



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY

ORDER

- |   |   |                       |
|---|---|-----------------------|
| IN THE MATTER OF A NEW JERSEY SOLAR<br>TRANSITION PURSUANT TO P.L. 2018, C.17   | ) | DOCKET NO. QO19010068 |
|   | ) |                       |
| IN THE MATTER OF THE VERIFIED PETITION OF AB<br>NEWARK (FUND IV) OPERATING, LLC AND ANHEUSER<br>BUSCH, LLC FOR APPROVAL OF A WAIVER AND<br>EXTENSION OF THE SOLAR TRANSITION INCENTIVE<br>PROGRAM COMMERCIAL OPERATION DEADLINE FOR<br>NON-RESIDENTIAL NET-METERED ROOFTOP AND<br>CARPORT SOLAR PROJECT NJSTRE1547207739; | ) | DOCKET NO. QO22040243 |
|   | ) |                       |
| IN THE MATTER OF THE VERIFIED PETITION OF NJ<br>SOLAR 3, LLC FOR APPROVAL OF A WAIVER AND<br>EXTENSION OF THE SOLAR TRANSITION INCENTIVE<br>PROGRAM COMMERCIAL OPERATION DEADLINE FOR<br>THE M. GORDON CONSTRUCTION COMPANY SOLAR<br>PROJECT NJSTRE1546554415, NJSTRE1546554647,<br>NJSTRE1546553890;                     | ) | DOCKET NO. QO22040261 |
|   | ) |                       |
| IN THE MATTER OF THE VERIFIED PETITION OF NJ<br>SOLAR 8 LLC FOR APPROVAL OF A WAIVER AND<br>EXTENSION OF THE SOLAR TRANSITION INCENTIVE<br>PROGRAM COMMERCIAL OPERATION DEADLINE FOR<br>THE PRINCETON HEALTH SOLAR PROJECTS<br>NJSTRE1547456206, NJSTRE1547455704;  | ) | DOCKET NO. QO22030186 |
|   | ) |                       |
| IN THE MATTER OF THE VERIFIED PETITION OF NJ<br>SOLAR 9 LLC FOR APPROVAL OF A WAIVER AND<br>EXTENSION OF THE SOLAR TRANSITION INCENTIVE<br>PROGRAM COMMERCIAL OPERATION DEADLINE FOR<br>THE ST. THOMAS THE APOSTLE RC CHURCH SOLAR<br>PROJECTS NJSTRE1547186450, NJSTRE1547187242;  | ) | DOCKET NO. QO22030183 |
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IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 11 LLC FOR APPROVAL OF A WAIVER AND ) DOCKET NO. QO22030194  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
THE LAUREL CREEK COUNTRY CLUB SOLAR )  
PROJECT NJSTRE1547462183; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 12 LLC FOR APPROVAL OF A WAIVER AND ) DOCKET NO. QO22030184  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
CHERRY HILL HOTEL MGMT LLC SOLAR PROJECT )  
NJSTRE1547462340; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 15 LLC FOR APPROVAL OF A WAIVER AND ) DOCKET NO. QO22050343  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
THE INDUSTRIAL OPPORTUNITIES II SOLAR )  
PROJECTS– NJSTRE154538852, NJSTRE154758838, )  
NJSTRE1547538845, NJSTRE1547465089, AND )  
NJSTRE1547462602; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 18 LLC FOR APPROVAL OF A WAIVER AND ) DOCKET NO. QO22030192  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
ST. PIUS HIGH SCHOOL C/O DIOCESE OF METUCHEN )  
ST. JOHN NEUMANN PASTORAL CENTER SOLAR )  
PROJECT NJSTRE1547538650; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 19 LLC FOR APPROVAL OF A WAIVER AND ) DOCKET NO. QO22030201  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
THE ST. JOSEPH’S UNIVERSITY MEDICAL CENTER )  
SOLAR PROJECTS – NJSTRE1547536943, )  
NJSTRE1547538763, NJSTRE1547538751, )  
NJSTRE1547538784 AND NJSTRE1547538779; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 23 LLC FOR APPROVAL OF A WAIVER AND ) DOCKET NO. QO22030185  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
THE SPENCER GIFTS SOLAR PROJECT )  
NJSTRE1547465089; )

