

## Hunter, Benjamin

---

**From:** Brett Nolt <brett@mvegroup.com>  
**Sent:** Monday, February 18, 2019 2:19 PM  
**To:** OCE  
**Subject:** [EXTERNAL] EY20 Subsection R Comments

NJBPU Team

I have 1 comment regarding Section 3) "Other Factors"

I believe that the term farmland is too generic. I would comment that classification should fall in its zoning characteristics. If the land is zoned Rural Conservation, or Ag, etc. then this should not be supported with subsection R SRECS, as it currently states.

If there is a parcel of land that is zoned for commercial/industrial use by the township in which it is located, that land was designated for a commercial/industrial structure. It can be developed at any point with non-permeable surfaces, even though right now it's currently tillable acreage. There should not be restrictions through subsection R on ground mounted solar being placed in these locations, being a non-permeable, commercial based structure.

Thanks for your time.

**Brett Nolt**  
PM/Designer  
MVE Group, Inc  
Mobile: (717) 875-8942



**Comments of the New Jersey Solar Energy Coalition  
Subsection (f.) Capacity and Other Factors for Consideration in Energy Year 2020  
February 11, 2019.**

The New Jersey Solar Energy Coalition (“NJSEC”), respectfully submits comments in the above referenced matter.

Respectfully, Board staff seems to have overlooked the opportunity to resolve a number of important outstanding issues by limiting the questions posed to energy year 2020 and not seizing the opportunity to act to resolve those issues in the ample time remaining to reopening the subsection (r.) application process for energy year 2019.

Of the total number of projects that filed an expression of interest in response to the Board’s May 2016 and February 2017 Orders, there remain only four projects in the current PJM queue eligible to make immediate subsection (r.) application. A fifth, once eligible project subsection (r.) subsequently filed for approval under subsection (t.) on June 19, 2018. All other projects have either been withdrawn from the PJM queue or approved under subsection (t.) and are therefore ineligible.

**Comment [SA1]:** This refers to project number 15 from the subsection (r.) list. It was approved under subsection (t) and is currently operational.

The projects remaining eligible under subsection (r.) having filed an expression of interest and continued to invest in these projects in good faith, amount to a total capacity of 46.2 MW DC. This would, therefore, provide the Board the opportunity to meet the requirements of our new clean energy statute for energy year 2019 without the need to undertake any additional selection process inasmuch as the aggregate capacity of those remaining is less than the 50 MW DC statutory limit.

The subject projects are all being developed by members of the New Jersey Energy Coalition who will each be positing their individual comments under separate cover. These projects are currently being hard pressed to meet milestones under their current contractual relationships due to the extended subsection (r.) application suspension. We believe that in the absence of prompt action by the Board in the coming weeks a number of these projects no longer be viable.

In fairness, we hope that the Board will consider these exigent circumstances and reopen the subsection (r.) application process to those remaining eligible for energy year 2019.

## Questions:

### 1) Aggregate Subsection (r.) capacity:

a) What maximum amount of aggregate capacity should the Board make available via Subsection r in EY20?

The Board should seek to follow the statutory guidance of Chapter 17 Laws of 2018 which states:

*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 energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection.*

Inasmuch as there is still an ample time and opportunity to meet the guidance of the law for energy year 2019, the Board should open the application process as soon as possible in order to permit these remaining PJM eligible projects the opportunity to move forward. All of these projects have continued to meet all of the requirements of the Board during this extended period of pendency. The energy year 2019 eligible projects remaining taken together do not add to the 50 MW statutory limit thereby precluding any requirement to undertake any additional selection process among eligible projects.

### b) Can the current SREC market accommodate additional capacity?

The current market is open to all other market segments who are free to seek Board approval without regard to how their proposed projects will impact the current SREC market. Current SRP approvals carry the following disclaimer language:

*"Pursuant to the Clean Energy Act of 2018 (P.L. 2018, c. 17), the Board of Public Utilities must close the SRP to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State from solar electric power generators connected to the distribution system. Once that milestone is met, only projects that have commenced commercial operations prior to the market's achievement of this milestone will be eligible for Solar Renewable Energy Certificates (SRECs). Projects that do not commence commercial operations prior to the market's achievement of this milestone may not be eligible for SRECs. The Board is monitoring the progress of the market toward achieving this milestone and will determine when it has been achieved.*

*The Clean Energy Act also requires the Board to shorten the Qualification Life for*

eligible solar projects to ten years. The Board implemented this requirement via Board Order on October 29, 2018. Since the SRP registration package for this project was deemed complete after October 29, 2018, if permission to operate (PTO) is granted prior to the Board's determination that the 5.1 percent milestone has been achieved, then the project will be found eligible for SRECs with a ten-year qualification life."

This language offers no mention whatsoever as to the ability of the SREC market to accommodate additional capacity. We do not understand how this question would apply only to the remaining subsection (r.) applicants who have continued to meet all of the requirements of the Board and PJM to maintain their eligibility over this protracted suspension period.

As is well known by the Board there is currently about 660 MWs of pipeline SRP approved capacity in the queue pending construction, PTO, and commercial operation. The projects remaining eligible for inclusion in the subsection (r.) amount to less than 50 MWs. Therefore, the inclusion of these energy year 2018 projects would represent an increase of 7.5% in pipeline capacity and 1.5% increase in all SRECs.

## 2) Individual System SREC Eligibility:

The Solar Act limited the project size of applications approved pursuant to Subsection q to 10 MW DC. During EY17, some developers submitted EOIs for facilities as large as 29 MWDC. One applicant submitted EOIs for two projects which sum to 24 MWDC if facilities on adjacent properties are considered one project.

a) If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?

As has been discussed, there exists less than 50MWs of projects that remain in the PJM queue and have responded to the Board's request to file an expression of continuing interest. At no time during this period of pendency while continuing investments were required to maintain eligibility in the current PJM queue, did the Board raise the issue of project size as even a potential criterion for subsection (r.) qualification.

Clearly, the Board can open these areas of issue for debate for the energy year 2020 program upon accepting new subsection (r.) program applications, however, it would be inappropriate to now change the rules retroactively for these limited projects that have continued to in good faith meet all of the requirements during the application suspension period, with the expectation that the current program would be reopened.

b) If the Board were to make capacity available for Subsection r projects in EY20, should individual project SREC eligibility approval be based solely on a project's proposed capacity if all other criteria have been met?

The 2014 report on Mitigating Solar Development Volatility presented by the Board to the Legislature found that projects greater than 2 megawatts contributed most

significantly to solar market volatility. Based on this finding, if projects in aggregate seek more capacity than the Board has determined the market can bear, Staff proposes that individual projects, if compliant with all other criteria, be rank ordered by size with the smallest projects approved first until all capacity is allocated. No projects proposed to share an inter-connection point or property boundary with a Subsection q project should be approved for SREC eligibility via Subsection r.

This area of concern can be addressed in a subsequent stakeholder process that can precede the opening of a new energy year 2020 application process that would be populated with new projects entering the PJM queue process. Projects remaining eligible for 2019 SRP approval should not be subject to new requirements that were never even mentioned during the extended suspension period.

c) Should SREC approval to Subsection r applicants be conditioned upon a project commencing commercial operations prior to the State's attainment of 5.1% of retail sales from solar electric generation facilities?

Subsection (r.) approval for those 2019 energy year eligible projects should be held to the same standards as set forth in the Board's recent disclosure language as all other projects pending at the time of SRP approval.

d) How should projects be treated which commence commercial operations after the State's attainment of 5.1% of retail sales from solar electric generation facilities?

The Board has an obligation to put forth the financial elements of a transition program that will allow projects to obtain financing. In the absence of that information there will likely be no project financing available to continue to support a solar program in New Jersey.

3) Other factors: N.J.A.C. 14:8-2.4(g)(1)1 to -17 sets forth the minimum requirements for an application under Subsection r. The rule describes 16 categories of information and allows Staff to request additional information. Staff seeks stakeholder comment on the following:

a) The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company ("EDC") demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection r approval?

To clear the PJM interconnection queue, resulting in a Small Generator Interconnection Agreement or Interconnection Services Agreement, the LDC will have completed a study determining any adverse impact on the distribution system. The project is required to pay for new system upgrades necessary to mitigate such impact should any be discovered.

Each of the four remaining eligible subsection (r.) projects has been through the interconnection study process, thus satisfying the above requirement.

Clearly, the EDC has the opportunity in this process to vet all relevant interconnection issues.

b) In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?

All projects are subject to forfeiture of the required escrow payment if they do not meet the required date of commercial operation.

c) Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation in the State? What should this additional documentation be?

No.

NJSEC is pleased that the Board has convened this stakeholder process to address these important issues. Clearly, fair treatment in resolving the issues for those remaining eligible in the PJM queue for resolution in energy year 2019 will result in increased investor and industry confidence in the process.

Respectfully submitted,

A handwritten signature in black ink that reads "Fred DeSanti". The signature is written in a cursive, slightly slanted style.

Fred DeSanti  
Executive Director, New Jersey Solar Energy Coalition



February 22, 2019

Office of Clean Energy  
New Jersey Board of Public Utilities  
44 S. Clinton Avenue  
Trenton, NJ 08625

**Re: Conti Solar, LLC  
Response to Request for Comments  
Subsection (r) Capacity and Other Factors for  
Consideration in Energy Year 2020 - Issued February 11, 2019 (the "Proposal")**

Dear Sir/Madam:

Conti Solar, LLC ("Conti") is pleased to submit comments regarding the above-referenced Proposal to the New Jersey Board of Public Utilities ("NJBP" or the "Board"). Conti appreciates the Board's recent actions to resume the Subsection (r) approval process and encourages the Board to quickly begin accepting applications and issuing approvals for legacy Subsection (r) projects. As the NJBP Staff is aware, Conti is the developer of a 20 MW ground mounted solar project known as the Ben Moreell Solar Farm to be installed on underutilized land at the Naval Weapons Station Earle located in Monmouth County, New Jersey (the "Project"). Conti, headquartered in Edison, NJ, is part of a family of companies that have been a bedrock business in New Jersey for over 113 years and has been a perennial contributor to New Jersey's renewable energy program, with over 150MW of solar projects installed in the state since 2006. As outlined in more detailed below, this Project is "shovel ready," and has been for several months.

