the exception of projects proposed on contaminated sites and landfills, bidders granted a CSI award will have 30 days following the Board Order announcing the award to register their CSI-eligible facility with the Board. Projects on contaminated sites and landfills will need to obtain Board approval for conditional registration, which will only be granted upon a determination of eligibility made in consultation with the NJDEP.

Per the CSI Order, developers or project owners of a CSI-eligible facility are required to submit a complete registration package that includes:

1. a registration form;
2. a description of the project according to the specific tranche for which the project is qualified, including: type of proposed installation, MW or MWh capacity of project, GIS coordinates, address, project address, link to PJM feasibility study, and number of acres proposed for development;
3. a contract between the primary installer or the third-party owner, as applicable, and the bidder or customer of record;
4. a site plan signed and sealed by a licensed professional engineer, as defined in the pre-qualification section of the CSI Order, showing all proposed and installed ADI and CSI-eligible facilities;
5. for net metered facilities, a utility bill showing the site host’s name, address, and electric tariff;
6. electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality;
7. for net metered facilities, an executed Part 1 interconnection agreement;
8. a Milestone Reporting Form; and
9. evidence of the project’s accepted bid into the CSI program.

On March 7, 2023, Staff issued a Request for Information (“RFI”) regarding the requirement in the CSI Order that a registration package shall include electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality. Staff invited interested parties to submit comments on the timeframe of this requirement and barriers that it might impose on parties bidding into the first CSI Program solicitation; comments were received by 5:00 p.m. on March 15, 2023. The Board received nine comments in response to the RFI. Some commenters cited issues with the timing and level of

project design required in the electrical and building permitting process (requirement 6, above) that would place untenable risk and cost on developers. Other commenters highlighted an issue with the requirement for a contract to be in place between the primary installer or third-party owner and the bidder or customer of record. (Requirement 3, above). The Board addressed the concerns by Secretary Letter issued March 22, 2023, and by Board Order on April 12, 2023.¹⁸

In recognition of these unintended barriers to participation, and to avoid jeopardizing the success of the CSI Program, the Board waived some requirements for projects that participate in the first CSI solicitation. In that solicitation, successful bidders would not be required to submit electrical and building permits or documentation that applications for electrical and building permits had been submitted to the relevant municipality. Additionally, to alleviate the conflicts with review timelines for bidding parties, the Board extended the time for registrants to supply a contract between the primary installer or the third-party owner and the bidder or customer of record to one year after receiving notice of conditional registration in the CSI Program. Additionally, the Board directed Staff to conduct a review of the registration requirements prior to the next solicitation.

Opportunity for Best and Final Offer

In order to secure the lowest costs for New Jersey's ratepayers while continuing to grow the State's solar capacity, the Board offered the opportunity for prequalified participants who submitted bids during the first solicitation to provide a Best and Final Offer ("BAFO") to the Board for consideration for any submitted bid proposals. BAFOs could only include an updated SREC-II price. The Board issued notice of the BAFO on April 14, 2023; submission closed at 5:00 PM EST on April 28, 2023.

STAFF RECOMMENDATIONS

The Board's long-standing commitment to the dual goals of promoting a thriving solar industry in the State and keeping ratepayer costs as low as possible has informed the design of the CSI Program. As noted above, the competitive solicitation process ensures that New Jersey ratepayers are incentivizing those projects that seek the lowest incentive contribution, while also ensuring that incentive values will reflect current market conditions and providing a long-term, guaranteed incentive structure for developer investment. In this first solicitation, the Board received a vigorous response from the industry, with submissions totaling over 300 MW of solar generation. Staff and Daymark reviewed all bids received and determined that all bids would breach the price caps set to protect ratepayers. Therefore, Staff recommends that the Board grant no awards in this first CSI Program solicitation.

¹⁸ In re Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, c. 169, BPU No. QO21101186, Order dated April 12, 2023 ("April 2023 Order").

Staff recognizes that several significant and time-specific barriers may have adversely impacted the level of competition in this first solicitation. First, market uncertainty stemming from national political and economic factors since the start of 2023 may have exerted an unexpected impact on the project design and bid decisions of developers choosing to participate in New Jersey's CSI Program. These factors include:

- Inflation rates of six (6) percent and higher in January and February, 2023;
- Legislation by the United States Congress to repeal the suspension of tariffs on solar panels from Southeast Asia that was subsequently vetoed by the President, but still pending at the time of bid;
- Congressional pushback on the Inflation Reduction Act of 2022, which offers significant tax breaks that aim to promote clean energy development;

In order to understand how factors such as risk premiums, revenue expectations, and capital costs contributed to high project costs in this first CSI Solicitation, and to determine reasonable price caps for subsequent solicitations, Staff recommends further evaluating these contributory factors and performing an extensive review of the assumptions used in determining the price cap levels set for each tranche.