IN THE MATTER OF VERIFIED PETITION OF NJ SOLAR )  
24 LLC FOR APPROVAL OF A WAIVER AND )  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE ) DOCKET NO. QO22030195  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
THE IMPACTING YOUR WORLD MINISTRIES )  
CHRISTIAN CENTER SOLAR PROJECT )  
NJSTRE1547538146; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 25 LLC FOR APPROVAL OF A WAIVER AND )  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE ) DOCKET NO. QO22030193  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR )  
THE JEFFERSON HEALTH AND WELLNESS CENTER )  
SOLAR PROJECTS NJSTRE1547537931, )  
NJSTRE1547537882, NJSTRE1547537816; )

IN THE MATTER OF THE VERIFIED PETITION OF NJ )  
SOLAR 29 LLC FOR APPROVAL OF A WAIVER AND )  
EXTENSION OF THE SOLAR TRANSITION INCENTIVE )  
PROGRAM COMMERCIAL OPERATION DEADLINE FOR ) DOCKET NO. QO22030188  
THE OCEAN CITY TABERNACLE CHURCH SOLAR )  
PROJECT NJSTRE1547538686, NJSTRE1547538716, )  
NJSTRE1547538732; )

IN THE MATTER OF THE PETITION OF THE )  
PENNINGTON SCHOOL FOR AN EXTENSION OF THE )  
EXPIRATION DATE OF FOUR PROJECTS IN THE )  
SOLAR TRANSITION INCENTIVE PROGRAM – GYM ) DOCKET NO. QO22040240  
NJSTRE1547233075, BUCK HALL NJSTRE1547232942, )  
CAMPUS CENTER NJSTRE1547234271, STAINTON )  
NJSTRE1547233114; AND )

DOCKET NO. QO22050355 – IN THE MATTER OF THE )  
PETITION OF TRI-BOROUGH SAND AND STONE AND )  
WARD SAND & STONE TI APPLICATIONS )  
#NJSTRE1547532017 & NJSTRE1547532602 ) DOCKET NO. QO22050355

Parties of Record:

**James M. Farrell, Esq.**, on behalf of The Pennington School  
**Rebecca Moll Freed, Esq.**, Genova Burns LLC, on behalf of AB Newark (Fund IV) Operating,  
LLC  
**Jennifer McCave, Esq.**, Bevan, Mosca & Giuditta, P.C, on behalf of various NJ Solar entities  
**Alice Meehan, Esq.**, on behalf of Tri-Borough Sand & Stone and Ward Sand & Stone

BY THE BOARD:<sup>[1]</sup>

<sup>[1]</sup> Commissioner Zenon Christodoulou abstained from voting on this matter.

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers the petitions of AB Newark (Fund IV) Operating, LLC and Anheuser Busch, LLC (“Anheuser Busch”); The Pennington School; Tri-Borough Sand & Stone and Ward Sand & Stone (“Sand & Stone”); and 12 individual NJ Solar LLCs (“NJ Solar”) (each individually, “Petitioner”, or together, “Petitioners”) requesting extensions of time for registrations in the Transition Incentive (“TI”) Program. The Board addresses the petitions together because the Petitioners’ projects are in a similar status relative to the completion milestones of the TI Program.

## BACKGROUND

On May 23, 2018, the Clean Energy Act was signed into law and became effective immediately.<sup>1</sup> Among many other mandates, the Clean Energy Act directed the Board to adopt rules and regulations to close the Solar Renewable Energy Certificate (“SREC”) Registration Program (“SREC Program” or “SRP”) 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. The Clean Energy Act also directed the Board to complete a study (“Capstone Report”) that evaluates how to modify or replace the SREC Program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State.

