



Atlantic County Utilities Authority

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December 26, 2019

VIA HAND DELIVERY AND E-MAIL

Aida Camacho-Welch, Esq.
Secretary of the Board
Board of Public Utilities
44 South Clinton Avenue
3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350

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DEC 27 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

RE: In the matter a New Jersey Solar Transition pursuant to P/L/ 2018, C.17

BPU Docket NO.: Q018060646

Dear Secretary Camacho-Welch:

Please accept for filing an original and eleven (11) copies of Atlantic County Utilities Authority's ("ACUA") Motion for Reconsideration of the Board's December 6, 2019 Order in the above matter. Please stamp and date the additional copy as "filed" and return it in the enclosed self addressed stamped envelope. Thank you for your consideration and attention in this matter.

The ACUA is an instrumentality of Atlantic County and is responsible for managing solid waste and sewage for the residents of and businesses in the county. ACUA owns and operates a fully permitted landfill in Egg Harbor Township, New Jersey which will be the site for a Community Solar Project awarded by the Board in its decision of December 20, 2019. This project will serve only low- and moderate income customers.

ACUA has a long and highly successful record in developing and generating sustainable initiatives at its sites, including the Jersey-Atlantic Wind Farm (the first coastal wind farm in the United States and the first wind farm in New Jersey), a 500 kilowatt solar project, a Compressed Natural Gas (CNG) station to fuel its fleet of natural gas vehicles, a landfill gas-to-energy project on its landfill; multiple electric vehicle charging stations across 4 locations, and a green vehicle wash, powered by 100% renewable energy, to meet and exceed New Jersey stormwater management regulations.

The Atlantic County Utilities Authority is responsible for enhancing the quality of life through the protection of waters and lands from pollution by providing responsible waste management services. The Authority is an environmental leader and will continue to use new technologies, innovations and employee ideas to provide the highest quality and most cost effective environmental services.

Case mgmt
R. Boylan, Esq. *S. Richardson* *Log P. Owen, Esq.* *S. Hunter*
A. Harb, Esq. *S. B. Lulu*



ACUA's Community Solar Project is a continuation of ACUA's strong commitment to the development of innovative and progressive sustainability and energy-efficient initiatives.

The ACUA has a strong interest in Community Solar and in supporting Governor Murphy's strong environmental justice policies. In fact, the ACUA committed in its application to only serve LMI customers, well beyond BPU requirements. ACUA is excited for the opportunity to offer low-cost solar energy to our low-and moderate-income residents.

The Board's December 6, 2019, Order requires amendment to re-set one of the multipliers that is applied to Transition projects. In the Order (page 33) the Board established a series of "multipliers" which add or detract value and revenue flow from projects depending on the type of project. Specifically, the multiplier for community solar projects that serve only LMI customers requires revision by the Board to meet New Jersey's energy and environmental justice goals.

Through this motion the ACUA strongly recommends that the Board reconsider its "multiplier" for community solar and establish a subcategory of "Community Solar 100% LMI" with a multiplier of 1.2 to allow the Governor's vision to be achieved. Further, the Board should apply this multiplier to 100% LMI community solar projects, without application of a "lesser of" multiplier to such community projects that fall into more than one category. Without a fair multiplier, customer savings to LMI customers will be eliminated or reduced to a level which substantially harms program development, customer participation and customer savings.

POINT I

The Board should reconsider and amend the TREC "multiplier" to provide a multiplier of 1.2 to community solar projects that serve only low- and moderate income customers.

A motion for reconsideration "shall state . . . the alleged errors of law or fact relied upon" in seeking reconsideration. N.J.A.C. 14: 1-8.6. Generally, a party should not seek reconsideration merely based upon dissatisfaction with a decision. D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Rather, reconsideration is reserved for those cases where (1) the decision is based upon a "palpably incorrect or irrational basis" or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). Additionally, new or additional information should be considered in the interest of

justice. Ibid. The moving party must show that the action was arbitrary, capricious or unreasonable. D'Atria, supra, 242 N.J. Super. at 401.

In this regard, reconsideration is needed because the Board unreasonably and improperly relied only on the Board staff and Cadmus limited and not disclosed financial analysis which did not include consideration of the Governor's and the Board's strong public policy to develop community solar for low and moderate income (LMI) customers.

The Governor and the BPU's Community Solar Energy Pilot Program is intended to place an emphasis on environmental justice by delivering solar energy and the associated benefits to low-and moderate-income customers. However, contrary to the Governor's strongly stated policy to help low-and moderate-income customers participate in the solar market, the multiplier adopted by the Board for community solar projects discounts the incentive to community solar projects and therefore will harm project development and reduce or eliminate the savings to community solar customers.

