

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

I/M/O Verified Petition of)	
)	
SOL CES PROJECTS, LLC)	Docket No. _____
)	
For Acceptance of Two Projects into the)	
Transition Incentive Program)	
)	

VERIFIED PETITION

Sol CES Projects, LLC, a Delaware limited liability company having its principal place of business at 1101 Connecticut Ave, NW, 2nd Floor, Washington, DC 20036 (“Petitioner”), by its undersigned counsel, and pursuant to applicable rules of the New Jersey Board of Public Utilities (“Board”), hereby requests the Board to allow two solar energy projects being developed by Petitioner to be included in the Transition Incentive (“TI”) program for such projects. Petitioner contends that it was unlawfully deprived of the opportunity provided by N.J.A.C. 14:8-10.4(e)(2) to remedy any incompleteness in its application within seven business days after notice of such incompleteness, notwithstanding the closure of the TI program. Such closure did not repeal the cited regulation, and indeed could not do so without a proper rulemaking proceeding, including notice in the New Jersey Register and opportunity for comment.

In support of this Petition, Petitioner states as follows:

I. DESCRIPTION OF THE PETITIONER’S PROJECTS AND REGISTRATIONS

Petitioner is an experienced solar system developer, having successfully constructed ten solar projects in New Jersey since 2016, with many more that are currently under development.

The projects at issue in this Petition were for two rooftop installations in Secaucus, New Jersey, for 1.320 MW DC and 1.070 MW DC, respectively (the “Projects”).¹ Registrations for the Projects were uploaded by the Petitioner to the TI portal on August 26, 2021, one day before the announced closure of the TI program, along with fifteen other projects that were successfully uploaded by Petitioner and are not a matter of dispute here.

The regulations for the TI program identify eight specific items that must be included with each registration, and a ninth category of “any other data or information” necessary for a determination that the subject project will meet the requirements to earn Transitional Renewable Energy Certificates, or TRECs. N.J.A.C. 14:8-10.4(e)(1).

The alleged incompleteness for Petitioner’s Projects was a two-page Milestone Reporting Form (the “Form”). At the time of registration, the Form is necessarily filled out with “TBD” entries at the beginning of a project. The purpose of the Form is to report updates on a quarterly basis after a project is accepted into the TI program and construction commences. The Form is, therefore, useful as a practical matter as a “placeholder” for projects post-approval. The Forms for Petitioner’s Projects were prepared on August 24, 2021, before the filing of Petitioner’s registrations, and signed on August 26, 2021, the day of filing. Copies of the metadata evidencing the date the Forms were completed are attached as **Exhibit A**, and the signed Forms are attached as **Exhibit B**.

For reasons that remain unclear, every *other* document in each directory was uploaded, but the two Milestone Reporting Forms apparently were not. Petitioner received notice from the Program Administrator (“Program Administrator”) for New Jersey’s Clean Energy Program (“NJCEP”) on September 13, 2021, a full eighteen days after Petitioner’s submission, that the

¹ The Projects were assigned Application Numbers NJSTRE1547531927 and NJSTRE1547531974.

documents were missing and the Projects “deactivated”. Copies are attached as **Exhibit C**. Upon receipt of the notices, Petitioner provided the Milestone Reporting Forms immediately and filed an appeal of the Program Administrator’s decision on September 23, 2021. A copy is attached as **Exhibit D**.

The Program Administrator denied Petitioner’s appeal on October 26, 2021, citing the Board’s July 28, 2021 Order providing for the closure of the TI program, which Order stated that if a registration of an outstanding TI program project was not completed by August 27, 2021, the registration would be terminated. The email denying Petitioner’s appeals is attached as **Exhibit E**.

The TI regulations make clear that “Board staff shall notify the registrant in writing of any deficiencies” and that any incomplete registrations “shall be remedied within seven business days after the required notice.” N.J.A.C. 14:8-10.4(e)(2). Pursuant to the regulation, which has not been repealed, only after the registrant has been afforded the seven day opportunity to cure will the failure result in cancellation of the registration process. Ibid. The Board’s Order closing the program effective on August 27, 2021, did not and could not mean that the rules for the TI program were repealed on that date. Such action requires a formal rulemaking procedure including notice in the New Jersey Register and opportunity for public comment. N.J.A.C. 1:30-5.2; N.J.A.C. 1:30-5.4. Therefore, the procedures available for curing allegedly incomplete applications must still be recognized.