Conti wishes to emphasize that as an early participant in the Subsection (r) process, it has invested significant time and money developing the Project since 2015 based on guidance from the NJBP that it would open up SREC approval for Subsection (r) projects. Unfortunately, after initial progress was made in 2016 and 2017 to establish an approval process for Subsection (r) projects, the process was put on hold for nearly a year and a half. Conti has continued investing in the Project throughout the delays and requires immediate action by the Board to accept the Project's application for SRECs and approve the Project for SRECs under the established Subsection (r) approval procedure pursuant to N.J.A.C. 14:8-2.4. Continued delays in SREC approval jeopardize this Project that is not only important for New Jersey, but also to the United States Navy.

Before providing responses to NJBP's questions, Conti believes it is necessary to outline the significant steps Conti has taken to ensure the Project is "shovel ready" which justify Conti's request for immediate SREC approval.

## **Project Description – Ben Moreell Solar Farm**

Conti has been developing the Ben Moreell Solar Farm since 2015 after it entered into a lease arrangement with the Department of the Navy to install solar panels on underutilized land at Naval Weapons Station Earle. This project is of critical importance to the Navy; it is part of the Navy's Resilient Energy Program Office initiative to install renewable and sustainable energy on and off military bases to ensure energy resiliency for all its missions. The Project has been given a high profile and is an extension of the Department of Defense's clean energy initiative.

Since 2015, Conti has invested significant, at-risk capital to advance the development of the Project based upon public guidance from the NJBPU and revised state legislation indicating that a Subsection (r) approval process would be established in a timely manner. As outlined in the Regulatory Background section of the Proposal, the Subsection (r) rules and process began in 2016 with both rules and a request for Expressions of Interest ("EOIs") from developers. Conti was an early participant in the Subsection (r) process and timely filed an EOI for the Project. As identified in the attachment to the Proposal, only 19 of the 200 EOIs submitted were deemed complete. Conti's Project was one of those 19 complete EOIs. However, in September of 2017, after 15 months of progress, the entire Subsection (r) process was put on hold. At that time, Conti was given every indication that the process would recommence in a timely manner such that the Project would become eligible for the current SREC program.

Notwithstanding the delays at the NJBPU, Conti did not sit on its hands. Rather, Conti continued advancing the Project through all required interconnection and permitting processes. With respect to interconnection, Conti has completed all grid studies and has executed an Interconnection Services Agreement ("ISA") with PJM Interconnection Inc. ("PJM") and First Energy. The Project has entered the "engineering and procurement" stage of the interconnection process, and Conti, in conjunction with PJM and First Energy, has established an interconnection date of December 13<sup>th</sup>, 2019 for the Project. Conti, First Energy, and PJM have invested significant time and money to date and cannot afford for this interconnection date to slip.

With respect to permitting, Conti conducted extensive environmental studies and, pursuant to the National Environmental Policy Act, obtained a completed Environmental Assessment and Findings of No Significant Impact ("EA/FONSI") from the Navy. Conti also worked with the New Jersey Department of Environmental Protection ("NJDEP") and Freehold Soil Conservation District to secure necessary authorizations and approvals to proceed with the project. There are no other permits and approvals required for this project, and it is currently "shovel ready".

The EA/FONSI does, however, impose an environmental time-of-year restriction on site preparation. The original date of the time-of-year restrictions was March 15<sup>th</sup>. Conti recently discussed the NJBPU delays with the Navy, who agreed to extend the time-of-year restriction, but only until April 1<sup>st</sup>. As a result of this time of year restriction and Conti's lease agreement with the Navy, Conti must complete its site preparation by April 1<sup>st</sup>. In order to comply with this restriction, Conti must commence the site preparation activities on February 25<sup>th</sup>. If Conti does not complete the site preparation by April 1<sup>st</sup>, it cannot start the site work again until October 1<sup>st</sup>, 2019, which would cause the Project to miss its December interconnection date and almost guarantee that it would not be eligible for SRECs under the 5.1% cap, thereby missing the opportunity to qualify for the legacy SREC program and jeopardizing the success of the Project.

We recognize that the delays in implementing Subsection (r) pre-date this administration. We also recognize the Herculean task the Board has been given to provide a transition of the SREC program as required by the recently enacted amendments to the Solar Act of 2012 (the "Act"). However, The NJBPU delays combined with the time-of-year restrictions puts Conti at a critical juncture. The cost of site preparation is estimated to be \$3 million. Without SREC approval, any site preparation would have to be conducted with funds spent "at-risk". If Conti decides to fund the site preparation work at risk, and the NJBPU were to not approve SRECs prior to April 1<sup>st</sup>, then Conti would be left holding this \$3 million investment and will be unable to comment construction of the solar facilities until the Project is approved for SRECs. This could significantly delay the Project, particularly if NJBPU decides not to issue SRECs until EY2020 (discussed below). In contrast, if Conti attempts to delay the \$3 million investment beyond the April 1<sup>st</sup> deadline, the time-of-year restrictions would not allow Conti to begin site preparation until October, leading to the same result; a significantly delayed shovel-ready project.

Conti believes that the NJBPU can and must act immediately and urges the Board to immediately accept the Project's SREC application and approve the Project at the next Board Agenda Meeting on February 27<sup>th</sup>, 2019. The Project is a legacy Project under Subsection (r), fully complies with all requirements of the Act, and is shovel ready with an expected commercial operation date of December 13<sup>th</sup>, 2019. Furthermore, the Board already has an established procedure for accepting applications for Subsection (r) projects and approving them for SRECs pursuant to N.J.A.C. 14:8-2.4. Approving this Project for SRECs immediately will also allow the Board ensure an "orderly transition" out of the current SREC program, another requirement of the Act. If the Board were to not approve this Projects for SRECs immediately such that it could participate in the current SREC market, it clearly goes against the "orderly transition" requirement and doing so also sends a poor signal to the industry during this critical time of transition. Given Conti's significant investment in the Project based on clear guidance from the Board and state legislation, Conti believes that it should be treated fairly, equitably, and in accordance with the Act and be approved for SRECs now, in EY19, so that it can immediately finance the Project and begin solar construction to achieve commercial operation in 2019. This is the clearest path to success for the Project, which, by all measures, is perfect in-state contribution to New Jersey's ambitious and necessary renewable energy goals.

Without limiting the foregoing, Conti provides the following responses to the questions in the Proposal:

1) **Aggregate Subsection (r) Capacity:**

a) What maximum amount of aggregate capacity should the Board make available via Subsection (r) in EY20?

**Response:**

Conti believes that this question may be premature and ignores the immediate need of projects like Conti's which require SRECs now, as outlined above. Subsection (r) clearly establishes 50 megawatts as the upper limit of capacity (in megawatts dc) that the Board should designate as "connected to the distribution system" in Energy Year 2019, as discussed in N.J.A.C. 14:8-2.4. Subsection (r) states as follows:

*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*

*energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection.*

The Board should immediately accept applications from and grant SRECs to the legacy Subsection (r) projects that submitted valid EOIs and are shovel ready (meaning they have maintained a PJM queue position, have a signed ISA, and are ready to start construction). It is clear that any projects that submitted EOIs that do not have valid PJM queue positions are no longer in active development and would be years away from being shovel ready. Such projects should not be considered alongside valid projects, like Ben Moreell, that have continued advance through the delay.

Of the 19 valid Subsection (r) EOIs received by the Board, five of them remain in active development with valid PJM queue positions. Of these five, one is a 13MW project located on a brownfield site with a Subsection (t) application under review with the Board (Docket # Q016060509). The remaining four projects with valid PJM queue positions (Q016060505, Q016060507, Q016060508, and Q016060523), one of which is Conti's project (Q016060523), comprise 46MW of capacity.

The Board should immediately accept applications from Q016060505, Q016060507, Q016060508, and Q016060523 and approve them for SRECs under Subsection (r) at the next Board meeting on February 27<sup>th</sup>, 2019. The Board should also approve Q016060509 for SRECs under Subsection (t). These approvals will meet the requirements of the Act which establishes 50MW of Subsection (r) capacity in EY19 and also requires the Board to ensure a "transparent and orderly" transition out of the SREC program.

b) Can the current SREC market accommodate additional capacity? Please support your recommendations.

**Response:**

Yes, the market can accommodate additional capacity. The Act includes specific provisions that regulate the supply of SRECs to ensure a stable SREC market. Among these provisions includes a requirement to close the current SREC market when it reaches the 5.1% cap and a further requirement to establish a transparent and orderly transition process to ensure the market remains stable. Whether legacy SREC capacity is increased by the inclusion of Subsection (r) projects, Subsection (t) projects or behind-the-meter projects, the market will close once the 5.1% cap is reached and will transition to a new program. Given the small amount of capacity the Subsection (r) projects represent relative to the entire SREC market and the current pipeline, approving these Subsection (r) projects immediately will have no material impact on the SREC market. Finally, the Act specifically establishes 50MW of Subsection (r) capacity each in EY19 and EY20 – this Subsection (r) capacity has been expected by the broader New Jersey solar market and their eventual inclusion into the market has likely already been factored into current SREC pricing. Approval of 50MW of Subsection (r) projects in EY 2019 and another 50MW in EY 2020 is consistent with market expectations and will not negatively impact the current SREC market.

2) **Individual System SREC Eligibility:**

a) If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?

