



Agenda Date: 5/25/16
Agenda Item: 8D

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

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| |) | ORDER |
| |) | |
| IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u> |) | |
| 2012, <u>C.24</u> , THE SOLAR ACT OF 2012; |) | DOCKET NO. EO12090832V |
| |) | |
| |) | |
| IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u> |) | |
| 2012, <u>C.24</u> , THE SOLAR ACT OF 2012, <u>N.J.S.A. 48:3-</u> |) | |
| 87(Q)(R) AND (S) – PROCEEDINGS TO ESTABLISH |) | |
| THE PROCESSES FOR DESIGNATING CERTAIN |) | |
| GRID-SUPPLY PROJECTS AS CONNECTED TO THE |) | DOCKET NO. EO12090880V |
| DISTRIBUTION SYSTEM; AND |) | |
| |) | |
| |) | |
| IN THE MATTER OF THE IMPLEMENTATION OF |) | |
| <u>N.J.S.A. 48:3-87(R)</u> , DESIGNATING GRID-SUPPLY |) | |
| PROJECTS AS CONNECTED TO THE DISTRIBUTION |) | |
| SYSTEM |) | DOCKET NO. QO16020130 |

Party of Record:

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

BY THE BOARD:

In this Order, the Board of Public Utilities ("Board") considers the issues associated with the implementation of N.J.S.A. 48:3-87(r) ("Subsection r"), which takes effect on the first day of energy year ("EY") 2017, June 1, 2016 ("EY17").

BACKGROUND

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 Board to conduct proceedings to establish new standards and to develop new programs to implement its directives. By Order on October 10, 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(r) (Docket. No. EO12090832V, et al.) ("October 10, 2012 Order").

Subsection r of the Solar Act provides that:

r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section and for all projects proposed in each energy year following energy year 2016, a proposed solar electric power generation facility, may be considered "connected to the distribution system" only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar power electric generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.

(2) The board shall approve the designation of the proposed solar power electric generation facility as "connected to the distribution system" if the board determines that:

(a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;

(b) the approval of the designation of the proposed facility would not significantly impact the preservation of open space in this State;

(c) the impact of the designation on electric rates and economic development is beneficial; and

(d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment in such a condition as to enable it to provide safe, adequate, and proper service to each of its customers.

(3) The board shall act within 90 days of its receipt of a completed application for designation of a solar power electric generation facility as "connected to the distribution system," to either approve, conditionally approve, or disapprove the application. 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 as "connected to the distribution system" shall be deemed to be null and void, and the facility shall thereafter be considered not "connected to the distribution system."

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

On November 9, 2012, the Board held a public hearing presided over by Commissioner Joseph L. 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.

On June 10, 2014, Staff initiated the public stakeholder process focused on Subsection r with a discussion of the requirements of Subsection r with the Renewable Energy Committee and a request for public comment. At the April 16, 2015 Renewable Energy stakeholder meeting, Staff made a presentation on concepts that might underlie a straw proposal for implementation of Subsection r, posted a copy of the presentation on the New Jersey Clean Energy (“NJCEP”) website, and requested comments through April 30, 2015.¹ Stakeholders that submitted comments were invited to discuss their comments at the May 2015 Renewable Energy stakeholders meeting. Informed in part by the comments received from the public, Staff developed a recommendation to timely implement certain requirements for application under Subsection r, on a temporary basis, pending adoption of the rule proposal.² Staff discussed its final recommendation for an interim process for Subsection r at the May 12, 2016, Renewable Energy stakeholders meeting.

STAFF RECOMMENDATION

In making its recommendation to the Board, Staff is mindful of the legislative context for Subsection r as well of the market conditions anticipated to prevail when Subsection r takes effect. The Solar Act, a bi-partisan effort to stabilize the solar market, was signed into law by Governor Christie on July 23, 2012. L. 2012, c. 24, § 3. The law amends N.J.S.A. 48:3-51 and N.J.S.A. 48:3-87, which are provisions of the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 to -107 (“EDECA”).

As part of the stabilization effort, the Solar Act more than doubled the solar percentage of the Renewable Portfolio Standards (“RPS”) beginning in EY14. Thereafter, the rate of increase in the solar percentage requirement declines until it levels off in EY19. Staff estimates solar renewable energy certificates (“SREC”) generation and supply on a monthly basis and these estimates are critiqued by market participants in monthly open stakeholder meetings. Staff’s estimates appear to show that the market for SRECs will be long through EY17 despite the near tripling of the solar RPS starting with EY14 by the implementation of the Solar Act. Given the size of the SREC registration pipeline, new generation is anticipated to come on line at a rate approaching 20 megawatt (“MW”) per month on average for the foreseeable future.