Moreover, even assuming that a repeal by Board Order, rather than formal rulemaking, of the seven day opportunity to cure required by N.J.A.C. 14:8-10.4(e)(2) was valid, relaxation of a hyper-technical application of the Order in the very narrow circumstance where a registration was timely filed but simply missing one document is warranted in order to obtain a fair result. The degree of economic hardship that Petitioner will suffer if it has to abandon the Projects will

be significant. Moreover, the Petitioner submitted its registrations on time, and the omission of a single document was either a technical issue or, at worst, merely inadvertent. Cf. N.J.A.C. 14:1-1.2 (providing for a waiver from a rule for good cause and in the interest of securing a just determination).

II. DESIGNATED CONTACTS

Questions, correspondence or other communications concerning this Petition should be directed to Petitioner's counsel of record:

James H. Laskey
Laura Miller
Norris McLaughlin, P.A.
400 Crossing Blvd, 8th Floor
Bridgewater, NJ 08807
908-722-0700 (tel)
908-722-0755 (fax)
jlasky@norris-law.com
lmiller@norris-law.com

III. PUBLIC INTEREST CONSIDERATIONS

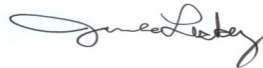
Grant of this Petition will serve the public interest of New Jersey because Petitioner's Projects are not viable under the Successive Solar Incentive, or SUSI, program and Petitioner will not be able to go forward with the Projects absent their eligibility for the TI program.² This outcome would be in direct contravention to New Jersey's stated goal of reaching 100% clean energy by 2050.

² Rooftop projects such as these have had the incentive reduced from \$152.00 to \$90.00. This explains the tremendous surge in registrations that were pursued by Petitioner and other developers in August 2021.

IV. CONCLUSION

For the foregoing reasons, Petitioner submits that the public interest, convenience, and necessity would be furthered by grant of this Petition. Petitioner asks the Board to allow its Projects to participate in the TI program and to grant such other relief as may be just and proper.

Respectfully submitted,



James Laskey
Laura Miller
Norris McLaughlin, P.A.
400 Crossing Blvd, 8th Floor
Bridgewater, NJ 08807
(908) 722-0700 (Tel)
(908) 722-0755 (Fax)
jaskey@norris-law.com
lmiller@norris-law.com
Counsel to the Petitioner

Dated: November 5, 2021

Verification

I, Rachael Moreland, verify the foregoing petition as follows:

1. I am employed as an Associate Project Development Manager for Sol Customer Solutions, and as such was responsible for submitting the TREC applications on behalf of Sol CES Projects, LLC ("Petitioner").

2. I have read the foregoing petition and verify that the facts contained therein are true to the best of my knowledge, and the opinions contained therein are correct to the best of my belief.















I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

DocuSigned by:

3AA9A78500A748F...

Dated: November 5, 2021

EXHIBIT A

Name	Date modified
 2021.08.25_Equinix_NY2-Site Plan	9/15/2021 3:14 PM
 Equinix NY2 Utility Bill	9/15/2021 3:14 PM
 Equinix NY2_PVWatts Calculator_ALL CALCS	9/15/2021 3:14 PM
 Equinix NY2_PVWatts Calculator_Designed Syste...	9/15/2021 3:14 PM
 Equinix NY2_PVWatts Calculator_Designed Syste...	9/15/2021 3:14 PM
 Equinix NY2_PVWatts Calculator_DESIGNED	9/15/2021 3:14 PM
 Equinix NY2_PVWatts Calculator_IDEAL	9/15/2021 3:14 PM
 Equinix NY2_TI Disclosure Form 08 09 21	9/15/2021 3:14 PM
 Equinix NY2_TI Disclosure Form 08 24 21 signed	9/15/2021 3:14 PM
 Equinix NY2_TI Net Metered Milestone Reportin...	9/15/2021 3:14 PM
 Equinix NY2_TI Net Metered Milestone Reportin...	9/15/2021 3:14 PM
 Equinix TREC Docusign Certificate	9/15/2021 3:14 PM
 Equinix-NY2 NJ_2021.07.09_TI Certification Form	9/15/2021 3:14 PM
 Equinix-NY2 NJ_2021.08.24_TI Certification For...	9/15/2021 3:14 PM

