



Agenda Date: 11/09/22
Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

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

ORDER)
DOCKET NO. QO19010068)

IN THE MATTER OF THE VERIFIED PETITION OF)
POWERFLEX SOLAR, LLC FOR A ONE-YEAR EXTENSION)
OF THE EXPIRATION DATE OF THE CONDITIONAL)
ACCEPTANCE IN THE SOLAR TRANSITION INCENTIVE)
PROGRAM NJSTRE1547408589)

DOCKET NO. QO22010025)

IN THE MATTER OF THE VERIFIED PETITION OF ESNJ-)
PF-LOGAN, LLC FOR A ONE-YEAR EXTENSION OF THE)
EXPIRATION DATE OF THE CONDITIONAL ACCEPTANCE)
IN THE SOLAR TRANSITION INCENTIVE PROGRAM)
PROJECT NJSTRE1547451208)

DOCKET NO. QO22010024)

IN THE MATTER OF THE PETITION OF ADVANCED)
SOLAR PRODUCTS ON BEHALF OF NJR CLEAN ENERGY)
VENTURES III CORPORATION FOR AN EXTENSION IN)
THE SOLAR TRANSITION INCENTIVE PROGRAM)
NJSTRE1545426311 – ADVANCED SOLAR PRODUCTS)
EGAN PROPERTIES)

DOCKET NO. QO22040319)

IN THE MATTER OF THE PETITION OF AROSA SOLAR)
ENERGY SYSTEMS, INC. FOR AN EXTENSION IN THE)
TRANSITION INCENTIVE PROGRAM GREEN SOLAR, LLC)
3718 CHURCH ROAD LAUREL BROOK NJ)
NJSTRE1545184425)

DOCKET NO. QO22050352)

IN THE MATTER OF THE REQUEST FOR WAIVER AND)
EXTENSION OF TIME TO COMPLETE PROJECTS IN THE)
TRANSITION INCENTIVE PROGRAM – POWERFLEX)
PROLOGIS HELLO FRESH PROJECT NJSTRE1545426120)

DOCKET NO. QW22030125)

IN THE MATTER OF THE VERIFIED PETITION OF HARRAH'S BOULEVARD I SOLAR PROJECT 2021, LLC AND HARRAH'S BOULEVARD II SOLAR PROJECT 2021, LLC SEEKING AN EXTENSION OF TIME TO COMPLETE NJSTRE 1547398378 and 1547399293 IN THE TRANSITION INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2) – (THE "VERIFIED PETITION") HARRAH'S RESORT & CASINO ATLANTIC CITY'S MEETING CENTER AND VALET GARAGE NET METERED ROOFTOP AND CANOPY SOLAR PROJECT AND SELF PARK GARAGE NET METERED CANOPY SOLAR PROJECT, CITY OF ATLANTIC CITY) DOCKET NO. QO22080483

IN THE MATTER OF THE VERIFIED PETITION OF PACIFIC AVENUE I SOLAR PROJECT 2021, LLC AND PACIFIC AVENUE II SOLAR PROJECT 2021, LLC SEEKING AN EXTENSION OF TIME TO COMPLETE NJSTRE 1547357861 AND 1547393672 IN THE TRANSITION INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2) (THE "VERIFIED PETITION") CAESARS ATLANTIC CITY HOTEL & CASINO'S COLOSSEUM AND TEMPLE NET METERED CANOPY SOLAR PROJECTS, CITY OF ATLANTIC CITY) DOCKET NO. QO22080482

IN THE MATTER OF REQUEST FOR EXTENSION OF TREC ELIGIBILITY FOR TI APPLICATION NOS. NJSTRE1547351962 AND NJSTRE1547352275) DOCKET NO. QO22080488

IN THE MATTER OF THE REQUEST FOR EXTENSION OF TREC ELEGIBILITY FOR TI APPLICATION NUMBER NJSTRE1547322414, LIBERTY DRUG, 195 MAIN STREET, CHATHAM TOWNSHIP, MORRIS COUNTY, NEW JERSEY 07928) DOCKET NO. QO22080487

IN THE MATTER OF THE PETITION OF ECOGY ENERGY NJ IV, LLC FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT AT 201 SOUTH MAIN STREET NJSTRE1557296320) DOCKET NO. QO22080509

IN THE MATTER OF THE PETITION OF ECOGY ENERGY NJ IV, LLC FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT AT 1540 W PARK AVENUE NJSTRE1547455648) DOCKET NO. QO22080538

IN THE MATTER OF THE VERIFIED PETITION OF POWERFLEX SOLAR, LLC FOR AN ORDER APPROVING THE WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM PERMISSION TO OPERATE DEADLINE FOR NEW JERSEY'S CLEAN ENERGY PROGRAM NJSTRE1547412138) DOCKET NO. QO22080514

IN THE MATTER OF THE SHORT FORM PETITION OF DEY)
ROAD SOLAR PROJECT 2021, LLC SEEKING AN)
EXTENSION OF TIME TO COMPLETE NJSTRE)
1547407577 IN THE TRANSITION INCENTIVE PROGRAM)
AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2), IF NEEDED)
(THE "SHORT FORM PETITION") SAINT GOBAIN NET) DOCKET NO. QO22080516
METERED ROOFTOP SOLAR PROJECT)
)

IN THE MATTER OF THE PETITION OF CANAL ROAD)
SOLAR PARTNERS FOR AN EXTENSION OF THE)
EXPIRATION DATE IN THE TRANSITION INCENTIVE)
PROGRAM FOR ITS PROJECT AT 701 RANDOLPH ROAD) DOCKET NO. QO22070462
NJSTRE1547265156)
)

IN THE MATTER OF THE PETITION OF CANAL ROAD)
SOLAR PARTNERS FOR AN EXTENSION OF THE)
EXPIRATION DATE IN THE TRANSITION INCENTIVE)
PROGRAM FOR ITS GROUND MOUNT PROJECT AT 701)
RANDOLPH ROAD NJSTRE1547265757) DOCKET NO. QO22070471
)

IN THE MATTER OF REQUEST FOR AN EXTENSION OF)
TIME TO COMPLETE NJSTRE1547449994 IN TRANSITION)
INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-)
10.4(f)(4)(ii)(2) – NORTH BRUNSWICK CAROLIER LANE)
SOLAR, LLC) DOCKET NO. QO22080539
)

IN THE MATTER OF VERIFIED PETITION OF)
PRESIDENTIAL PLACE REALTY, LLC FOR AN EXTENSION)
OF TIME TO COMPLETE A SIX-ROOFTOP MULTI-FAMILY)
PROJECT LOCATED AT PRESIDENT DRIVE IN LEBANON,)
NJ, 08833 AND REGISTERED IN THE TRANSITION)
INCENTIVE PROGRAM: NJSTRE1547439926 (Building 1))
NJSTRE1547451075 (Building 2) NJSTRE1547451203)
(Building 3) NJSTRE1547455670 (Building 4))
NJSTRE1547451989 (Building 5), and NJSTRE1547455618) DOCKET NO. QO22080546
(Building 6))
)

IN THE MATTER OF THE VERIFIED PETITION OF)
POWERFLEX SYSTEMS LLC FOR AN ORDER)
APPROVING THE WAIVER AND EXTENSION OF THE)
SOLAR TRANSITION RENEWABLE ENERGY)
CERTIFICATE PROGRAM DEADLINE FOR UNITED)
NATURAL FOOD INC'S ROOFTOP SOLAR GENERATION)
PROJECTS IN HOWELL NJSTRE1547462345) DOCKET NO. QO22080544
NJSTRE1547522643)
)

IN THE MATTER OF THE REQUEST FOR WAIVER AND)
EXTENSION OF TIME TO COMPLETE NJSTRE1547253964)
IN TRANSITION INCENTIVE PROGRAM – PIVOT ENERGY)
COMMERCIAL SOLAR LLC FOR WILLIAMS)
SONOMA/JAMESBURG PROJECT) DOCKET NO. QO22040259
)
)

IN THE MATTER OF THE PETITION OF PIVOT ENERGY)
FOR AN EXTENSION OF THE EXPIRATION DATES OF)
TWO PROJECTS IN THE TRANSITION INCENTIVE)
PROGRAM LOCATED AT 152 US HIGHWAY 206)
HILLSBOROUGH TOWNSHIP NJSTRE1547393209) DOCKET NO. QO22070444
NJSTRE1547393282)
)
)
IN THE MATTER OF THE PETITION OF AMPERICON FOR)
AN EXTENSION OF THE EXPIRATION DATE IN THE)
TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT)
AT 1257 SPRINGFIELD AVE AMPERICON) DOCKET NO. QO22070440
NJSTRE1545785680)
)

Parties of Record:

Brian O. Lipman, Esq. Director, New Jersey Division of Rate Counsel
Matthew A. Karmel, Esq., Offit Kurman, P.A. on behalf of PowerFlex Solar, LLC and ESNJ-PF-LOGAN LLC
Steven S. Goldenberg, Esq. Giordano Halleran & Ciesla, PC on behalf of Safari Energy, LLC
Eric S. Goldberg, Esq., Stark & Stark PC on behalf of PosiGen Solar and PosiGen
Barbara J. Koonz, Esq., Greenbaum, Rowe, Smith & Davis LLP on behalf of Pivot Energy Commercial Solar LLC, Prologis Services Logistics, Inc., PowerFlex Systems LLC, and PowerFlex Solar LLC
R. William Potter, Esq., Potter and Dickson, on behalf of Advanced Solar Products and Ecological Systems LLC
Maurice I. Rosenberg, Esq., on behalf of Arosa Solar Energy Systems Inc.
Rebecca Moll Freed, Esq., Genova Burns LLC on behalf of Sunwealth, LLC
Adam L. Peterson, Esq., Pearlman & Miranda, LLC on behalf of Harrah's Boulevard I Solar Project 2021, LLC, Harrah's Boulevard II Solar Project 2021, LLC, Pacific Avenue I Solar Project 2021, LLC, Pacific Avenue II Solar Project 2021, LLC, North Brunswick Carolier Lane Solar, LLC, and Dey Road Solar Project 2021, LLC
John G. Valeri, Esq., Chiesa Shahinian & Giantomasi PC on behalf of Evergreen Energy LLC and Innova Atlantic WH Operations LLC
Howard O. Thompson, Esq., Russo Tumulty Nester Thompson & Kelly, LLP on behalf of ECS Energy LTD, CEN-MED Enterprises, Inc., and Canal Road Solar Partners, LLC
Dante DiPirro, Esq., Law Office of Dante Di Pirro, LLC on behalf of Advanced Solar Products, Inc.
Alice M. Bergen, Esq., Decotiis, FitzPatrick, Cole & Gibling, LLP on behalf of DG MAC 2, LLC
Michael R. Butler, Esq., Eckert Seamans Cherin & Mellott, LLC on behalf of Ecogy Energy NJ IV LLC, the Peddie School, and the American Red Cross
Laura M. Miller, Esq., Norris McLaughlin P.A., on behalf of Presidential Place Realty, LLC and Ampericon

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers the petitions of multiple entities seeking extensions of time for registrations within the Transition Incentive (“TI”) Program. The Board addresses these petitions together because while they are at varying stages of development, all share a failure to satisfy the completion milestones of the TI Program.

BACKGROUND

On May 23, 2018, the Clean Energy Act was signed into law and became effective immediately.¹ 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 (“5.1% milestone”). 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 and to reduce the cost of achieving the State’s solar energy goals.

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.² The TI Program, subsequently codified in rules,³ provides eligible projects with Transition Renewable Energy Certificates (“TRECs”) for each megawatt hour of electricity produced. 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 of the majority of Petitioners, receive a factor of 1.0 and thus the full amount of the base incentive of \$152/MWh. The TI Program portal opened to new applications on May 1, 2020, and, pursuant to Board Order, remained open to new registrations until the establishment of a registration program for the Successor Program.⁴ The TI Program rules do not provide for automatic or administrative extensions to the projects’ conditional registration “expiration dates” (also referred to as the registration deadline).

¹ L. 2018, c. 17 (“Clean Energy Act” or “Act”).

² In re a New Jersey Solar Transition Pursuant to P.L. 2018, C. 17, BPU Docket No. QO19010068, Order dated December 6, 2019.

³ 52 N.J.R. 1850(a) (“TI Rules”).

⁴ 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”).

By Order dated July 29, 2020, the Board granted projects registered in TI on or before October 30, 2020 an extension through October 30, 2021 to reach commercial operation.⁵ The extension also applied to facilities that transferred from the legacy SRP to TI, with the exception of legacy subsection (r) and certain subsection (t) registrants.⁶ The Board found that the solar industry was, at that time, adjusting to significant changes caused by both the COVID-19 pandemic and the changes in solar incentive programs and that, under those circumstances, waiving the Board's rules to permit additional time for project completion appropriately balanced the needs of the solar industry with the cost to the ratepayers.⁷ The Board forecasted in the July 2020 Order that it may address in a future order extension requests from projects registering in TI after October 30, 2020, considering the public health crisis and the development of the Successor Solar program.⁸

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 determined incentive program for smaller projects and a competitive incentive program for most non-residential projects over 5 megawatts (MW). This 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 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 found good cause to grant projects registered in the TI Program on or before the effective date of the order a six-month extension to their existing deadline established at N.J.A.C. 14:8-10.4.⁹ Nearly a year following its July 2020 Order, the Board again found that the solar industry was still adjusting to the changes resulting from the Clean Energy Act and the impact of the COVID-19 crisis.¹⁰ The Board additionally acknowledged the regulatory uncertainty resulting from the pending launch of the Successor Program and noted that the general purpose of the TI Rules and the timelines contained therein is to provide a smooth transition to the Successor Program.¹¹ With the creation of the Successor Program still pending, the Board found that waiving the existing TI development timelines would both support the solar

⁵ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17 – Order Providing Extensions to Solar Transition Projects, BPU Docket Nos. QO19010068 & QO20070484, Order dated July 29, 2020 ("July 2020 Order").

⁶ Id. at 4.

⁷ Id. at 3-4.

⁸ Id. at 5.

⁹ 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").

¹⁰ Id. at 6.

¹¹ Ibid.

industry and protect ratepayers from potential market disruptions that might occur if a large number of developers are unable to meet those timelines.¹²

On July 9, 2021, Governor Murphy signed 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.¹³ 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 N.J.A.C. 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.¹⁴ The January 2022 Order permitted projects that held a valid TI Program registration and had commenced construction to apply for the ADI Program.¹⁵ The Board found that facilitating the ability of projects registered in the TI Program to enter the ADI Program would benefit the solar industry and avoid stranding without an incentive an increasing number of TI registrants that may be unable to complete their projects within the TI deadlines.¹⁶ The Board found it appropriate to grant a waiver of the ADI Program prohibitions that would prevent TI projects from transferring to ADI in order to promote a smooth transition from one program to the other.¹⁷

A significant number of TI registrants have recently petitioned the Board for extensions. 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.¹⁸ The Board found good cause in the Gibbstown Order 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 a unilateral change to the interconnection agreement requirements made by the Electric Distribution Company (“EDC”) following the developer’s reliance on the original terms, specifically the time in which EDC interconnection upgrades would be completed.¹⁹ The Gibbstown Order also established a

¹² Id.

¹³ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C. 17, BPU Docket No. QO19010068, Order dated July 28, 2021 (“SuSI Program Order”).

¹⁴ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, C.17, Order Modifying ADI Program Eligibility Conditions, BPU Docket No. QO20020184, Order dated January 26, 2022 (“January 2022 Order”).

¹⁵ Id. at 5.

¹⁶ Id. at 4-5.

¹⁷ Id. at 4-5.

¹⁸ 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 (“Gibbstown Order”).