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. The TI Program, subsequently codified in rules, provides eligible projects with Transition Renewable Energy Certificates (“TREC”) for each megawatt hour (“MWh”) of electricity produced.<sup>2</sup> Incentives are tailored to specific project types through the use of factors, which are applied to a base incentive rate to provide a particular project type the full incentive amount or a set percentage of that amount depending on the costs and anticipated revenue streams for the project type. Projects located on rooftops and carports, like those addressed in the majority of the above-captioned petitions, receive a factor of 1.0 and thus the full amount of the base incentive, \$152/MWh. The TI Program portal opened to new applications on May 1, 2020; pursuant to Board Order and the TI Rules, the TI Program remained open to new registrations until the establishment of a registration program for the Successor Program.<sup>3</sup>

On April 21, 2021, BPU Staff (“Staff”) issued the New Jersey Successor Program Staff Straw Proposal (“Successor Straw Proposal”). The Successor Straw Proposal expanded on the two-part incentive program design suggested in the Capstone Report, proposing an administratively

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<sup>1</sup> L. 2018, c. 17 (“Clean Energy Act” or “Act”).

<sup>2</sup> 52. N.J.R. 1850(a) (“TI Rules”).

<sup>3</sup> 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”).

determined incentive program for smaller projects and a competitive incentive program for most non-residential projects over 5 megawatts (“MW”). The straw proposal also provided Staff’s recommendations for suggested incentive levels, processes, market segment capacity caps, calculation of the statutorily mandated cost cap, and overall implementation of the Successor Program. Five (5) public stakeholder workshops were conducted to address questions about the straw proposal and collect stakeholder feedback on Staff’s recommendations. Workshop #5, held on May 7, 2021, specifically addressed the proposed transition from the TI Program to the Successor Program.

On June 24, 2021, the Board granted projects registered in the TI Program on or before the effective date of the order an automatic six-month extension to their existing deadline established at N.J.A.C. 14:8-10.4(d) or (e).<sup>4</sup>

On July 9, 2021, Governor Murphy signed P.L. 2021, c.169 into law, effective immediately, directing the Board to develop and launch the Successor Program, among other requirements. On July 28, 2021, the Board announced the closure of the TI Program and the opening of the Successor Solar Incentive (“SuSI”) Program. The TI Program closed on August 27, 2021, and the SuSI Program opened on August 28, 2021.

On January 26, 2022, the Board issued an Order granting a waiver of section 14:8-11.4(b) of the SuSI Program Rules, which requires receipt of conditional registration in the Administratively Determined Incentive (“ADI”) Program prior to beginning construction on the solar facility. The Order permitted projects that held a valid TI Program registration and have commenced construction to apply for the ADI Program.<sup>5</sup>

A significant number of TI registrants have petitioned the Board for extensions of TI Program registrations. On June 8, 2022, the Board issued an Order granting a conditional extension in the TI Program to ESNJ-KEY-GIBBSTOWN, LLC, subject to a showing that certain specified conditions applied.<sup>6</sup> In that case, the Board found good cause to grant a conditional extension to the petitioner’s project since it was electrically and mechanically complete, had secured all necessary permits, and was prevented from meeting its TI Program deadline only by changes its electric distribution company (“EDC”) made with regard to interconnection upgrade requirements. The June 2022 Order also instituted a process for petitioners who believe that they are similarly situated to apply for extensions to their TI registration, subject to making a similar showing.

## **Petitions**

### *Anheuser Busch*

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<sup>4</sup> In re a New Jersey Solar Transition Pursuant To P.L. 2018, C.17 – Order Addressing Requests For Extension For Projects In The Solar Transition Incentive Program, BPU Docket Nos. QO19010068 & QO21060883, Order dated June 24, 2021 (“June 2021 Order”).

<sup>5</sup> In re a New Jersey Solar Transition Pursuant To P.L. 2018, C.17 – Order Modifying ADI Program Eligibility Conditions. BPU Docket Nos. QO20020184, Order dated January 26, 2022.

<sup>6</sup> 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 & QO22030156, Order dated June 8, 2022 (“June 2022 Order”).

On April 7, 2022, Anheuser Busch filed a petition seeking a one-year extension in the TI Program for a 6.87 MW DC project at its brewery located in Newark, New Jersey. According to the petition, this project registered in the TI Program as three (3) individual rooftop and carport canopy non-residential net metered solar electric generation facilities on August 19, 2021, and have a post-construction certification deadline of August 24, 2022.

