



STATE OF NEW JERSEY
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CLEAN ENERGY

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| IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM |) | ORDER |
| |) | DOCKET NO. QO18060646 |
| IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 APPLICATION FORM AND PROCESS |) | |
| |) | DOCKET NO. QO20080556 |
| IN THE MATTER OF A NEW JERSEY SOLAR TRANSITION PURSUANT TO P.L. 2018, C.17 |) | |
| |) | DOCKET NO. QO19010068 |
| IN THE MATTER OF THE VERIFIED PETITION OF PENNSVILLE LANDFILL SOLAR, LLC FOR APPROVAL OF AN EXTENSION OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 PROJECT COMPLETION DEADLINE FOR PENNSVILLE LANDFILL SOLAR PROJECTS (A) AND (C) |) | |
| |) | DOCKET NO. QO22110708 |
| IN THE MATTER OF THE PETITION OF GREENPOWER DEVELOPERS, LLC FOR EXTENSION OF COMMERCIAL OPERATION DEADLINE FOR CONDITIONALLY APPROVED YEAR 2 COMMUNITY SOLAR PROJECT UNDER DOCKET NO. QO21020564 DUE TO DELAYS IN UTILITY UPGRADE PLAN AND UNCERTAINTY IN TIMING AND COST OF UTILITY COSTS |) | |
| |) | DOCKET NO. QO23080623 |
| COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 -SOLAR LANDSCAPE DEVELOPMENT, LLC - 1300 WHEATON AVENUE |) | |
| |) | DOCKET NO. QO21020474 |
| COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 -SOLAR LANDSCAPE DEVELOPMENT, LLC - 1401 WHEATON AVENUE |) | |
| |) | DOCKET NO. QO21020475 |

Parties of Record:

Howard Thompson, Esq., Russo Tumulty Nester Thompson & Kelly, LLP, on behalf of Solar Landscape Development, LLC and GreenPower Developers, LLC

Steven Goldenberg, Esq., Giordano Halleran, & Ciesla, on behalf of Trina Solar US Development, LLC

BY THE BOARD:¹

By this Order, the New Jersey Board of Public Utilities (“Board” or “NJBPU”) considers the petitions of Solar Landscape Development, LLC (“Solar Landscape”), Pennsville Landfill Solar, LLC, a subsidiary of Trina Solar US Development, LLC (“Trina”), and GreenPower Developers, LLC (“GreenPower”) (each individually, “Petitioner”, or together, “Petitioners”) for an extension of time for registrations within the Transition Incentive (“TI”) Program and the projects’ conditional acceptance as community solar projects. The Board addresses the petitions together because the Petitioners’ projects are all conditionally accepted in Program Year 2 (“PY2”) of the Community Solar Energy Pilot Program (“Pilot Program”).

BACKGROUND

On May 23, 2018, the Clean Energy Act of 2018 ([L. 2018, c. 17](#)) (“CEA”) was signed into law and became effective immediately.² The CEA directed the Board to adopt rules and regulations to close the Solar Renewable Energy Certificate (“SREC”) Registration Program (“SREC Program”) to new applications once the Board determined that 5.1 percent of the kilowatt-hours sold in the State by third party suppliers and basic generation service providers had been generated by solar electric power generators connected to the distribution system (“5.1% Milestone”). The SREC Program was replaced in two (2) stages. First, on December 6, 2019, the Board established the TI Program to provide a bridge between the legacy SREC Program and a to-be-developed Successor Incentive program. TI Program incentives are delivered based on megawatt hours (“MWh”) of electricity produced and are tailored to specific project types through the use of factors. Community solar projects receive a factor of 0.85 and thus \$129.20/MWh. The 5.1% Milestone was found to have occurred on April 30, 2020. The TI Program portal opened to new project registrations on May 1, 2020, and remained open to new registrations until the establishment of a registration program for the new Successor Program.³ In the second phase, the Board developed and launched the Successor Solar Incentive (“SuSI”) Program, based on extensive stakeholder engagement conducted by Board Staff (“Staff”) and the Solar Act of 2021 (L. 2021, c.169), signed by Governor Murphy on July 9, 2021. On July 28, 2021, the Board announced the closure of the TI Program and the opening of the SuSI Program. The TI Program closed on August 27, 2021, and the SuSI Program opened on August 28, 2021.

The CEA also directed the Board to adopt rules and regulations establishing a Pilot Program for Community Solar in New Jersey. The Board established the Pilot Program through rules

¹ Commissioner Marian Abdou recused herself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

² L. 2018, c. 17.