¹⁹ Id. at 8-9.

process for petitioners who believe that they are similarly situated to apply for extensions to their registration, subject to making a similar showing.²⁰

On August 17, 2022, the Board issued an Order denying fifteen petitioners' requests to extend the deadlines for the projects as unsupported by the record and inconsistent with the interim nature of the TI Program.²¹ Petitioners were encouraged to withdraw their TI registration and submit a registration in the ADI Program if the petitioners found that they could not complete the projects by the existing TI Program deadlines.²² Finally, if the petitioners do so, the Board waived for these projects the ADI Program rule enumerated at N.J.A.C. 14:8-11.4(b) that prohibits projects from commencing construction without first obtaining a notice of conditional registration in the program.²³

Petitions

Prologis/PowerFlex Hello Fresh – Docket No. QW22030125

Petitioners Prologis Services Logistics, Inc. and PowerFlex Systems filed a joint petition for extension of the completion deadline for its project on March 4, 2022. The project was issued acceptance letters for the TI Program on August 10, 2020. The project's acceptance letter provided an April 30, 2022 expiration date by which the program's post-construction certification requirements were to be fulfilled. Petitioners requested "at least" a six-month extension from the current deadline for its solar project registration.

According to the petition, the extension request was based on a delay in receiving land use permitting approvals from the City of Newark and Public Service Electric and Gas Company ("PSE&G") needing additional time to relocate the meter and issue the Permission to Operate ("PTO").

Petitioners claimed "unforeseeable, substantial delays attributable primarily to the City of Newark approval process" as the basis for its TI deadline extension request. Specifically, Petitioners claimed delays because the City required "conditional use" approval and required proof that property taxes were current. According to the petition, the project did not begin the City zoning process until May 2021, received its conditional use approval in September 2021, and had its revised plans approved by the City in February 2022. Petitioners stated that when it filed its petition in March 2022 it had yet to receive a City zoning permit for the project.

Petitioners also claimed that following its May 5, 2021 interconnection application approval by its EDC, on-site examinations revealed that it would be necessary to relocate the EDC's meter equipment to connect with Hello Fresh's electrical switch gear, and EDC approval for the relocation was received on February 7, 2022.

²⁰ Id. at 9-10.

²¹ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Docket Nos. QO19010068 et al., Order dated August 17, 2022 ("August 2022 Order").

²² Id. at 12.

²³ Ibid.

Staff does not find Petitioners' arguments compelling. Petitioners' unfamiliarity with the City of Newark's land use ordinance requirement of conditional use approval for this project is not supportive of further extensions of the project's TI deadlines. Despite the petition's claim that local government approvals "were delayed through no fault of the Petitioners," Petitioners waited approximately nine months following their registering in TI before seeking necessary discretionary land use approvals. With regard to Petitioners' claim of EDC delays, Staff does not find the email communications between Petitioners and PSE&G, attached as Exhibit C to the petition, support Petitioners' allegations of unreasonable EDC delays. In addition, Staff notes that this project already benefitted from two prior extensions via the Board's July 2020 Order and June 2021 Order. Furthermore, since this project is still in the early stage of completion and prospects for timely completion remain speculative even with the requested "at least" six-month extension, Staff recommends that the Board deny this petition.

Prologis/PowerFlex – Commercial Roof Projects – Docket No. QO22030231

Prologis Services Logistics, Inc. and PowerFlex Systems filed a joint petition for extensions of the completion deadlines for seven projects on April 4, 2022. The projects were issued acceptance letters for the TI Program between November 9, 2020, and July 16, 2021. Each project's acceptance letter provided an expiration date by which the program's post-construction certification requirements were to be fulfilled. The expiration dates for the TI registrations were from April 30, 2022, to July 16, 2022. This Petitioner requested "at least" six-month extensions from the current deadlines for its solar project registrations.

a) Pacific Logistics (TI Application # NJSTRE1545942372)

According to the petition, TI Program conditional acceptance for this project was issued on November 9, 2020, and the commercial operation deadline was April 30, 2022. Petitioners contended that because interconnection cost estimates and approvals took longer than anticipated, the project has been delayed, rendering the project unable to meet the TI deadline. Petitioners further alleged that the project has suffered delays due to certain material supply chain issues; in particular, the steel required for structural reinforcements required due to the roof replacement was subject to a six-week delivery delay.

Staff does not agree with the petition's contention that an extension of "at least" six months is necessitated primarily by "extraordinary and unforeseeable" delays by Jersey Central Power and Light ("JCP&L"). Neither the petition nor the exhibits attached thereto adequately support this claim. Petitioners pointed to routine utility operations, interconnection upgrade cost negotiations, and supply chain delays as the reasons for failing to meet its deadline. The petition is silent as to the construction status of the project, and Staff cannot determine when the project might reasonably be expected to be completed, even were the Board to grant an additional six-month extension. Staff notes that this project already benefitted from a prior extension via the Board's June 2021 Order. Staff recommends that the Board deny this portion of the petition.

b) DSV 1005 (TI Application NJSTRE 1545943973)

According to the petition, TI Program conditional acceptance was issued for this project on November 5, 2020, and the commercial operation deadline was May 9, 2022. Petitioners claimed unforeseeable delays associated with the PSE&G's processing and approval of Petitioners' interconnection application that was filed on May 28, 2020, and approved on January 7, 2022.

The petition stated that “[b]ecause interconnection approval took almost seven months, construction has been delayed”

While the petition indicated that Petitioners scheduled monthly meetings with the EDC during the pendency of interconnection review, no information was provided to substantiate Petitioners’ claim that interconnection approval delays were unreasonable or unforeseeable. Staff does not agree with the petition’s contention that an extension of “at least” six months is necessitated primarily by “extraordinary and unforeseeable” delays by the EDC. Neither the petition nor the exhibits attached thereto adequately support this claim. Furthermore, the petition is silent as to the construction status of the project, and Staff cannot determine when the project might reasonably be expected to be completed, even were the Board to grant an additional six-month extension. Staff notes that this project already benefitted from a prior extension via the Board’s June 2021 Order. Staff recommends that the Board deny this portion of the petition.

c) DSV 10090 (TI Application # NJSTRE1545945597)

According to the petition, TI Program conditional acceptance was issued for this project on November 5, 2020, and the commercial operation deadline was May 9, 2022. Petitioner stated that its interconnection application was filed on May 28, 2020, and was approved on January 7, 2022. The petition indicated that Petitioners scheduled regular monthly meetings with PSE&G during the pendency of the interconnection review and claimed that “[b]ecause interconnection approval took over six months, construction has been delayed”

Staff does not agree with the petition’s contention that an extension of “at least” six months is necessitated primarily by “extraordinary and unforeseeable” delays by the EDC. Neither the petition nor the exhibits attached thereto adequately support this claim. Petitioners pointed to a six-month interconnection approval delay as the reason for failing to meet its deadline. The petition is silent as to the construction status of the project, and Staff cannot determine when the project might reasonably be expected to be completed, even were the Board to grant an additional six-month extension. Staff notes that this project already benefitted from a prior extension via the Board’s June 2021 Order. Staff recommends that the Board deny this portion of the petition.

d) Target - Burlington (TI Application # NJSTRE1547462058)

According to the petition, TI Program conditional acceptance for this project was issued on September 3, 2021, and the commercial operation deadline was September 3, 2022. Petitioners indicated that they submitted an interconnection application on June 11, 2020, and interconnection approval has not yet been finalized. Petitioners claimed that this project encountered substantial delays attributable to interconnection circuit capacity limitations in the area where the project is located.

According to Petitioners, they authorized PSE&G on October 29, 2020, to proceed with an engineering study for possible circuit or substation upgrades or development of a non-export system, and in November 2020 submitted a \$10,000 payment. Petitioners stated that the EDC indicated that it never received payment and Petitioners resubmitted payment on January 26, 2021, and were advised that the engineering analysis would be completed between mid-to-late March 2021. On May 3, 2021, Petitioners were advised that the EDC had not completed the engineering analysis and that it would refund the payment made for the analysis. Accordingly, Petitioners stated that the EDC confirmed that the only option to proceed with the project was as a non-export project, and a new interconnection application for a non-export project was required.

The petition further claimed that the new application was delayed due to inaccurate metering data from the EDC and contradictory information regarding the labeling of gears and the assumed ratings for the building's electrical equipment. Petitioners stated that after ascertaining the correct information necessary to size a non-export system, it submitted a new interconnection agreement in January 2022.

Staff does not agree with the petition's contention that an extension of "at least" six months is necessitated primarily by "extraordinary and unforeseeable" delays by the EDC. While the petition claimed numerous issues and delays with regard to its first interconnection application that ultimately failed due to circuit capacity limitations, Petitioners were aware of this technical issue and of the need for a new design and interconnection agreement on May 3, 2021, prior to their application to the TI Program. The new interconnection request was not filed until 2022, many months after the need for a new interconnection agreement was identified. When Petitioners filed their TI registration in the final days of August 2021 as the TI Program was closing to new registrants, they knew or should have known that the project was unlikely to be able to comply with the TI Rules' twelve-month registration expiration pursuant to N.J.A.C. 14:8-10.4(f).

The petition is silent both as to the construction status of the project and the status of the new interconnection application. Staff cannot determine when the project might reasonably be expected to be completed, even were the Board to grant an additional six-month or longer extension. Staff recommends that the Board deny this portion of the petition.

e) Federal Express (former occupant Bob's Discount Furniture), Carteret N.J. (NJSTRE 1547275802 and NJSTRE1547276312).

According to the petition, the TI Program conditional acceptances for the Federal Express project were issued on July 16, 2021, and the TI commercial operation deadline expired on July 16, 2022. Petitioners stated that they submitted an initial interconnection application on March 18, 2021, and received a firm cost estimate and invoice for work required to complete interconnection on February 24, 2022, pursuant to a conditional interconnection approval issued by PSE&G requiring Real-time Metering. Petitioners contended that the main reason for the extension was the six to nine months lead time for the Real-time Metering cabinet equipment.

Staff does not agree with the petition's contention that an extension of "at least" six months is necessitated primarily by "extraordinary and unforeseeable" delays by the EDC. Staff is not persuaded by Petitioners' claim that the need for, or lead time to acquire, required metering equipment was unforeseeable or unreasonable. Neither the petition nor the exhibits attached thereto adequately support this claim. Attached as Exhibit E to the petition is a November 4, 2021 emailed EDC conditional interconnection approval stating the condition of Real-time metering, estimating the cost of the equipment, and stating that the lead time is "plus or minus 4 months." This directly contradicts the "six to nine months" lead time Petitioners claim. The petition provided no evidence demonstrating the longer lead time. Additionally, the petition is silent as to the construction status of the project, and Staff cannot determine when the project might reasonably be expected to be completed, even were the Board to grant an additional six-month extension. Staff recommends that the Board deny this portion of the petition.

f) JFC International, Linden, NJ (NJSTRE 1547207271)

According to the petition, TI Program conditional acceptance for the JFC International project was issued on July 1, 2021, and the TI commercial operation deadline expired on July 1, 2022. The petition states that Petitioners commenced an interconnection application on August 19, 2021, and have not yet secured interconnection approval due to the lack of completion of a system impact study being conducted by PSE&G. Petitioners contended that the circuit capacity limitations in the area prohibit the exporting of energy by the solar facility, and on October 15, 2021, they were advised that interconnection could be approved for a non-export project only. Upon learning of the non-export limitation, Petitioners requested that the EDC evaluate circuits in the area to determine if facilities could be upgraded to support interconnection with exporting.

The petition claimed that all of the projects, including this one, were mature, and Petitioners were unable to secure timely approvals due to unforeseeable circumstances and circumstances beyond their control. Staff disagrees. Staff notes that Petitioners only began the interconnection application process after conditional acceptance into the TI Program and declined approval for a non-export project. Additionally, the petition is silent as to the construction status of the project, and Staff cannot determine when the project might reasonably be expected to be completed, even were the Board to grant an additional six-month extension. Staff recommends that the Board deny this portion of the petition.

ESNJ-PF- Logan – Lineage Logistics and PowerFlex – Target – Docket Nos. QO22010024 and QO22010025

PowerFlex Solar proposed to construct a 600 KW AC net-metered rooftop solar facility on a retail distribution center for Target Corporation in Bridgeport, New Jersey. ESNJ-PF Logan, a subsidiary of PowerFlex Solar, LLC, proposed to construct a 1400 KW AC net-metered rooftop solar facility on a distribution center located in Logan Township, New Jersey. According to the petitions, both projects are in the Atlantic City Electric (“ACE”) service territory, would be serviced by the same substation and are interrelated due to the negotiated interconnection solution Petitioners arranged with ACE.

a) Lineage Logistics Project – Docket No. QO22010024

The Board conditionally accepted the project into the TI Program via letter dated August 24, 2021, and the expiration date for the TI registration was set for August 24, 2022. On January 25, 2022, ESNJ-PF Logan filed a petition for extension of the completion deadlines for the Logan project by one year to August 24, 2023.

In its extension request, Petitioner asserted that an extension is warranted because ACE is not likely to issue a PTO until after the expiration of the conditional acceptance due to factors “outside the control” of Petitioner, Petitioner relied on the TRECs provided in the conditional acceptance for the commercial viability of the project, and the project has faced, and will continue to face, difficulties as a result of the COVID-19 virus. Petitioner claimed that ACE issued a proposed Interconnection Agreement (“IA”) on November 16, 2020, detailing required substation upgrades and indicating ACE would issue a PTO by April 30, 2022. However, after the IA was issued, Petitioner stated that it coordinated with ACE to combine the upgrades necessary for both this project and the Target project, which significantly decreased the overall upgrade costs for both parties. Petitioner asserted that ACE reissued a proposed IA on October 5, 2021, to reflect the reduced upgrade costs, which, according to Petitioner, postponed the anticipated PTO to April 30, 2023.

Petitioner filed a supplement to its petition on July 8, 2022 following the Board's issuance of the Gibbstown Order and the Centrica Order.²⁴ Petitioner argued that, while it was "not in a position to meet the June Gibbstown Order's submission requirements and avail itself of the extension authorized therein[.]" the "rationale and policies" the Board considered in granting the extension in Gibbstown similarly support the Board granting Petitioner's extension. Petitioner argued that, at the time Petitioner received its conditional acceptance into the TI Program, the project was mature, and Petitioner had reason to believe that ACE would be able to complete the upgrades necessary to achieve interconnection before the expiration of Petitioner's conditional acceptance. Regarding the Centrica Order, Petitioner cited five factors the Board considered in denying Centrica's extension request and sought to distinguish the Board's analysis of these factors from the facts underlying Petitioner's request. Specifically, Petitioner argued the Board should grant its extension request because its project was mature at the time it was conditionally accepted into the TI Program, the delay resulted from a change in the EDC's proposed construction schedule, the project would not be financially viable without the TI Program incentives, Petitioner had not received prior extensions of the TI Program deadline, and granting the extension request was in the public interest of reducing interconnection costs for New Jersey solar projects.

Staff does not agree with the rationale offered by Petitioner. First, Petitioner conceded that it does not meet the Gibbstown requirements. Second, Petitioner's attempts to distinguish this matter from the facts discussed in the Board's Centrica Order are unconvincing. While laudable, Petitioner's almost year-long negotiations with the EDC in order to reduce upgrade costs and develop a "creative engineering solution" were ongoing when Petitioner applied to the TI Program in August 2021, just prior to the close of the TI Program to new registrants. Petitioner registered in the TI Program with the knowledge that this program provided twelve months to achieve commercial operation and did not provide for any automatic extensions, and it did so knowing that it was in the midst of negotiating the interconnection agreement and interconnection upgrades. As the Board concluded in the Centrica Order, ongoing negotiation necessarily relates to project maturity. In this instance, the project was not mature enough to meet TI deadlines. If Petitioner knew that it could not comply with program requirements and complete the project within one year, without extension, then Petitioner knew or should have known that the project was not appropriate for registration in the TI Program and would be a better candidate for the ADI Program, which opened days after Petitioner filed its TI registration and which does provide an extension opportunity. Staff recommends that the Board deny this petition.

b) Target Project – Docket No. QO22010025

The Board conditionally accepted the project into the TI Program via letter dated August 12, 2021, and conditioned final acceptance of the project application on completing the solar installation and commencing commercial operation on or before August 12, 2022. On January 25, 2022, PowerFlex Solar, LLC filed a petition to extend the completion deadline for the Target project by one year to August 12, 2023.