**Response:**

Without limiting our concerns that the question implies foreclosure of EY19 SRECs for Conti, the answer is no. Conti, along with the other developers of legacy Subsection (r) projects that still have valid PJM queue positions, continued to make investments in their projects to advance development and maintain eligibility throughout the delays in the Subsection (r) process. Nowhere in the Act and at no point during the nearly 3 year Subsection (r) process did the Board ever suggest that project size would be a criterion for qualification until now. Including size as a criterion at this late stage is unnecessary given the small capacity of remaining legacy Subsection (r) projects and simply unfair to developers of legacy Subsection (r) projects who have relied on Board guidance throughout the Subsection (r) process to inform investment decisions in their projects.

If the Board is interested in opening the issue of project size as part of an EY20 program, such a restriction must be limited to new projects. However, the Board should make it clear that such a restriction does not apply to legacy Subsection (r) projects that had submitted prior EOs and that have maintained a valid PJM queue position. Projects such as these should be approved now utilizing the EY19 allocation of MWs.

b) If the Board were to make capacity available for Subsection (r) projects in EY20, should individual project SREC eligibility approval be based solely on a project's proposed capacity if all other criteria have been met?

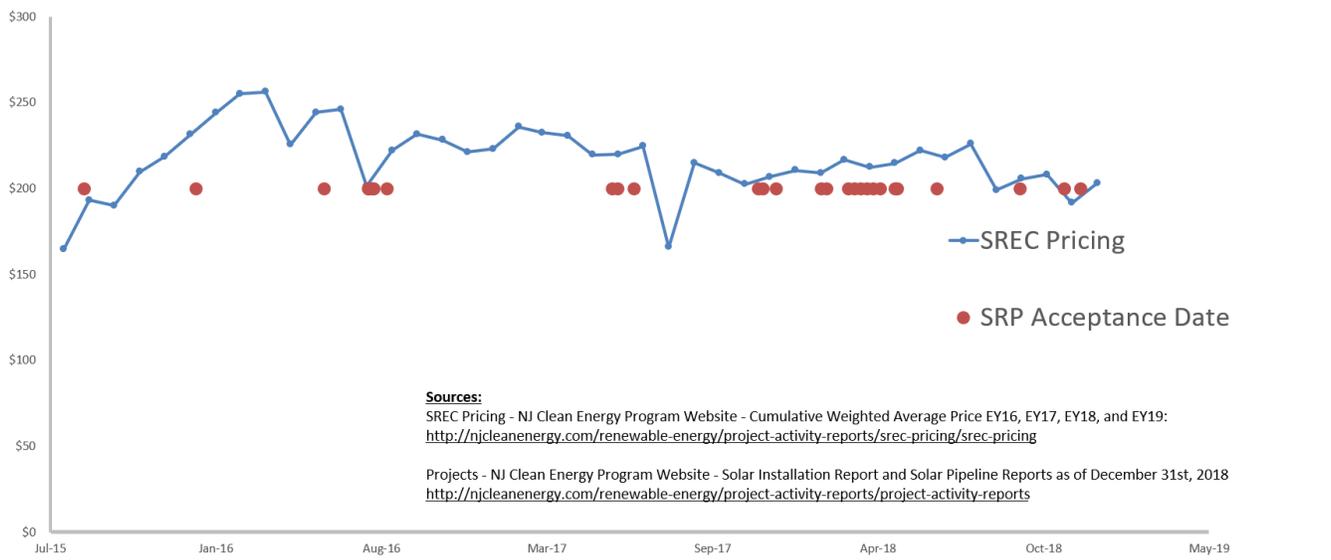
**Response:**

Conti strongly believes that the referenced volatility report is both out-of-date and also largely not applicable to the current market situation. Written over 5 years ago, the report focused mainly on the solar market dynamics prior to enactment of the Act. Prior to the Act, grid-supply capacity was uncapped, which caused the market to be flooded with grid supply projects and caused SREC prices to fall drastically. This dynamic no longer exists in New Jersey given the highly regulated nature of grid-supply projects. In fact, the findings of the report definitively state that "future limits on grid supply solar projects [as established in the Solar Act of 2012] will likely mitigate future market development volatility." By establishing clear caps on the total number of MWs that will be approved under Subsection (r), the NJBPU has eliminated any cause for concern related to significant volatility or oversupply.

The empirical evidence supports these conclusions. Over the past 4 years, SREC pricing has remained stable when even the largest projects have come online. As clearly demonstrated in the chart below, from January 2015 to December 2018, 28 grid supply projects over 5MW have been approved for SRECs representing capacity additions of over 280MW. Individual grid supply projects as large as 17MW and 20MW as well as individual behind the meter projects as large as 23MW and 13MW have been approved for SRECs since the enactment of the Act, and none these have had any noticeable impact on volatility or SREC pricing. It is also important to note that no individual size restriction exists for behind the meter projects nor Subsection (t) projects – in fact, the largest 4 projects ever approved

for SRECs were all either behind the meter or Subsection (t) projects. Implementing an arbitrary individual system size cap or prioritizing smaller projects over larger projects for Subsection (r) will have no impact with respect to market volatility, as evidenced by the very large behind the meter and Subsection (t) approvals. Such size restrictions or preference are also inconsistent with all previous Board guidance with respect to Subsection (r).

### SREC Pricing EY16 - EY19 vs SRP Acceptance Date of Solar Projects > 5MW



Although Conti believes that the empirical evidence is conclusive, to the extent there continues to be a concern by the Board, this concern can be addressed in a subsequent stakeholder process that can precede the opening of a new application process for EY20 for non-legacy projects. Legacy Subsection (r) projects, such as Conti’s Ben Moreell Project should be approved immediately for SRECs under EY19 in accordance with the Act without any restrictions or preference related to individual system size.

c) Should SREC approval to Subsection (r) applicants be conditioned upon a project commencing commercial operations prior to the State’s attainment of 5.1% of retail sales from solar electric generation facilities?

**Response:**

Conti believes that as long as a project commences construction within 60 days of SREC approval and achieves commercial operation within one year of approval, such project should be guaranteed a position in the legacy SREC program. Despite the delays discussed herein, Conti has invested to advance its Project in good faith based on Board guidance, and the Project therefore deserves a spot

in the legacy program assuming it can commence construction and attain commercial operation quickly. Not providing a guaranteed spot for the Project in the legacy SREC program will allow other, less mature projects to potentially “cut the line” and obtain SRECs before the legacy projects. This dynamic would be unfair and would go against the Act’s requirement of establishing an “orderly and transparent” transition.

d) How should projects be treated which commence commercial operations after the State’s attainment of 5.1% of retail sales from solar electric generation facilities?

**Response:**

As stated previously, we recommend that the Project be guaranteed a spot in the legacy SREC program provided that it commences construction immediately upon approval of SRECs and achieves commercial operation within one year of SREC approval. Should the Project not commence construction within 60 days of SREC approval or achieve commercial operation within one year of SREC approval, the Project should be eligible for the transition program which the Board will be establishing through its ongoing SREC transition process.

3) **Other factors:** N.J.A.C. 14:8-2.4(g)(1)1 to -17 sets forth the minimum requirements for an application under Subsection (r). The rule describes 16 categories of information and allows Staff to request additional information. Staff seeks stakeholder comment on the following:

a) The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company (“EDC”) demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection (r) approval?

**Response:**

Conti believes that projects should also be required to have an executed Interconnection Services Agreement, which would demonstrate the EDC’s commitment to a project. Such an agreement clearly indicates that the EDC has fully evaluated the project, confirmed that it will have no adverse impact on the EDC distribution system, and that the project owner has done all that is necessary to construct a viable project.

b) In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?

**Response:**

In addition to an executed ISA, project owners should have clear land rights, such as an executed lease, and all necessary critical path permits necessary for construction.

c) Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation in the State? What should this additional documentation be?

**Response:**

Conti believes there is sufficient documentation required in the existing Subsection (r) application process pursuant to N.J.A.C. 14:8-2.4 and does not believe any additional evidence is required.

**Conclusion**

Conti appreciates NJBPU's efforts towards resuming the process for Subsection (r) projects for EY20, and we urge the Board to act immediately pursuant to the Act and approve the legacy Subsection (r) projects for SRECs under EY19. The Board should immediately begin accepting applications for legacy Subsection (r) projects pursuant to 14:8-2.4 in an expedited manner enabling the Board to take action and approve such projects for SRECs at the Board meeting on February 27<sup>th</sup>. Doing so ensures the intent of the Act is being followed with respect to capacity allocation under Subsection (r) and ensures a transparent and orderly transition out of the current SREC program. It will also enable quality and shovel-ready in-state projects such as the Ben Moreell Solar project to succeed and contribute to New Jersey's leadership role in our country's path towards a renewable and carbon-free future.

Very truly yours,



Eric K. Millard

Chief Commercial Officer  
Conti Solar, LLC

CC:

Frank Giantomasi, CSG Law  
John Valeri – CSG Law

**Lakehurst Solar, LLC**  
20 Park Plaza, Suite 320  
Boston, MA 02116

February 22, 2019

New Jersey Board of Public Utilities  
44 South Clinton Avenue, 7th Floor  
P.O. Box 350  
Trenton, NJ 08625-0350  
OCE@bpu.nj.gov  
Attn: Division of Economic Development

**Re: EY20 SUBSECTION (R) COMMENTS**

**Introduction**

Lakehurst Solar, LLC (the “Company”) hereby responds to the Request for Comments issued by the Board of Public Utilities (“BPU”) on February 11, 2019. The Company has spent years, in conjunction with the United States Air Force, developing an approximately 13.8 MW (DC) solar photovoltaic array to be located on a vacant and underutilized site (the “Site”) at the US Naval Air Station Lakehurst at Joint Base McGuire-Dix-Lakehurst (the “Base”). The facility will provide on-base generation in fulfillment of the Department of Defense’s mandates for renewable power generation, energy resilience, and efficient use of underutilized federal facilities, as well New Jersey’s policy objective to promote solar development on brownfields. The Project (i) is fully permitted; (ii) is “shovel ready,” (iii) has a valid PJM queue position, (iv) has a valid PJM Interconnection Services Agreement; and (v) has a valid PJM Construction Services Agreement. This mature project needs only affirmative action by the BPU on either of the Company’s two long-pending and alternative submissions to the BPU made under Subsection (r) and Subsection (t) in order to commence construction. The BPU should approve the Lakehurst Project (under either Subsection) in conjunction with, or prior to, making any other awards under Subsection (r).