Anheuser Busch stated that it did not apply to the Newark Planning Board until November 12, 2021 because it needed to obtain accurate title records and an updated survey, and thereafter securing local approvals took longer than anticipated. Petitioner also claimed that delivery of roofing material was delayed for more than a year due to supply chain issues. According to the petition, construction of the rooftop solar mounting system is not expected to begin until February 2023, and none of the projects are expected to reach commercial operation until August 1, 2023 because of labor and equipment shortages.

### *NJ Solar 3*

On April 20, 2022, NJ Solar 3 LLC filed a petition seeking a one-year extension of the commercial operation deadline in the TI Program for its projects located at the M. Gordon Construction Company's Cranbury Executive Center in Cranbury, New Jersey. According to the petition, the projects registered in the TI Program as non-residential net metered carport facilities with a post-construction certification deadline of July 29, 2022.

The petition alleged a need for the one-year extension based on unspecified delays in zoning and planning approvals; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation. The petition included copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

### *NJ Solar 8*

On March 29, 2022, NJ Solar 8 LLC filed a petition seeking a one-year extension of the TI Program's commercial operation deadline for two (2) projects located at Princeton Health in Princeton, New Jersey. According to the petition, the projects are non-residential rooftop and carport canopy net metered solar electric generation facilities, and have post-construction certification deadlines of August 25, 2022, and August 26, 2022.

The petition alleged a need for the one-year extension based on unspecified delays in the interconnection process; delays in zoning and planning approvals; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation. The petition included copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

### *NJ Solar 9*

On March 29, 2022, NJ Solar 9 LLC filed a petition seeking an extension in the TI Program for two (2) projects located at the St. Thomas the Apostle Church in Old Bridge, New Jersey. According to the petition, the projects registered in the TI Program as rooftop non-residential net metered solar electric generation facilities and have a post-construction certification deadline of July 6, 2022. This Petitioner sought a one-year extension of its commercial operation deadline.

The petition alleged a need for a one-year extension based on unspecified delays in the interconnection process; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation. The petition included copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

*NJ Solar 11*

On March 29, 2022, NJ Solar 11 LLC filed a petition seeking a one-year extension of its commercial operation deadline in the TI Program for a project located at the Laurel Creek Country Club in Mount Laurel, New Jersey. According to the petition, the project registered in the TI Program as a non-residential net metered carport canopy facility and has a post-construction certification deadline of August 30, 2022.

The petition alleged a need for a one-year extension based on unspecified delays in zoning and planning approvals; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation. The petition included copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

*NJ Solar 12*

On March 29, 2022, NJ Solar 12 LLC filed a petition seeking a one-year extension of its commercial operation deadline in the TI Program for a project located at the Cherry Hill Hotel in Cherry Hill, New Jersey. According to the Petition, the project registered in the TI Program as a non-residential rooftop and carport canopy net metered project with a post-construction certification deadline of October 11, 2022.

The petition alleged unspecified delays in the interconnection process; delays in zoning and planning approvals; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation as the basis for its extension request. In support of its petition, NJ Solar 12 provided copies of articles from national publications and various websites describing general supply chain issues affecting the solar industry.

*NJ Solar 15*

On May 16, 2022, NJ Solar 15 LLC filed a petition seeking a one-year extension of the commercial operation deadline in the TI Program for five (5) projects located at Industrial Opportunities II in Pennsauken, New Jersey. According to the petition, the projects registered in the TI Program as non-residential rooftop net metered projects and have a post-construction certification deadline of September 24, 2022.

The petition alleged unspecified supply chain delays for steel, solar modules, and electrical components and a shortage of labor for installation as the basis for its extension request. In support of its petition, NJ Solar 15 provided copies of articles from national publications and various websites describing general supply chain issues affecting the solar industry.

*NJ Solar 18*

On March 29, 2022, NJ Solar 18 LLC filed a petition seeking a one-year extension of its commercial operation deadline in the TI Program for a project located at St. Pius High School in

Piscataway, New Jersey. According to the petition, the project registered in the TI Program as a non-residential rooftop net metered project and has a post-construction certification deadline of September 22, 2022.