Equinix NY2_TI Net Metered Milestone Repor

General

Security

Details

Previous Versions

Property

Value

Description

Title

Subject

Tags

Categories

Comments

Origin

Authors

TammyGray

Last saved by

Rachael Moreland

Revision number

Version number

Program name

Microsoft Excel

Company

Conservation Services Group

Manager

Content created

11/18/2014 9:37 AM

Date last saved

8/24/2021 9:14 AM

Last printed

4/27/2020 8:25 AM

Content

Content status

Remove Properties and Personal Information

Equinix NY4

Search Equinix

Name

- 2021.08.25_Equinix_NY4 Site Plan
- Equinix NY4 Utility Bill
- Equinix NY4_PVWatts Calculator_ALL CALCS
- Equinix NY4_PVWatts Calculator_Designed System Los
- Equinix NY4_PVWatts Calculator_Designed System Los
- Equinix NY4_PVWatts Calculator_DESIGNED
- Equinix NY4_PVWatts Calculator_IDEAL
- Equinix NY4_TI Disclosure Form 08 09 21
- Equinix NY4_TI Disclosure Form 08 24 21 Signed
- Equinix NY4_TI Net Metered Milestone Reporting Form
- Equinix NY4_TI Net Metered Milestone Reporting Form**
- Equinix TREC Docusign Certificate
- Equinix-NY4 NJ_2021.07.09_TI Certification Form
- Equinix-NY4 NJ_2021.08.24_TI Certification Form Sign

Equinix NY4_TI Net Metered Milestone Reporting Form ...

General Security Details Previous Versions

Property	Value
Description	
Title	
Subject	
Tags	
Categories	
Comments	
Origin	
Authors	TammyGray
Last saved by	Rachael Moreland
Revision number	
Version number	
Program name	Microsoft Excel
Company	Conservation Services Group
Manager	
Content created	11/18/2014 9:37 AM
Date last saved	8/24/2021 9:16 AM
Last printed	4/27/2020 8:25 AM
Content	
Content status	

[Remove Properties and Personal Information](#)

EXHIBIT B



2020 Transition Incentive Program (TI)
Milestone Reporting Form
For All Grid Supply Facilities and All Net Metered Facilities Greater Than 1 MW

Initial Report Date: 8/25/2021 OR Report for Quarter Ending: _____

PROGRAM TERMS AND CONDITIONS

Applicants in the Transition Incentive Program (TI) must comply with all TI terms and conditions, eligibility requirements and installation requirements, and submit all completed forms. This Milestone Reporting Form must be submitted by the Applicant as an initial report with the Initial Transition Incentive Program Application Packet and quarterly thereafter, if applicable, that may be granted to the initial TI acceptance period, until the Final As-Built packet is submitted. Quarterly reports must be submitted to the TI Processing Team at njreinfo@njcleanenergy.com within two weeks of the quarters ending March 31, June 30, September 30 and December 31.

INSTRUCTIONS FOR COMPLETING THIS FORM

The Milestone Reporting Form is required to be submitted for all Net Metered Facilities greater than 1 MW and all Grid Supply Facilities that have submitted a complete TI Application Packet and been issued a TI Acceptance letter. All Grid Supply Facilities must have received conditional approval through a board order from the New Jersey Board of Public Utilities (NJBPU).

Section B: Please complete the chart, indicating whether each of the listed project milestones has been achieved. Where a milestone has been achieved, please insert the date it occurred in the Date Achieved column (**it is not necessary to submit any supporting documentation**); where a milestone has not been achieved, please insert the date that you expect it to occur in the Date Expected to Achieve column. Dates may be expressed as month and year; it is not necessary to identify a particular day. Please use the Comments section to elaborate on any of your responses.

Section C: The Primary Contact (TREC Owner) and Premise Contact (if different from the TREC Owner) must sign the appropriate space(s).

Once this form is completed, it should be uploaded in the online application portal as part of the TI Application Packet submission (if an initial report) or electronically to njreinfo@njcleanenergy.com (if a quarterly report).

NOTE: If the Change in Original TI Ownership box is checked below, a copy of the most recent executed contract must be submitted to the TI Processing Team.

SECTION A: PREMISE CONTACT AND PROJECT IDENTIFICATION

TI Application Number: _____ PJM Queue Number: _____

System Size (kW DC): Original 1,320 Revised _____ (decrease only)

Name of Primary Contact (TREC Owner): Andrew Grin Change in Original TREC Owner ☐

Name of Company or Organization: Sol CES Projects, LLC

Installation Address: 275 Hartz Way

City, State, ZIP Code: (City) Secaucus (State) NJ (ZIP Code) 7094

Daytime Phone: 202-748-8198 Email Address: andrew.grin@solsystems.com

Name of Premise Contact (if different from TREC Owner): Bruce Frandsen

Name of Company or Organization: EQUINIX

Address: One Lagoon Drive, Redwood City, CA

City, State, ZIP Code: (City) Redwood City (State) CA (ZIP Code) 94065

Daytime Phone: 650-598-6576 Email Address: bfrandsen@equinix.com



2020 Transition Incentive Program(TI)
Milestone Reporting Form
For All Grid Supply Facilities and All Net Metered Facilities Greater than 1 MW