On June 7, 2016, the Company submitted its Expression of Interest to the BPU under Subsection (r) in response to the BPU’s May 2016 and February 2017 Orders and is listed as

“Complete EOI List No. 5” on the Attachment to the BPU’s Request for Comments. On June 12, 2018, the Company made an alternative submittal to the BPU under Subsection (t) as located on a “brownfield” that is currently underutilized, on which there has been a discharge of contaminants, and which was formerly utilized by private businesses as an industrial site for the development and testing of chemical weapons (see NJSA 58:10B-1 and 48:3-51). Affirmative action by BPU on either pending submittal would allow the Project to proceed immediately, and the BPU should approve the Lakehurst Project (under either Subsection) in conjunction with, or prior to, making any other awards under Subsection (r).

#### **QUESTION 1 (A)**

##### **What maximum amount of aggregate capacity should the Board make available via Subsection r in EY 20?**

Consistent with the directives of the Legislature, the BPU should make available 100 MW of capacity under Subsection (r) in the combined energy years (“EYs”) of 2019 and 2020, preferably 50 MW in EY 2019 and 50 MW in EY 2020. The Clean Energy Act of 2018 (the “2018 Act”) specified, after extensive legislative consideration, that 50 MW per each such year and 100 MW in the two-year aggregate are the appropriate volumes to be allowed into the New Jersey market under Subsection (r). Moreover, approving 50 MW within the current energy year 2019 and 50 MW in the following energy year 2020 would spread those allowances over time to mitigate any concerns of potential adverse market impact.

#### **QUESTION 1(B)**

##### **Can the current SREC market accommodate additional capacity?**

As indicated above, in the 2018 Act the Legislature, after due consideration, has made the policy determination that 50 MW per year, and 100 MW in the two-year aggregate, are the appropriate Subsection (r) volumes to add to the New Jersey solar market for EY 2019 and 2020. Further, the Legislature did not set such amounts in isolation; the 2018 Act simultaneously also enacted substantial increases in the required volumes of solar energy for those same energy years (i.e., increase to 4.3% in EY 2019 (a 30% increase), to 4.9% in EY 2020 (a 44% increase) and to 5.1% in EY 2021 (a 46% increase). These major increases in demand (i) were enacted in conjunction with the 100 MW of Subsection (r) supply for the very same years, and (ii) make over-supply by EY 2021 a further unlikely proposition that does not justify imposing additional Subsection (r) limitations. Indeed, in order to meet those increased annual requirements, the 100 MW volume under Subsection (r) may need to be supplemented by certifications under Subsection (t) which, by design, is not subject to any volumetric limitations.

## QUESTION 2

### **Should there be a maximum size under Subsection (r)? What should the maximum size be?**

There should be no maximum size under Subsection (r). Where the Legislature found that a size limit is appropriate, it so specified. Subsection (q) in this regard provides that “The capacity of any one solar electric power supply project approved pursuant to this subsection [q] shall not exceed 10 megawatts.” In deliberate contrast, the Legislature saw fit not to impose any such size limitation under Subsection (r), and the BPU should defer to the judgment of the Legislature on the policy reflected in the statutory distinction between Subsection (r) and Subsection (q).

### **Should Subsection r project approval be based solely on a project’s proposed capacity if all other criteria have been met?**

Project size should not be the criteria for approval or for priority of applications under Subsection (r). As noted above, the Legislature made the deliberate policy decision to not impose size as a criterion under Subsection (r) as it did under Subsection (q) and the BPU should respect that judgment and legislative distinction. Further, the concern over possible adverse impacts to market price stability has already been anticipated and mitigated by the Legislature by imposing specific limits in the 2018 Act on annual market entry under Subsection (r), with such limitations determined in conjunction with concurrent increases in the solar purchases required for the very same energy years.

In any event, imposing additional out-of-market preferences for the smallest projects would provide no incremental market benefit; the potential market impact of adding 50 MW per year would be the same regardless of whether it was done with fifty 1-MW projects, five 10-MW projects or ten 5-MW projects. In each case, the market would assume the identical amount of incremental supply and would do so in the amount that the Legislature found to be appropriate under Subsection (r). The only real-world impact would be the likely increases in cost to ratepayers due to the increased unit costs typically associated with smaller projects that are unable to achieve the efficiencies and economies of scale.

Rather than size, the more appropriate criterion for priority under Subsection (r) should be project maturity and credibility. Indeed, the 2014 report of the BPU to the New Jersey Legislature entitled Mitigating Solar Development Volatility,<sup>1</sup> in context of evaluating forward-looking solar market design, identified “speculative bidding” and the high project failure rates of immature projects as major contributors to market instability, which may result in under-supply, as follows:

---

<sup>1</sup> <http://njcleanenergy.com/files/file/Solar%20Act/Solar%20Act%20letter%20and%20SDV%20report.pdf>

Speculative Bidding and Lower-than-expected Market Development: Based on industry experience with similar programs, contract failure rates for auction-based incentive programs may be high, particularly if appropriate bid requirements are not established to limit speculative bidding. Without appropriate auction entry barriers, developers may enter bids at prices that are too low to support project development in an effort to win a contract with the hope that project economics improve after the contract is awarded. This can lead to high contract failure rates and less-than-expected market capacity additions. Establishing stricter requirements to market entry can solve this issue, however, if not appropriately calibrated, these market entry barriers may prevent less-established developers from participating in the market and reduce competition. Significant speculative bidding is also a concern as it has the potential to drive legitimate developers out of the market if they perceive that they are unable to win incentive contracts if solicitations are dominated by speculative bidders. Similarly, speculative queuing under a capacity limited standard offer system could be problematic and lead to underachievement of capacity targets.

Id. at 65 (emphasis added). As such, project maturity should be foremost among the BPU's criteria in allocating Subsection (r) capacity. The Report further notes similar stakeholder concerns that uncertainties regarding early-stage projects distort stable markets: "Stakeholders also indicate that there are still improvements that can be made to the available data. The disclosed pipeline data includes early-stage projects, many of which drop-out of the development process." Id. at 24.

Other industry stakeholders also indicated that presuming the success of immature projects undermines market stability. The April 2013 presentation of the NJ Solar Grid Supply Association entitled Mitigating Solar Development Volatility: Analysis of the NJ Solar Project Pipeline<sup>2</sup> noted how the uncertainty associated with incomplete projects enhances market volatility, as follows:

Pipeline forecasts should provide increased transparency to industry stakeholders so they can make informed decisions • The current published pipeline is an unrealistic indicator of the future → It overestimates the pipeline, depresses SREC pricing, and harms all stakeholders in the solar program • A more relevant pipeline forecast will help to stabilize the market for the long term for all market

---

<sup>2</sup> [http://www.njcleanenergy.com/files/file/Renewable\\_Programs/SolarAct/4-%20NJSGSA%20Volatility%20from%20Grid%20Sector%20Analysis.pdf](http://www.njcleanenergy.com/files/file/Renewable_Programs/SolarAct/4-%20NJSGSA%20Volatility%20from%20Grid%20Sector%20Analysis.pdf)

participants, and reduce the volatility cost of financing by better predicting future SREC supply.

Id. at 10 (emphasis added).

In the current situation, priority under Subsection (r) should thus be based upon project maturity and the credibility of achieving commercial operation within two years or less. The initial maturity criterion should be the existence of a still-valid PJM queue position. Any project without a valid queue position remains speculative at best (if not abandoned) and is unlikely to be on-line within the two-year period indicated by the BPU, or in time to meet the increased EY purchase volumes required under the 2018 Act. In this case, the Attachment to the BPU's Request for Comments indicates PJM Queue reference numbers for each of the listed 19 EOIs, but reference to the PJM website indicates that 13 of the 19 of queue positions have been "withdrawn."<sup>3</sup> Indeed, the PJM website indicates that the only listed projects not yet in service with still-valid queue positions are the five EOIs listed as numbers 1, 3 ,4, 5 and 6.

As an initial screening process, priority under Subsection (r) should thus be afforded to those indicated 5 projects, which total 59.26 MWs. All such projects could be approved in their entirety under Subsection (r) in the combined EYs 2019 and 2020. Alternatively, the BPU could: (i) certify the Lakehurst Project's 13.075 MW under its pending Subsection (t) submittal and thereby leave sufficient Subsection (r) allowances to approve the remaining 46.185 MWs of the other four projects in EY 2019; (ii) approve all five of such projects under Subsection (r) in EY 2019 by effecting a pro-rata reduction of their aggregate 59.28 MWs down to 50 MW, with the balance to be approved in EY 2020; or (iii) apply the additional screens discussed in Question 3 to further limit proposed projects on the basis of maturity, likelihood of timely completion, or consistency with and support of other important State policies, such as support for installations at military bases in general and Joint Base McGuire-Dix-Lakehurst in particular.