In its extension request, Petitioner asserted that an extension is warranted because it had been "diligently pursuing interconnection of the Project" with ACE, Petitioner did not have control over

²⁴ In re Request for Waiver and Extension of Time to Complete NJSTRE1547537829 in Transition Incentive Program – Centrica Business Solutions, Inc. for the Groupe SEB Project, BPU Docket Nos. QO19010068 & QO21111207, Order dated February 23, 2022 (the "Centrica Order").

the date ACE would complete the necessary substation upgrades and issue the PTO, and neither the Target project nor the Logan project would be financially viable without either the ability to earn TRECs or the reduced upgrade costs provided by the proposed cost sharing arrangement between PowerFlex Solar and ESNJ-PF Logan. Petitioner also stated the project faced, and continues to face, difficulties associated with the COVID-19 virus, but stated that the “primary difficulty” was ACE’s inability to issue PTO prior to the expiration of the conditional acceptance. According to the petition, following Petitioner’s negotiations with ACE that lowered the cost of interconnection upgrades, ACE issued a proposed interconnection agreement on October 5, 2021, with an anticipated PTO of April 30, 2023.

Petitioner filed a supplement to its petition on July 8, 2022, following the Board’s issuance of the Gibbstown Order and the Centrica Order. Petitioner argued that, while it was “not in a position to meet the June Gibbstown Order’s submission requirements and avail itself of the extension authorized therein[,]” the “rationale and policies” the Board considered in granting the extension in Gibbstown similarly support the Board granting Petitioner’s extension request for the Target project. Citing to the Centrica Order, Petitioner also argued that, at the time Petitioner received its conditional acceptance into the TI Program, the project was mature, and Petitioner had reason to believe that ACE would be able to complete the upgrades necessary to achieve interconnection before the expiration of Petitioner’s conditional acceptance. Petitioner cited five factors the Board considered in denying Centrica’s extension request and sought to distinguish the Board’s analysis of these factors from the facts underlying Petitioner’s request. Specifically, Petitioner argued the Board should grant its extension request because its project was mature at the time it was conditionally accepted into the TI Program, the delay resulted from a change in the EDC’s proposed construction schedule, the project would not be financially viable without the TI Program incentives, Petitioner had not received prior extensions of the TI Program deadline, and granting the extension request was in the public interest of reducing interconnection costs for New Jersey solar projects.

Staff does not agree with the rationale offered by Petitioner. First, Petitioner conceded that it does not meet the Gibbstown requirements. Second, Petitioner’s attempts to distinguish this matter from the facts discussed in the Board’s Centrica Order are unconvincing. While laudable, Petitioner’s almost year-long negotiations with the EDC in order to reduce upgrade costs and develop a “creative engineering solution” were ongoing when Petitioner applied to the TI Program in August 2021, just prior to the close of TI to new registrants. Petitioner registered in the TI Program with the knowledge that this program provided twelve months to achieve commercial operation and did not provide for any automatic extensions, and it did so knowing that it was in the midst of negotiating the interconnection agreement and interconnection upgrades. As the Board stated in the Centrica Order, ongoing negotiation necessarily relates to project maturity. In this instance the project was not mature enough to meet TI deadlines. Staff notes that this TI registration was filed in the closing weeks of the TI Program. If Petitioner knew that it could not comply with program requirements and complete the project within one year, without extension, then Petitioner knew or should have known that the project was not appropriate for registration in the TI Program and would be a better candidate for the ADI program, which opened days after Petitioner filed its TI registration and which does provide an extension opportunity. Staff recommends that the Board deny this petition.

Advanced Solar Products – Egan Properties, Bridgewater – Docket No. QO22040319

The Board conditionally accepted the project for the TI Program on August 19, 2020, and provided a TI registration expiration date of August 19, 2021. The Board subsequently extended this deadline to April 30, 2022 by operation of the July 2020 and June 2021 orders. On April 29, 2022, Advanced Solar Products filed a petition requesting a three-month extension of the completion deadline for its project, seeking a new deadline of July 31, 2022. According to the petition, the project was delayed because of shipping delays for a necessary component of the project. Advanced Solar Products submitted an amendment to its petition on October 6, 2022, indicating that it completed construction of the project and received PTO from the EDC on August 12, 2022.

Petitioner requested an extension based upon supply chain issues that delayed delivery of an AC panel cover. Petitioner claimed that the manufacturer initially provided an estimated delivery date of February 14, 2022, but then updated the delivery date to May 24, 2022. Petitioner requested this extension in order to install the AC control panel, complete the necessary inspections, and obtain PTO from the EDC. Petitioner asserted that the supply chain issues were entirely beyond its control.

On October 5, 2022, Petitioner submitted documents in support of its request for a waiver pursuant to the Gibbstown Order. This filing was found incomplete, and a notice of deficiency was sent to Petitioner on October 11, 2022. Pursuant to standard practice, Petitioner had thirty days to remedy the deficiencies.

Despite receiving two prior extensions to complete the project, Petitioner only ordered the AC panel cover on January 14, 2022, approximately three months before the project's TI registration expiration. Staff disagrees with Petitioner's contention that supply chain issues were "entirely" beyond its control. Staff notes that throughout 2021 and 2022, Petitioner knew or should have known that supply chain issues were common to solar development. The Board has consistently rejected the argument that supply chain issues necessitate a waiver of the Board's TI Rules.²⁵ While the project registered in TI over two (2) years ago and received two (2) prior extensions, Petitioner was nevertheless unable to comply with TI program deadlines. Staff recommends that the Board deny this petition without prejudice to the pending request for a waiver under the Gibbstown Order.

PosiGen – 149 Residential Projects – Docket No. QO22090565

On April 29, 2022, PosiGen Solar filed a petition for a three-month extension of the completion deadline for 130 projects, seeking a new deadline of June 30, 2022. PosiGen requested this extension in order to finish obtaining the documents necessary to submit its final applications. PosiGen submitted a supplement to its petition on August 11, 2022, which added 19 projects to its initial request, for a total of 149 projects, and sought an additional six-month extension of the

²⁵ In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17 ; In re Request for Waiver and Extension of the Solar Transition Incentive Program Commercial Operation Deadline for Multiple Non-Residential Net-Metered Rooftop and Carport Solar Projects - Centrica Business Solutions; NJSTRE1547461814; NJSTRE1547533249; NJSTRE1547457197; NJSTRE1547461384; NJSTRE1547461973; NJSTRE1547461829; NJSTRE1547461353; NJSTRE1547461378; NJSTRE1547461872, BPU Docket Nos. QO19010068 & QO21111234, Order dated March 9, 2022 ("Centrica Order on Multiple Projects") at 3-5; In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Docket Nos. QO19010068 et al., Order dated August 17, 2022, at 11-12.

June 30, 2022 deadline to December 31, 2022. The projects were issued acceptance letters for the TI Program between July 6, 2021 and October 13, 2021. Each project's acceptance letter provided an expiration date by which the program's post-construction certification requirements were to be fulfilled. The expiration dates for the TI registrations ranged from April 30, 2022, to August 13, 2022.

According to the petition, PosiGen requested extensions in order to finish obtaining the documents necessary to submit its final applications. In its supplement to the petition, Petitioner indicated that all of the systems have been installed, and most have been net metered and activated. Petitioner stated that of the 149 projects for which PosiGen is requesting an extension, 82 have PTO dates that would make them eligible for the ADI Program. Petitioner stated that transferring these projects to ADI is acceptable, but requested that the Board not require the individual customers execute the ADI application paperwork. Petitioner indicated that 28 projects are waiting interconnection approval, 9 require design revisions and the remaining projects require submission of additional program documentation.

Petitioner alleged the need for additional time to complete program paperwork as the basis for the requested extension.

Staff does not find the unexplained inability to timely complete program paperwork sufficient grounds for waiving the Board's rules to grant extensions, particularly where Petitioner has shown a continued inability to comply with program timelines such that its first request for a three-month extension has proven inadequate and a second request for an additional six months is requested. Petitioner has now requested a nine-month extension for projects that by Board rule were to be operational in twelve months. The petition is not supported by any evidence of the cause of delays or any assurances that extensions, even if granted, would be adequate to ensure timely project completion. Staff recommends that the Board deny this petition and uphold the registration requirements of the ADI Program for these projects out of fairness to all market participants.

Arosa – 3718 Church Road, Laurel Brook – Docket No. QO22050352

Arosa Solar Energy Systems, Inc. filed a petition for extension of the completion deadline for the above project on May 17, 2022. According to the petition, the project was originally accepted into the Board's legacy SREC program in January 2020 and was thereafter transferred to the TI Program in June 2020. The project's acceptance letter provided an expiration date by which the program's post-construction certification requirements were to be fulfilled. By virtue of the Board's July 2020 and June 2021 Orders, the project's expiration date for its TI registration was April 30, 2022.

Petitioner requested a one-month extension for its solar project registration, based on alleged permitting delays and supply chain issues. The petition was filed after the project's registration expired.

Petitioner cited permitting delays, COVID-19, and general supply chain problems as the reasons for its requested extension. The petition failed to include any documentation supportive of Petitioner's claims of delay. According to the petition, the project is mechanically complete and is waiting for final inspections and for PTO to issue. Staff notes that the project already benefitted from two (2) extensions provided by the July 2020 and the June 2021 Orders and first registered

in the TI Program nearly two and a half years ago. Despite the age of the project and the previously granted extension, Petitioner has been unable to complete the project. Staff recommends that the Board deny this petition.

Safari Energy – Mt. Laurel and Moorestown Carports – Docket No. QO22030126

Safari Energy filed petitions for extensions of the completion deadlines for ten projects on March 4, 2022. Safari filed three supplements to its petition on May 2, 2022, June 7, 2022, and June 30, 2022, each supplement updating the progress made on the projects. Petitioner received conditional acceptance into the TI Program for ten non-residential net metered solar electric generation facilities on August 27, 2021 (8 projects), and September 1, 2021 (2 projects), resulting in post-construction certification deadlines of August 27, 2022, and September 1, 2022. Petitioner requested one-year extensions from the current deadlines for its solar project registrations.

According to Petitioner, all the projects have been delayed by supply chain disruptions, in particular to steel racking components, procurement of which “cannot be financed and purchased until all local zoning/planning board approval and building permits are obtained.” In addition, Petitioner stated that four of its Mt. Laurel sites have been impacted by a change in the EDC’s interconnection requirements. According to Petitioner, although PSE&G initially identified only one site as needing a transformer upgrade, PSE&G informed Safari several months later that four additional sites require transformer upgrades and that there was a 12-month lead time to receive the equipment. Petitioner asserted that this change rendered it impossible for Petitioner to meet its TI Program deadlines.

Petitioner pointed to changes in interconnection requirements and supply chain delays as the causes of its delay. However, Staff notes that the ten registrations were accepted into the TI Program on its final day and Petitioner knew or should have known that this transitional program was closing. At that time, supply chain delays were already well known to the industry, which, as discussed above, the Board has noted in a prior Order. See Centrica Order on Multiple Projects. As to Petitioner’s claim that the change to the EDC’s interconnection requirements made it impossible for the four affected projects to meet their deadlines, Staff notes that Petitioner cited the lack of local zoning/planning board and building permits as a critical path item that delayed procurement of materials that would also make suspect its ability to commence commercial operations within the known one-year deadline. Safari also pointed to its own efforts to move its projects forward, including proposing workarounds to PSE&G; while commendable, these efforts do not constitute grounds to waive the rules. Staff recommends that the Board reject these arguments.

Petitioner also asserted that it expended significant amounts of money on these projects and that they may not be financially viable without the TI Program incentive levels. Pointing to comments summarized and responded to in the SuSI Program Order, and to the level of enrollment in the SuSI Program from the date of its inception to the date of the petition, Petitioner implied that the ADI Program incentive levels are inadequate for carport projects like its own. As a threshold matter, Staff notes that this is not the appropriate forum in which to pursue that argument. To the extent that Petitioner believes that the alleged inadequacy of the ADI incentive levels constitutes good cause to waive the TI Rules for its projects, it has failed to make its case with convincing evidence. The comments to which it refers were considered by the Board in the context of the proceeding that set the ADI incentives. As to Petitioner’s statement that six months after the program’s launch “only 1,006.70 kW dc of capacity has been subscribed,” Petition at Par. 5, the

registration uptake since the petition was filed demonstrates that the first months of the SuSI Program were not a reliable indicator to its popularity. As of October 24, 2022, approximately 128 MW dc had been registered in the ADI Program, and approximately 44 MW of net metered non-residential capacity like that of Petitioner's projects have registrations under review.

In its May 2, 2022 supplement, Petitioner pointed to a March 28, 2022 announcement by the U.S. Department of Commerce that it will open an investigation into solar modules produced in certain east Asian countries, an announcement that Petitioner says led directly to the indefinite suspension of its purchase order by its supplier. Safari asserted that the effect of this investigation is "catastrophic" and that it should be recognized as a *force majeure* event that justifies an extension to TI Program deadlines. While Staff does not dispute that the Commerce Department investigation was unforeseeable at the time Petitioner registered and that it was beyond Petitioner's control, Staff does not agree that it justifies an extension. The TI Program incentives were developed on the basis of the most current cost data available at that time. The delays experienced by Petitioner's projects, regardless of their cause, render that data and the incentives based upon it increasingly irrelevant to the reality of these projects' development.

In its June 7, 2022 supplement, Petitioner proposed an alternative form of relief, in which the Board would grant project-specific extensions for the interconnection and commercial operation deadlines, such that each project would receive as much time as it took for PSE&G to complete the interconnections and extend all other project deadlines through December 31, 2022. This proposal would effectively sever project development from the TI timelines. While Staff acknowledges that project development has experienced delays, Staff does not believe that the open-ended timelines proposed by Petitioner are justified.

In its June 30, 2022 supplement, Petitioner asked that the Board grant the Gibbstown waiver to the five projects that were the subject of a change in EDC interconnection requirements. However, Staff notes that while these projects may meet one prong of the Gibbstown test, Petitioner acknowledged that its projects do not meet other Gibbstown criteria, such as the requirement that a project have received all required permits and that it be mechanically complete. Staff recommends that the Board deny this petition without prejudice to any Gibbstown application that may have been filed.

Sunwealth – 30 Jersey Place, Hackensack – Docket No. QO22040232

Sunwealth, LLC filed a petition on April 5, 2022 that requested an extension of the completion deadline for the above project. The project was issued a conditional acceptance letter for the TI Program on July 22, 2021. The project acceptance letter provided an expiration date of July 22, 2022, by which the program's post-construction certification requirements were to be fulfilled.

Petitioner requested a three-month extension from the current deadline for its solar project registration purportedly based on multiple delays in receiving approval from the City of Hackensack, resulting in the need for additional time to receive PTO from the EDC. In a letter dated April 26, 2022, the State senator and the assemblypersons for Legislative District 37 expressed their support for the requested extension, stating that this project would assist an important local manufacturer that supplies the military and the commercial electronics industry.

Petitioner alleged unforeseen delays in obtaining municipal land use board approval and in receipt of its PTO as the reasons for needing an extension. According to the petition and supplemental correspondence, Petitioner was surprised that the City of Hackensack required minor site plan approval, and the City's resolution of approval did not issue until April 13, 2022.

Staff does not find Petitioner's arguments compelling. Petitioner's unfamiliarity with the City of Hackensack's land use ordinance requirement of minor site plan approval for this project is not supportive of further extensions of the project's TI deadlines. Although Petitioner contended that it has not previously encountered such a lengthy municipal permitting process, municipal site plan approval requirements are not unusual, and applicable municipal land use board review periods are controlled by the Municipal Land Use Law ("MLUL"), N.J.S.A. 40:55D-1 to 163.

Project due diligence is necessarily related to project maturity. Petitioner's failure to identify discretionary land use approvals necessary to build the project does not justify waiver of the Board's rules to grant an extension of time to complete the project. Moreover, the Board had already signaled the approaching close of the TI Program at the time Petitioner filed its registration, and Petitioner knew or should have known that an extension of time in a closed program was unlikely. Staff recommends that the Board deny this petition.