The petition alleged unspecified supply chain delays for steel, solar modules, and electrical components and a shortage of labor for installation as the basis for its extension request. In support, the petitioner provided copies of articles from national publications and various websites describing generic supply chain issues affecting the solar industry.

#### *NJ Solar 19*

On March 29, 2022, NJ Solar 19 LLC filed a petition seeking a one-year extension of its commercial operation deadlines in the TI Program for five (5) projects located at St. Joseph's University Medical Center in Totowa, Wayne, and Paterson, New Jersey. According to the petition, the projects registered in the TI Program as rooftop and carport canopy non-residential net metered solar electric generation facilities and have post-construction certification deadlines of September 17, 2022 and September 23, 2022.

The petition alleged unspecified delays in the interconnection process; delays in zoning and planning approvals; supply chain delays related to steel, solar modules, and electrical components; and a shortage of labor for installation. In support of its extension request, NJ Solar 19 provided copies of articles from national publications and various websites describing general supply chain issues affecting the solar industry.

#### *NJ Solar 23*

On March 29, 2022, NJ Solar 23 LLC filed a petition seeking a one-year extension of its commercial operation deadline in the TI Program for a project located at Spencer Gifts in Egg Harbor Township, New Jersey. According to the petition, the project registered in the TI Program as a non-residential net metered carport canopy project and has a post-construction certification deadline of September 1, 2022.

The petition alleged unspecified delays in the interconnection process; delays in zoning and planning approvals; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation. The petition included copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

#### *NJ Solar 24*

On March 29, 2022, NJ Solar 24 LLC filed a petition seeking a one-year extension of its commercial operation deadline in the TI Program for a project located at the Impacting Your World Ministries Christian Center in Cherry Hill, New Jersey. According to the petition, the project registered in the TI Program as a rooftop non-residential net metered solar electric generation facility and has a post-construction certification deadline of September 20, 2022.

The petition alleged unspecified delays related to supply chain issues for steel, solar modules, and electrical components, and a shortage of labor for installation. In support of its petition, NJ Solar 24 provided copies of articles from national publications and various websites describing general supply chain issues affecting the solar industry.



*NJ Solar 25*

On March 29, 2022, NJ Solar 25 LLC filed a petition seeking a one-year extension of its commercial operation deadlines in the TI Program for three (3) projects located at the Jefferson Health and Wellness Centers in Turnersville and Sewell, New Jersey. According to the petition, the projects registered in the TI Program as rooftop and carport canopy non-residential net metered solar electric generation facilities and have post-construction certification deadlines of September 20, 2022, and September 22, 2022.

The petition alleged unspecified delays in zoning and planning approvals; supply chain delays for steel, solar modules, and electrical components; and a shortage of labor for installation. The petition included copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

*NJ Solar 29*

On March 29, 2022, NJ Solar 29 LLC filed a petition seeking a one-year extension of its commercial operation deadlines in the TI Program for three (3) projects located at the Ocean City Tabernacle Church in Ocean City, New Jersey. According to the petition, the projects registered in the TI Program as rooftop non-residential net metered solar electric generation facilities and have a post-construction certification deadline of September 23, 2022.

The petition alleged unspecified delays related to supply chain issues with steel, solar modules, and electrical components, and a shortage of labor for installation. In support of its petition, NJ Solar 29 provided copies of articles from national publications and various websites describing general supply chain issues in the solar industry.

*The Pennington School*

On April 6, 2022, The Pennington School filed a letter seeking an extension of registration expiration dates in the TI Program for four projects located at The Pennington School in Pennington, New Jersey. According to the petition, the projects registered in the TI Program as rooftop non-residential net metered solar projects and have a post-construction certification deadline of July 7, 2022. Petitioner sought "at minimum" a six-month extension to its registration expirations.

As the basis for its extension request, the Petitioner stated that it anticipates a two- to four-month process for interconnection approval, additional months to receive Permission to Operate after installation, and lead times of eight to twelve weeks for transformers and inverters due to supply chain delays.