SECTION B: PROJECT MILESTONES			
Milestone	Achieved (Y / N)	Date Achieved	Date Expected to Achieve
1 Submitted interconnection application to EDC	N		TBD
2 All required federal, state and local permits obtained	N		TBD
3 Received interconnection application approval from EDC	N		TBD
4 Mounting system installation has begun	N		TBD
5 Mounting system installed	N		TBD
6 Greater than 50% of solar panels installed	N		TBD
7 All equipment installed, system testing complete and request sent to EDC to test and authorize operation of system	N		TBD
8 EDC Authorization to Operate Approval	N		TBD

NOTE: If items #1-7 above have been achieved, what still remains to be completed to obtain the approval for the authorization to operate from the EDC?

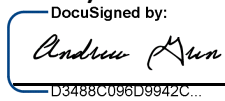
SECTION C: CERTIFICATIONS

The undersigned warrants, certifies and represents that the information provided in this form is true and correct to the best of his or her knowledge.

I agree that this document and all notices and disclosures made or given relating to this document may be created, executed, delivered and retained electronically and that the electronic signatures appearing on this document and any related documents shall have the same legal effect for all purposes as a handwritten signature.

The information, statements, and documents I have provided in and with this document are true and accurate to the best of my knowledge. I am aware that if any of them are willfully false, I am subject to punishment.


Primary Contact (TREC Owner)

Signature: 
DocuSigned by: D3488C096D9942C...

Print Name: Andrew Grin

Date: August 26, 2021

Premise Contact (if different from TREC Owner)

Signature: 
DocuSigned by: AD7CF8F53D1B482...

Print Name: Bruce Frandsen

Date: August 26, 2021



2020 Transition Incentive Program (TI)
Milestone Reporting Form
For All Grid Supply Facilities and All Net Metered Facilities Greater Than 1 MW

Initial Report Date: 8/25/2021 OR Report for Quarter Ending: _____

PROGRAM TERMS AND CONDITIONS

Applicants in the Transition Incentive Program (TI) must comply with all TI terms and conditions, eligibility requirements and installation requirements, and submit all completed forms. This Milestone Reporting Form must be submitted by the Applicant as an initial report with the Initial Transition Incentive Program Application Packet and quarterly thereafter, if applicable, that may be granted to the initial TI acceptance period, until the Final As-Built packet is submitted. Quarterly reports must be submitted to the TI Processing Team at njreinfo@njcleanenergy.com within two weeks of the quarters ending March 31, June 30, September 30 and December 31.

INSTRUCTIONS FOR COMPLETING THIS FORM

The Milestone Reporting Form is required to be submitted for all Net Metered Facilities greater than 1 MW and all Grid Supply Facilities that have submitted a complete TI Application Packet and been issued a TI Acceptance letter. All Grid Supply Facilities must have received conditional approval through a board order from the New Jersey Board of Public Utilities (NJBPU).

Section B: Please complete the chart, indicating whether each of the listed project milestones has been achieved. Where a milestone has been achieved, please insert the date it occurred in the Date Achieved column (**it is not necessary to submit any supporting documentation**); where a milestone has not been achieved, please insert the date that you expect it to occur in the Date Expected to Achieve column. Dates may be expressed as month and year; it is not necessary to identify a particular day. Please use the Comments section to elaborate on any of your responses.

Section C: The Primary Contact (TREC Owner) and Premise Contact (if different from the TREC Owner) must sign the appropriate space(s).

Once this form is completed, it should be uploaded in the online application portal as part of the TI Application Packet submission (if an initial report) or electronically to njreinfo@njcleanenergy.com (if a quarterly report).

NOTE: If the Change in Original TI Ownership box is checked below, a copy of the most recent executed contract must be submitted to the TI Processing Team.

SECTION A: PREMISE CONTACT AND PROJECT IDENTIFICATION

TI Application Number: _____ PJM Queue Number: _____

System Size (kW DC): Original 1,070 Revised _____ (decrease only)

Name of Primary Contact (TREC Owner): Andrew Grin Change in Original TREC Owner ☐