Ampericon – 1257 Springfield Road, Irvington – Docket No. QO22070440

Ampericon Energy Solutions filed a petition for extension of the completion deadline for the above project on April 21, 2022. The project was issued a conditional acceptance letter for the TI Program on August 3, 2020. By virtue of the Board's July 2020 and June 2021 Orders, the project's expiration date for its TI registration was extended to April 30, 2022.

Petitioner requested an unspecified "short extension" from the current deadlines for its solar project registration. According to the petition, the project is mechanically complete, but Petitioner misunderstood the meaning of "reverse relay" in PSE&G's conditional interconnection approval and must re-engineer the project to avoid exporting power.

Petitioner based its request for an extension on its misunderstanding of the EDC's interconnection requirements. While regrettable, error on Petitioner's part does not justify an extension of TI Program deadlines. Furthermore, Petitioner acknowledged that it received prior extensions of time to complete its project in the TI Program, yet it remains unable to meet the program deadlines. Staff notes that this project registered in the TI Program over two (2) years ago. Staff recommends that the Board deny this petition.

ECS Energy, LTD and CEN-MED Enterprises, Inc. – Docket No. QO22070437

On July 13, 2022, ECS Energy, LTD and CEN-MED Enterprises, Inc. filed a petition to extend the completion deadline for the above project by three (3) months to October 14, 2022. The Board conditionally accepted the project into the TI Program via letter dated July 14, 2021. The letter conditioned final acceptance of the project application on completing the solar installation and commencing commercial operation on or before July 14, 2022.

According to the Petition, ECS Energy and CEN-MED proposed to construct a 74.88 kW solar project in New Brunswick, New Jersey. Petitioners stated they received interconnection approval from PSE&G on November 5, 2021, and commenced construction on the project, completing

construction of the solar array on June 11, 2022. Petitioners requested building and fire inspections from New Brunswick on June 17, 2022, but the request was denied because the electrical work was not yet complete. Petitioners asserted the project was complete at the time of their petition except for interconnection upgrades. Petitioners requested a three-month extension from the current deadline based on PSE&G's alleged delay in scheduling the electrical system shut down required to complete the interconnection work, which delayed Petitioners' ability to obtain the necessary certificates of completion from New Brunswick.

Petitioners submitted a supplemental certification in support of their petition on September 20, 2022. In this certification, Petitioners indicated that PSE&G performed the disconnection of service at the project on August 17, 2022. Petitioners also stated the project received all final town inspections on August 22, 2022, received its UCC Certificate of Approval from New Brunswick on August 25, 2022, and received a PTO date of September 12, 2022 from PSE&G. Petitioners accordingly requested an extension of the project construction deadline from July 14, 2022 to September 12, 2022.

Petitioners requested the extension based upon the EDC's scheduling of an electrical system disconnect. While Staff acknowledges Petitioners achieved PTO on September 12, 2022, Petitioners still failed to comply with the Board regulations requiring them to install and commence operation on or before July 14, 2022. Petitioners make clear in their petition that they "are not asserting that PSE&G has been dilatory . . ." Staff agrees. Staff does not recommend granting an extension due to a claimed delay based upon routine EDC operations. Staff notes that Petitioners acknowledged that at the time the TI Program deadline expired, the project was not complete, did not yet have all municipal permits, and had not received PTO. Staff also notes that this TI registration was filed in the closing weeks of the TI Program. If Petitioners knew that it could not comply with program requirements and complete the project within one year, without extension, then Petitioners knew or should have known that the project was not appropriate for registration in the TI Program and would be a better candidate for the ADI Program, which opened shortly after Petitioners filed its TI registration and which does provide an extension opportunity. Staff recommends that the Board deny this petition.

Evergreen Energy LLC – Innova Atlantic, Hammonton – Docket No. QO22070450

Evergreen Energy LLC and Innova Atlantic WH Operations LLC filed a petition for extension of the completion deadline for the rooftop portion of the above project on July 18, 2022. The project was issued an acceptance letter for the TI Program on July 1, 2021. The project's acceptance letter provided an expiration of July 1, 2022 by which the program's post-construction certification requirements were to be fulfilled. Petitioners requested an extension from the current deadline for the solar project registration until December 31, 2022. The petition was filed after the registration expired.

Petitioners acknowledge that the carport portion of the proposed project is more appropriately suited for inclusion in the ADI Program rather than TI. Petitioners nevertheless seek an extension of time in the TI Program for the rooftop portion of the project. Petitioners base the extension request upon claimed supply chain issues. According to the petition, contractors for Petitioners ordered certain equipment for the project including transformers on March 30, 2022, and as of the date of the petition, the transformer was still outstanding. Petitioners indicated that upon completion of the transformer installation it will seek PTO.

Staff notes that at the time that Petitioners filed in the TI Program, the existence of supply chain issues was already well known in the solar industry. As referenced above, the Board has taken notice of the public nature of this problem in a prior Order. See Centrica Order on Multiple Projects. Petitioners knew or should have known that supply chain issues might prevent them from meeting the one-year expiration date in this program and that the program did not provide for extensions. Petitioners assert that they have made consistent efforts to hasten delivery of the needed materials. While commendable, these efforts do not warrant an extension to the TI Program timelines. Staff recommends that the Board deny this petition.

HP Scotch Road LLC – 400 Airport Corporate Road, Ewing Township – Docket No. QO22080475

On August 2, 2022, HP Scotch Road LLC filed a petition to extend the completion deadline for the above project by one year to August 4, 2023. The Board conditionally accepted the project into the TI Program via letter dated August 4, 2021. The letter conditioned final acceptance of the project application on completing the solar installation and commencing commercial operation on or before August 4, 2022.

HP Scotch Road LLC proposed to construct a 601.14 kW DC rooftop solar project in Ewing Township, New Jersey. Petitioner requested a one-year extension from the current deadline because of the time it took PSE&G to install a new transformer, relocate high-tension wires, and provide electrical service to the building. Petitioner initiated construction of the building on which the solar project would be installed in spring 2021, but, according to Petitioner, because of PSE&G's delay in providing electrical service to the building, the building was not complete until February 2022. Petitioner indicated it was not able to lease the space to a single tenant until December 2021, and asserted this delayed its ability to submit a net-metering interconnection application because Petitioner could not demonstrate electrical usage at the facility without a tenant. Petitioner claimed that it could not have anticipated it would take so long to finish the electrical work on the building.

According to the petition, once Petitioner secured a tenant and considered the possibility of constructing a net-metered system, Petitioner contracted with Advanced Solar Products, Inc. on March 29, 2022 to construct the project. Advanced Solar Products thereafter submitted an interconnection application to PSE&G on April 15, 2022, and PSE&G granted permission to install on June 2, 2022. As of the date Petitioner submitted the extension request, the project had not yet begun construction, municipal or other discretionary land use permits had not yet been sought, local inspections had not yet occurred, and PSE&G had not yet provided the PTO date.

Petitioner requested an extension because of the time taken by the EDC to install a new transformer, relocate high-tension wires, and provide electrical service to a new-construction building. However, Petitioner was aware at the time it registered that the TI Program provides for a one-year registration expiration and for no extensions. While the petition claimed that relocation of high tension power lines caused a six-month delay that was not under Petitioner's control, the certification attached to the petition indicates that the work was completed on July 15, 2021, prior to its application to TI. Petitioner was likewise aware of other claimed delays related to the new construction at the time it registered in TI in August 2021. Notably, Petitioner did not seek or obtain a contract for construction of the solar project until approximately four months before its TI Program deadline was set to expire.

Petitioner applied to the TI Program in August 2021, just prior to the close of TI to new registrants. Petitioner registered in the TI Program with the knowledge that this program provided twelve months to achieve commercial operation and did not provide for any automatic extensions, and it did so knowing that it was in the midst of constructing a new building with known and unresolved delays in construction. The status of building construction and occupation relates to project maturity. In this instance, the project was not mature enough to meet TI deadlines. If Petitioner knew that it could not comply with program requirements and complete the project within one year, without extension, then Petitioner knew or should have known that the project was not appropriate for registration in the TI Program and would be a better candidate for the ADI Program, which opened days after Petitioner filed its TI registration and which does provide an extension opportunity. Staff recommends that the Board deny this petition.

Harrah's Boulevard I Solar Project 2021, LLC and Harrah's Boulevard II Solar Project 2021, LLC – Harrah's Resort & Casino Atlantic City Meeting Center & Valet Garage and Self Park Garage – Docket No. QO22080483

Harrah's Boulevard I Solar Project 2021, LLC and Harrah's Boulevard II Solar Project 2021, LLC filed a petition for extension of the completion deadlines for two projects on August 8, 2022. Both projects received TI Program conditional acceptance on August 11, 2021, with an expiration date of August 11, 2022. Petitioners requested an extension based both on their claim that they should receive the six-month extension provided to earlier registrants by the June 2021 Order and on ACE's projected date to complete upgrades in spring 2023. Petitioners stated that they reasonably believe that both projects will be mechanically complete by December 24, 2022, but nevertheless requested that Board grant further extensions until ACE completes its upgrades.

Petitioners asserted that during most of the time the TI Program was open, projects received at least eighteen months to complete, due in relevant part to the six-month blanket extensions granted by the Board in the July 2020 and June 2021 Orders. According to Petitioners, projects that benefitted from these extensions also had a greater likelihood of qualifying for the conditional six-month extension provided by the Gibbstown Order because they were more likely to have achieved mechanical and electrical completion. As a result, contend Petitioners, projects that applied after June 24, 2021, might miss their TI Program deadline and TI Program incentive even if they achieved commercial operations prior to earlier projects that had qualified for one or more of these extensions. Petitioners claimed that had the Board announced that June 24, 2021 was the end date for benefitting from an additional six months, they would have filed their registrations by that date.

Petitioners further alleged that they expected their projects to be mechanically and electrically complete by December 24, 2022, six months from the deadline to qualify for the second six-month extension. However, Petitioners stated that ACE has advised that necessary upgrades will not be finished until spring 2023. Since this additional delay is outside their control, Petitioners argued that they should receive a further extension until these upgrades are completed and until Petitioners have received PTO. Petitioners also alleged that the eight months taken by ACE to complete engineering studies delayed their projects.

On September 14, 2022, ACE submitted a letter of no objection in which it stated that Petitioners' inability to meet the TI Program deadlines was not attributable to ACE. ACE quoted an Attachment D to the Interconnection Agreement executed in March 2022 that gives an estimated

time of twelve to twenty-four months to complete the upgrades, after receipt of payment. In addition, ACE objected to Petitioners' claim that ACE's engineering study was delayed; according to ACE, Petitioners made changes to the scope of their projects as recently as August 2022.

In their September 23, 2022 reply, Petitioners stated that any changes they made to project scope were caused by ACE's engineering specifications and that regardless of the reason for the delay, they should receive the requested extension because their project should receive the same treatment as those registered prior to June 24, 2021.

Petitioners based their extension request on the claim that the Board's provision of a previous six-month extension entitles Petitioners to the same extension and that denying a similar extension to Petitioners based on the date of their registrations is arbitrary. Staff disagrees. This reasoning ignores the rationale for the previous extensions, summarized above. The Board explicitly linked its two blanket extensions to the specific circumstances faced by the TI Program registrants at the time of the orders, in particular the solar industry's ongoing adjustment to changes brought about by the Clean Energy Act and the COVID-19 crisis.²⁶ The Board also took into account the uncertainty that still surrounded the establishment of a successor program at that time. Ending eligibility for the June 2021 extension on the date of the June 2021 Order was not arbitrary but rather a recognition that the impact of the pandemic was beginning to pass and that a successor program would soon be established. The ADI Program opened two months later and has now been in existence for over a year.

Petitioners argued that the Board should grant them an extension through December 24, 2022, in order to place them on equal footing with projects that benefited from the June 2021 Order, but Petitioners concede that even if the Board were to find that argument compelling and grant extensions through December 2022, these projects would not become operational. Petitioners acknowledged that they do not anticipate achieving commercial operation until spring 2023, at the earliest, and therefore requested that the Board grant further extensions until such time as ACE completes the interconnection upgrades and the projects receive PTO. As such, Petitioners' projects will experience costs more appropriately reflected in the ADI Program that opened in August 2021 than in the TI Program that closed at that time. Staff does not recommend granting extensions of TI Program deadlines, potentially through March 2024, for these projects. Staff recommends that the Board deny this petition.

Pacific Avenue I Solar Project 2021, LLC and Pacific Avenue II Solar Project 2021, LLC – Caesars Hotel & Casino's Colosseum and Temple – Docket. No. QO22080482

Pacific Avenue I Solar Project 2021, LLC and Pacific Avenue II Solar Project 2021, LLC filed a petition for extension of the completion deadlines for two projects on August 8, 2022. Both projects received TI Program conditional acceptance on August 11, 2021, with an expiration date of August 11, 2022. Petitioners requested an extension from the current deadline based on their claim that they should receive the six-month extension provided to earlier registrants by the June 2021 Order and on ACE's projected date to complete interconnection upgrades in spring 2023. Petitioners stated that they reasonably believe that both projects will be mechanically complete by December 24, 2022, but nevertheless requested that Board grant further extensions until ACE completes its upgrades.

²⁶ See generally July 2020 Order; June 2021 Order.

Petitioners asserted that during most of the time the TI Program was open, projects received at least eighteen months to complete, due in relevant part to the six-month blanket extensions granted by the Board in its July 2020 and June 2021 Orders. According to Petitioners, projects that benefitted from these extensions also had a greater likelihood of qualifying for the conditional six-month extension provided by the Gibbstown Order because they were more likely to have achieved mechanical and electrical completion. As a result, Petitioners contended projects that applied after June 24, 2021 might miss their TI Program deadline and TI Program incentive even if they achieved commercial operations prior to earlier projects that had qualified for one or more of these extensions. Petitioners claimed that had the Board announced that June 24, 2021 was the end date for benefitting from an additional six months' extension, they would have filed their registrations by that date.

Petitioners further alleged that they expected their projects to be mechanically and electrically complete by December 24, 2022, six months from the deadline to qualify for the June 2021 Order's six-month extension. Petitioners argued that the Board should grant it an extension through December 24, 2022, in order to place them on equal footing with projects that benefitted from the June 2021 Order. Petitioners further argued that since an alleged EDC interconnection upgrade delay is outside their control, they should receive a further extension until these upgrades are completed and until Petitioners have received PTO. Petitioners also alleged that the eight months taken by ACE to complete engineering studies delayed their projects.

On September 14, 2022, ACE submitted a letter of no objection in which it stated that Petitioners' inability to meet the TI Program deadlines was not attributable to ACE. ACE quoted an attachment to the Interconnection Agreement executed in March 2022 that gives an estimated time of twelve to twenty-four months to complete the upgrades. In addition, ACE objected to Petitioners' claim that ACE's engineering study was delayed; according to ACE, Petitioners have continued to change the scope of their projects and made changes to their single-line diagram and point of interconnection as recently as June 2022.

In their September 23, 2022 reply, Petitioners stated that any changes they made to project scope were caused by ACE's project design determinations and that regardless of the reason for the delay, they should receive the requested extension because their projects should receive the same treatment as those registered prior to June 24, 2021.

Petitioners claimed that their delays were caused by interconnection upgrades to be performed by the EDC. However, Petitioners also admit that their projects were not mechanically complete.

Petitioners based their extension request in part on the claim that the Board's provision of a previous six-month extension entitles Petitioners to the same extension and that denying a similar extension to Petitioners based on the date of their registrations is arbitrary. Staff disagrees. This reasoning ignores the rationale for the previous extensions, summarized above. The Board explicitly linked its two blanket extensions to the specific circumstances faced by the TI Program registrants at the time of the orders, in particular the solar industry's ongoing adjustment to changes brought about by the Clean Energy Act and the COVID-19 crisis.²⁷ The Board also took into account the uncertainty that still surrounded the establishment of a successor program at that

²⁷ See generally July 2020 Order; June 2021 Order.

time. Ending eligibility for the June 2021 extension on the date of the June 2021 Order was not arbitrary but rather a recognition that the impact of the pandemic was beginning to pass and that a successor program would soon be established. The ADI Program opened two months later and has now been in existence for over a year.