*Tri-Borough Sand & Stone and Ward Sand & Stone*

On May 27, 2022, Sand & Stone filed a petition seeking an unspecified extension of the TI Program deadlines for a 762 kW DC project located at Tri-Borough Sand & Stone in Gibbsboro, New Jersey, and a 1734 kW DC project located at Ward Sand & Stone in Tabernacle, New Jersey. The projects registered in the TI Program as ground mount non-residential net metered solar electric generation facilities on September 10, 2021, and September 14, 2021, respectively, and

have post-construction certification deadlines of September 10, 2022, and September 14, 2022, respectively.

Tri-Borough Sand & Stone and Ward Sand & Stone stated that Atlantic City Electric Company took seven months to produce an engineering study for the project in Gibbsboro and that an engineering study has not yet been received for the project in Tabernacle despite the interconnection application being submitted on August 31, 2021. The petition stated that interconnection upgrades for both projects are expected to be completed in December 2023. The Petitioner also indicated that supply chain issues have resulted in increased prices and uncertain timelines for delivery of solar modules, steel racking, and other components.

### **STAFF RECOMMENDATION**

Staff notes that the interim nature of the TI Program has been consistently communicated since the program was first proposed in 2019. The requirement for projects to complete construction, commence commercial operations and submit post-construction certification materials within one (1) year is also embodied in the TI rules. Those rules do not provide for extensions, and that omission was intentional.

Petitioners here registered in the TI Program with the knowledge that this program provided one year to achieve commercial operation and did not provide for any automatic extensions. In this context, Staff views these requests for extension of the TI Program deadlines as unjustified. Although Petitioners point to a variety of factors, summarized above, as the cause(s) of their inability to meet their TI Program deadlines, the common thread among these fact patterns is that the Petitioners' projects were not mature enough to meet TI deadlines. In the June 2022 Order, the Board expressed its concern that the unique circumstances occasioned by the end of the TI Program not cause solar developers to be penalized for delays in the EDC's construction of upgrades that the project developer had relied upon and funded in good faith. The Board chose to create an opportunity for a conditional extension where a project is mechanically and electrically complete, has all necessary permits and inspections, and is prevented from receiving Permission to Operate only because of unforeseeable delays created by a change in the EDC's projected completion of interconnection upgrades that occurred subsequent to execution of an interconnection agreement.

Based on the facts presented in these petitions, Staff concludes that in each case, Petitioners have not yet progressed to this stage. Staff is reluctant to recommend the Board provide extensions because of supply chain issues, general interconnection processing delays, and other factors that, while regrettable, do not demonstrate specific obstacles both unforeseeable at the time of TI Program acceptance and wholly beyond the control of the petitioner. While Staff is sympathetic to the problems caused by supply chain delays and other disruptions that have affected the solar industry since the start of the COVID-19 pandemic, Staff believes that at the time these projects registered in the TI Program, such delays were foreseeable. In each case the developer has the responsibility of ensuring supplies are ordered with adequate time for delivery and construction ahead of the project's expiration deadline. The Petitioners should have been aware of their timeline for component orders and the potential for setbacks. With extended lead times for a variety of components affecting projects across the industry, Staff believes that selectively granting waivers to certain projects due to general supply chain issues would be imprudent.

Moreover, the ADI Program opened immediately after the TI Program closed. The ADI Program, unlike the TI Program, does provide an opportunity for a six-month extension. Petitioners Anheuser Busch, NJ Solar, and Sand & Stone, which registered in the closing weeks of the TI Program, should have realized that the ADI Program would provide a more appropriate path for their projects. Petitioner Pennington School, which filed only one month before the TI Program's closure, could also have considered this option.

Staff recommends that the Board deny the Petitioners' requests to extend the deadlines for the Projects as unsupported by the record and inconsistent with the interim nature of the TI Program. Staff further recommends that, if the Petitioners feel they cannot complete the projects by the existing deadlines, Petitioners be encouraged to withdraw their TI registration(s) and submit a registration in the ADI Program. Staff further recommends that, should Petitioners do so, the Board waive for these projects the ADI Program rules that prohibit projects from commencing construction without first obtaining a notice of conditional registration in the program. N.J.A.C. 14:8-11.4(b).