### QUESTION 3

**What additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?**

**PJM Interconnection Service Agreements.** In addition to a still-valid PJM queue position, further maturity screens could be applied if pending projects still exceed regulatory approval quantities. The first additional criterion should be whether the proposed project has in place a still-valid PJM Interconnection Services Agreement ("ISA"). The study and negotiation process required for an ISA is not only a time-consuming process, but in many cases will yield

---

<sup>3</sup> <https://www.pjm.com/planning/services-requests/interconnection-queues.aspx>

results and transmission upgrade requirements that make a proposed project financially infeasible. The NJ Solar Grid Supply Association report cited above described the realistic timeline of the PJM process to obtaining an ISA as follows: “[G]rid project development is expensive, complicated and time consuming ◊ with a low success rate • PJM process alone takes 18 months (assuming no delays) from queue entry until ISA is tendered....” Any project without an ISA should thus be regarded as relatively early-stage and questionable in its ability to be commercial within the indicated two-year window. Reference to the PJM website indicates that only the same five of the not yet in-service projects (listed as numbers 1, 3, 4, 5 and 6) have both a still-valid PJM queue position and an ISA in effect. <sup>4</sup>

**Projects That Support Other Important Federal and State Policies.** An additional and perhaps most critical measure for affording priority is contribution towards other important Federal and State policies. There is a clear Federal policy to identify underutilized portions of military facilities for utilization by private parties for projects such as Lakehurst Solar. The Federal government has confirmed that the Lakehurst Project site is currently underutilized and was formerly used by private businesses for industrial chemical weapons development and on which there has been an actual or suspected discharge, and New Jersey recognizes that new usages and investment at such sites are a high policy priority to both the Nation and the State:

A brownfield is defined under NJ state law (N.J.S.A. 58:10B-23.d) as "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant." It is a local, state and national priority to put these sites back into productive reuse. Facilitating successful real estate investment projects on brownfield sites is critical to improving the environment and economy of New Jersey.

<https://www.nj.gov/dep/srp/brownfields/> (emphasis added). More specifically, the BPU has articulated the special importance of energy-related projects for military bases, including the Joint Base, which it recognizes as critical to both National and State interests, with the BPU confirming the established state policy of “support for the Joint Base in general and for renewable energy generation in particular”:

[T]he Board notes that the proposed project would support important federal policies relating to energy resiliency and lowering energy costs for the Department of Defense. Moreover, the Joint Base is under constant review for force or mission reduction and base closure; however, the State of New Jersey has recognized that the Joint Base and the associated public and private on-base activities provide an economic benefit to the State. State policy therefore calls for supporting actions and opportunities that will help maintain the Joint Base and make it more economically viable. In furtherance of this policy, the State supports renewable energy projects at the Joint Base which will supply clean power, power at reduced pricing, and

---

<sup>4</sup> <https://www.pjm.com/planning/services-requests/interconnection-queues.aspx>

resilient power generation sources. The Board recognizes the State policy supporting federal military installation(s) within this State.

...

As discussed above, Phase I would support important federal policies relating to energy resiliency; would lower energy costs for the Joint Base; and would support the U.S. Military's efforts to further national energy security. In addition, the Board is aware of the potential for reduction or closure of the Joint Base and that State policy calls for support for the Joint Base in general and for renewable energy generation in particular. The confluence of all these factors renders the circumstances of the proposed solar facility distinctive.

BPU Order (1/25/17) Docket No. 0016040382, In the Matter of the Application of NJ Land LLC, at pp.819 (citations omitted, emphasis added).

Each of those important Federal and State policy objectives recognized by the BPU is equally applicable in support of the pending submittals of the Lakehurst Project, which also satisfies all of the foregoing priority criteria as a mature project that (i) is fully permitted; (ii) is “shovel ready,” (iii) has a valid PJM queue position, (iv) has a valid PJM Interconnection Services Agreement; and (v) has a valid PJM Construction Services Agreement.

Affirmative action by BPU on either of the Company’s pending SREC qualification submittals would allow the Project to proceed immediately and, consistent with the foregoing criteria and State and Federal public policies, the BPU should approve the Lakehurst Project (under either Subsection (r) or (t)) in conjunction with, or prior to, making any other awards under Subsection (r).

Lakehurst Solar appreciates the opportunity to provide these comments. Please direct any questions to Jamie Fordyce (by email at [jfordyce@eastlightpartners.com](mailto:jfordyce@eastlightpartners.com) or by phone at 415-948-4288).

**ROCKLAND ELECTRIC COMPANY  
RESPONSE TO  
REQUEST FOR COMMENTS  
SUBSECTION R CAPACITY AND OTHER  
FACTORS FOR CONSIDERATION IN  
ENERGY YEAR**

February 22, 2019

## INTRODUCTION

Rockland Electric Company (“RECO” or the “Company”) submits this letter in response to the New Jersey Board of Public Utilities (“Board”) Staff’s request for comments regarding Subsection r Capacity and Other Factors for Consideration in Energy Year 2020, issued February 11, 2019 (“Request”). As an initial matter, RECO would note its support of New Jersey’s clean energy goals. The Company appreciates the opportunity to submit comments in response to the Request. RECO files these comments in the context of the Clean Energy Act of 2018 (“Clean Energy Act”) which furthers the Governor’s goal that 50 percent of kilowatt hours sold in New Jersey by 2030 be from Class I renewable energy sources. Solar, as a Class I renewable energy source, will play a critical role in achieving this goal. This statewide goal, however, must be achieved while minimizing the impact on customer’s bills, particularly those of low-income customers, as well as energy intensive commercial and industrial customers.

New Jersey is a leader in supporting the development of solar. However, in recent years the prices of solar renewable energy certificates (“SRECs”) have been excessive, particularly for a solar market that is mature and experiencing declining costs. This has resulted in projects receiving compensation well beyond what is needed to support the solar market in New Jersey. Electric distribution company customers have directly borne the burden of this support.

Against this backdrop, the Company offers the following recommendations and responses to the Questions set forth in the Request.

## RESPONSES TO QUESTIONS

### 1. Aggregate Subsection r capacity:

- a. What maximum amount of aggregate capacity should the Board make available via Subsection r in EY 20?

**Response:** The Company recommends that the Board prioritize meeting the State’s increasing Renewable Portfolio Standards (“RPS”) goals and complying with the requirements of the Clean Energy Act when determining the amount of capacity to be made available under Subsection r. Specifically, the aggregate capacity of solar projects that qualify under Subsection r should help the State reach its RPS solar goals. Solar projects of all types and sizes can be part of the mix of solar installations that achieve the RPS goals in support of the Clean Energy Act’s requirement that, by 2030, 50 percent of the electricity sold in New Jersey be from Class I renewable resources. The total capacity available for any type or size of solar project must be capped by the Clean Energy Act’s mandate that the cost to customers of Class I renewable energy shall not exceed nine percent of statewide sales in Energy Year (“EY”) 2019 through EY 2022, and seven percent, in the EYs after 2022. The fact that a project qualifies as a grid supply project should not exclude the SRECs it generates from that cost cap.

- b. Can the current SREC market accommodate additional capacity?

**Response:** The current SREC program will close upon the later of (1) the attainment of 5.1 percent of the kilowatt-hours sold in the State be from solar projects, or (2) June 1, 2021. The transition to a Successor program is being evaluated currently by the Board and is the subject of a separate Staff request for comments regarding a New Jersey Solar Transition Staff Straw Proposal (“Staff Straw Proposal”). Once the Board adopts a method for calculating when the 5.1% cap is reached, it will be able to determine whether there is a need for, and an ability to accommodate, additional capacity under Subsection r.

Going forward, Subsection r projects should be governed by the same rules that will be established and effective for all solar projects upon the closing of the current SREC program and the implementation of a Successor program. These projects must be included in the determination of the Clean Energy Act’s RPS goals and cost caps

## 2. Individual System SREC Eligibility

- a. If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?

**Response:** As long as the project meets the requirements discussed in the Company’s response to Question 3.a. below, it should qualify for interconnection.

- b. If the Board were to make capacity available for Subsection r projects in EY20, should individual project SREC eligibility approval be based solely on a project’s proposed capacity if all other criteria have been met?

**Response:** It is more equitable if individual project eligibility is based on the order in which projects requested approval, rather than the capacity of the project.

- c. Should SREC approval to Subsection r applicants be conditioned upon a project commencing commercial operations prior to the State’s attainment of 5.1 percent of retail sales from solar electric generation facilities?

**Response:** As the Company recommends in its comments filed in response to the Staff Straw Proposal,<sup>1</sup> any application that is filed prior to the closing of the current SREC program upon attainment of 5.1 percent of retail sales from solar electric generation facilities should be eligible to generate SRECs under the current SREC program. Any applications received after the current SREC program is closed should be part of any Successor program developed by the Board. The Company recommends that a Successor program provide that all Class I renewable energy resource projects that submit an application under a Successor program be eligible to generate Class I RECs only. Subsection r projects would be subject to these program rules in the same manner as non-Subsection r projects.

---

<sup>1</sup> RECO’s comments dated February 22, 2019, submitted in response to “Notice – New Jersey Solar Transition Staff Straw Proposal” dated December 26, 2018.

- d. How should projects be treated which commence commercial operations after the State's attainment of 5.1 percent of retail sales from solar electric generation facilities.

**Response:** Please see the Company's response to Question 2.c. above.

3. Other Factors:

- a. The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company ("EDC") demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection r approval?

**Response:** To evaluate the impact of a project on the EDC's distribution system, the information required by NJAC Section 14:8-5, and specifically Sections 14:8-5.4, 14:8-5.5, and 14:8-5.6, should be provided with the application under Subsection r. The Company recommends the following information be required to demonstrate that there is no adverse impact on the EDC's distribution system:

- Customer-Generator Facility Information for Level 1 (10kW and less); and
- Attachment A Information for Level 2 (>10kW-2MW) or Level 3 (>2MW).

In addition, demonstration that Distribution voltage interconnections are in accordance with 14:8-5.2 General Interconnection Provisions should be provided. Further, any information required by PJM for either sales into PJM markets or transmission voltage interconnections should be required.

- b. In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?