Petitioners argued that the Board should grant them an extension through December 24, 2022, in order to place them on equal footing with projects that benefited from the June 2021 Order, but Petitioners concede that even if the Board were to find that argument compelling and grant an extension through December 2022, these projects would not become operational. Petitioners acknowledged that they do not anticipate achieving commercial operation until spring 2023, at the earliest, and therefore requested that the Board grant further extensions until such time as ACE completes the interconnection upgrades and the projects receive PTO. As such, Petitioners' projects will experience costs more appropriately reflected in the ADI Program that opened in August 2021 than in the TI Program that closed at that time. Staff does not recommend granting extensions of TI Program deadlines, potentially through March 2024, for these projects. Staff recommends that the Board deny this petition.

DG MAC 2, LLC – Becton Dickinson – Docket No. QO22080488

DG MAC 2, LLC proposed to construct a 233.28 kW DC rooftop solar project and a 1494.15 kW DC carport solar project at the corporate headquarters of Becton Dickinson in Franklin Lakes, New Jersey. On August 15, 2022, DG MAC 2 filed a petition to extend the completion deadlines for the two projects. Petitioner requested a one-month extension for the rooftop project and a one-year extension for the carport project. The Board conditionally accepted both projects into the TI Program via letters dated August 16, 2021. The letters conditioned final acceptance of the project applications on completing the solar installation and commencing commercial operation by August 16, 2022.

According to the petition, Petitioner submitted its interconnection application on October 14, 2021, and received preliminary results from the EDC in February 2022. Petitioner stated that, for its rooftop project, additional interconnection studies were performed in March 2022 and interconnection approval was anticipated in August 2022. With regard to the carport project, Petitioner stated that additional interconnection studies were also performed in March 2022 to determine the larger project's potential impact to the utility system and to determine what upgrades may be required. Petitioner indicated that the study was anticipated to be completed with 60 business days, but as of the date of the petition, the study has not been received.

Petitioner submitted PTO and final as-built paperwork for the rooftop system on August 15, 2022. However, Petitioner did not receive its PTO for the carport project. According to the petition, final design, engineering and construction of the carport cannot begin until Petitioner receives the results of the interconnection study.

Petitioner requested the extension for the carport system because it anticipated the results from the EDC's interconnection study in June 2022, but the study was not complete by that time. Additionally, construction had not yet begun on this system. Petitioner also stated it was unable to engage in the final engineering for the carport system because the final upgrades and associated cost of interconnection were not yet known. Petitioner cited the Gibbstown Order as support for the Board granting its extension requests, claiming the delay in construction of both

projects was the result of actions “wholly outside the control” of Petitioner and that Petitioner took “all reasonable steps” to meet the initial TI Program deadline.

Petitioner based its carport request for an extension on a claimed “substantial delay” in the interconnection review process conducted by the EDC and requested an extension to the date it estimates it will receive PTO from the EDC.

Staff notes that as of the date of the petition, the EDC had not progressed beyond studying the interconnection request and that construction has not yet begun. Based on the elapsed time and multiple interconnection studies, were the Board to grant the requested one-year extension, Petitioner’s costs would not be reflective of those on which TI Program incentives were based. Moreover, Petitioner registered in the TI Program during the Program’s final weeks and knew, or should have known, that this Program was about to close and did not provide for extensions. The interconnection process, EDC studies and potential interconnection upgrades all relate to project maturity. In this instance, the project was not mature enough to meet TI deadlines. Staff notes that Petitioner only began the interconnection application process after conditional acceptance into the TI Program. Staff recommends that the Board deny the one-year extension request for the carport project and this petition.

Ecological Systems LLC – Liberty Drug – Docket No. QO22080487

Ecological Systems LLC filed a petition for extension of the completion deadline for the above project on August 12, 2022. The project was issued a conditional acceptance letter for the TI Program on August 15, 2021. The project’s acceptance letter provided an August 15, 2022 expiration date by which the program’s post-construction certification requirements were to be fulfilled. Petitioner requested a six-month extension to its TI Program expiration date.

According to the petition, all electrical and mechanical systems were complete as of the date of the petition, but local inspections cannot be scheduled prior to September 1, 2022. Petitioner acknowledged that given the large volume of solar projects seeking PTO prior to their TI Program expiration dates, Petitioner cannot predict how long after these inspections it will receive PTO. Petitioner claimed that a six-month extension is warranted due to supply chain interruptions.

Staff notes that Petitioner registered its project in the closing weeks of the TI Program. As discussed above, the Board noted in a prior Order that supply chain issues were well known to the industry. See Centrica Order on Multiple Projects. Thus, Petitioner knew or should have known not only that supply chain issues were common to solar development, but that this transitional program was coming to an end and extensions in a closed program were unlikely. Staff recommends that the Board deny this petition.

Ecogy Energy NJ IV LLC – Peddie School – Docket No. QO22080509

Ecogy Energy NJ IV LLC proposed to construct a canopy solar system at the Peddie School in East Windsor, New Jersey. An existing solar project is located at the Peddie School, and according to Petitioner, the proposed canopy project would double solar generation at the property. The Board conditionally accepted the project into the TI Program via letter dated August 11, 2021. The letter conditioned final acceptance of the project application on completing the solar installation and commencing commercial operation on or before August 10, 2022. On

August 5, 2022, Ecogy Energy filed a petition to extend the completion deadline for the above project by one year to August 10, 2023.

Petitioner requested a one-year extension from the current deadline for its solar project registration because of delays resulting from requests from the EDC.

According to the petition, Petitioner was unaware that installing a new canopy solar system that will supplement the existing solar system at the property and collectively exceed 1MW in generation would trigger “more advanced studies and scrutiny from JCP&L.” Petitioner contends that required EDC upgrades were unforeseen. Petitioner stated that the EDC requested that Petitioner make additional upgrades at the property, including retrofitting the existing systems and switchgear to account for the additional electricity capacity.

Petitioner also cited the Gibbstown Order as further support for its extension request, claiming that unanticipated and unforeseeable delays in the EDC’s completion of interconnection upgrades, as well as the fact that Petitioner has not requested any prior extensions, support its request for the extension.

Petitioner also cited procurement delays in acquiring the equipment necessary to construct the project. Petitioner referenced backlog in the module market due to the imposition of tariffs related to the United States Department of Commerce’s anticircumvention investigation, which resulted in Petitioner redesigning its project to use a different type of module. Petitioner also noted what it described as “unusual delays” in acquiring AC equipment, including a “made to order” switchgear that is unique to this project with a 52-week lead time at the time the petition was filed. Petitioner stated the switchgear fabrication was “the biggest gating item for the project construction to reach completion and the reason behind Ecogy asking for a one-year extension instead of a six-month extension.” Petitioner asserted that this constituted an EDC delay because the EDC required using this switchgear.

Petitioner also raised several claimed permitting obstacles that caused delay from the initial construction deadline. Petitioner indicated the Peddie School property is in two municipalities, East Windsor and Hightstown, requiring Petitioner to obtain permitting approvals from both municipalities. Petitioner also was required to acquire permits from the Mercer County Planning Board due to a parking lot reconfiguration that the Peddie School had planned, which Petitioner claimed was unusual for a solar project. Petitioner indicated it received its permits from Hightstown on February 14, 2022, its permits from East Windsor on March 28, 2022, and its permit from Mercer County on February 16, 2022. Petitioner noted that construction on the solar project could not begin until the parking lot reconfiguration was completed, which occurred in June 2022.

Petitioner also claimed the project timeline should be extended given the increased cost and time requirements for constructing a carport solar system when compared to other types of solar systems.

Petitioner pointed to the EDC’s interconnection requirements, supply chain and procurement delays, and permitting obstacles as the causes of its delay in meeting program timelines. However, Staff disagrees with Petitioner that these delays were unforeseeable or unreasonable. Petitioner knew, or reasonably should have known, that the addition of a new project to the existing solar project at a property would have triggered additional review from the EDC. Staff notes that Petitioner did not submit its interconnection application until after it was accepted into

the TI Program. The interconnection process and EDC review necessarily relates to project maturity. In this case, the project was not sufficiently mature at the time of its application to the TI Program to complete within the one-year time permitted by the Board's rules.

Staff also notes that the procurement delays Petitioner raised have been impacting the solar industry as a whole and are not unique to Petitioner's project. See Centrica Order on Multiple Projects. Staff also disagrees with Petitioner that the Peddie School's existing plan to reconfigure its parking lot constitutes an unforeseen delay sufficient to grant an extension request. Staff further notes Petitioner registered in the TI Program during the Program's closing weeks and was aware that this program does not provide for extensions to its one-year deadline. In addition, the fact that Petitioner is seeking a one-year extension means that its costs would be more accurately reflected by the ADI Program incentives than by those of the TI Program. Finally, Staff disagrees with Petitioner's contention that the project requiring discretionary land use approvals from two municipalities justifies its one-year extension request. According to the petition, the project submitted municipal applications in January and February 2022, and timely received its municipal approvals in February and March 2022. Similarly, Staff disagrees that needed site plan approval by the county planning board is unusual, and even were that so, it is incumbent upon Petitioner to undertake adequate due diligence into which project approvals are required and to do so prior to its application into a program with a limited time for completion and no path for extensions. Staff recommends that the Board deny this petition.

Ecogy Energy NJ IV LLC – American Red Cross – Docket No. QO22080538

Ecogy Energy NJ IV LLC proposed to construct a 120.13 kW DC net-metered solar facility at the American Red Cross facility in Tinton Falls, New Jersey. The Board conditionally accepted the project into the TI Program via letter dated August 25, 2021. The letter conditioned final acceptance of the project application on completing the solar installation and commencing commercial operation on or before August 25, 2022.

On August 25, 2022, Ecogy Energy filed a petition to extend the completion deadline for the above project. Petitioner requested a six-month extension from the current deadline for its solar project registration to allow for continued financing and work on the project. Petitioner indicated in the extension request that the project commenced construction on August 18, 2022, and intended to reach "substantial completion" by the first week of September. Petitioner requested that the Board grant the extension request given that the project is near completion and multiple delays were associated with the project.

In its extension request, Petitioner asserted that an extension is warranted due to construction delays attributed to permitting obstacles, column remediation work, and procurement delays. Petitioner claimed there was significant delay in executing the site lease and power purchase agreement for the project due to the corporate structure of the American Red Cross and the level of approval needed to execute both documents. Petitioner noted that despite this delay, it started to work on and invest in the project prior to receiving these approvals.

Petitioner also asserted several permitting delays during the planning and construction process. The Borough of Tinton Falls required that Petitioner obtain a zoning permit for the project, and Petitioner paid for replacement of a monument on the property in order for the surveyor to complete the boundary survey on the property. Petitioner also stated the original engineering firm retained to perform structural evaluation of the building was reluctant to sign off on the drawings

due to uncertainty with the building's structural capabilities, forcing Petitioner to retain a different engineering firm. Petitioner also claimed that the Borough of Tinton Falls did not initially approve the electrical permit for the facility, and that the Borough issued the electric permit thirty-three days after application despite the town code requiring that permits be issued within twenty days of application.

Petitioner also referenced a structural analysis as a cause of delay for construction of the project. A March 30, 2022 structural analysis of the roof of the building revealed that eight of the supporting columns were damaged and required repair before the solar project could be constructed. According to the petition, American Red Cross initially planned to begin the repair work in May 2022, but Petitioner claimed that the Borough of Tinton Falls' failure to issue a building permit on time delayed this repair work to June 15, 2022, which concluded at the end of June 2022.

Petitioner also cited procurement and interconnection delays as support for the Board granting the extension request. Petitioner stated it changed its project design to account for long lead times, which added complications to procurement and interconnection approval. Petitioner indicated it received a step down transformer during the first week of August 2022, which is a necessary component for completing project construction.

Petitioner concluded by stating that the project may not be viable without receiving the incentives under the TI Program due to the small size of the project, the rise of steel prices, and supply chain restraints, and indicated the lower incentive levels provided under the SuSI Program would not be sufficient.

Staff disagrees that Petitioner's inability to timely obtain signatures on its site lease and power purchase agreements warrant an extension in TI. According to the Petition, these documents were not executed until February 9, 2022, nearly six months after Petitioner registered in TI. The lack of project financing and site control necessarily relates to project maturity, and Petitioner knew or should have known at the time it registered in TI that this project was not mature and was unlikely to complete in the required twelve-month time allowed by the TI Rules.

Petitioner also relied on permitting delays as a basis for requesting an extension. Petitioner claimed to have been delayed because the Borough of Tinton Falls required a zoning permit and boundary survey. Petitioner's failure to perform due diligence in determining which discretionary land use approvals are required in order to construct its project is not supportive of a waiver of the Board's rules. Similarly, Petitioner's dissatisfaction that its first civil engineer would not approve site drawings because of structural deficiencies does not warrant an extension of time in the TI Program. Further, the municipal permitting delays Petitioner described are on the order of days or weeks and fail to justify the Board granting the requested extension of six months. Petitioner also claimed delays resulting from its structural investigation and remediation but failed to explain why its March 30, 2022 structural investigation failed to take place prior to or at the onset of the development process and instead was initiated mere months before the TI Program deadline was set to expire. Petitioner's lack of due diligence into the structural sufficiency of building at its chosen site indicates that the project was not mature at the time it registered in TI.

Staff finally notes that the procurement delays Petitioner identified have been impacting the solar industry as a whole and are not unique to Petitioner's project. See Centrica Order on Multiple Projects. Petitioner registered in the TI Program during the closing weeks of that program and was aware that this program does not provide for extensions to its one-year timeline. As the

project was not mature when it registered in TI, and given that construction has not commenced as of the date of the petition, this project would be more appropriately incentivized by the existing ADI Program than by the TI Program that has been closed for over a year. Staff recommends that the Board deny this petition.

PowerFlex Solar, LLC – 1900 Rutgers University Boulevard, Lakewood – Docket No. QO22080514

PowerFlex Solar, LLC proposed to construct a 1.1268 MW rooftop solar project in Lakewood, New Jersey. The Board conditionally accepted the project into the TI Program via letter dated August 16, 2021. The letter conditioned final acceptance of the project application on completing the solar installation and commencing commercial operation on or before August 16, 2022. On August 15, 2022, PowerFlex Solar, LLC filed a petition to extend the completion deadline for the above project by two months to October 16, 2022.

In its extension request, Petitioner asserted that an extension is warranted because of delays in receiving the switchgear necessary to complete the project. Petitioner indicated the switchgear equipment was ordered on February 10, 2022, and it expected delivery on or before July 7, 2022. Petitioner noted this would mean the switchgear would be installed July 8, 2022, providing five and one-half weeks to complete a local inspection and secure PTO from the EDC. However, according to the petition, the vendor delayed shipment of the switchgear, and Petitioner did not receive the switchgear until August 11, 2022. Petitioner installed the switchgear on August 12, 2022, and completed interconnection to the customer's facility on August 14, 2022. Petitioner stated that it anticipated the project would achieve full mechanical completion and operation by the end of the week of August 15, 2022, and believed the required local inspections would occur shortly thereafter.

As of the date of the petition, Petitioner stated that only "minor work remains necessary" to complete mechanical operation of the project. Petitioner claimed that it would have met the August 16, 2022 construction deadline had it received the switchgear in accordance with the proposed timeframes, and that the delay of receiving the switchgear was beyond the control of Petitioner. According to Petitioner, at the time the petition was filed, only "minor post-installation tasks and inspections remain" at the project. Petitioner cited the Gibbstown Order as support for its extension request, arguing that a similar extension is proper here because the project is fully mature and near mechanical completion, and would be complete but for the "unforeseeable delay" in the delivery of the required switchgear.

Petitioner also claimed that the economic viability of the project was tied to the receipt of the incentives under the TI Program. Petitioner claimed the project would suffer "unreasonable economic harm, despite Petitioner's good faith and reasonable efforts" to complete the project by the TI Program deadline.