Second, the brief period of time separating the launch of the CSI Program by Board Order on December 7, 2022 and the subsequent opening of the solicitation window on February 1, 2023 represented a challenge to any projects that needed Board approval before submitting a bid. Any project seeking to build on land uses restricted by the Solar Act must petition the Board for a waiver, laying out the unique characteristics of the site that make it suitable for project development and show that such development would be in the public interest. The Board must consult with the NJDEP or the Secretary of Agriculture, as appropriate in making a determination on a waiver request. Additionally, Staff may request additional evidence prior to approving or denying a waiver request, which may again increase the time required. Staff understands that this administrative process can prove lengthy and that it therefore has not been feasible for projects to obtain a waiver that would have enabled them to participate in the first solicitation. Staff notes that any developer interested in participating in a future solicitation should start the waiver process as soon as feasible for their project, regardless of whether a solicitation is open.

Third, as noted above, the registration requirements laid out in the Board Order launching the CSI Program sparked concern among developers. The straw proposal for the CSI Program did not include the requirement for electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality. As a result, this requirement did not benefit from stakeholder feedback prior to program launch. The feedback provided in response to the March 7 RFI gave Staff a much better understanding of an unintentional barrier in the program design. Due to the lengthy development cycle for the large projects served by the CSI Program, the permitting requirement would force developers to make decisions on design and engineering at a point in project development when they may not have the information necessary to do so. Developers expressed concern about either committing to a design that proves less than optimal or, alternatively, needing to make costly engineering changes and permit modifications to redesign the project closer to completion. By the April 2023 Order, the Board waived registration requirements for electrical and building permits or documentation of applications for permits for participants in the first solicitation. The Board also extended the time for registrants to supply a contract between the primary installer or the third-party owner and the bidder or customer of record to one year after receiving notice of conditional registration in the CSI Program. Although a Secretary's Letter issued conveying this information prior to the close of the solicitation, some developers may have needed more time to respond than this

afforded and elected to abstain from the solicitation as a result of the original registration requirements.

Fourth, a factor that may have affected the level of the bids received was the maturity requirement that participants have an established position in the PJM interconnection queue. After conducting an analysis of the timing of each of the three (3) studies PJM requires during its interconnection process, Staff and Daymark determined that the greatest uncertainty in timing has recently occurred before the completion of a Feasibility Study. Staff recommended and the Board adopted a requirement that a project to have a completed Feasibility Study. CSI Order at 21-22, 45. The requirement effectively limited the first solicitation to projects that had already started development several years before the program was launched.

With the lessons of the first solicitation in mind, Staff recommends that the second solicitation in the CSI Program be opened for prequalification on October 1, 2023, and close to bids on December 31, 2023. Staff considers that this timeline will demonstrate that the Board prioritizes large-scale solar development and is committed to the goals of the CSI Program. In addition, this schedule allows for the rules proposed to regulate the CSI Program to work through the adoption process. Staff acknowledges that parties seeking to obtain Board approval for land use waivers will need to move swiftly in order to participate in a fall solicitation but is confident in the Board's ability to address any petitions in a timely manner.

Staff further recommends that the megawatt targets for the different segments in the CSI solicitation be kept at the levels established for the first solicitation. Procurement targets for the 4Q23 solicitation for each tranche will then be:

Tranche	Open to	Procurement Target
Tranche 1	Basic Grid Supply	140 MW
Tranche 2	Grid Supply on the Built Environment	80 MW
Tranche 3	Grid Supply on Contaminated Sites and Landfills	40 MW
Tranche 4	Net metered non-residential Installations larger than 5 MW	40 MW
Tranche 5	Storage paired with Grid Supply Solar	160 MWh

DISCUSSION AND FINDINGS

New Jersey has a strong and diverse solar market, and record levels of solar were added to the New Jersey grid in 2022. The State had the seventh largest installed solar capacity in the country including a total of 4,415 MW of installed solar capacity as of March 31, 2023, and over 715 MW in the pipeline. This is in keeping with New Jersey's long-standing position as a national leader in solar development, despite its relatively small size, population density, and lower values of solar insolation compared to some of the western and southern states. The State's aggressive clean energy policies have resulted in over 157,000 residential solar installations, representing over 1,339 MW as of October 31, 2022, and close to 8,600 non-residential net metered installations, representing over 2,045 MW as of October 31, 2022. The Community Solar Program, which launched as a pilot only a few years ago and is currently being converted into a permanent program, offers the opportunity to share in the benefits of solar generation to

customers who may not be able to host solar generation at their homes. This program has resulted in almost 47 MW installed so far. Grid supply solar, so far largely consisting of projects constructed under Subsection (t) under the Solar Act of 2021, with strong additional growth anticipated under the CSI Program, accounts for over 815 MW installed as of March 31, 2023.

