

FEB 21 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

LLOYD D. LEVENSON
Also Admitted to NY Bar
EMAIL: ldlevenson@cooperlevenson.com

RECEIVED
MAIL ROOM

FEB 21 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

1125 Atlantic Avenue
Atlantic City, NJ 08401
Phone: 609.344.3161
Toll Free: 800.529.3161
Fax: 609.344.0939
www.cooperlevenson.com

Direct Phone (609) 572-7711
Direct Fax (609) 572-7712

FILE NO. 59573/00001

February 20, 2018

Via UPS Overnight Mail

Honorable Irene Kim Asbury
Secretary of the Board
New Jersey Board of Public Utilities
44 S. Clinton Avenue, 9th Floor
P.O. Box 0350
Trenton, NJ 08625-0350

Re: **IN THE MATTER OF THE AMENDED PETITION OF RADIANT ENERGY,
LLC FOR BPU APPROVAL OF AN EXTENDED SUBSECTION (t) ORDER
AND FOR A WAIVER OF N.J.A.C. 14:8-2.4**

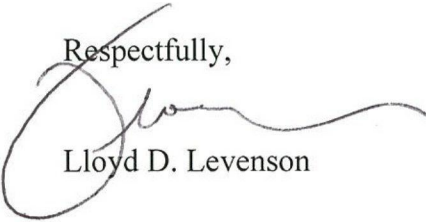
Dear Secretary Asbury:

Kindly consider the enclosed Amended Petition of Radiant Energy, LLC (Radiant) for an extension of time to construct its subsection T project and for a waiver of N.J.A.C. 14:8-2.4.

For your convenience, I am enclosing ten (10) copies of the Petition.

Thank you for your consideration.

Respectfully,


Lloyd D. Levenson

LDL/cn
Enclosures
cc: Rachel Boylan, Esq., NJ BPU, Legal Specialist

CMS

Legal
DAG

FEB 21 2018

STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

RECEIVED
MAIL ROOM

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

FEB 21 2018

**IN THE MATTER OF THE AMENDED
PETITION OF RADIANT ENERGY, LLC
FOR BPU APPROVAL OF AN EXTENDED
SUBSECTION (t) ORDER AND FOR A
WAIVER OF N.J.A.C. 14:8-2.4**

BOARD OF PUBLIC UTILITIES
TRENTON, NJ
**BPU DOCKET NOS.: EO12090832V,
EO12090862V & QO15111299**

Radiant Energy, LLC hereby petitions the Board of Public Utilities (“BPU”) for approval of an extension to the previously entered Sub-Section (t) Order. In support of this Petition, Radiant states as follows:

1. Radiant is developing a ground-mounted solar array on Price’s Landfill, a Superfund Site located in both Egg Harbor Township and the City of Pleasantville in Atlantic County.
2. The site is currently being remediated by the Environmental Protection Agency (“EPA”) (in conjunction with New Jersey Department of Environmental Protection “DEP”).
3. EPA has subcontracted for the design and construction of the landfill cap and remediation system with the U.S. Army Corps of Engineers.
4. The groundwater remediation program involves a treatment plant, which is located off-site, immediately across a public right-of-way (Saw Mill Road) from the landfill.
5. This location qualifies under New Jersey solar regulations as being “contiguous” to the landfill and solar array, and therefore qualifies for net-metered service for the energy needs of the treatment plant.
6. The Board approved an application under Subsection (t) for this project on February 24, 2016 with an effective date of March 5, 2016 for a period of two years.
7. Radiant Energy requests an extension of the initial Order for the following reasons:
 - a. Price’s Landfill is an EPA listed Superfund site and, as such, the design of the Radiant solar array has had to take into account the existence and operation of a complex groundwater remediation infrastructure in proximity to the solar project as well as the design and functioning of the landfill cap installed on behalf of the EPA by the U.S. Army Corps of Engineers (“USCOE”) in 2015.
 - b. The need to obtain preliminary and final site plan approval from Egg Harbor Township Planning Board as well as site plan waivers from the City of Pleasantville and Atlantic County Planning Boards.