Petitioner pointed to a specific vendor equipment delay as justifying an extension. Staff disagrees that the claimed minor delay in this matter supports a waiver of the Board's rules to grant this project an extension. Here, Petitioner claimed that it anticipated switchgear equipment to be delivered by July 7, 2022. Staff notes, however, that Petitioner did not order the equipment until February 10, 2022, approximately six months after it registered in the TI Program. Further, Petitioner's Exhibit B indicates that the switchgear in question was projected for delivery on or about July 30, 2022, approximately two weeks prior to its TI registration expiration, and that

Petitioner was aware of this timing from at least March 1, 2022, if not sooner. According to the petition, the switchgear was received on August 11, 2022, resulting in less than a two-week delay. As such, Staff cannot recommend a TI extension based on a two-week vendor delay Petitioner claimed was “unforeseen.” Staff notes that procurement delays have been impacting the solar industry as a whole and are neither unique to Petitioner’s project nor unforeseeable. See Centrica Order on Multiple Projects.

Petitioner also conceded that the facts of its case differ from those in the Gibbstown Order. Staff concurs and does not recommend granting an extension on that basis. Notably, the developer in Gibbstown completed its mechanical and electrical construction of the solar facility prior to the TI Program deadline. Here, Petitioner failed to complete project construction by the TI Program deadline. Staff finally notes that Petitioner registered its project during the closing weeks of the TI Program and was aware that the program does not provide for extensions. Staff recommends that the Board deny this petition.

PowerFlex Systems LLC – United Natural Foods Inc. – Docket No. QO22080544

PowerFlex Solar, LLC proposed to construct two rooftop solar projects on a rooftop in Howell, New Jersey. One project (“Project A”) was accepted into the TI Program on September 13, 2021, and the other project (“Project B”) was accepted into the TI Program on August 30, 2021. The Board conditionally accepted both projects into the TI Program on the condition that both projects complete solar installation and commence commercial operation on or before September 13, 2022 for Project A and August 30, 2022 for Project B. On August 30, 2022, PowerFlex Solar filed a petition to extend the completion deadlines for the above two projects by one year.

According to Petitioner, the projects were designed as separate systems in order to accommodate limitations of an onsite meter and the limited capacity of the existing EDC transformers. Petitioner noted, however, that Project B cannot become operational and secure PTO until Project A is fully installed because the SCADA communication for both projects is relayed through Project A.

In its extension request, Petitioner asserted that an extension is warranted because of unforeseeable delays caused by the EDC’s failure to inform Petitioner of new interconnection requirements for Project A in a timely manner. Petitioner stated Project A received interconnection approval on August 10, 2021, and Project B received interconnection approval on June 30, 2021. Petitioner and EDC entered into a fixed cost agreement on December 21, 2021. Petitioner then indicated that, on August 9, 2022, the EDC advised Petitioner that its interconnection design for Project A was no longer acceptable. According to the petition, JCP&L introduced new interconnection requirements for Project A due to “improperly placed JCP&L meter current transformers (CTs) associated with an emergency generator system installed at the site in 1999.” Petitioner claimed that the new requirements were not identified by the EDC until one year after Petitioner’s interconnection agreement was approved and almost eight months after a fixed cost agreement was signed with JCP&L for interconnection upgrades.

Petitioner asserted that the new interconnection design required it to purchase new equipment for the project, and the suppliers for this new equipment informed Petitioner the lead times for the equipment ranged from thirty to forty weeks. Petitioner, therefore, sought a one-year extension of the TI Program deadline for both projects in order to accommodate these lead times and subsequent installation of the equipment. Petitioner also claimed that due to the interconnected nature of the projects’ communication systems, Project B cannot be completed until Project A is

completed. Petitioner stated the EDC's imposition of these last-minute construction requirements is "the sole reason" the projects were not able to be completed within the required TI Program timeframes, and both projects would have achieved timely commercial operation but for these delays.

Petitioner recognized that the TI Program does not allow for extensions and requested that the Board grant its extension requests under the Board's discretionary authority. Petitioner cited the Board's Gibbstown Order to support its extension request. Petitioner argued the EDC's untimely imposition of new interconnection conditions, which Petitioner neither knew of nor could have reasonably foreseen, were the sole cause of the projects' inability to achieve PTO by the TI Program deadlines. Petitioner claimed that, like Gibbstown, its projects are fully mature and near or at mechanical completion, and Petitioner's delay resulted from the EDC's failure to properly discharge its interconnection responsibilities rather than general supply chain issues. Petitioner also argued that, like Gibbstown, it would have completed construction of both projects prior to the TI Program deadlines, but the EDC was unable to issue PTO. Petitioner also claimed it would suffer economic hardship if the project were unable to secure TRECs.

Petitioner alleged last-minute changes in the EDC's interconnection requirements and timelines as the basis for the delay in its project development. However, Petitioner conceded that the projects are not mechanically and electrically complete. Given that Petitioner requested an additional year to complete, it appears that this project timeline is more appropriately matched by the current ADI Program than by the closed TI Program. Furthermore, the longest lead time referenced in Petitioner's exhibits is thirty weeks. Even when considering the potential need for additional time for installation and interconnection shutdowns as described in the petition, Staff does not find support for the requested one-year extension. In addition, Petitioner registered this project in the closing weeks of the TI Program, which it knew or should have known does not provide for extensions. Staff recommends that the Board deny this petition.

Dey Road Solar Project 2021, LLC – Saint Gobain Performance Plastics Corporation – Docket No. QO22080516

Dey Road Solar Project 2021, LLC filed a petition for extension of the completion deadlines for the above project on August 11, 2022. The project was issued an acceptance letter for the TI Program on August 18, 2021. The project acceptance letter provided an August 18, 2022 expiration date by which the program's post-construction certification requirements were to be fulfilled.

According to the petition, Petitioner believed that this project would be completed by the project's TI expiration date but requested a one-month extension in case it does not meet the deadline. On October 5, 2022, Petitioner filed a supplement to its petition in which it requests an extension until the earlier of: a) December 24, 2022; or b) the date the project is completed, which includes Petitioner's receipt of PTO from the EDC. Petitioner asserted that the extension is justified because the municipal electrical inspector failed to appear on a scheduled date, which Petitioner later learned was because he went on disability leave. According to the petition, construction mobilization began on June 28, 2022, less than two months prior to the project's TI Program registration expiration. Petitioner indicated that the project was mechanically and electrically complete as of August 12, 2022, with final municipal building inspection approval on August 15, 2022. Petitioner further asserted that final electrical inspections were scheduled for either August

16 or 17, 2022, but the municipal inspector did not appear on site, and the electrical inspection occurred on September 23, 2022. As of the date of the supplemental petition, the project had not been issued PTO. Petitioner filed a petition update on November 2, 2022, indicating the project was issued PTO on October 6, 2022.

Petitioner contended that during most of the time the TI Program was open, projects received at least eighteen months to complete, due in relevant part to the six-month blanket extensions granted by the Board in the July 2020 and June 2021 Orders. According to Petitioner, projects that benefitted from these extensions also had a greater likelihood of qualifying for the conditional six-month extension provided by the Gibbstown Order because they were more likely to have achieved mechanical and electrical completion. As a result, Petitioner argued, projects that applied after June 24, 2021 might miss their TI Program deadline and TI Program incentive even if they achieved commercial operations prior to earlier projects that had qualified for one or more of these extensions. Petitioner claimed that had the Board announced that June 24, 2021 was the end date for benefitting from an additional six months, Petitioner would have filed its registration by that date.

Petitioner based its extension request in part on the claim that the Board's provision of a previous six-month extension entitles Petitioner to the same extension and that denying a similar extension to Petitioners based on the date of their registrations is arbitrary. Staff disagrees. This reasoning ignores the rationale for the previous extensions, summarized above. The Board explicitly linked its two blanket extensions to the specific circumstances faced by the TI Program registrants at the time of the orders, in particular the solar industry's ongoing adjustment to changes brought about by the Clean Energy Act and the COVID-19 crisis.²⁸ The Board also took into account the uncertainty that still surrounded the establishment of a successor program at that time. Ending eligibility for the June 2021 extension on the date of the June 2021 Order was not arbitrary but rather a recognition that the impact of the pandemic was beginning to pass and that a successor program would soon be established. Petitioner here stated that it too suffered from the same Clean Energy Act changes and COVID-19 crisis, but this ignores the opening of the ADI Program. The ADI Program opened days after Petitioner applied to the TI Program and has now been in existence for over a year. Staff disagrees with Petitioner's argument that its project must be granted an extension based on extensions granted to different projects, at different times, for different reasons. Here, the petition requests an extension based on a municipal inspector missing an inspection resulting in an unforeseen delay of less than a week. Staff does not find this minor delay to be compelling.

In its supplemental filing, Petitioner asked for an extension until it fulfills TI Program requirements or until December 24, 2022. However, Petitioner registered its project during the closing weeks of this program and knew or should have known that it does not provide for extensions. Petitioner's claimed delay of one week resulting in its inability to meet the one-year TI Program deadline does not reasonably justify an extension to that deadline. Staff recommends that the Board deny this petition.

Petitioner requested, in the alternative, that the Board waive any ADI rule requirements, such as receipt of PTO or beginning construction prior to ADI registration, that would otherwise bar Petitioner from ADI eligibility. Staff recommends that the Board grant this relief.

²⁸ See generally July 2020 Order; June 2021 Order.

Canal Road Solar Partners LLC – Canal Road Water Treatment Plant (NJAW) – Docket Nos. QO22070462 & QO22070471

On July 29, 2022, Canal Road Solar Partners LLC filed petitions for extension of the completion deadlines for two projects. The Canal Road Water Treatment Plant rooftop project received TI Program conditional acceptance on July 28, 2021, with an expiration date of July 28, 2022. The ground mount project at the same location received TI Program conditional acceptance on July 30, 2021, with the expiration date of July 30, 2022. Petitioner requested three-month extensions from the current deadlines for both projects.

a) Rooftop petition – Docket No. QO22070462

According to the petition, the rooftop project experience significant delays in obtaining necessary governmental approvals. Among other delays, Petitioner claimed that municipal site plan approval was delayed for three months where the township either had no other matters on its agenda or failed to take action on Petitioner’s project. Petitioner contended that township delays were beyond the length of time that could be reasonably anticipated. Petitioner also asserted that PSE&G’s inability to perform a scheduled building service disconnect on July 13, 2022 during the July 2022 heatwave was outside of its control. Petitioner also stated that New Jersey American Water Company (“NJAW”) would not permit interconnection shut off during the heatwave in order to maintain operational reliability for its water treatment plant.

Although Petitioner contended that it suffered a nine-month municipal permitting delay, Staff disagrees as the petition only recited meetings being cancelled or Petitioner’s resolution not being acted upon during municipal planning board meetings occurring over a three-month period. The petition indicated that municipal planning board approval was received in March 2, 2022. The petition does not indicate that any other municipal approvals were unreasonably withheld or delayed. Staff also notes that the MLUL controls the time periods for municipal planning board action. If a party is aggrieved by the failure to a municipality to timely adopt a resolution, it can apply to the Superior Court in a summary action to compel municipal compliance with the costs of suit and attorney’s fees being assessed against the municipality. N.J.S.A. 40:55D-10(g). The petition does not indicate that such steps were required or taken here.

With regard to Petitioner’s claimed interconnection shut off delays, Staff notes that the petition indicates that both the EDC and the property owner restricted such action for an unknown time period beginning on July 13, 2022, when the disconnect was first scheduled, approximately two weeks prior to the project’s registration expiration.

Petitioner’s attempt to analogize its circumstances to those that would qualify for the conditional extension provided in the Gibbstown Order fails. The Gibbstown Order expressly identifies inability to receive PTO “because of unanticipated and unforeseeable delays in the electric distribution company’s (“EDC’s”) completion of interconnection upgrades” Gibbstown Order at 4. Petitioner acknowledged that the EDC delay in this matter involved a routine shut-off rather than an interconnection upgrade. Petitioner also pointed to extensions granted to projects registered in the legacy SREC Registration Program. As noted by Petitioner, in those orders, the Board looked to whether the petitioners could document significant progress toward completion and whether the delay in question was unforeseen and unforeseeable at the time of executing a contract with the EDC. Those factors were relevant in considering those particular petitions,

which involved projects for which developers had entered into contracts with an EDC as well as registering for in the SRP, which provided for extensions. However, those are not the relevant considerations for Petitioner's project, which registered in the TI Program with the knowledge that this bridge program did not provide for extensions of its one-year timeframe. Moreover, Petitioner registered its projects during the closing weeks of the TI Program and was aware that this program does not provide for extensions. Minor delays in municipal permitting and EDC shut-offs do not constitute a valid basis for an extension in this context. Staff recommends that the Board deny this petition.

b) Ground mount petition – Docket No. QO22070471

According to the petition, the ground mount project was reduced in size in order to attempt to comply with the TI Program deadlines, but nonetheless experienced significant delays in obtaining necessary governmental approvals. Among other delays, Petitioner claimed that municipal site plan approval was delayed for three months where the township either had no other matters on its agenda or failed to take action on Petitioner's project. Petitioner contended that township delays were beyond the length of time that could be reasonably anticipated. Petitioner also asserted that PSE&G's inability to perform a scheduled building service disconnect on July 13, 2022 during the July 2022 heatwave was outside of its control. Petitioner also stated that NJAW would not permit interconnection shut off during the heatwave in order to maintain operational reliability for its water treatment plant.

Although Petitioner contended that it suffered a nine-month municipal permitting delay, Staff disagrees as the petition only recited meetings being cancelled or Petitioner's resolution not being acted upon during municipal planning board meetings occurring over a three-month period. The petition indicated that municipal planning board approval was received in March 2, 2022. The petition does not indicate that any other municipal approvals were unreasonably withheld or delayed. Staff also notes that the MLUL controls the time periods for municipal planning board action. If a party is aggrieved by the failure to a municipality to timely adopt a resolution, it can apply to the Superior Court in a summary action to compel municipal compliance with the costs of suit and attorney's fees being assessed against the municipality. N.J.S.A. 40:55D-10(g). The petition does not indicate that such steps were required or taken here.

With regard to Petitioner's claimed interconnection shut off delays, Staff notes that the petition indicates that both the EDC and the property owner restricted such action for an unknown time period beginning on July 13, 2022, when the disconnect was first scheduled, approximately two weeks prior to the project's registration expiration.

Petitioner's attempt to analogize its circumstances to those that would qualify for the conditional extension provided in the Gibbstown Order fails. The Gibbstown Order expressly identifies inability to receive PTO "because of unanticipated and unforeseeable delays in the electric distribution company's ("EDC's") completion of interconnection upgrades . . ." Gibbstown Order at 4. Petitioner acknowledged that the EDC delay in this matter involved a routine shut-off rather than an interconnection upgrade. Petitioner also pointed to extensions granted to projects registered in the legacy SREC Registration Program. As noted by Petitioner, in those orders, the Board looked to whether the petitioners could document significant progress toward completion and whether the delay in question was unforeseen and unforeseeable at the time of executing a contract with the EDC. Those factors were relevant in considering those particular petitions, which involved projects for which developers had entered into contracts with an EDC as well as

registering for in the SRP, which provided for extensions. However, those are not the relevant considerations for Petitioner's project, which registered in the TI Program with the knowledge that this bridge program did not provide for extensions of its one-year timeframe. Moreover, Petitioner registered its projects during the closing weeks of the TI Program and was aware that this program does not provide for extensions. Minor delays in municipal permitting and EDC shut-offs do not constitute a valid basis for an extension in this context. Staff recommends that the Board deny this petition.

North Brunswick Carolier Lane Solar LLC – Bowlero Bowling Alley and Sports Bar – Docket No. QO22080539

North Brunswick Carolier Lane Solar LLC filed a petition for extension of the completion deadlines for the above project on August 18, 2022. The project was issued acceptance letters for the TI Program on August 23, 2021. The project acceptance letter provided an August 23, 2022 expiration date by which the program's post-construction certification requirements were to be fulfilled. Petitioner requested an extension of its solar project registration deadline until the earlier of: (a) December 24, 2022; or (b) the date the project was completed and received its PTO.