Name of Company or Organization: Sol CES Projects, LLC

Installation Address: 755 Secaucus Road

City, State, ZIP Code: (City) Secaucus (State) NJ (ZIP Code) 07094

Daytime Phone: 202-748-8198 Email Address: andrew.grin@solsystems.com

Name of Premise Contact (if different from TREC Owner): Matt Dodson

Name of Company or Organization: EQUINIX

Address: One Lagoon Drive, Redwood City, CA

City, State, ZIP Code: (City) Redwood City (State) CA (ZIP Code) 94065

Daytime Phone: 650-598-6576 Email Address: bfrandsen@equinix.com



2020 Transition Incentive Program(TI)
Milestone Reporting Form
For All Grid Supply Facilities and All Net Metered Facilities Greater than 1 MW

SECTION B: PROJECT MILESTONES			
Milestone	Achieved (Y / N)	Date Achieved	Date Expected to Achieve
1 Submitted interconnection application to EDC	N		TBD
2 All required federal, state and local permits obtained	N		TBD
3 Received interconnection application approval from EDC	N		TBD
4 Mounting system installation has begun	N		TBD
5 Mounting system installed	N		TBD
6 Greater than 50% of solar panels installed	N		TBD
7 All equipment installed, system testing complete and request sent to EDC to test and authorize operation of system	N		TBD
8 EDC Authorization to Operate Approval	N		TBD

NOTE: If items #1-7 above have been achieved, what still remains to be completed to obtain the approval for the authorization to operate from the EDC?

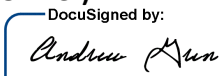
SECTION C: CERTIFICATIONS

The undersigned warrants, certifies and represents that the information provided in this form is true and correct to the best of his or her knowledge.

I agree that this document and all notices and disclosures made or given relating to this document may be created, executed, delivered and retained electronically and that the electronic signatures appearing on this document and any related documents shall have the same legal effect for all purposes as a handwritten signature.

The information, statements, and documents I have provided in and with this document are true and accurate to the best of my knowledge. I am aware that if any of them are willfully false, I am subject to punishment.


Primary Contact (TREC Owner)

Signature: 
DocuSigned by: D3488C096D9942C...

Print Name: Andrew Grin

Date: August 26, 2021

Premise Contact (if different from TREC Owner)

Signature: 
DocuSigned by: AD7CF8F59D4B482...

Print Name: Bruce Frandsen

Date: August 26, 2021

EXHIBIT C

From: donotreply@programprocessing.com
Sent: Monday, September 13, 2021 12:35 PM
To: Rachael Moreland
Subject: NJ TI INCOMPLETE - FINAL (RESUBMISSION REQUIRED)



Sep-13 2021

Application Number: NJSTRE1547531927

NOTICE: TI Application Incomplete-Final-Resubmission Required

Andrew Grin
Sol CESProjects, LLC
1101 Connecticut Avenue NW
Washington, DC20036

Dear Andrew Grin:

This email is to inform you that your Transition Program (TI) Application packet has been deemed incomplete for the solar installation at the following address:

Bruce Frandsen
Equinix
275 Hartz Way
Secaucus, NJ07094

The items listed below from the TI Initial Application Checklist were not included in your registration packet. The registration has been deactivated.

- Milestone Reporting Form Not Submitted

The Transition Incentive Program was closed to new TI applications on August 27, 2021. You may have the opportunity to participate in the Administratively Determined Incentive Program (ADI) which was opened to new registrations on 8/28/2021. For more information on the ADI Program, please go to njcleannenergy.com.

If you have any questions, please contact njreinfo@njcleanenergy.com.

Transition Incentive Program
New Jersey's Clean Energy Program™

c/o TRC
317 George Street, Suite #520
New Brunswick, NJ08901

CC:
Paul Shust
Bruce Frandsen

From: donotreply@programprocessing.com
Sent: Monday, September 13, 2021 12:40 PM
To: Rachael Moreland
Subject: NJ TI INCOMPLETE - FINAL (RESUBMISSION REQUIRED)



Sep 13 2021

Application Number: NJSTRE1547531974

NOTICE: TI Application Incomplete Final Resubmission Required

Andrew Grin
Sol CES Projects, LLC
1101 Connecticut Avenue NW
Washington, DC 20036

Dear Andrew Grin:

This email is to inform you that your Transition Program (TI) Application packet has been deemed incomplete for the solar installation at the following address:

Bruce Frandsen
Equinix
755 Secaucus Rd
Secaucus, NJ 07094

The items listed below from the TI Initial Application Checklist were not included in your registration packet. The registration has been deactivated.

-
Milestone Reporting Form Not Submitted

The Transition Incentive Program was closed to new TI applications on August 27, 2021. You may have the opportunity to participate in the Administratively Determined Incentive Program (ADI) which was opened to new registrations on 8/28/2021. For more information on the ADI Program, please go to njcleannenergy.com.

If you have any questions, please contact njreinfo@njcleanenergy.com.