³ [In re a New Jersey Solar Transition Pursuant to P.L. 2018, c. 17](#), BPU Docket No. QO19010068, Order dated January 8, 2020 (“January 2020 Order”).

published in the New Jersey Register on February 19, 2019 (“Pilot Program Rules”).⁴ The Pilot Program enables New Jersey electric utility customers to participate in a solar energy project that may be remotely located from their properties and receive a credit on their utility bills. Community solar therefore enables access to clean energy generation for utility customers unable to place solar generation directly on their own properties. The Board particularly emphasized its interest in ensuring that low-and moderate income (“LMI”) customers are able to access community solar and that the Pilot Program did not compromise the preservation of open space or protected lands in New Jersey. The Pilot Program was designed to provide the necessary experience and to lay the groundwork for the development and implementation of a full-scale community solar energy program.

Community solar projects were selected by the Board for participation in the Pilot Program via a competitive solicitation process, as directed by N.J.A.C. 14:8-9.3(c). During the second solicitation, the Board received 412 applications and selected 105 applications on October 28, 2021, representing approximately 165 megawatts (“MW”).⁵ These projects initially had a deadline to become fully operational within 18 months (i.e., May 4, 2023), with the possibility of extensions for projects that demonstrated substantial progress towards completion. On August 17, 2022, the Board issued an Order extending the project completion deadlines for the PY2 projects to November 4, 2023.⁶

In the same order making the PY2 awards, the Board also waived its rules authorizing capacity for a third program year and directed Staff to conduct stakeholder proceedings and recommend establishment of rules for a permanent program. On August 16, 2023, the Board established the permanent Community Solar Energy Program (“CSEP”).⁷ The CSEP permits projects that were conditionally approved to participate in the Pilot, but did not reach operation in the allotted time, to be allowed to submit a new application for the CSEP without counting against, or being subject to, otherwise applicable capacity limits. Projects conditionally approved in the Pilot Program seeking to roll over into the CSEP were required to meet all applicable requirements of participation in the CSEP, other than the capacity limits. Such projects must also commit to a guaranteed bill credit discount consistent with that indicated in their Pilot Program application in order to be exempt from capacity limits.

Petitions

All Petitioners were awarded participation in PY2 of the Pilot Program on October 28, 2021. They received conditional acceptance into the TI Program, with a final deadline of November 4, 2023.

Solar Landscape

On February 9, 2023, Solar Landscape filed petition seeking extensions in the TI Program for a 3.64 MWdc community solar project at 1300 Wheaton Ave. (Docket No. QO21020474) and a 3.87

⁴ 51 N.J.R. 232(a).

⁵ In re the Community Solar Energy Pilot Program Year 2 Application Form and Process – Application Awards, BPU Docket No. QO20080556, Order dated October 28, 2021.

⁶ In re the Community Solar Energy Program, BPU Docket No. QO18060646 et al., Order dated August 17, 2022 (“August 2022 Order”).

⁷ In re the Community Solar Energy Program: Order Launching the Community Solar Energy Program, BPU Docket No. QO22030153, Order dated August 16, 2023.

MWdc community solar project at 1401 Wheaton Ave. (Docket No. QO21020475) in Millville, New Jersey. The petitions requested that the Board grant an extension to the conditional acceptance expiration date of the project's registration in the TI Program until the later of November 4, 2023 or four (4) months after Atlantic City Electric Company ("ACE") completes utility upgrades for interconnection of the projects.

According to the petition, Petitioner executed interconnection agreements for the projects on December 21 and 23, 2020. On August 29, 2022, ACE provided estimates for utility upgrades needed for the projects, indicating estimated costs and that work would be completed in "20-24 months." Solar Landscape subsequently proposed a lower cost interconnection solution, which ACE stated on October 4, 2022, would not be effective. ACE provided invoices for the projects' upgrades to Solar Landscape on December 30, 2022, in the amount of approximately \$1,483,000 per project.

Petitioner stated it intended to complete construction of the projects by the current completion deadline but is seeking regulatory certainty regarding eligibility in the TI Program due to the utility upgrade timeline extending well beyond the deadline for project completion. In Petitioner's opinion, the cost of the utility upgrades represents a financial risk that merits action by the Board to ensure that the projects remain eligible for Transition Renewable Energy Certificates ("TRECs") if the utility upgrades cause the projects to miss their expiration date.