Furthermore, many low-and moderate-income ratepayers live in public housing which have single utility master electricity meters on commercial tariffs. While a 1.2 factorization is needed to provide needed savings to all LMI customers, the factorization as proposed is particularly harmful to these public housing customers as the community solar credit is very low for such customers, because, per the BPU community solar rules and Orders, demand charges are not included in the credit calculation. This in turn makes the realization of savings highly challenging. This results in an additional penalty to the LMI population that live in public housing with single utility master meters.

On page 30 staff provided its basis for its recommended multipliers: "The factors assigned would be tied to the estimated costs of building the different types and to their varying revenue expectations under basic retail rate tariffs or wholesale market prices."

This staff approach is unreasonable, as it merely relies on financial analysis and does not include key policy direction from the Governor and the Board in its derivation, is contrary to the stated policy of the State of New Jersey; is based on financial analysis that has not been fully provided to the parties, and does not address substantial arguments submitted by ACUA during the comment period.

Specifically, the Governor has made community solar for LMI a key goal of his administration. Nowhere in the staff recommendation or in the Board's discussion and findings is this policy recognized or adhered to. This is a major omission in the Order which the Board should address. Resetting the

multiplier applicable to LMI only Community solar LMI projects to 1.2 presents a clear and unimpeded pathway for the Board to help make LMI community solar a success and make New Jersey and Governor Murphy a national leader in achieving environmental justice goals. A simple fix, changing the multiplier for community solar LMI projects to 1.2, will provide sufficient economic support to make these projects a success. Without this adjustment, LMI community solar will not have enough economic support and the governor's emphasis on LMI community solar will not be achieved.

The Board states at page 8 of the December 6 order that "it has considered all comments in their entirety in reaching its decisions herein." This one sentence is insufficient to support the Board's action in setting the multiplier for LMI only Community Solar Projects particularly because the staff discussion makes no recognition of the important public policy direction of Governor Murphy that should be guiding the Board's action on this issue.

Conclusion

For all the forgoing reasons, the ACUA respectfully requests that the Board reconsider its "multiplier" for community solar and establish a subcategory of "Community Solar 100% LMI" with a multiplier of 1.2.

It was not clear when the Board Order from December 6th was made publicly available. It appears that the Board's order was posted on or around December 12 and if this date is correct this motion is filed within the 15 day period for filing. Therefore, if the Board determines this Motion arrived after the allowable period to file such a Motion, we request the Board relax its rules and deem the Motion submitted nunc pro tunc.

Respectfully submitted,

By: 

Rick Dovey
President, ACUA

c: Joseph Fiordaliso, President (via Hand-Delivery)
Commissioner Upendra Chivukula (via Hand-Delivery)
Commissioner Robert Gordon (via Hand-Delivery)
Commissioner Mary-Anna Holden (via Hand-Delivery)
Commissioner Dianne Solomon (via Hand-Delivery)
Service List (via electronic mail and US Regular Mail)



STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

IN THE MATTER OF A NEW JERSEY SOLAR
TRANSITION PURSUANT TO P.L. 2018, C.17

BPU Docket NO.: QO18060646

ORDER

This matter having been presented by the Atlantic County Utilities Authority's ("ACUA"), on notice to the Board of Public Utilities (and the Honorable Joseph L. Fiordaliso) and the parties and persons set forth on the attached Service List, and having considered the motion and other documents on file in this matter, including the Letter Brief submitted in support of the motion, and other good cause appearing,

IT IS on this _____ day of _____, 2019,

ORDERED that the ACUA's motion for Clarification and Reconsideration of the New Jersey Board of Public Utilities' ("Board") December 6, 2019, Solar Transition Order ("Transition Order") is hereby granted.

Hon. Joseph L. Fiordaliso,
Commissioner



STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

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BPU Docket NO.: QO18060646

IN THE MATTER OF A NEW JERSEY SOLAR
TRANSITION PURSUANT TO P.L. 2018, C.17

NOTICE OF MOTION FOR
CLARIFICATION AND
RECONSIDERATION

TO: Honorable Joseph L. Fiordaliso, Commissioner
Ms. Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
P.O. Box 350
Trenton, New Jersey 08625-0350

and

ALL PARTIES ON THE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that pursuant to N.J.A.C. 14:1-8.6(a), the Atlantic County Utilities Authority ("ACUA") hereby moves for an Order for Clarification and Reconsideration of the New Jersey Board of Public Utilities' ("Board") December 6, 2019, Solar Transition Order ("Transition Order").

PLEASE TAKE FURTHER NOTICE that, in support of its Motion, ACUA shall rely upon the accompanying Letter Brief.

By: _____, Esq.

Dated: December 26, 2019