**Response:** Please see the Company's response to Question 3.a. above. In addition, Subsection q of the Solar Act requires that an applicant filing for approval of a designation that the grid supply project is connected to the distribution system, must include a notice escrow of \$40,000 per megawatt of the proposed facility. Similarly, the Clean Energy Act requires projects larger than 25 kilowatts to post an escrow of \$40 per kilowatt of the DC nameplate capacity of the facility, not to exceed \$40,000. (This amount is forfeited if the facility does not commence commercial operation within two years of the Board approved designation date.) An escrow should be required under subsection r in an amount similar to the subsection q requirements.

For any project selling into the PJM markets, which would include most Level 2 and 3 projects, PJM requires studies, the type and amount depending on the size of the individual project. The Board should require these studies be provided to demonstrate the reasonable

likelihood that a project might satisfy the requirement to commence commercial operations within two years, in addition to the information identified in the Company's response to Question 3.a.

- c. Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation in the State? What should this additional documentation be?

**Response:** The Company understands that the Department of Environmental Protection ("DEP") is developing a statewide map that will indicate where farmland and other protected areas are located. The Company defers to agencies, such as DEP, to propose adequate rules and safeguards.



February 22, 2019

New Jersey Board of Public Utilities  
Office of Clean Energy  
OCE@bpu.nj.gov

**Re: Request for Comments; Subsection (r.) Capacity and Other Factors for Consideration in Energy Year 2020; Issued February 11, 2019 (“Request for Comments”).**

Holocene Clean Energy is pleased that the board has chosen to seek public comment on subsection (r.) applications. This demonstrates a resolve to address an important and complex set of issues in a determined and businesslike manner.

We are submitting the following in response to the Request for Comments. Some comments are specific to Holocene Clean Energy. Others, which are presented in summary form, align with comments submitted by the New Jersey Solar Energy Coalition, to which we have contributed.

As a general matter, we agree that applications for subsection (r.) status for those four projects remaining eligible should be managed by reopening the application process for energy year 2019. All other projects have either been withdrawn from the PJM queue or approved under subsection (t.) and are therefore ineligible. The capacity of remaining eligible projects totals 46.2 MW DC, well within the 50MW amount under the new clean energy statute for energy year 2019.

Our company has continued to invest time and money with the hope and expectation that our efforts and those of others will not be disregarded. We hope that the Board will consider these circumstances and reopen the subsection (r.) application process to those remaining eligible for energy year 2019.

**Questions:**

1) Aggregate Subsection (r.) capacity:

a) What maximum amount of aggregate capacity should the Board make available via Subsection r in EY20?

The Board should seek to follow the statutory guidance of Chapter 17 Laws of 2018 which states:

***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 energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting***

applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection.

The law permits 50MW per year in each of energy year 2019 and energy year 2020. The Remaining eligible subsection (r.) projects should be given the opportunity to apply for SRECs under the 50 MW statutory limit for energy year 2019.

b) Can the current SREC market accommodate additional capacity?

It seems unfair that, of all types of projects, subsection (r.) stands alone in being considered for its impact the current SREC market.

As is well known by the Board, there is currently about 660 MWs of pipeline SRP approved capacity in the queue pending construction, PTO, and commercial operation. The projects remaining eligible for inclusion in the subsection (r.) amount to less than 50 MWs. Therefore, the inclusion of these energy year 2018 projects would represent an increase of 7.5% in pipeline capacity and 1.5% increase in all SRECs.

2) Individual System SREC Eligibility:

The Solar Act limited the project size of applications approved pursuant to Subsection q to 10 MW DC. During EY17, some developers submitted EOIs for facilities as large as 29 MWDC. One applicant submitted EOIs for two projects which sum to 24 MWDC if facilities on adjacent properties are considered one project.

a) If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?

Clearly, the Board can open these areas of issue for debate for the energy year 2020 program upon accepting new subsection (r.) program applications, however, it would be inappropriate to now change the rules retroactively for these limited projects that have continued to in good faith meet all of the requirements during the application suspension period, with the expectation that the current program would be reopened.

b) If the Board were to make capacity available for Subsection r projects in EY20, should individual project SREC eligibility approval be based solely on a project's proposed capacity if all other criteria have been met?

The 2014 report on Mitigating Solar Development Volatility presented by the Board to the Legislature found that projects greater than 2 megawatts contributed most significantly to solar market volatility. Based on this finding, if projects in aggregate seek more capacity than the Board has determined the market can bear, Staff proposes that individual projects, if compliant with all other criteria, be rank ordered by size with the smallest projects approved first until all capacity is allocated. No projects proposed to share an inter-connection point or property boundary with a Subsection q project should be approved for SREC eligibility via Subsection r.

It should be noted that the 2014 report reflected upon a far different market than today's, rendering the report's conclusions inapplicable to the current market, in which there is less capacity from large projects in comparison to smaller projects. The opposite was true up to 2014.

It is also important to reflect that subsection (r.) projects primarily would sell energy into the wholesale markets. By contrast, other projects employing net metering shift the high cost of such energy to ratepayers. On this basis, subsection (r.) projects, regardless of size, should be favored.

Any other concerns of project size can be addressed in a subsequent stakeholder process preceding the opening of a new energy year 2020 application process that would be populated with new projects entering the PJM queue process. Projects remaining eligible for 2019 SRP approval should not be subject to new requirements that were never even mentioned during the extended suspension period.

c) Should SREC approval to Subsection r applicants be conditioned upon a project commencing commercial operations prior to the State's attainment of 5.1% of retail sales from solar electric generation facilities?

It is only fair that the remaining subsection (r.) projects be allowed to apply for grid-tied status and, once achieved following the N.J.A.C. 14:8-2.4 rules, which contains timetables that can reach 127 days or more before an application is approved, be protected against that status being rescinded so long as milestones are met.

d) How should projects be treated which commence commercial operations after the State's attainment of 5.1% of retail sales from solar electric generation facilities?

The Board should consider that not one subsection (r.) project has been approved, and since the June 1, 2017 application window was suspended, other projects having 500 MW combined capacity have been approved, a figure more than ten times the capacity of projects currently eligible for subsection (r.) in energy year 2019. As stated above, to the extent those other projects utilized net metering, they were costlier to the New Jersey ratepayer than subsection (r.) projects. Further, It is difficult to grasp that 50 MW of projects, regardless of average size, could have more impact on the SREC market than 500 MW comprised of many types of projects.

As previously stated, it is fair that the remaining subsection (r.) projects be allowed to apply for grid-tied status and be protected against that status, if approved, being rescinded so long as a reasonable milestones are met.

The Board has an obligation to put forth the financial elements of a transition program that will allow projects to obtain financing. In the absence of that information there will likely be no project financing available to continue to support a solar program in New Jersey.

3) Other factors: N.J.A.C. 14:8-2.4(g)(1)1 to -17 sets forth the minimum requirements for an application under Subsection r. The rule describes 16 categories of information and allows Staff to request additional information. Staff seeks stakeholder comment on the following:

a) The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company (“EDC”) demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection r approval?

To clear the PJM interconnection queue, resulting in a Small Generator Interconnection Agreement or Interconnection Services Agreement, the EDC will have completed a study determining any adverse impact on the distribution system. The project is required to pay for new system upgrades necessary to mitigate such impact should any be identified by the EDC. If the costs render the project unfinanceable, it will not be completed. Each of the four remaining eligible subsection (r.) projects has been through the interconnection study process, thus satisfying the above requirement.

b) In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?

All projects are subject to forfeiture of the required escrow payment if they do not meet the required date of commercial operation.

c) Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation in the State? What should this additional documentation be?

No.

Holocene Clean Energy appreciates the board's determination to reach a fair conclusion to the subsection (r.) program status. We look forward to playing a role in helping New Jersey achieve its renewable energy goals.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stan Allison".

Stanford H. Allison  
Partner  
Holocene Clean Energy



February 22, 2019

New Jersey Board of Public Utilities  
Office of Clean Energy  
44 South Clinton Avenue  
Trenton, New Jersey 08625

***Re: Subsection R Capacity and Other Factors for Consideration in Energy Year 2020***

Mr. Hunter:

New Jersey Resources (NJR) appreciates the opportunity to offer comments in response to staff's request for stakeholder input on Subsection R capacity.

Through its subsidiary NJR Clean Energy Ventures, NJR has invested over \$725 million in solar in New Jersey and currently owns and operates 250 megawatts (MW) of projects in the state, including 145 MW of grid-connected solar.

State public policy supports the development of Subsection R grid projects. The Clean Energy Act provides development targets of 50 MW a year of Subsection R projects in energy years 2019 and 2020, with carryover "until 100 megawatts of auctioned capacity has been approved by the board."

Support of large-scale projects including community solar, remote net metered, landfill and Subsection R grid projects provides needed renewable energy capacity that will be critical in meeting the state's 50 percent by 2030 clean energy goals, while producing jobs and economic development in local communities. Additionally, with the impending sunset of the federal Investment Tax Credit, prompt BPU approval for Subsection R will allow these projects to commence construction before December 31, 2019 to capitalize on safe harbor provisions in accordance with Internal Revenue Service guidelines.

NJR recommends that any projects which remain active in PJM, and have filed for expression of interest with the BPU, be deemed as eligible. Of the project list provided by the BPU, we believe only a portion are still active in the PJM queue, and those should fall within the total MW cap specified within the Clean Energy Act.

Based on the solar projects already installed and what is approved in the pipeline, enough projects have been installed and approved to satisfy the 5.1 percent Renewable Portfolio Standard (RPS). Potentially, due to the longer lead time associated with a Subsection R project, these projects are unlikely to achieve permission to operate before the 5.1 percent target is achieved and the current SREC program closes.

In order to accommodate the installation of Subsection R projects, the Board should incorporate these Subsection R projects into the design of the pipeline program as defined in the BPU solar transition straw proposal, providing any adjustments to incentives as necessary to stimulate development of these projects.

The continued developed of large-scale solar projects in New Jersey is crucial to the state's clean energy goals and an important part of economic development. We encourage the approval of Subsection R projects and welcome the opportunity to discuss this further with the Board.