Subsection r mandates that the Board evaluate all proposed projects for which applications are submitted on or after June 1, 2016 according to the four criteria set forth at N.J.S.A. 48:3-87(r)(2). The Board approved a rule proposal to implement such evaluation at its January 27, 2016 agenda meeting.³ This proposal was published for public comment in the New Jersey Register on March 7, 2016 and pursuant to law the public comment period ended sixty days later on May 6, 2016. Given the need for due consideration of and response to these comments

¹ “Solar Act Rulemaking Update Subsection r, Concepts Toward the Development of a Straw” (April 16, 2015); <http://www.njcleanenergy.com/main/njcep-policy-updates-request-comments/policy-updates-and-request-comments>

² The recommended process is intended solely to ensure the existence of a process as of June 1, 2016, as required by the Solar Act.

³ I/M/O the Renewable Energy and Energy Efficiency Rules - N.J.A.C. 14:8 Amendments to Subchapter 8 – Rule Proposal, Docket No. QX15091096, Order dated January 24, 2016.

before the Board can make an informed decision, and the additional lead time required by the Office of Administrative Law for publication of a final rule, the rule cannot take effect prior to June 1, 2016, the first day of EY17. Therefore, to implement the legislative mandate in a timely fashion, Staff proposes to implement Subsection r from June 1, 2016 until such time as a final rule is promulgated and an application window can be opened.

As a predicate to implementing the subsection's substantive provisions, Staff proposes several new and/or amended definitions of terms necessary to discuss the implementation of Subsection r and other interrelated sections of the Solar Act. Most of these terms are already effective pursuant to the statute. These proposed definitions are as follows:

"Connected to the distribution system" means, for a solar electric power generation facility, that the facility is . . . (5) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the Board pursuant to sections (q) through (s) of N.J.S.A. 48:3-87.

"Grid supply facility" means a solar electric power generating facility that is directly connected to the distribution system in the State which sells the electricity it generates at wholesale rates through PJM Interconnection or under wholesale bilateral contracts, but is not owned or operated by an electric utility and approved by the Board pursuant to N.J.S.A. 48:3-98.1.

"Megawatt" means 1,000 kilowatts, measured in direct current (dc).

Staff also recommends that the Board approve a specific process to govern the submittal of grid supply applications for projects seeking approval during EY17. Staff recommends that the Board direct Staff to implement the following plan:

1. Instruct all entities that are considering filing an application in the coming energy year to file an Expression of Interest ("EOI"), using the attached form, and submit the EOI using the form that will be posted on the NJCEP webpage. The webpage for the EOI should include:
 - a) A deadline date by which an EOI must be filed with the Board. The deadline shall be no sooner than July 15, 2016;
 - b) A notice that only grid supply applications for which an EOI was timely submitted be considered for designation as "connected to the distribution system" in EY17.
2. Initiate a public stakeholder process following the EOI deadline to request comments on the optimal number of megawatts that the Board should not exceed for grid supply projects in EY17.
3. Following the close of the comment submittal period, and prior to opening the first application window for EY17, Staff recommends that the Board announce a specific number of megawatts as the upper limit for which the Board may approve for designation as "connected to the distribution system" in EY17.
4. Staff shall not accept applications prior to the effective date of the rule. Following the effective date of the rule, Staff may accept applications according to the schedule set forth in the rule.

DISCUSSION AND FINDINGS

Subsection r mandates that the Board evaluate all grid supply projects proposed for each energy year following EY16, which ends on May 31, 2016. N.J.S.A. 48:3-87(r)(1). The Board has proposed rules to implement Subsection r. Because the Subsection r rule adoption will not be complete prior to June 1, 2016, and stakeholders have expressed interest in applying under Subsection r on June 1, 2016 or soon thereafter, the Board has determined that it is appropriate to implement an interim process for potential Subsection r projects.

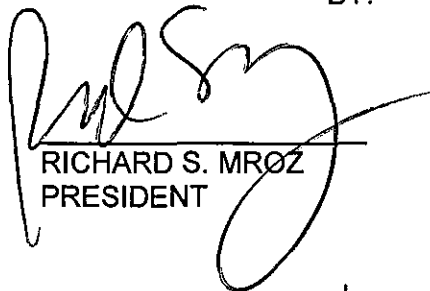
The Board **FINDS** that the interim process described herein is reasonable and closely follows the rule proposal that was published in the New Jersey Register on March 7, 2016. Considering the comment period on the rule has closed and final adoption of the rule is anticipated within a few months, the Board **FINDS** that it is reasonable to initiate certain administrative steps prior to accepting applications under Subsection r. The administrative steps, namely, accepting EOIs and initiating a stakeholder process, will facilitate the timely review of applications once the final rule is promulgated. The process also ensures that the Board has sufficient time to consider, and incorporate as appropriate, the comments received in response to the rule proposal.

Therefore, the Board **HEREBY APPROVES** the process and the attached EOI form recommended by Staff. Specifically, the Board **HEREBY DIRECTS** Staff to begin accepting EOIs and initiate a stakeholder process as described in this Order.