Trina

On November 28, 2022, Trina filed a petition seeking an extension in the TI Program for a 2.7 MWdc community solar project and a 3 MWdc community solar project at the Pennsville Landfill in Pennsville, New Jersey. The petition requested that the Board grant an extension to the conditional acceptance expiration date of the project's registration in the TI Program that is coextensive with the time required for ACE to complete interconnection upgrades or, in the alternative, direct ACE to complete interconnection of the projects before the existing deadline.

According to the Petition, Petitioner submitted interconnection requests to ACE on November 10, 2021, and on October 27, 2022, ACE completed the interconnection study with conditional approval for the projects. ACE stated the cost of interconnection upgrades would be approximately \$4 million and take 28 to 32 months to complete. Trina stated they would be "willing to be held to each of these commitments" to complete development and construction of the projects by the initial deadline, but that ACE's interconnection timeline would still delay commercial operation past the expiration date. Petitioner also asserted that since the delays are attributable to ACE, its circumstances are similar to those of ESNJ-KEY-GIBBSTOWN, LLC, which received an extension.⁸ In addition, Petitioner stressed its projects' alignment with the goals of the community solar program.

On June 29, 2023, ACE submitted correspondence stating that it did not take a position regarding granting of an extension but opposed the alternative request to order interconnection even if upgrades are not completed. ACE also disputed Trina's claims regarding delays, noting that it has not yet received payment for the Cost Letters it issued on October 27, 2022. According to ACE, its "estimated timeframe is appropriate" given that the projects are large and complex,

⁸ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17 – Order Addressing Request for an Extension of Time to Complete NJSTRE1545046932 in Transition Incentive Program – 480 South Democrat Road, Gibbstown, NJ ESNJ-KEY-GIBBSTOWN, LLC, BPU Docket Nos. QO19010068 and QO22030156, Order dated June 8, 2022.

resulting in the need for various system upgrades. ACE also stated that Trina was aware that upgrades would be required due to lack of capacity on the existing feeder as early as December 2021 and that ACE subsequently worked to engineer an extension to the existing feeder rather than install an express feeder.

On August 15, 2023, Trina filed a supplement in response to ACE's correspondence. Trina stated that ACE mischaracterized its alternative request for relief, disputed ACE's characterization of the project timeline, restated its request for relief, and said ACE had an "ongoing pattern of delay." Trina said that regardless of the parties' discussions, the interconnection upgrade timeline would have made the projects "dead on arrival" as it would extend beyond the deadline even if begun upon the application to the Pilot Program.

GreenPower

On August 14, 2023, GreenPower filed a petition seeking extensions in the TI Program for a 4.99 MWdc community solar project at a landfill and area of historic fill in Manahawkin, Stafford Township, New Jersey. The petition requested that the Board grant an extension to the conditional acceptance expiration date of the project's registration in the TI Program until the later of eight (8) months after the granting of an extension or four (4) months after ACE completes utility upgrades for interconnection of the projects.

According to the petition, Petitioner submitted an interconnection application for the project on February 25, 2022, and signed a study letter on June 16, 2022. On September 19, 2022, ACE stated the route for distribution lines was taking the longest to study, and on December 21, 2022, it provided estimates for utility upgrades needed for the projects, indicating estimated costs of \$4.1 million and that work would be completed in "29-32 months." On February 26, 2023, ACE informed GreenPower that upgrades would cost \$8 million, but reducing the project size to 1.7 MWac would require upgrades that only cost \$1 million, with a new application required. GreenPower subsequently designed a hybrid battery storage system that would maintain the initial project size but limit the power export and shared the plans with ACE on April 4, 2023. ACE subsequently requested a new interconnection application and performed a technical review, and on August 9, 2023, ACE stated that an impact study would be required, and GreenPower signed the letter after being informed the fee would be waived.

Petitioner stated that installation of the battery system would take six (6) months compared to the more than two (2) years the interconnection upgrades would take. Petitioner also stated it wished to complete construction of the projects by the current completion deadline but that this would not be feasible since it had not received formal approval or an interconnection timeline. Further, Petitioner asserted that the cost of the utility upgrades represents a financial risk that Petitioner should not be required to assume without Board action to ensure that the projects remain eligible for TRECs if the utility upgrades cause the projects to miss their expiration date.