Sincerely,

A handwritten signature in black ink, appearing to be the initials 'LB'.

Lawrence Barth  
Director – Corporate Strategy

CC: Mark Valori, Vice President, NJR Clean Energy Ventures  
Chris Savastano, Managing Director – Development, NJR Clean Energy Ventures



## Mid-Atlantic Solar & Storage Industries Association

*Rutgers Eco-Complex, Suite 208-8*

*1200 Florence-Columbus Road, Bordentown, NJ 08505 | [info@mseia.net](mailto:info@mseia.net)*

February 23, 2019

Ms. Aida Camacho-Welch  
Secretary  
And Office of Clean Energy Staff  
New Jersey Board of Public Utilities  
44 South Clinton Avenue  
P.O. Box 350  
Trenton, New Jersey 08625

### **Re: Subsection r Capacity and Other Factors for Consideration in Energy Year 2020**

Dear Ms. Camacho-Welch and Staff:

On behalf of the Mid-Atlantic Solar & Storage Industries Association (MSSIA), formerly known as the Mid-Atlantic Solar Energy Industries Association (MSEIA), please accept these comments related to the above-referenced matter.

MSSIA is a trade organization that has represented solar energy companies in New Jersey, Pennsylvania, and Delaware since 1997. During that 21-year-plus period, the organization has spearheaded efforts in the Mid-Atlantic region to make solar energy a major contributor to the region's energy future.

During these years, MSSIA has adopted and followed three fundamental policy principles, which in short can be stated as: (1) Grow solar energy in our states as quickly as practicable; (2) do so at the lowest possible cost to ratepayers, while delivering the greatest possible benefit as a public good; and (3) preserve diversity in the market, including opportunity for Jersey companies to grow sustainably and create local jobs (see MSSIA's fundamental policy principles at <https://mseia.net/fundamental-principles/>).

We offer the following answers to questions posed by BPU staff in the Request for Comments on the above-referenced matter. The original questions are shown in blue font.

#### **1) Aggregate Subsection r capacity:**

##### **a) What maximum amount of aggregate capacity should the Board make available via Subsection r in EY20?**

MSSIA believes that the language in the Clean Energy Act clearly intends that the board approve 50 MW per year of Subsection r projects over two years (page 17, lines 16 through 24), although the wording also allows for 100 MW to be approved over a longer period of time. MSSIA believes that the board should approve 50 MW of Subsection r projects in energy year 2020.

##### **b) Can the current SREC market accommodate additional capacity?**

MSSIA does not believe that the current SREC market can accommodate 50 MW of Subsection r projects. However, it is vanishingly unlikely that the board could institute a program, accept

applications and approve some, and that those projects could be developed and completed, in a time frame that would allow any of them to qualify for the current SREC program. Therefore, the inability of the current SREC market to accommodate Subsection r projects is a moot point.

As MSSIA and others have stated in the Solar Transition stakeholder meeting, and as MSSIA will state in detail in its upcoming comments in that matter, the solar capacity that is operating plus the solar capacity that is approved for construction as of now significantly exceeds 5.1% of electric sales. Therefore, it is likely that the current SREC market will be closed to new applications very soon. In fact, MSSIA has recommended that as soon as possible, new applications should be approved for an interim program. Even if that recommendation is not adopted, we believe that the 5.1% threshold will be crossed significantly before November of this year – far too early for any Subsection r projects approved in the future to be built. Therefore, any Subsection r projects that are approved by the BPU would fall into a transition program or for the successor program, not for the current SREC program.

Of course, if there is any doubt about the matter, the BPU could approve Subsection r projects explicitly for the transition program.

## **2) Individual System SREC Eligibility:**

### **a) If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?**

MSSIA believes that there should be a maximum size of 10 megawatts for Subsection r projects, in order to provide some degree of diversity in the recommended 50 MW total for 2020.

However, we wish to add that in order to accomplish the very ambitious renewable energy goals of the Clean Energy act, and to do so at low cost, it will soon be necessary to encourage projects larger than 10 MW. Larger projects can contribute to rapid progress toward fulfillment of the goals, and produce solar power at the lowest cost.

### **b) If the Board were to make capacity available for Subsection r projects in EY20, should individual project SREC eligibility approval be based solely on a project's proposed capacity if all other criteria have been met?**

Other than the fact that we have recommended a 10 MW cap above, MSSIA does not believe that size should be a factor at all in approving Subsection r projects. However, the board may wish to rank projects according to other criteria related to policy priorities for solar power, such as siting projects on landfills or brownfields, siting projects on rooftops, projects that provide a benefit to public entities, and the like.

As stated before, it is extremely unlikely that future approvals of Subsection r projects could qualify for the current SREC program (and the board could make that explicit in its approvals), so those projects could not contribute to market volatility in the current SREC market.

### **c) Should SREC approval to Subsection r applicants be conditioned upon a project commencing commercial operations prior to the State's attainment of 5.1% of retail sales from solar electric generation facilities?**

As stated before, MSSIA believes that it is highly unlikely that any Subsection r projects could commence operating before the attainment of 5.1%, and anyway we do not believe they should.

**d) How should projects be treated which commence commercial operations after the State's attainment of 5.1% of retail sales from solar electric generation facilities?**

MSSIA believes that Subsection r projects should be approved by the board for inclusion in a one-year transition program. MSSIA and others have described in the Solar Transition Stakeholder Meeting, and MSSIA will describe in its comments on that matter, a recommendation for a transition program that can be implemented quickly with reduced costs to ratepayers.

**3) Other factors:**

**a) The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company ("EDC") demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection r approval?**

The PJM studies and approval process are exacting and thorough. They include substantial study and input from the EDCs. MSSIA believes that the PJM process is more than adequate to ensure that Subsection r projects will have no adverse impact on the distribution system.

On a related note, MSSIA believes that in order to achieve the renewable energy goals of the Clean Energy Act and prevent a slowdown or halt in solar development activity, it will be necessary immediately to begin modernizing and expanding the interconnection standards for the distribution system to allow more solar to be connected to circuits, and to allow currently-available methodologies and technological capabilities to assist in that regard.

**b) In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?**

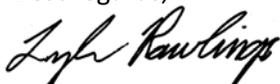
MSSIA believes that the existing minimum requirements are adequate to demonstrate a reasonable likelihood of completion in the required time, as long as reasonable approval timelines, a viable incentive program, and rational interconnection standards are present.

**c) Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation in the State? What should this additional documentation be?**

MSSIA believes that the documentation that has been required under previous subsection approvals is adequate to demonstrate compliance with farmland and open space preservation. MSSIA further believes that in applying the standards, the board should be flexible enough to consider properties that have been on a development path for commercial use, even if farming is also a permitted use.

We thank you for considering these comments, and look forward to exploring these matters further.

Best regards,



Lyle Rawlings, President

Matthew M. Weissman  
General State Regulatory Counsel

Law Department  
PSEG Services Corporation  
80 Park Plaza – T5, Newark, New Jersey 07102-4194  
tel: 973-430-7052 fax: 973-430-5983  
email: [matthew.weissman@pseg.com](mailto:matthew.weissman@pseg.com)



February 22, 2019

**VIA ELECTRONIC DELIVERY & OVERNIGHT MAIL**

Aida Camacho-Welch, Secretary  
New Jersey Board of Public Utilities  
ATTN: EY20 Subsection R Comments  
44 S. Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
P.O. Box 350  
Trenton, NJ 08625-0350  
[OCE@bpu.nj.gov](mailto:OCE@bpu.nj.gov)

**Re: EY20 Subsection R Comments**

Dear Ms. Camacho-Welch:

Public Service Enterprise Group, Inc. (“PSEG” or the “Company”), on behalf of affiliates Public Service Electric and Gas Company (“PSE&G”) and PSEG Power LLC (“PSEG Power”), appreciates the opportunity to provide input on the referenced matter.

On February 11, 2019, the New Jersey Board of Public Utilities (“Board”) issued a “Request for Comments” with respect to “Subsection r Capacity and Other Factors for Consideration in Energy Year 2020.” PSEG supports and applauds the policy objectives of the State of New Jersey and Governor Murphy – to significantly reduce greenhouse gas emissions with the goal of 50% clean energy by 2030. PSEG has a long history of partnering with the state and aligning its interests with those of New Jersey. It is in this spirit of partnership that PSEG offers these comments on the Board’s February 11, 2019 Request for Comments.

\* \* \*

**Questions**

- 1) Aggregate Subsection r capacity:
  - a) What maximum amount of aggregate capacity should the Board make available via Subsection r in EY20?
  - b) Can the current SREC market accommodate additional capacity?

***Company’s Response – The Company takes no position on these questions.***

**2) Individual System SREC Eligibility:**

The Solar Act limited the project size of applications approved pursuant to Subsection q to 10 MWdc. During EY17, some developers submitted EOIs for facilities as large as 29 MWdc. One applicant submitted EOIs for two projects which sum to 24 MWdc if facilities on adjacent properties are considered one project.

a) If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?

*Company's Response – The Company takes no position on this question.*

b) If the Board were to make capacity available for Subsection r projects in EY20, should individual project SREC eligibility approval be based solely on a project's proposed capacity if all other criteria have been met?

*Company's Response – A project's SREC eligibility under Subsection r should be consistent with existing statutes and regulations, without further conditions or requirements.*

c) Should SREC approval to Subsection r applicants be conditioned upon a project commencing commercial operations prior to the State's attainment of 5.1% of retail sales from solar electric generation facilities?

*Company's Response – A project's approval under Subsection r occurs prior to a project's commercial completion. Once approved under Subsection r, these projects should be treated as all other projects with respect to the rules regarding the State's attainment of 5.1%.*

d) How should projects be treated which commence commercial operations after the State's attainment of 5.1% of retail sales from solar electric generation facilities?