- c. Registration was required with the Federal Energy Regulatory Commission (“FERC”), which was completed on February 25, 2016.
- d. An FIT (grid-supply) Interconnection Application and Agreement was required to be negotiated between Atlantic City Electric and Radiant Energy.
- e. The initial FIT application for 3.0 MW to ACE was rejected due to solar capacity limitations on the subject ACE distribution line. The application was subsequently modified to fit the available 2.4 MW capacity on the line.
- f. The FIT Interconnection Agreement was executed in April, 2017.
- g. Radiant had to negotiate a tripartite NEM (net metered) Interconnection Agreement with the EPA (owner and operator of the groundwater remediation plant contiguous with the landfill).
- h. Radiant needed to petition the BPU (May 25, 2017) for (a) Board approval of the non-standard tripartite Interconnection Agreement and (b) confirmation of the satisfaction of the NEM application as a “contiguous” generator and consumer arrangement. This petition was approved by the BPU on November 17, 2017.
- i. Radiant held extensive negotiations with the EPA as the owner/operator of the groundwater remediation treatment plant in an effort to develop a power purchase agreement (PPA) for the NEM portion of the project.
- j. At the conclusion of the PPA negotiations, EPA determined that due to the restrictions of the federal Anti-Deficiency Act, it could not enter into the negotiated PPA.
- k. In lieu of a PPA, EPA negotiated an amendment to the Inter-Agency Agreement between EPA and the US ACOE, requiring the operator of the groundwater remediation treatment plant to purchase renewable energy from Radiant through to 2024, when responsibility for treatment plant operations transfers from EPA to the NJDEP.
- l. Radiant Energy has been negotiating with NJDEP to assume the agreement to purchase renewable NEM energy from Radiant when the DEP takes over responsibility for the treatment plant operations in 2024 and to continue this arrangement for the balance of the remediation effort.
- m. Radiant Energy had to file an NEM Interconnection Agreement application with ACE for engineering review. This application was denied by ACE on 6-11-2017 due to the solar capacity limitations on that distribution line servicing the treatment plant.
- n. Radiant is currently in discussions with ACE regarding 2 alternatives to maximize the NEM portion of the project including (a) a battery storage system and (b) an express feeder system. This analysis between ACE and Radiant has yet to be concluded.

- o. Based upon the current mix of FIT and NEM components in the proposed array, Radiant has completed the NJDEP Landfill Disruption Permit Application required for this project and expects to file same imminently.
- p. Radiant Energy, in conjunction with the Atlantic County Improvement Authority (ACIA), has been pursuing several public financing options for the project including an application for New Market Tax Credits (NMTC) and Qualified Energy Conservation Bonds (QECCB).
- q. Radiant has recently received conventional financing for the project as well as an HUD Section 108 Business Loan. At the same time, the Trump Administration has imposed a 30% import tariff on solar panels resulting in an increase in the equipment budget for the project. Despite these setbacks, Radiant expects to begin construction in April of 2018 and complete the project in the third quarter of this year.

8. In addition, Radiant requests a waiver of N.J.A.C. 14:8-2.4 which requires submission of the SRP registration package to the Board within fourteen (14) days of the effective date of the Order (March 5, 2016).

WHEREFORE, Radiant seeks the following:

- 1. Approval of an extension to the prior Order; and
- 2. A waiver of N.J.A.C. 14:8-2.4.