Transition Incentive Program
New Jersey's Clean Energy Program™

c/o TRC
317 George Street, Suite #520
New Brunswick, NJ08901

CC:
Paul Shust
Bruce Frandsen

EXHIBIT D



September 23, 2021

Program Administrator
New Jersey Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, NJ 08625-0350
issues@njcleanenergy.com

Submitted via Email

Re: NJ TI INCOMPLETE - FINAL (RESUBMISSION REQUIRED) – Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974

Dear Program Administrator,

This letter is intended to serve as Sol Systems' formal request that the New Jersey Board of Public Utilities (BPU) accept application NJSTRE1547531927 and NJSTRE1547531974, attached and originally signed and uploaded on August 26, 2021, as complete applications and/or reinstate the applications with a 30-day extension to refile. Sol Systems greatly appreciates the time BPU staff has given so far in this process and we thank you for continued assistance.

Please find the original files Sol Systems uploaded on August 26, 2021 attached. We have also included the verification from DocuSign as to when all documents were signed. As we noted in our initial email outreach to BPU staff, all documents were completed before the transition REC program deadline and our team attempted to upload all required documents at the same time. In addition to these two applications, Sol Systems submitted 15 additional projects, which were all accepted and are moving forward. We followed the same process for application NJSTRE1547531927 and NJSTRE1547531974 as we did for the other 15 projects, but it appears that the Milestone Reporting Form file did not actually upload for these two applications.

As requested for this appeal, below are responses to each question, and all application files for both projects are attached.

1. The current application status (rejected/cancelled/expired/other)

- Application Numbers NJSTRE1547531927 and NJSTRE1547531974 are both currently listed as "NJ TI INCOMPLETE - FINAL (RESUBMISSION REQUIRED)" and deactivated per the September 13, 2021, emails from the TREC Transition Incentive Program.

2. A copy of the document from which you are appealing (e.g., rejection letter)

- Copies of both emails requesting resubmission are attached.

3. A detailed description of the events that led to the appeal request

- The September 13, 2021, emails were the first notification Sol Systems received that the applications were incomplete.
- After notification of each incomplete submission, we immediately re-submitted all supporting information, including Milestone Reporting Forms.



- Additionally, Andrew Williams, Vice President of Policy & Corporate Affairs for Sol Systems reached out on September 15, 2021 in an attempt to rectify the failed upload of these two otherwise-complete permit applications.
- On September 20, 2021, Mr. Williams was informed that an appeal is necessary for each.

4. An explanation as to why you think your appeal should be granted

- The completed Milestone Reporting Forms (attached) have a DocuSign timestamp signature of August 26, 2021, consistent with the date we made our application.
- The timestamps on the Milestone Reporting Forms clearly show that the forms were complete when the application was submitted.
- The rejection emails Sol Systems received on September 13, 2021, were the first indication we had that there was a problem; this appeal represents Sol's first formal opportunity to remedy.
- We realize that problems occur from time to time and especially in the remote work environment we all face during this extended global pandemic, but we respectfully request leniency from the BPU in this limited instance.
- Without the transition REC program, the two projects would not be able to move forward and therefore would also leave our customer with no clean energy option.

5. All documents supporting your explanation (attached)

- Attached please find:
 - Original rejection emails.
 - Complete application package for application Numbers NJSTRE1547531927 and NJSTRE1547531974.
 - Correspondence from 9/20 recommending this appeal.

6. A clear statement of the remedy you seek (e.g., reinstatement of the application with 30-day extension)

- We respectfully request that NJ BPU accept the attached information for application Numbers NJSTRE1547531927 and NJSTRE1547531974 as a complete and timely application and/or reinstate this application with a 30-day extension to refile.

Thank you again for considering our appeal related to application numbers NJSTRE1547531927 and NJSTRE1547531974. We truly feel that the original rejections were based on technological hardship and not based on the substance or completeness of our applications. Please do not hesitate to reach out anytime with questions.

Respectfully submitted,

DocuSigned by:

A stylized signature of Andrew Grin in black ink.
D3488C096D9942C...

Andrew Grin

Associate Vice President, Sol Customer Solutions

c/o Sol Systems, LLC

andrew.grin@solsystems.com

EXHIBIT E

From: Kowalczyk, Thomas <TKowalczyk@trccompanies.com>
Sent: Tuesday, October 26, 2021 5:09 PM
To: Andrew Grin; issues@njcleanenergy.com
Cc: Kathleen Robertson; Andrew Williams; VanBlarcom, Tammy
Subject: Appeal # 21-2158, Sol Systems Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974

Dear Mr. Grin:

We have DENIED your appeal seeking to have the subject solar registrations reinstated in the now-closed Transition Incentive (TI) Program. Your argument is that the NJCEP online registration system “appears” to have not actually uploaded the required Milestone Reporting Forms (MRFs). We have denied the appeal essentially because an Order of the Board of Utilities (Board or BPU) requires us to deny it. However, we also note that the projects are probably eligible for the new Successor Program.