STAFF RECOMMENDATION

The Pilot Program was the Board's first implementation of the community solar model of solar power development that allows electricity customers to remotely participate in a solar project. The Pilot Program was designed to be of a limited size and duration to provide an opportunity to learn how community solar projects would be developed and implemented and lay the foundation for a lasting permanent program in the future. Staff used lessons learned in the Program Year 1 ("PY1") solicitation to inform the PY2 solicitation in 2021. The Board chose to forego a third

solicitation in the Pilot Program, directing Staff to use the experience gained in the first and second solicitations to develop rules for the permanent CSEP.⁹

Community solar provides direct benefits to customers in New Jersey, particularly LMI customers, as all projects conditionally approved in the Pilot Program have committed at least 51% of their capacity to LMI subscribers. The projects of petitioners Trina and GreenPower, moreover, are located on landfills whose redevelopment is favored by Board and State policy.

The Petitioners' projects have all faced lengthy timelines to receive interconnection upgrades that will connect them to ACE's grid. These projected schedules may extend multiple years from the date on which Petitioners agree to pay for the relevant construction. Staff notes that these petitions cover five (5) of the seven (7) projects approved in the ACE territory in PY2 and that all three (3) projects approved in PY1 similarly faced lengthy interconnection upgrades. It appears likely that by the end of 2023, ACE customers will have only 3.1 MW of community solar capacity available for subscription out of 33.3 MW that the Board approved. Community solar projects elsewhere in the State have not seen comparable wait times and costs for interconnection; Staff fears that this gap in access to the benefits of community solar may raise equity concerns regarding ACE ratepayers.

Staff notes that the Petitioners have worked diligently to develop their projects, including, in the cases of Trina and GreenPower, preparation for construction on landfill sites. However, the timelines provided by ACE would not have been compatible with deadlines set by the Pilot Program even if agreed to as soon as the projects received awards in the PY2 solicitation. Staff also recognizes the Petitioners' attempts to develop alternative interconnection solutions, including GreenPower's development of a battery storage system.

The competitive structure of the Pilot Program resulted in the selection of some applicants that were at an earlier stage of development than others, so that it would not be reasonable to expect that all projects granted conditional approval in the Pilot Program would reach commercial operation. For Petitioners' projects, however, the cause of delay was wholly outside their control and unforeseen at the time of application. Staff notes that even if Petitioners were to register these projects in the CSEP, this program provides 18 months of eligibility for rooftop projects and 24 months for landfill projects. ACE's projected interconnection timelines may extend even beyond these deadlines.

In contrast to the PY1 projects denied an extension in the August 2022 Order, the sole cause of delay for the projects considered here was the lengthy interconnection timelines they faced – a factor entirely outside of their control. The PY1 projects had faced various other obstacles: delayed approval of a landfill closure plan, delayed building construction at the site, delayed permitting with the Pinelands Commission, and a protracted selection of a contractor. The Board found that none of these delays warranted extensions in the Pilot Program because the delays did not “constitute sufficient grounds to waive TI Program and Pilot Program requirements” and those projects were “not mature enough to reach commercial operation within a reasonable time.” However, in this case, the extensive delays caused by ACE do constitute sufficient grounds for a waiver because they were systemic, unforeseen and unforeseeable by the Petitioners, and wholly outside of their control.

⁹ In re the Community Solar Energy Pilot Program; In re the Community Solar Energy Pilot Program Year 2 Application for and Process - Application Awards, BPU Docket Nos. QO18060646 and QO20080556, Order dated October 28, 2021.

Staff therefore recommends that the Board grant these requests for extensions.

DISCUSSION AND FINDINGS

As has been noted elsewhere, the Board has long supported New Jersey's solar industry. It always endeavors to support that industry's continued growth while at the same time minimizing costs to ratepayers to the greatest extent possible. As a part of pursuing these twin goals, the TI Program Rules and the timelines contained therein were designed to provide a smooth transition to the Successor Program for a limited time. Similarly, the Pilot Program was intended to be a trial of the community solar approach to renewable energy equity in New Jersey. Thus, when faced with a petition seeking a waiver of the timelines in the TI Program Rules and the Pilot Program Rules, the Board carefully reviews the facts and circumstances of each such petition to determine whether such an extension is in the public interest.

Petitioners' request to extend the TI Program deadlines for the Projects necessitates a waiver of the TI Program rules and the deadlines established therein. The Board's rules state that "[i]n special cases, upon a showing of good cause the [B]oard may relax or permit deviations from the rule." N.J.A.C. 14:1-1.2(b). The rules go on to explain that "the Board shall, in accordance with the general purpose and intent of the rules, waive section(s) of the rule if full compliance with the rule(s) would adversely affect ratepayers, hinders safe, adequate and proper service, or is in the interest of the general public." N.J.A.C. 14:1-1.2(b)(1). The Board must balance Petitioners' interests as solar developers with the public's interest in timely completion and interconnection of projects, the ratepayers' interest in controlling the cost of solar subsidies, and the State's interest in ensuring that incentive levels appropriately reflect the time period during which a project reaches commercial operation. In considering waiver requests from projects participating in the Pilot Program, the Board takes into account the novel nature of that program and the unique challenges facing its participants.