According to the petition, the project was mechanically and electrically complete as of the date of the petition. Petitioner indicated that a second utility shutdown and interconnection was scheduled for August 23, 2022, with municipal inspections scheduled for August 25, 2022, and application for PTO projected to occur thereafter. Petitioner further asserted that the shutdowns were initially scheduled for July 26, 2022 and August 2, 2022, but were rescheduled to August 16 and August 23, 2022 due to utility staffing shortages. Petitioner filed a petition update on November 2, 2022, indicating that the project was issued PTO on October 6, 2022, and Petitioner received a copy of the PTO on October 14, 2022. In the updated filing, Petitioner noted that the project achieved completion on October 20, 2022.

Petitioner appears to argue that the fact that its project is mechanically complete justifies an extension of time for it to achieve commercial operations. Petitioner also cited delays in the EDC's operations. Staff notes, however, that Petitioner was aware of the one-year timeline to achieve commercial operations when it registered its project in the TI Program during the closing weeks of that program. Petitioner contended that it reasonably expected to meet the TI Program timeline at the time of registration; however, that is not the relevant factor in ruling on this extension request. Petitioner also asserted that the facts of this matter comport with the spirit of the conditional extension granted by the Gibbstown Order, since the EDC's scheduling issues resulted in a delay of approximately one month and was outside of Petitioner's control. As noted above, however, the Gibbstown Order expressly identifies delays to interconnection upgrades rather than scheduling issues as a condition of that extension. Delays in the EDC's routine activities do not warrant an extension to that timeline.

Petitioner requested an extension until the earlier of: a) December 24, 2022; or b) the date the project was completed and received its PTO. Petitioner contended that during most of the time the TI Program was open, projects received at least eighteen months to complete, due in relevant part to the six-month blanket extensions granted by the Board in the July 2020 and June 2021 Orders. According to Petitioner, projects that benefitted from these extensions also had a greater likelihood of qualifying for the conditional six-month extension provided by the Gibbstown Order because they were more likely to have achieved mechanical and electrical completion. As a

result, argued Petitioner, projects that applied after June 24, 2021 might miss their TI Program deadline and TI Program incentive even if they achieved commercial operations prior to earlier projects that had qualified for one or more of these extensions. Petitioner claimed that had the Board announced that June 24, 2021 was the end date for benefitting from an additional six months' extension, Petitioner would have filed its registration by that date.

Petitioner based its extension request in part on the claim that the Board's provision of a previous six-month extension entitles Petitioner to the same extension and that denying a similar extension to Petitioner based on the date of its registration is arbitrary. Staff disagrees. This reasoning ignores the rationale for the previous extensions, summarized above. The Board explicitly linked its two blanket extensions to the specific circumstances faced by the TI Program registrants at the time of the orders, in particular the solar industry's ongoing adjustment to changes brought about by the Clean Energy Act and the COVID-19 crisis.²⁹ The Board also took into account the uncertainty that still surrounded the establishment of a successor program at that time. Ending eligibility for the June 2021 extension on the date of the June 2021 Order was not arbitrary but rather a recognition that the impact of the pandemic was beginning to pass and that a successor program would soon be established. Petitioner here stated that it too suffered from the same Clean Energy Act changes and COVID-19 crisis, but this ignores the opening of the ADI Program. The ADI Program opened days after Petitioner applied to the TI Program and has now been in existence now for over a year. Staff disagrees with Petitioner's argument that its project must be granted an extension based on extensions granted to different projects, at different times, for different reasons. Here, the petition requests an extension based on alleged rescheduling utility shutdowns resulting in an unforeseen delay of less than a month. Staff does not find this scheduling delay to be a compelling reason to waive the Board's rules to permit an extension of time in the TI Program.

Petitioner asked for an extension until it fulfills TI Program requirements or until December 24, 2022. However, Petitioner registered its project during the closing weeks of this program and knew or should have known that it does not provide for extensions. Petitioner's claimed delay resulting in its inability to meet the one-year TI Program deadline does not reasonably justify an extension to that deadline. Staff also notes that Petitioner provided no evidence of the EDC's scheduled or rescheduled utility shutdowns, but even had such evidence been included in the petition, Staff's recommendation would have been the same. Staff recommends that the Board deny this petition.

Petitioner requested, in the alternative, that the Board waive any ADI rule requirements, such as beginning construction or receipt of PTO prior to ADI registration, that would otherwise bar Petitioner from ADI eligibility. Staff recommends that the Board grant this relief.

Presidential Place Realty, LLC – Six-Rooftop Multi-Family Project – Docket No. QO22080546

Presidential Place Realty, LLC filed a petition for extension of the completion deadlines for its six-rooftop multi-family project on August 16, 2022. The projects were issued acceptance letters for the TI Program between August 19, 2021, and August 25, 2021. The conditional acceptance letters provided expiration dates between August 19, 2022 and August 25, 2022, by which the

²⁹ See generally July 2020 Order; June 2021 Order.

program's post-construction certification requirements were to be fulfilled. Petitioner requested nine-month extensions from the current deadlines for these solar project registrations.

According to the petition, the project encountered municipal land use board delays. Petitioner stated that it began seeking the required discretionary land use approvals on January 28, 2022, with its submission to the County of Hunterdon. Petitioner also indicated that following municipal approval on March 8, 2022, it reasonably expected that ratification by the planning board would occur at the planning board's April 12, 2022 meeting, but ratification did not occur until May 8, 2022. Petitioner also asserted that it experienced unspecified delays in permitting approval by the New Jersey Department of Consumer Affairs ("DCA"). Petitioner alleged that following its submission of building permit applications on March 29, 2022, that DCA has experienced significant delays in reviewing Petitioner's applications due to severe staffing shortages and has denied Accord's request for expedited review. As such, the petition requested a nine-month extension of the project's TI deadlines.

Petitioner pointed to municipal and State agency permitting delays as the reasons for its extension request. Petitioner also stated that it has expended significant amounts of money on these projects. Staff does not find that regulatory delays described in the petition so compelling as to rise to the level justifying a waiver to the rules of this temporary program. The timelines for municipal land use review are codified in the MLUL, which also provides aggrieved applicants avenues for redress. N.J.S.A. 40:55D-10(g). The New Jersey County Planning Act, N.J.S.A. 40:27-1 et seq., similarly controls applications before county planning boards. Here, Petitioner asserted less than a one-month delay in the expected ratification of its municipal approval by the municipal planning board. In addition, Petitioner registered its project during the closing weeks of the TI Program and was aware that this program does not provide for extensions. Staff notes that Petitioner did not begin seeking required discretionary land use approvals until January 28, 2022, approximately five months following its conditional registration in the TI Program. Staff cannot recommend a nine-month TI deadline extension based on the representations in the petition. Furthermore, the length of the requested extension places these projects into a timeframe that would be more appropriately incentivized by the existing ADI Program than by the closed TI Program. Staff recommends that the Board deny this petition.

Petitioner acknowledged that it does not meet the criteria for the conditional extension provided in the Gibbstown Order. Petitioner's response is to attempt to invalidate that Order. According to Petitioner, by allowing other similarly situated entities to take advantage of the same conditional extension afforded to the petition in that matter, the Board engaged in unlawful rulemaking. In support of its position, Petitioner contended that this ruling applies to "all solar developers in the State facing an imminent TI Program deadline but encountering obstacles beyond their control," as well as to all future petitions for extensions and, as such, necessitated a rulemaking proceeding. Petition at 6.

Petitioner mischaracterized the Gibbstown Order. First, this was an adjudication upon the specific facts presented in that petition and as such, validly acted upon in the Board's quasi-judicial rather than its quasi-legislative capacity. Second, Petitioner erred in contending that this ruling applies to every TI project seeking an extension. The Gibbstown Order does not apply so broadly; indeed, by its terms, this Order applies to a much smaller group of projects, specifically to those projects with currently active registrations in the TI Program that can demonstrate that the project is fully ready to energize but for receipt of PTO and that the PTO is delayed due to factors that are the sole responsibility of the EDC, namely interconnection upgrades that were represented by the

EDC to have occurred consistent with the project's TI Program deadline but did not. Gibbstown Order at 9. The Board's attempt to lessen the regulatory burden for the small group of projects that fell into this category does not constitute the type of broadly applicable policy determination that would trigger the need for rulemaking.

Alternatively, Petitioner asserted that if the Gibbstown Order is viewed as a "valid rule," the Board should waive this "rule" for Petitioner. Petition at 6. To pursue this line of reasoning, Petitioner must contradict its earlier arguments, pointing to the "hyper-specific and exclusive factors" the Board considered in granting a waiver in the Gibbstown Order. Petition at 7. By acknowledging the fact-specific nature of the Board's decision, Petitioner implicitly acknowledged that the Board properly ruled upon an individual petition rather than engaging in invalid rulemaking. The nature of the proceeding was not altered by the Board's decision to allow the handful of similarly situated projects to demonstrate that they qualified for the same remedy.

Petitioner's request for a "waiver" of the criteria in the Gibbstown Order is misplaced. Petitioner properly filed a petition and had the opportunity to present its case for a waiver of the existing TI Program rules, but, as discussed above, it has failed to justify such a waiver. Staff recommends that the Board deny this petition.

Pivot Energy Commercial Solar LLC - Williams Sonoma – Docket No. QO22040259

Pivot Energy Commercial Solar LLC filed a petition for extension of the completion deadline for the above project on April 15, 2022. According to the petition, the project was issued a conditional acceptance letter for the TI Program on August 4, 2021. The project's acceptance letter provided an expiration date of August 4, 2022, by which the program's post-construction certification requirements were to be fulfilled. Pivot Energy requested a one-year extension from the current deadlines.

According to the petition, the project has been subject to unforeseeable delays attributable to the EDC's failure to process and evaluate its July 23, 2021 interconnection application. Petitioner stated that JCP&L advised it on August 25, 2021, that there was no remaining hosting capacity and a system impact study was needed. Petitioner claimed that it took almost eight months from the submittal of the interconnection application to the conclusion of the review process with the EDC's March 10, 2022 Fixed Cost Agreement for system upgrades. Petitioner stated that JCP&L indicated the timeframe for completion of the study is generally one to two months, but it was ultimately provided on February 7, 2022. Petitioner further indicated that JCP&L has not provided a timeframe for needed interconnection upgrades which include a transformer with a potential lead time of twelve months.

Petitioner based its extension request on the exceptionally long time it took for Petitioner to receive its system impact study from the EDC, despite Petitioner's own attempts to hasten receipt of this study. While cognizant that the time frame of the EDC's study was beyond Petitioner's control, Staff does not believe that this type of delay in routine system operations justifies an additional extension to TI Program timelines. While it is true that projects less than 2 MW may apply for interconnection pursuant to the Board's Level 2 interconnection process, not all projects which apply are eligible for treatment under this section of the rules. In this case, JCP&L advised Petitioner on August 25, 2021, that there was no remaining hosting capacity and additional study would be required in order to proceed further. See N.J.A.C. 14:8-5.5(c). Given the uncertainty of

the interconnection request from this finding of the EDC, there should have been no reasonable expectation for the ability to complete the TI Program requirements in less than one year. Pursuit of interconnection approval necessarily relates to project maturity. In this case, the project was not mature enough to meet the TI eligibility requirements. Staff recommends that the Board deny this petition.

Pivot Energy Commercial – Somerville Business Park – Docket No. QO22070444

Pivot Energy Commercial filed petitions for extension of the completion deadlines for two projects at the above location on July 15, 2022. Both projects received TI Program conditional acceptance on August 10, 2021, with expiration dates of August 10, 2022. Petitioner requested a one-year extension from the current deadline.

According to the petition, Petitioner submitted its interconnection applications for the projects to PSE&G on August 27, 2021, including a single line diagram for each project. Petitioner indicated that on November 24, 2021, PSE&G advised Petitioner that the interconnection applications for the projects were approved. On April 28, 2022, PSE&G's meter inspector conducted a preconstruction site visit for the projects and requested that Petitioner provide single line diagrams, which Petitioner provided on May 24, 2022. According to the petition, on May 24, 2022, in a telephone conversation, the PSE&G wiring inspector advised Petitioner it would not accept the hot sequencing interconnection method that was included in the interconnection application approved by PSE&G because of the service size. Petitioner stated that the required changes substantially changed the projects, requiring redesign and sourcing of different equipment thereby resulting in a delay in the construction schedule by approximately seven to eight months.

On September 7, 2022, Petitioner applied for a six-month extension based on the criteria in the Gibbstown Order, a request that has been denied. Petitioner asserted that the only reason it needs an extension is that the EDC changed the interconnection requirements after initially approving Petitioner's proposed methodology and after Petitioner had ordered the previously approved equipment. Petitioner claimed that but for the EDC's changed interconnection requirements, Petitioner would not have needed an extension. Staff notes, however, that this project was accepted into the TI Program in its closing weeks and that Petitioner was aware that the program did not provide for extensions to its one-year time frame. While the EDC's change in interconnection requirements delayed the project, a change in interconnection requirements upon closer examination of a project does not constitute so extraordinary an occurrence as to warrant waiving the TI Program deadline. Moreover, Staff notes that Petitioner applied for the Gibbstown waiver and as part of that process was given multiple opportunities to provide specific items documenting its claims. Despite these opportunities, Petitioner failed to provide photos of a mechanically complete installation or evidence of the delay caused by the EDC. Ultimately, the project was not mature enough to complete in the TI Program. As such, Staff recommends that the Board deny the petition.

STAFF RECOMMENDATION

Board Staff has thoroughly reviewed the petitions described herein. 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 year is also embodied in the TI Rules. These rules do not provide for extensions, and that omission was intentional. Staff does not support the requests for extension of the project completion requirements for these

TI projects. Petitioners knew, or should have known, of potential challenges to develop projects within the one-year timeframe at the time of submission of the registrations.

In the Gibbstown Order, the Board chose to provide an opportunity for an extension when a project is mechanically and electrically complete, has all necessary permits and inspections, and is prevented from receiving PTO because of unforeseeable delays in the EDC's completion of interconnection upgrades that occurred after the execution of an interconnection agreement. Staff concludes that in these cases currently before the Board, Petitioners had not yet progressed to the same stage of project maturity.

Staff is likewise reluctant to recommend that extensions be provided for supply chain issues and interconnection issues beyond those allowed for in the Gibbstown Order. Staff believes that selectively granting waivers to certain projects due to supply chain and/or general interconnection issues would be imprudent. New Jersey projected to see record solar installations in 2022, indicating that many projects have been able to obtain necessary components and permissions this year. Although Petitioners point to a variety of individualized and specific 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 failed to meet the Board's TI deadlines. 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 extensions. In this context, Staff views these requests for extension of the TI Program deadlines as unjustified.

Staff recommends the Board deny Petitioners' requests to extend the deadlines for the projects. Staff recommends that, if Petitioners fail to complete the projects by the deadlines, they be encouraged to withdraw their TI registration and submit a registration for the ADI Program. Incentive levels in the ADI Program were designed to be appropriate for projects completing in the timeframes requested by Petitioners here, and were moreover designed without the expectation of the extension of the federal investment tax credit that was enacted in the Inflation Reduction Act of 2022. Additionally, the requirements for project completion in the ADI Program offer an opportunity for a six-month extension should Petitioners anticipate they need more than one year to complete a project. The prohibition of commencement of construction prior to obtaining a notice of conditional registration in the program was waived for projects with active TI registrations in its January 26, 2022 Order, and Staff recommends that the Board again waive N.J.A.C. 14:8-11.4(b) to the extent necessary to remove this eligibility prohibition for these projects.³⁰

DISCUSSION AND FINDINGS

In implementing the orderly closure of the SREC program and the establishment of a permanent Successor Solar program, the Board has been mindful of the need to maintain clear line-of-sight for developers to access solar incentives in order to ensure the ongoing health of the solar industry and the achievement of the State's vital clean energy goals. Thus, the TI Program opened on the day the SRP was closed, and remained open to new registrations while the Board considered the development of the Successor Program. Similarly, when the Board closed the TI Program to new registrants on August 27, 2021, it immediately opened registration to the ADI Program on August

³⁰ January 2022 Order at 4-5.