### **DISCUSSION AND FINDINGS**

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

Petitioners' request to extend the TI Program deadlines for their projects necessitates a waiver of the TI Program rules, which established clear and unambiguous deadlines. The Board's rules state that "[i]n special cases, and for good cause shown, the Board may . . . relax or permit deviations from these rules." N.J.A.C. 14:1-1.2(b). The Board's rules go on to explain that "[t]he Board shall, in accordance with the general purpose and intent of its rules, waive section(s) of its rules if full compliance with the rule(s) would adversely affect the ratepayers of a utility or other regulated entity, the ability of said utility or other regulated entity to continue to render safe, adequate and proper service, or the interests 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 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. The TI Program was designed to be a limited bridge between the SRP and the now-open SuSI Program. N.J.A.C. 14:8-10.1.

Following careful review of the individual petitions and the record for each petitioner, the Board **FINDS** that Petitioners have not established adequate factual bases to justify waiver of the Board's TI Rules. In all cases addressed in this order, the Petitioners relied to some extent on general assertions of supply chain disruptions as justification for deadline extensions. In several cases, Petitioners' main source of "evidence" supporting their extension requests are general-circulation news publications describing general supply chain issues. Generally, the Board does not find that citation to news articles constitutes compelling evidence. Furthermore, the Board notes that some of the articles were published *prior* to Petitioners' registering at-issue projects in the TI Program, which strongly suggests that the developer was aware of the challenging supply chain environment before it submitted applications into a transitional program with a fixed

deadlines. Similarly, unsupported allegations that the current employment environment delayed Petitioners' projects do not represent good and sufficient cause to waive the Board's rules. Consistent with its prior findings, the Board continues to **FIND** that Petitioners should not receive extensions when they knew, or should have known, that they were not going to be able to complete their project(s) within the timeframes enumerated in the TI Rules. The Board **FURTHER FINDS** that claims of general interconnection processing delays and general allegations of labor shortages do not constitute good cause for extensions of TI Program deadlines.

Additionally, as noted by Staff, many of these projects registered in the final days of the TI Program. Petitioners appear to have had access to all of the information necessary to make an informed decision about whether to invest in this market. This differs from the extensions that the Board authorized in the June 2022 Order for the *Gibbstown* project and similarly situated entities, where the developer made the decision to move forward relying upon an EDC's projected upgrade schedule that was unilaterally modified by the EDC subsequent to execution of an interconnection agreement.

After careful review of the record in each petition, Board **FINDS** that the Petitioners failed to adequately demonstrate good cause to justify a waiver of the TI Program rules. The Board **FINDS** that the delays encountered during the project development process do not, based on the record before the Board, constitute grounds to waive TI Program rules and requirements.

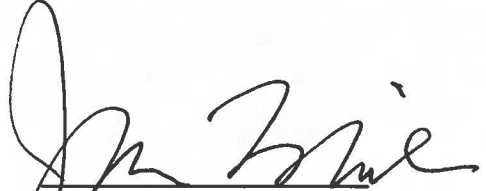
Further, while the Board is sympathetic to the delays encountered by applicants during the development process, the Board emphasizes that the ADI Program is now open and accessible to these projects. The ADI Program establishes incentives for projects reaching commercial operation in the 2023 timeframe.


Should the Petitioners find that they cannot complete their projects by the established TI Program deadlines, the Board encourages Petitioners to withdraw the TI registration(s) and submit an application(s) for eligibility in the ADI Program. The Board **HEREBY WAIVES** for Petitioners the requirement at N.J.A.C. 14:8-11.4(b) that requires projects in the ADI Program to obtain a notice of conditional registration prior to beginning construction.

The effective date of this Order is August 24, 2022.