This Order will take effect on June 1, 2016.

DATED: *May 25, 2016*

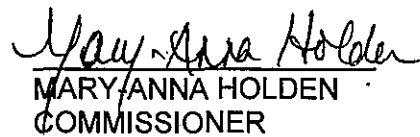
BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



MARY ANNA HOLDEN
COMMISSIONER

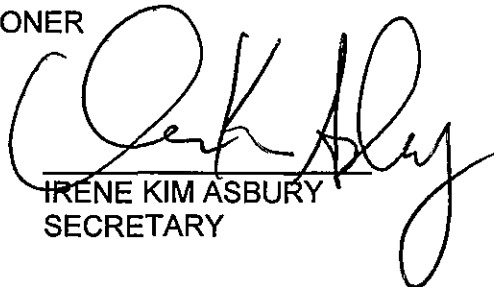


DIANNE SOLOMON
COMMISSIONER



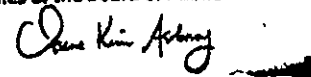
UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



IRENE KIM ASBURY
SECRETARY

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



IN THE MATTER OF THE IMPLEMENTATION OF L. 2012, C.24, THE SOLAR ACT OF 2012;

IN THE MATTER OF THE IMPLEMENTATION OF L. 2012, C.24, THE SOLAR ACT OF 2012,
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; AND

IN THE MATTER OF THE IMPLEMENTATION OF N.J.S.A. 48:3-87(R), DESIGNATING GRID-
SUPPLY PROJECTS A AS CONNECTED TO THE DISTRIBUTION SYSTEM

DOCKET NOS. EO12090832V, EO12090880V, & QO16020130

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

The following Expression of Interest ("EOI") instructions are intended 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 (r) as "connected to the distribution system" for purposes of Solar Renewable Energy Certificate ("SREC") eligibility. Potential applicants must file an EOI according to the following instructions to be eligible to submit an application for consideration in Energy Year 2017 ("EY17").

1. An EOI in filing an application pursuant to Subsection (r) will be accepted by staff as described below. A complete and timely filing of the EOI establishes eligibility to submit a full application but grants or conveys no other rights or approvals. Aggregated results from the EOI process will be shared with the public in a stakeholder process designed to assist Board staff in recommending a maximum amount of capacity to make available in Subsection r applications for EY17.
2. All EY17 Subsection r applications must be preceded by a complete and timely-filed EOI:
 - a. The one-page EOI 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 NJREinfo@njcleanenergy.com Only the completed one-page form will be accepted; forms with additional attachments will be rejected.
 - b. Potential applicants with a confirmed, timely submission of a EOI by July 15, are anticipated to have two opportunities (December 1, 2016 and March 1, 2017) to submit a completed Subsection (r) application pursuant to a Board-approved application process.
3. As a courtesy, Board staff will review each EOI and advise potential applicants within ten business days of the submission of the EOI whether the EOI is complete and how any deficiencies may be cured.
4. Only one EOI per project will be accepted. Developers submitting EOIs for multiple projects must submit a separate EOI via a distinct email transmission for each project. Only one EOI per email transmission will be accepted. Duplicate EOIs, EOIs for more than one Energy Year, or an EOI for any EY other than EY17, and EOIs proposing more than one project per PJM interconnection queue position will be rejected.
5. Potential applicants should send via electronic mail, no earlier than 9 am on Wednesday June 1, 2016 and no later than 4 pm on July 15, 2016, an email message containing the potential applicant's contact information and facility identification with the only email attachment being the one-page scanned EOI in "pdf" file format as described.
6. Potential applicants that have submitted applications under the Solar Act's Subsection (s) or Subsection (q) are ineligible to apply under Subsection (r). Solar facilities proposed on farmland are ineligible to apply. Potential applicants with projects that have been denied by the Board for certification under Subsection (t) may submit an EOI and receive consideration for an application for designation in EY17.

Expression of Interest in Submitting an Application for SREC eligibility designation
under the Solar Act's Subsection (r)*

Applicant Company Name (if applicable): _____

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

Daytime Phone: _____ Email: _____

Applicant Mailing Address: _____

City: _____ State: _____ Zip Code: _____

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 in which Application Round it is anticipated that a Subsection (r) application will be submitted. The project, if approved by the Board and completed within the subsequent two year designation period, will be eligible to generate SRECs for compliance with the NJ RPS commencing on the date of authorization to energize. (check one below):

- December 1, 2016: _____
- March 1, 2017: _____

(by statute, projects which are approved for designation that do not commence commercial operations within two years lose their eligibility for SRECs)

The undersigned warrants, certifies, and represents that the information provided in this EOI 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. **Submission of this form is not an application and does not trigger the 180 day review period for applications under Subsection (r).**

Signature: _____

Print Name: _____ Date: _____

*Submission of this EOI form does not constitute an application for designation of eligibility under Subsection (r)