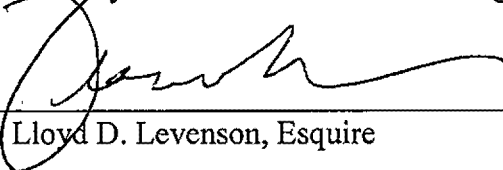
COMMUNICATIONS

Communications and correspondence related to the Petition should be sent as follows:

Lloyd D. Levenson, Esquire
COOPER LEVENSON, P.A.
1125 Atlantic Avenue - 3rd Floor
Atlantic City, NJ 08401
Phone: (609) 572-7711
Fax: (609) 572-7712

Respectfully Submitted,
COOPER LEVENSON, PA
Attorneys for Petitioner Radiant Energy, LLC

By: _____


Lloyd D. Levenson, Esquire

Dated: February 20, 2018

IN THE MATTER OF THE AMENDED PETITION OF RADIANT ENERGY, LLC FOR BPU APPROVAL OF AN EXTENSION TO THE 2-24-2016 ORDER IN THE MATTER OF THE IMPLEMENTATION OF L 2012 C. 24, THE SOLAR ACT OF 2012 AND FOR A WAIVER OF N.J.A.C. 14:8-2.4.

IN THE MATTER OF THE IMPLEMENTATION OF L 2012 C 24 N.J.S.A. 48:3-87(T) – A PROCEEDING TO ESTABLISH A PROGRAM TO PROVIDE SRECS TO CERTIFIED BROWNFIELD, HISTORIC FILL AND LANDFILL FACILITIES.

SERVICE LIST

Irene Kim Asbury
Secretary of the Board
New Jersey Board of Public Utilities
44 S. Clinton Avenue, 9th Floor
P.O. Box 350
Trenton, NJ 08625-0350
Irene.Asbury@bpu.nj.gov

Lloyd D. Levenson, Esquire
Cooper Levenson, P.A.
1125 Atlantic Avenue – 3rd Floor
Atlantic City, NJ 08401
ldlevenson@cooperlevenson.com

Rachel Boylan, Esq.
Legal Specialist
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. 350
Trenton, NJ 08625-0350
Rachel.Boylan@bpu.nj.gov

B. Scott Hunter
Office of Clean Energy
New Jersey Board of Public Utilities
44 South Clinton Avenue
P.O. 350
Trenton, NJ 08625-0350
B.Hunter@bpu.state.nj.us

Allison E. Mitchell
Office of Clean Energy
NJ Board of Public Utilities
44 South Clinton Avenue
P.O. 350
Trenton, NJ 08625-0350
Allison.mitchell@bpu.nj.gov

Stefanie A. Brand, Esquire., Director
Division of Rate Counsel
140 Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625-0003
sbrand@rpa.state.nj.us

Secil Uztetik Onat, Executive Director
Economic Development and Emerging Issues
New Jersey Board of Public Utilities
44 South Clinton Avenue
P.O. 350
Trenton, NJ 08625-0350
secil.onat@bpu.state.nj.gov

Felicia Thomas-Friel, Esq.
Division of Rate Counsel
140 Front Street, 4th Floor
P.O. Box 003
Trenton, NJ 08625-0003
ftomas@rpa.state.nj.us

Caroline Vachier
Chief, Deputy Attorney General
Division of Law
Dept. of Law & Public Safety
P.O. Box 45029, 124 Halsey Street
Newark, NJ 07101
Caroline.Vachier@dol.lps.state.nj.us

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE AMENDED
PETITION OF RADIANT ENERGY, LLC
FOR BPU APPROVAL OF AN EXTENDED
SUBSECTION (t) ORDER AND FOR A
WAIVER OF N.J.A.C. 14:8-2.4**

**BPU DOCKET NOS.: EO12090832V,
EO12090862V & QO15111299**

**CERTIFICATION OF
IAN P. JEROME**


I, Ian P. Jerome, being of full age hereby certifies as follows:

1. I am the project coordinator for a to be constructed ground-mounted solar array on Price's Landfill, a Superfund Site located in both Egg Harbor Township and the City of Pleasantville in Atlantic County.

2. As of the date of this Certification no construction has taken place on the site.

3. Radiant understands construction on the site needs to await the relief requested in the Amended Petition filed contemporaneously with this Certification.

I make this certification of my own free will without force or coercion. I hereby certify that all of the foregoing statements made by me are true. I understand that if any of the foregoing statements made by me are willfully false, I may be subject to punishment.

BY: 
Ian P. Jerome

Dated: 2/20/2018.