Community solar enables New Jersey electric utility customers to receive a credit on their utility bills from a solar energy project that may be remotely located from their properties. The Pilot Program therefore enables these customers to access clean energy generation even though they are currently unable to place solar generation directly on their own properties. The Board remains deeply committed to this effort to increase clean energy equity, and it recognizes the challenges faced by solar developers seeking to install solar facilities while registering low-income customers who may be difficult to reach and who lack experience with solar installations. These difficulties are compounded for the Petitioners addressed here by a lengthy and expensive interconnection process and their potential subscribers.

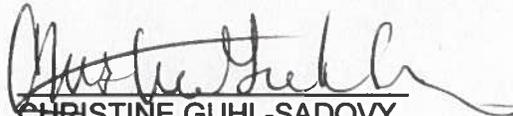
Following careful review of the petitions and the records for each, the Board **FINDS** that Petitioners Solar Landscape, Trina, and GreenPower have established a basis for granting the requested extensions. In each of these matters, the Petitioners have demonstrated diligent pursuit of an interconnection agreement toward the development of the projects in the Pilot Program. In addition, each petitioner has demonstrated that the sole cause of the delay encountered was an interconnection issue wholly outside the petitioner's control. Having reviewed the petitions and Staff's recommendation, the Board **FINDS** that full compliance with the timelines at N.J.A.C. 14:8-10.4(d) and (e) and N.J.A.C. 14:8-9.3(c)(8) would adversely impact New Jersey ratepayers. Therefore, the Board **FINDS** good cause and hereby **WAIVES** the timelines at N.J.A.C. 14:8-10.4(d) and (e) and N.J.A.C. 14:8-9.3(c)(8) to permit an extension of time to the projects in these petitions in the TI Program for duration until four months after ACE completes upgrades allowing the projects to be interconnected, as well as a concurrent extension to the projects' community solar conditional approval.

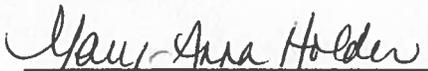
The Board further encourages ACE to expedite its interconnection of the Petitioners' projects.

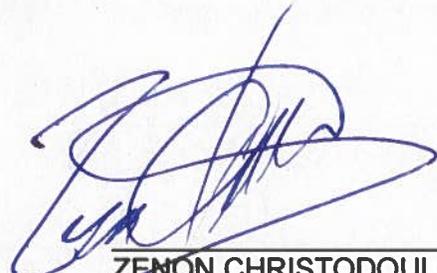
The effective date of this Order is November 1, 2023.

DATED: October 25, 2023

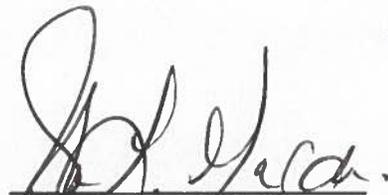
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SHERRI L. GOLDEN
SECRETARY

I HEREBY CERTIFY that the within
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IN THE MATTER OF A NEW JERSEY SOLAR TRANSITION PURSUANT TO P.L. 2018, C.17
DOCKET NO. QO19010068

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 APPLICATION
FORM AND PROCESS
DOCKET NO. QO20080556

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IN THE MATTER OF THE VERIFIED PETITION OF PENNSVILLE LANDFILL SOLAR, LLC FOR
APPROVAL OF AN EXTENSION OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2
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DOCKET NO. QO22110708

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COMMERCIAL OPERATION DEADLINE FOR CONDITIONALLY APPROVED YEAR 2 COMMUNITY
SOLAR PROJECT UNDER DOCKET NO. QO21020564 DUE TO DELAYS IN UTILITY UPGRADE PLAN
AND UNCERTAINTY IN TIMING AND COST OF UTILITY COSTS
DOCKET NO. QO23080623

COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 -SOLAR LANDSCAPE DEVELOPMENT,
LLC - 1401 WHEATON AVENUE
DOCKET NO. QO21020475

COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 -SOLAR LANDSCAPE DEVELOPMENT,
LLC - 1300 WHEATON AVENUE
DOCKET NO. QO21020474

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