This expanding solar portfolio constitutes a key pillar of New Jersey's national leadership in the battle against climate change. Driven by critical legislation like the Solar Act of 2021, the Board's solar programs are important contributors to increasing the supply of electricity New Jersey consumers receive from clean energy sources and achieving Governor Murphy's ambitious goal of 100% clean energy by 2035.

In addition to supporting a thriving solar industry, as well as the diverse job and industry growth, the Board seeks always to protect New Jersey ratepayers by promoting these goals at the least possible cost. To that end, the set of guiding principles announced by the Board at the outset of redesigning the State's solar incentive program began with the commitment to provide maximum benefit to ratepayers at the lowest cost.¹⁹ The CSI Program, like the ADI Program and the previous solar incentive programs, will be funded by New Jersey electricity ratepayers and those funds should be used as efficiently as possible. In the case of the CSI Program, a competitive structure is harnessed to ensure that the cost of the incentive is as minimal as necessary to support new private investment in solar facilities.

As the Board noted in the Price Cap Order, the confidential price caps function as an additional level of protection to reduce risk to ratepayers. Circumstances unique to the first solicitation, such as the short timeframe between the establishment of the CSI Program and the opening of the first solicitation, were anticipated to reduce the number of eligible projects in this round to those already in development at the time the program was launched. Thus, the Board found that the price caps were necessary to protect ratepayers against excessive prices. The Board continues to believe that adoption of these caps was necessary and justified, and that the adopted caps were reasonable and informed by the best available data. The Board **FINDS** that reducing the cost of solar incentives to ratepayers is a critical policy goal of the CSI Program and that the confidential price caps provide an effective safeguard in the first solicitation.

The Board **FINDS** that none of the bids submitted in the first CSI solicitation were under the price caps for the market tranches in which they were bid. Thus, the Board **FINDS** that none of the bids submitted were consistent with the Board's statutory directive and longstanding practice of ensuring that costs to ratepayers are kept as low as possible. The Board therefore **REJECTS** all the bids received in the first solicitation.

The Board notes that circumstances specific to the timing of the first solicitation, particularly the elevated regulatory risk at the federal level, and market trepidation around both inflation and economic uncertainty, could have played a role in elevating risk premiums for projects participating in the first solicitation.

Board **DIRECTS** Staff to perform an in-depth analysis of the specific financial assumptions and external factors that were used to determine the price caps. The results of that analysis will inform

¹⁹ Board of Public Utilities, Notice: New Jersey Solar Transition Staff Straw Proposal, (Dec. 26, 2018), [https://njcleanenergy.com/files/file/Renewable_Programs/Solar%20Transition%20Straw%20Proposal%20-%202018-12-26%20clean%20\(final\).pdf](https://njcleanenergy.com/files/file/Renewable_Programs/Solar%20Transition%20Straw%20Proposal%20-%202018-12-26%20clean%20(final).pdf)

any setting of confidential price caps for the next solicitation.

The submissions into the first solicitation show that there is sufficient market potential to fulfill the goals of the CSI solicitation. To stay on track to achieve Governor Murphy's Clean Energy goals for the State, it is desirable to conduct a new solicitation on an expedited timeline. The Board **DIRECTS** Staff to open a new solicitation for pre-qualification on October 1, 2023, and close the solicitation to bids on December 31, 2023 at 23:59:59 PM for the MW targets specified in the Staff's Recommendations section of this Order.

The Board encourages those interested in participating to determine whether the project(s) for which they wish to submit bids are sited in areas requiring a waiver and if a waiver(s) is needed to submit petitions for applicable waivers as soon as possible.

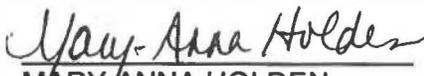
The effective date of this Order is July 19, 2023.

DATED: July 12, 2023

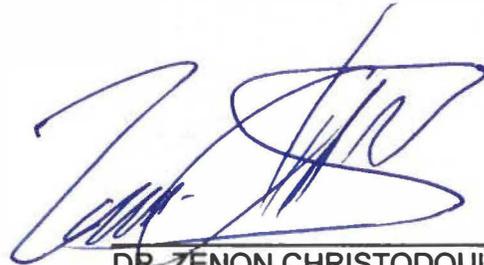
BOARD OF PUBLIC UTILITIES
BY:



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PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER

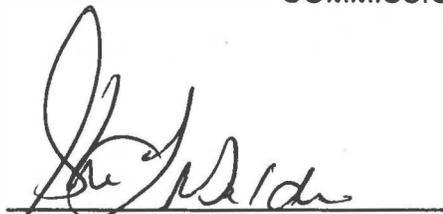


DR. ZENON CHRISTODOULOU
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CHRISTINE GUHL-SADOVY
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ATTEST:



SHERRI L. GOLDEN
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities. 14

IN THE MATTER OF COMPETITIVE SOLAR INCENTIVE (“CSI”) PROGRAM PURSUANT TO
P.L. 2021, C.169

DOCKET NO. QO21101186

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