On July 28, 2021, the Board entered an Order providing for the closure of the TI Program and stating, in particularly relevant part: “Turning to ... the over one thousand projects that have remained in the status “Eligible for TI” since being transferred from the SRP in 2020, the Board ... ORDERS that if the registration of these projects is not completed by 11:59:59 p.m. on August 27, 2021, these registrations shall be terminated. The registrants, or other parties if applicable, may have the opportunity to register these projects in the Successor Program.” I/M/O Order Closing the Transition Incentive Program to New Registrants, Docket No. QO19010068 (July 28, 2021), p.6. Your TI registration was, in fact, not completed by 11:59:59 p.m. on August 27, 2021 in that the MRFs were not actually uploaded as required.

In your appeal, you argue that there must have been a technical problem with NJCEP’s IT system at the time you were submitting these applications on August 26, 2021 and that you and your client should not be penalized for a problem with NJCEP’s system. The factual basis of your argument is that you had all the necessary documents in hand, followed your usual uploading and submission process, successfully submitted 15 other registrations on August 26, and were able to upload the MRFs immediately after being notified on or about September 13 that they were missing. However, you admit you “do not have technical evidence that identified the potential system failure to record the upload(s).” And, to the contrary, the available evidence is that the system was in fact operating normally on August 26 – on that day the Program Manager successfully accepted over 350 applications and its outside IT service provider has since confirmed that there were no problems with the system on August 26 (although there was a problem for approximately an hour early in the morning on August 27). In short, you have failed to demonstrate that it is more likely that the failure to upload the required MRFs was the result of an IT failure on the part of the Program Manager

In sum, the Board Order requires the Program Manager to terminate any registration that was not complete on August 27, and yours were not complete on that date. Further, we are not at all sure the Board Order could be read as authorizing the acceptance of a registration that would have been completed but for a problem with NJCEP’s online registration system, and, even if the Board Order could be so read, you have not made that “but for” showing. Finally, the denial of your requested relief is consistent with NJCEP’s “literal, almost mechanical” application of NJCEP’s rules related to its various solar program deadlines.

If you wish to pursue this matter further, you have the right to file a petition for a formal hearing with the New Jersey Board of Public Utilities pursuant to N.J.A.C. 14:1-1. For your convenience, more detailed information about the filing of such a petition can be found under “Dispute Resolution Process” at <http://www.njcleanenergy.com/disputeresolution> .

Thank you for participating in NJCEP.

Thomas A. Kowalczyk
Manager, Regulatory Compliance
Program Administrator for NJCEP



317 George Street, Suite 520, New Brunswick, NJ 08901
T 732-447-1359 | F 732-855-0422|
tkowalczyk@trccompanies.com
[LinkedIn](#) | [Twitter](#) | [Blog](#) | TRCcompanies.com

From: Andrew Grin <andrew.grin@solsystems.com>
Sent: Monday, October 25, 2021 10:40 AM
To: Kowalczyk, Thomas <TKowalczyk@trccompanies.com>; issues@njcleanenergy.com
Cc: Kathleen Robertson <kathleen.robertson@solsystems.com>; Andrew Williams <andrew.williams@solsystems.com>; VanBlarcom, Tammy <TVanBlarcom@trccompanies.com>
Subject: [EXTERNAL] Re: Appeal # 21-2158, Sol Systems Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974

This is an **EXTERNAL** email. Do not click links or open attachments unless you validate the sender and know the content is safe.

Dear Program Administrator,

Could you please confirm the status of Sol Systems Appeal # 21-2158 sent September 23, 2021? I have re-attached the original appeal and the follow up clarifications sent on September 28th.

Thank you for your review,

Andrew Grin

Associate Vice President, Sol Customer Solutions



Sol Customer Solutions

c/o Sol Systems, LLC

1101 Connecticut Avenue NW | Second Floor | Washington, DC 20036

D (202) 349-9710 | M (913) 620-8300

[website](#) | [vCard](#) | [my linkedin](#) | [email](#)



Confidentiality Statement: The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to this message and deleting the material from any computer. Thank you.

