

RECEIVED
CASE MANAGEMENT

NOV 28 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

11/30/18

Q018060646

RECEIVED
MAIL ROOM

NOV 28 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Comments on behalf of Radiant Energy, LLC
to BPU Community Solar Energy Pilot Program Proposed Rules

My name is Lloyd Levenson. I am Chief Executive Officer of Cooper Levenson, Attorneys at Law. I represent the private owner of Price's Landfill in Atlantic County, New Jersey. This landfill is a listed Superfund site and is currently undergoing extensive groundwater remediation. Region II of the United States Environmental Protection Agency (US EPA) and the New Jersey Department of Environmental Protection (NJDEP), under the provisions of a Superfund Agreement, have joint responsibilities for the remediation and operations and maintenance of this landfill.

EPA notified the owner of the property that the landfill, once capped, would be available for solar development and that this would be the only viable commercial use of the property for the subsequent projected 30 years of remediation.

My firm also represents Radiant Energy, a solar development organization which has a ground lease for those portions of the site determined by EPA and NJDEP to be available for solar development.

It is the intention of Radiant Energy to apply under the proposed New Jersey Board of Public Utilities (NJ BPU) Community Solar Pilot Program, whose proposed regulations are the subject of today's public hearing.

One comment to the Proposed Rules concerns the issue of how these proposed NJ BPU regulations define an "existing solar development".

As provided in the current version of the rules at N.J.A.C. 14:8-9.2, an:

"Existing solar project," for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to January 1, 2019."

As indicated in the proposed rules, an "existing solar project" is precluded from participation in this program.

Radiant Energy has not "begun operation". It has not begun site work, or construction. It has not obtained all necessary permits and approvals to begin construction. It does however, have an NJ BPU Subsection (t) approval. This approval states:

"Projects certified under this subsection shall be considered "connected to the distribution system" [and] shall not require such designation by the Board."

CMS
B. Rocque - Romana Esq
J. Richardson Esq
R. Boylan Esq
C. Vachier Esq
J. Levenson Esq

It is not clear that the definition of an “existing solar project” under these proposed Community Solar Pilot Program Rules intended that such language in a Subsection (t) Order would define a development as an existing solar project. When the proposed rule defines an existing solar project as being one in operation, there is clarity and we do not object to that portion of the definition. However, where the definition goes on to say “and/or has been approved by the Board for interconnection to the distribution system” we do object for the following reasons:

1. Solar projects, such as Radiant Energy’s, can have an approved Subsection (t) Order, but be nowhere near having all approvals necessary to begin construction, let alone be in operation.
2. The proposed Community Solar Pilot Program Rules should acknowledge that obtaining all necessary approvals for a mixed grid supply and NEM solar project on a Superfund site undergoing active ground-water remediation (despite being supported by state and federal public policies), is far more complex, time-consuming and expensive than any other solar project. Radiant Energy needs to interface with the US EPA, the Federal Energy Regulatory Commission (FERC), the Defense Logistics Agency (DLA), the U.S. Army Corps of Engineers, the NJ BPU, the NJDEP, the NJ Department of Treasury, Egg Harbor Township, the City of Pleasantville, Atlantic County and Atlantic City Electric. The mere fact that a solar developer received an NJ BPU Subsection (t) Order, without securing many of the other required approvals, and without having even begun construction, should not disqualify this project from participation in this program just because it has Subsection (t) approval.

For the above reasons, we respectfully suggest the following alternate definition of an “existing solar project”:

“Existing solar project,” for the purposes of the Community Solar Energy Pilot Program, refers to a solar project having begun operation and/or begun construction, prior to January 1, 2019.”

Our second comment concerns the proposed NJ BPU Community Solar Pilot Program rules which contemplate the ability of NJ BPU to provide additional financial incentives to selected participants. Radiant Energy endorses this concept and respectfully suggests that such financial incentives recognize those solar projects located on Superfund sites and those that exceed the minimum target Low- and Moderate-Income (LMI) subscriber participation of 40% of project generated solar energy. The reason for this recommendation is that solar projects located on Superfund sites with LMI subscribers incur pre-development and development costs not experienced by rooftop or ground mounted projects that are not located on such environmentally sensitive sites. Such incentives could include community solar rebates based

upon the magnitude of renewable energy provided in kWh or MW (AC).

Thank you for the opportunity to submit these comments.

Respectfully Submitted,

BY: Lloyd D. Levenson, Esquire
Attorney for Radiant Energy, LLC
1125 Atlantic Avenue
Atlantic City, NJ 08401
Direct Dial: (609) 572-7711
E-Mail: ldlevenson@cooperlevenson.com