DATED: August 17, 2022

BOARD OF PUBLIC UTILITIES  
BY:

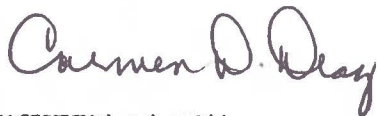
  
JOSEPH L. FIORDALISO  
PRESIDENT

  
MARY ANNA HOLDEN  
COMMISSIONER

  
DIANNE SOLOMON  
COMMISSIONER

  
ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
CARMEN D. DIAZ  
ACTING SECRETARY



I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

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 AB NEWARK (FUND IV) OPERATING,  
LLC AND ANHEUSER BUSCH, LLC FOR APPROVAL OF A WAIVER AND EXTENSION OF  
THE SOLAR TRANSITION INCENTIVE PROGRAM COMMERCIAL OPERATION DEADLINE  
FOR NON-RESIDENTIAL NET-METERED ROOFTOP AND CARPORT SOLAR PROJECT  
NJSTRE1547207739  
DOCKET NO. QO22040243

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 3, LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE M. GORDON CONSTRUCTION  
COMPANY SOLAR PROJECT NJSTRE1546554415, NJSTRE1546554647,  
NJSTRE1546553890  
DOCKET NO. QO22040261

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 8 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE PRINCETON HEALTH SOLAR  
PROJECTS NJSTRE1547456206, NJSTRE1547455704  
DOCKET NO. QO22030186

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 9 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE ST. THOMAS THE APOSTLE RC  
CHURCH NJSTRE1547186450, NJSTRE1547187242  
DOCKET NO. QO22030183

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 11 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE LAUREL CREEK COUNTRY CLUB  
SOLAR PROJECT NJSTRE1547462183  
DOCKET NO. QO22030194

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 12 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR CHERRY HILL HOTEL MGMT LLC SOLAR  
PROJECT NJSTRE1547462340  
DOCKET NO. QO22030184

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 15 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE INDUSTRIAL OPPORTUNITIES II SOLAR  
PROJECTS– NJSTRE154538852, NJSTRE154758838, NJSTRE1547538845,  
NJSTRE1547465089, AND NJSTRE1547462602  
DOCKET NO. QO22050343

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 18 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR ST. PIUS HIGH SCHOOL C/O DIOCESE OF  
METUCHEN ST. JOHN NEUMANN PASTORAL CENTER SOLAR PROJECT  
NJSTRE1547538650  
DOCKET NO. QO22030192

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 19 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE ST. JOSEPH'S UNIVERSITY MEDICAL  
CENTER SOLAR PROJECTS – NJSTRE1547536943, NJSTRE1547538763,  
NJSTRE1547538751, NJSTRE1547538784 AND NJSTRE1547538779  
DOCKET NO. QO22030201

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 23 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE SPENCER GIFTS SOLAR PROJECT  
NJSTRE1547465089;  
DOCKET NO. QO22030185

IN THE MATTER OF VERIFIED PETITION OF NJ SOLAR 24 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE IMPACTING YOUR WORLD MINISTRIES  
CHRISTIAN CENTER SOLAR PROJECT NJSTRE1547538146  
DOCKET NO. QO22030195

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 25 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE JEFFERSON HEALTH AND WELLNESS  
CENTER SOLAR PROJECTS NJSTRE1547537931, NJSTRE1547537882,  
NJSTRE1547537816  
DOCKET NO. QO22030193

IN THE MATTER OF THE VERIFIED PETITION OF NJ SOLAR 29 LLC FOR APPROVAL OF A  
WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM  
COMMERCIAL OPERATION DEADLINE FOR THE OCEAN CITY TABERNACLE CHURCH  
SOLAR PROJECT NJSTRE1547538686, NJSTRE1547538716, NJSTRE1547538732;  
DOCKET NO. QO22030188

IN THE MATTER OF THE PETITION OF THE PENNINGTON SCHOOL FOR AN EXTENSION  
OF THE EXPIRATION DATE OF FOUR PROJECTS IN THE SOLAR TRANSITION INCENTIVE  
PROGRAM – GYM NJSTRE1547233075, BUCK HALL NJSTRE1547232942, CAMPUS  
CENTER NJSTRE1547234271, STAINTON NJSTRE1547233114  
DOCKET NO. QO22040240

AND

IN THE MATTER OF THE PETITION OF TRI-BOROUGH SAND AND STONE AND WARD  
SAND & STONE TI APPLICATIONS #NJSTRE1547232017 & NJSTRE1547232602  
DOCKET NO. QO22050355

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