*Company's Response – Consistent with the prior response, Subsection r projects should be treated as all other similarly situated projects.*

**3) Other factors:** N.J.A.C. 14:8-2.4(g)(1)1 to -17 sets forth the minimum requirements for an application under Subsection r. The rule describes 16 categories of information and allows Staff to request additional information. Staff seeks stakeholder comment on the following:

a) The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company ("EDC") demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse

impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection r approval?

***Company's Response – The Company believes that the requirement for application and consideration of SREC credits under Subsection r should be contingent on the developer submitting a completed interconnection application and obtaining both a Feasibility Study and an Impact Study or the equivalent if the requirement for separate studies is waived by the EDC.***

b) In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within two years of the Board-approved designation date?

***Company's Response – The Company believes that developers should be required to commit to paying the interconnection costs as identified in those studies. Together with the application materials and studies described, this commitment would support a determination that the project has a reasonable likelihood to proceed to commercial operation, and that any adverse impacts to the EDC's distribution system have been identified and will be addressed.***

c) Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation?

***Company's Response – The Company takes no position on this issue.***

\* \* \*

Once again, PSEG commends the Board for seeking comments from interested stakeholders and appreciates the opportunity to submit these comments. We look forward to continuing to work with the Board and all stakeholders on these important initiatives. We thank the Board for its consideration of our submission.

Respectfully submitted,

By:



---

Matthew M. Weissman  
PSEG Services Corporation  
80 Park Plaza – T5  
Newark, New Jersey 07102-4194  
Ph: (973) 430-7052  
[matthew.weissman@pseg.com](mailto:matthew.weissman@pseg.com)

Dated: February 22, 2019



**BLACK BEAR**  
ENERGY

02.22.2019

New Jersey Board of Public Utilities  
Office of Clean Energy  
[OCE@bpu.nj.gov](mailto:OCE@bpu.nj.gov)

**Re: Request for Comments; Subsection (r.) Capacity and Other Factors for Consideration in Energy Year 2020; Issued February 11, 2019 (“Request for Comments”)**

Black Bear Energy Inc. (“Black Bear”) is thankful to the Board for seeking comments in the matter referenced above. The time and attention is greatly appreciated and speaks to the Board’s commitment to a timely resolution of this matter.

The comments in this letter are respectfully submitted in reference to Black Bear. Additional comments submitted by the New Jersey Solar Energy Coalition were composed with contribution from Black Bear and are included here for reference.

The remaining aggregate subsection (r.) queue capacity is 46.2 MW DC from a total of four projects, ours included. All other subsection (r.) projects have either withdrawn or subsequently filed for approval under subsection (t.). This remaining capacity (46.2 MW) is within the 50 MW statutory limit for energy year 2019 and therefore provides the Board with the opportunity to meet the requirements of the new clean energy statute for energy year 2019 without having to undergo an additional selection process.

Both Black and our client have both invested time and money over the past two plus years and continue to do so to progress our project. We hope that these efforts will be considered and the subsection (r.) application process reopened to those remaining eligible for energy year 2019.

-----

**Questions:**

1) **Aggregate Subsection (r.) capacity:**

a) **What maximum amount of aggregate capacity should the Board make available via Subsection r in EY20?**

The Board should seek to follow the statutory guidance of Chapter 17 Laws of 2018 which states:

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 energy year 2019 and energy year 2020, the board may approve projects for up to 50 megawatts annually in auctioned capacity in two auctions per year as long as the board is accepting applications. If the board approves projects for less than 50 megawatts in energy year 2019 or less than 50 megawatts in energy year 2020, difference in each year shall be carried over into the successive energy year until 100 megawatts of auctioned capacity has been approved by the board pursuant to this subsection.

Inasmuch as there is still an ample time and opportunity to meet the guidance of the law for energy year 2019, the Board should open the application process as soon as possible in order to permit these remaining PJM eligible projects the opportunity to move forward. All of these projects have continued to meet all of the requirements of the Board during this extended period of pendency. The energy year 2019 eligible projects remaining taken together do not add to the 50 MW statutory limit thereby precluding any requirement to undertake any additional selection process among eligible projects.

b) Can the current SREC market accommodate additional capacity?

The current market is open to all other market segments who are free to seek Board approval without regard to how their proposed projects will impact the current SREC market. Current SRP approvals carry the following disclaimer language:

“Pursuant to the Clean Energy Act of 2018 (P.L. 2018, c. 17), the Board of Public Utilities must close the SRP to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State from solar electric power generators connected to the distribution system. Once that milestone is met, only projects that have commenced commercial operations prior to the market’s achievement of this milestone will be eligible for Solar Renewable Energy Certificates (SRECs). Projects that do not commence commercial operations prior to the market’s achievement of this milestone may not be eligible for SRECs. The Board is monitoring the progress of the market toward achieving this milestone and will determine when it has been achieved.

- The Clean Energy Act also requires the Board to shorten the Qualification Life for eligible solar projects to ten years. The Board implemented this requirement via Board Order on October 29, 2018. Since the SRP registration package for this project was deemed complete after October 29, 2018, if permission to operate (PTO) is granted prior to the Board’s determination that the 5.1 percent milestone has been achieved, then the project will be found eligible for SRECs with a ten-year qualification life.”

This language offers no mention whatsoever as to the ability of the SREC market to accommodate additional capacity. We do not understand how this question would apply only to the remaining

subsection (r.) applicants who have continued to meet all of the requirements of the Board and PJM to maintain their eligibility over this protracted suspension period.

As is well known by the Board there is currently about 660 MWs of pipeline SRP approved capacity in the queue pending construction, PTO, and commercial operation. The projects remaining eligible for inclusion in the subsection (r.) amount to less than 50 MWs. Therefore, the inclusion of these energy year 2018 projects would represent an increase of 7.5% in pipeline capacity and 1.5% increase in all SRECs.

## 2) Individual System SREC Eligibility:

The Solar Act limited the project size of applications approved pursuant to Subsection q to 10 MW DC. During EY17, some developers submitted EOIs for facilities as large as 29 MWDC. One applicant submitted EOIs for two projects which sum to 24 MWDC if facilities on adjacent properties are considered one project.

a) If the Board makes capacity available under this subsection in EY20, should there be a maximum size? What should the maximum system size be?

As has been discussed, there exists less than 50MWs of projects that remain in the PJM queue and have responded to the Board's request to file an expression of continuing interest. At no time during this period of pendency while continuing investments were required to maintain eligibility in the current PJM queue, did the Board raise the issue of project size as even a potential criterion for subsection (r.) qualification.

Clearly, the Board can open these areas of issue for debate for the energy year 2020 program upon accepting new subsection (r.) program applications, however, it would be inappropriate to now change the rules retroactively for these limited projects that have continued to in good faith meet all of the requirements during the application suspension period, with the expectation that the current program would be reopened.

b) If the Board were to make capacity available for Subsection r projects in EY20, should individual project SREC eligibility approval be based solely on a project's proposed capacity if all other criteria have been met?

The 2014 report on Mitigating Solar Development Volatility presented by the Board to the Legislature found that projects greater than 2 megawatts contributed most significantly to solar market volatility. Based on this finding, if projects in aggregate seek more capacity than the Board has determined the market can bear, Staff proposes that individual projects, if compliant with all other criteria, be rank ordered by size with the smallest projects approved first until all capacity is allocated. No projects proposed to share an inter-connection point or property boundary with a Subsection q project should be approved for SREC eligibility via Subsection r.

This area of concern can be addressed in a subsequent stakeholder process that can precede the opening of a new energy year 2020 application process that would be populated with new projects entering the PJM queue process. Projects remaining eligible for 2019 SRP approval should not be subject to new requirements that were never even mentioned during the extended suspension period.

c) Should SREC approval to Subsection r applicants be conditioned upon a project commencing commercial operations prior to the State's attainment of 5.1% of retail sales from solar electric generation facilities?

Subsection (r.) approval for those 2019 energy year eligible projects should be held to the same standards as set forth in the Board's recent disclosure language as all other projects pending at the time of SRP approval.

d) How should projects be treated which commence commercial operations after the State's attainment of 5.1% of retail sales from solar electric generation facilities?

The Board has an obligation to put forth the financial elements of a transition program that will allow projects to obtain financing. In the absence of that information there will likely be no project financing available to continue to support a solar program in New Jersey.

3) Other factors: N.J.A.C. 14:8-2.4(g)(1)1 to -17 sets forth the minimum requirements for an application under Subsection r. The rule describes 16 categories of information and allows Staff to request additional information. Staff seeks stakeholder comment on the following:

a) The rule currently requires a PJM interconnection queue number or equivalent documentation from an electric distribution company ("EDC") demonstrating status of interconnection planning and demarcation of an established interconnection point. What if any additional information should be required to support a determination that no adverse impact on the EDC distribution system would accrue from an individual solar electric generation facility receiving a Subsection r approval?

The existence of a PJM queue number demonstrates that a viable interconnection plan, including the requisite cost of interconnection has been vetted by the EDC and accepted by the project developer. Clearly, the EDC has the opportunity in this process to vet all relevant interconnection issues.

b) In addition to a PJM interconnection queue number, what if any additional information should be required to demonstrate a reasonable likelihood that a project might satisfy the requirement to commence commercial operations within

two years of the Board-approved designation date?

All projects are subject to forfeiture of the required escrow payment if they do not meet the required date of commercial operation.

c) Should additional documentation be required to demonstrate that a project will not be built on farmland or have an adverse impact on open space preservation in the State? What should this additional documentation be?

No.

-----

Black Bear thanks the Board for undertaking this comment process. A fair resolution for those projects remaining eligible in the energy year 2019 queue will provide additional industry confidence in the New Jersey solar market. We look forward to helping New Jersey continue to be a leader in renewable energy.

Sincerely,



Drew Torbin  
CEO  
Black Bear Energy Inc.