From: Andrew Grin <andrew.grin@solsystems.com>
Sent: Tuesday, September 28, 2021 12:34 PM
To: Kowalczyk, Thomas <TKowalczyk@trccompanies.com>
Cc: Kathleen Robertson <kathleen.robertson@solsystems.com>; Andrew Williams <andrew.williams@solsystems.com>; VanBlarcom, Tammy <TVanBlarcom@trccompanies.com>
Subject: Re: Appeal # 21-2158, Sol Systems Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974

Dear Mr. Kowalczyk,

Please see attached for our response to the questions below. Thank you again for considering our appeal related to application numbers NJSTRE1547531927 and NJSTRE1547531974. Please do not hesitate to reach out anytime with any additional questions.

Thank you,

Andrew Grin

Associate Vice President, Sol Customer Solutions



Sol Customer Solutions

c/o Sol Systems, LLC

1101 Connecticut Avenue NW | Second Floor | Washington, DC 20036

D (202) 349-9710 | M (913) 620-8300

[website](#) | [vCard](#) | [my linkedin](#) | [email](#)



Confidentiality Statement: The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to this message and deleting the material from any computer. Thank you.

From: Kowalczyk, Thomas <TKowalczyk@trccompanies.com>

Sent: Friday, September 24, 2021 5:17 PM

To: Andrew Grin <andrew.grin@solsystems.com>

Cc: Kathleen Robertson <kathleen.robertson@solsystems.com>; Andrew Williams <andrew.williams@solsystems.com>; VanBlarcom, Tammy <TVanBlarcom@trccompanies.com>

Subject: Appeal # 21-2158, Sol Systems Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974

Dear Mr. Grin:

Please be advised that we serve as the Program Administrator for New Jersey's Clean Energy Program (NJCEP), and, as such, provide services related to resolving disputes and/or appeals regarding decisions made by NJCEP Program Managers. This is to acknowledge receipt of your appeal below, to request that you include the above Appeal # in the Subject line of any further correspondence in this matter, and to request the following information be provided to us by October 8, 2021:

1. Clarification whether your claim is that the NJCEP system failed to accurately record an upload that your team had in fact conducted, that your team inadvertently failed to conduct the upload of the subject documents, or something else.
 - a. If your claim is based on anything other than your team's inadvertence, provide all details and evidence you have to support the claim.
2. State the status your system had in the NJCEP online system (e.g., "Eligible for TI") as of 11:59:59 pm on August 27, 2021.
3. All documents supporting your responses to the above.

We look forward to hearing from you and thank you for participating in NJCEP.

Thomas A. Kowalczyk

Manager, Regulatory Compliance
Program Administrator for NJCEP



317 George Street, Suite 520, New Brunswick, NJ 08901

T 732-447-1359 | F 732-855-0422 |

tkowalczyk@trccompanies.com

[LinkedIn](#) | [Twitter](#) | [Blog](#) | TRCcompanies.com

From: Andrew Grin <andrew.grin@solsystems.com>

Sent: Thursday, September 23, 2021 5:07 PM

To: issues@njcleanenergy.com

Cc: Kathleen Robertson <kathleen.robertson@solsystems.com>; Andrew Williams <andrew.williams@solsystems.com>

Subject: [EXTERNAL] Sol Systems Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974

This is an EXTERNAL email. Do not click links or open attachments unless you validate the sender and know the content is safe.

Dear Program Administrator,

Attached please find Sol Systems' formal request that the New Jersey Board of Public Utilities (BPU) accept application NJSTRE1547531927 and NJSTRE1547531974, attached and originally signed and uploaded on August 26, 2021, as complete applications and/or reinstate the applications with a 30-day extension to refile. Sol Systems greatly appreciates the time BPU staff has given so far in this process and we thank you for continued assistance.

The PDF named "Sol Systems Appeal of Application Numbers NJSTRE1547531927 and NJSTRE1547531974.pdf" contains our complete response to the appeal questions. All other attachments represent the complete application for both, as well as subsequent communication on this issue as referenced in that letter.

Thank you again for considering our appeal related to application numbers NJSTRE1547531927 **and** NJSTRE1547531974. We truly feel that the original rejections were based on technological hardship and not based on the substance of our applications. Please do not hesitate to reach out anytime with questions.

Respectfully submitted,

Andrew Grin

Associate Vice President, Sol Customer Solutions



Sol Customer Solutions

c/o Sol Systems, LLC

1101 Connecticut Avenue NW | Second Floor | Washington, DC 20036

D (202) 349-9710 | M (913) 620-8300

[website](#) | [vCard](#) | [my linkedin](#) | [email](#)



Confidentiality Statement: The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by replying to this message and deleting the material from any computer. Thank you.