28, 2021, again ensuring that developers continue to have uninterrupted access to solar incentives.

The Board is also cognizant of the Legislature's directives to the Board in both the Clean Energy Act and the Solar Act of 2021. When the Legislature, through the Clean Energy Act, directed the Board to close the SRP upon reaching the 5.1% milestone, it instructed the Board to determine how to provide an orderly transition from the SREC program to a new program, and to continually reduce the cost of achieving the State's solar energy goals. N.J.S.A. 48:3-87(d). Following a year-long, public, and iterative process, which incorporated substantial stakeholder input through a variety of in-person meetings and written comments, the Board implemented these goals, in part, through the creation of the TI Program on December 6, 2019, and the adoption of the TI Rules. Similarly, through the Solar Act of 2021, the Legislature again declared it critical that the State promote investment in new solar electric power generation facilities "with the least cost and the greatest benefit to consumers" N.J.S.A. 48:3-114. The Board finds the policies enumerated in the Clean Energy Act and the Solar Act of 2021 to be instructive.

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 twin goals, the TI Program rules and the timelines contained therein were designed to provide a smooth transition to the Successor Program. As Staff notes, the TI Program was designed to be a limited bridge between the SRP and the now-open Successor Incentive Program. N.J.A.C. 14:8-10.1.

Petitioners request that the Board waive the TI Program rules, which established clear and unambiguous deadlines, to extend the TI Program deadlines for their projects. 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 purposes 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).

Thus, when faced with a petition seeking a waiver of the TI Program Rules and their timelines, the Board carefully reviews the facts and circumstances of each such petition to determine whether waiving the Board's rules is in the public interest. 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.

Following careful review of the record, including filed petitions, supplements, responses, and Staff's recommendations, the Board **HEREBY ADOPTS** Staff's recommendations. The Board **FINDS** that Petitioners here were on notice of time limitations in the TI Rules at the time of their registrations and were on notice that the TI Rules do not provide for extensions.

While the Board 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, the Board previously addressed these factors through its July 2020 Order, its June 2021 Order, and

through modification of the TI Rules on adoption.³¹ Extensions given to TI registrants via the July 2020 Order and the June 2021 Order were targeted to address specific issues faced by TI registrants at those times and under those circumstances, including the fact that the Successor Program was not yet open and available to registrants at that time. The Board **FINDS** that with the establishment of the ADI Program, the circumstances faced by Petitioners here are not equivalent to those prior registrants granted relief by the July 2020 and June 2021 Orders. Therefore, the Board **FINDS** Petitioners' arguments that they should be entitled to relief now based on relief given to other projects by virtue of the July 2020 or June 2021 Orders are misplaced and unpersuasive.

In several of the petitions addressed in this Order, Petitioners described supply chain disruptions in procuring components. Consistent with its findings in prior Board orders, the Board continues to **FIND** that Petitioners should not receive extensions for missed expiration dates because of supply chain issues, general interconnection processing delays, and other factors that, while regrettable, do not rise to the level necessitating that the Board waive its rules to grant an extension.³² Further, as noted by Staff, several 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 understanding of the constraint of a one-year TI Program registration expiration.

Several Petitioners argued that they were delayed by the requirements and timelines of municipal, county or state agencies with jurisdiction to review the projects. The Board **FINDS** that project due diligence is necessarily related to project maturity. Petitioners' failure to identify or timely pursue discretionary land use or other approvals necessary to build a project does not justify waiver of the Board's rules to grant an extension of time to complete a project.

Similarly, many Petitioners argued that extensions should be granted because their projects had a fact pattern analogous to that described in the Gibbstown Order, or were otherwise delayed in some fashion by the interconnection process. The Board **FINDS** that none of the projects addressed here were as mature as that in Gibbstown. Furthermore, as it has in the past, the Board also **FINDS** that ongoing interconnection negotiation necessarily relates to project maturity. The Board finds this particularly so in the context of the TI Program and its rules that purposefully limit the time in which a project must reach commercial operation and receive its PTO to twelve months. By virtue of the operation of the expiration dates established by rule at N.J.A.C. 14:8-10.4, TI Program eligibility was always intended to be limited to those projects mature enough to complete in twelve months. The Board **FINDS** that the projects described in the petitions considered here were not mature enough to comply with the Board's TI Program registration deadlines. The Board **FURTHER FINDS** that the delays encountered during the project development process do not, based on the record before the Board, warrant waiver of the Board's rules. To the extent not discussed above, the Board **ADOPTS** Staff's recommendations as well as its responses to each individual petition.

The Board is mindful of the investment made by the developers of these proposed projects. However, interest in achieving the State's continued solar development goals must be weighed

³¹ See 52 N.J.R. 1850(a), Comment and Responses to Comment Nos. 21-22; 24-26.

³² See Gibbstown Order at 5; Centrica Order on Multiple Projects at 4-5; In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Docket Nos. QO19010068 et al., Order dated August 17, 2022, at 11-12.

against the public's interest in timely completion of projects, the ratepayers' interest in controlling the cost of solar subsidies, and the State's interests in ensuring a smooth transition between solar programs. Balancing the State's goals outweighs any single project developer's reliance on the TI Program as the sole means to develop and finance a project, particularly in light of the availability of the ADI Program as of August 28, 2021. Furthermore, the incentive values in the TI Program were designed for projects that had registered in the SRP and expected to construct in 2019 and 2020.

The Board **FINDS** that full compliance with the rules in these cases furthers the interests of the State and the general public in maintaining an orderly transition from the legacy SRP to the Successor Solar Incentive Program and in reducing the cost of achieving the State's solar energy goals. Failing to find sufficient good cause to justify deviation, and cognizant of the legislative policies enumerated in the Clean Energy Act and the Solar Act of 2021, the Board **DECLINES** to waive the applicability of N.J.A.C. 14:8-10.4 for these Petitioners. Accordingly, the Board **HEREBY DENIES** the above-described twenty-eight petitions.

While the Board is sympathetic to the delays encountered by Petitioners during the development process, the Board emphasizes that the ADI Program is open and accessible to these projects. The Board encourages Petitioners to submit a registration(s) for eligibility in the ADI Program. Some of the projects described above may have commenced construction prior to receiving an acceptance of their ADI registration, which would constitute a violation of the ADI Program's eligibility rules enumerated at N.J.A.C. 14:8-11.4(b), absent a waiver.

As previously noted, the Board has consistently sought to provide a smooth transition to the ADI Program for projects already under development.³³ The ADI rules provide that a project that has commenced commercial operation prior to the opening of the ADI Program or begun construction of the facility prior to receipt of a notice of conditional ADI registration may petition the Board for a waiver of these restrictions. N.J.A.C. 14:8-11.4(b). The Board **FINDS** that facilitating the ability of Petitioners' projects to participate in the ADI Program will benefit the registrants and the solar industry. The Board **FURTHER FINDS** that waiving N.J.A.C. 14:8-11.4(b) for a limited class of solar electric generation facilities seeking admission into the ADI Program that began construction prior to receipt of the ADI notice of conditional registration is in the public interest. The public benefits from a smoothly functioning incentive program and from smooth transitions between such programs.³⁴ In circumstances such as those present here, where good faith efforts to meet the TI Program deadlines may have led to commencing construction prior to ADI registration, a smooth transition is furthered by limited waivers of rules that would otherwise have the unintended consequence of stranding solar facilities without an incentive.

Therefore, having considered the petitions and Staff's recommendations, the Board, having found good cause, **HEREBY WAIVES** for any such petition the requirement at N.J.A.C. 14:8-11.4(b) that necessitates projects in the ADI Program to obtain a notice of conditional registration prior to beginning construction. Therefore, the Board **ORDERS** that projects registered in the TI Program that commenced construction but failed to meet the TI deadline for commercial operation shall be eligible to apply to the ADI Program. This waiver does not guarantee entry into the ADI Program for these projects, as they must satisfy all other eligibility requirements, program rules and regulations, including the limitations on available capacity. The Board **FURTHER ORDERS** that

³³ January 2022 Order.

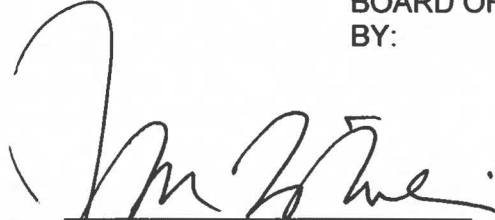
³⁴ N.J.S.A. 48:3-87(d).

no project addressed in this Order shall be ineligible for the ADI Program by reason of having received PTO prior to ADI registration. Where Petitioners here sought alternative relief seeking that the Board waive N.J.A.C. 14:8-11.4(b) in order to permit the project(s) to register in ADI, the Board **HEREBY GRANTS** such relief.

The effective date of this Order is November 16, 2022.

DATED: November 9, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT




MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER



DR. ZENON CHRISTODOULOU
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 POWERFLEX SOLAR, LLC FOR A ONE-
YEAR EXTENSION OF THE EXPIRATION DATE OF THE CONDITIONAL ACCEPTANCE IN
THE SOLAR TRANSITION INCENTIVE PROGRAM NJSTRE1547408589
DOCKET NO. QO22010025

IN THE MATTER OF THE VERIFIED PETITION OF ESNJ-PF-LOGAN, LLC FOR A ONE-
YEAR EXTENSION OF THE EXPIRATION DATE OF THE CONDITIONAL ACCEPTANCE IN
THE SOLAR TRANSITION INCENTIVE PROGRAM PROJECT NJSTRE1547451208
DOCKET NO. QO22010024

IN THE MATTER OF THE PETITION OF ADVANCED SOLAR PRODUCTS ON BEHALF OF
NJR CLEAN ENERGY VENTURES III CORPORATION FOR AN EXTENSION IN THE SOLAR
TRANSITION INCENTIVE PROGRAM NJSTRE1545426311 – ADVANCED SOLAR
PRODUCTS EGAN PROPERTIES
DOCKET NO. QO22040319

IN THE MATTER OF THE PETITION OF AROSA SOLAR ENERGY SYSTEMS, INC. FOR AN
EXTENSION IN THE TRANSITION INCENTIVE PROGRAM GREEN SOLAR, LLC 3718
CHURCH ROAD LAUREL BROOK NJ NJSTRE1545184425
DOCKET NO. QO22050352

IN THE MATTER OF THE REQUEST FOR WAIVER AND EXTENSION OF TIME TO
COMPLETE PROJECTS IN THE TRANSITION INCENTIVE PROGRAM – POWERFLEX
PROLOGIS HELLO FRESH PROJECT NJSTRE1545426120
DOCKET NO. QW22030125

IN THE MATTER OF THE REQUEST FOR WAIVER AND EXTENSION OF TIME TO
COMPLETE PROJECTS IN THE TRANSITION INCENTIVE PROGRAM – SAFARI ENERGY,
LLC PROJECTS NJSTRE1547411693; NJSTRE1547398301; NJSTRE1547442363;
NJSTRE1547442316; NJSTRE1547442369; NJSTRE1547442358; NJSTRE1547442331;
NJSTRE1547442281; NJSTRE1547442323, NJSTRE1547415143
DOCKET NO. QO22030126

IN THE MATTER OF THE PETITION REQUEST FOR WAIVER AND EXTENSION OF TIME
TO COMPLETE PROJECTS IN THE TRANSITION INCENTIVE PROGRAM – PROLOGIS
SERVICES LOGISTICS, INC. AND POWERFLEX SYSTEMS NJSTRE1545942372,
NJSTRE1545943973, NJSTRE1545945597, NJSTRE1547462058, NJSTRE1547275802,
NJSTRE1547276312, NJSTRE1547207271
DOCKET NO. QO22030231

IN THE MATTER OF THE PETITION OF SUNWEALTH, LLC REQUEST FOR WAIVER AND
EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM COMMERCIAL
OPERATION DEADLINE FOR MULTIPLE NON-RESIDENTIAL ROOFTOP AND CARPORT
SOLAR PROJECT NJSTRE1547207739

DOCKET NO. QO22040232

POSIGEN REQUEST FOR WAIVER OF FINAL SUBMISSION DEADLINE AND APPROVAL
OF DEFICIENCY CORRECTION EXTENSION TO JUNE 30, 2022 FOR POST-
CONSTRUCTION TREC CERTIFICATIONS 149 RESIDENTIAL SOLAR PROJECTS
DOCKET NO. QO22090565

IN THE MATTER OF THE PETITION OF ECS ENERGY, LTD AND CEN-MED ENTERPRISES
INC. FOR AN EXTENSION OF EXPIRATION DATE IN THE TRANSITION INCENTIVE
PROGRAM CEN-MED ENTERPRISES, INC NJSRE1547264171
DOCKET NO. QO22070437

IN THE MATTER OF THE PETITION OF EVERGREEN ENERGY FOR AN EXTENSION OF
THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT
INNOVA ATLANTIC WH OPERATIONS, LLC NJSTRE1547207364
DOCKET NO. QO22070450

IN THE MATTER OF REQUEST FOR EXTENSION OF TREC ELIGIBILITY BY ADVANCED
SOLAR PRODUCTS INC. FOR HP SCOTCH ROAD, LLC NJSTRE1547357945
DOCKET NO. QO22080475

IN THE MATTER OF THE VERIFIED PETITION OF HARRAH'S BOULEVARD I SOLAR
PROJECT 2021, LLC AND HARRAH'S BOULEVARD II SOLAR PROJECT 2021, LLC
SEEKING AN EXTENSION OF TIME TO COMPLETE NJSTRE 1547398378 and 1547399293
IN THE TRANSITION INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2)
– (THE "VERIFIED PETITION") HARRAH'S RESORT & CASINO ATLANTIC CITY'S MEETING
CENTER AND VALET GARAGE NET METERED ROOFTOP AND CANOPY SOLAR
PROJECT AND SELF PARK GARAGE NET METERED CANOPY SOLAR PROJECT, CITY OF
ATLANTIC CITY
DOCKET NO. QO22080483

IN THE MATTER OF THE VERIFIED PETITION OF PACIFIC AVENUE I SOLAR PROJECT
2021, LLC AND PACIFIC AVENUE II SOLAR PROJECT 2021, LLC SEEKING AN EXTENSION
OF TIME TO COMPLETE NJSTRE 1547357861 AND 1547393672 IN THE TRANSITION
INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2) (THE "VERIFIED
PETITION") CAESARS ATLANTIC CITY HOTEL & CASINO'S COLOSSEUM AND TEMPLE
NET METERED CANOPY SOLAR PROJECTS, CITY OF ATLANTIC CITY
DOCKET NO. QO22080482

IN THE MATTER OF REQUEST FOR EXTENSION OF TREC ELIGIBILITY FOR TI
APPLICATION NOS. NJSTRE1547351962 AND NJSTRE1547352275
DOCKET NO. QO22080488

IN THE MATTER OF THE REQUEST FOR EXTENSION OF TREC ELEGIBILITY FOR TI
APPLICATION NUMBER NJSTRE1547322414, LIBERTY DRUG, 195 MAIN STREET,
CHATHAM TOWNSHIP, MORRIS COUNTY, NEW JERSEY 07928
DOCKET NO. QO22080487

IN THE MATTER OF THE PETITION OF ECOGY ENERGY NJ IV, LLC FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT AT 201 SOUTH MAIN STREET NJSTRE1557296320
DOCKET NO. QO22080509

IN THE MATTER OF THE PETITION OF ECOGY ENERGY NJ IV, LLC FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT AT 1540 W PARK AVENUE NJSTRE1547455648
DOCKET NO. QO22080538

IN THE MATTER OF THE VERIFIED PETITION OF POWERFLEX SOLAR, LLC FOR AN ORDER APPROVING THE WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE PROGRAM PERMISSION TO OPERATE DEADLINE FOR NEW JERSEY'S CLEAN ENERGY PROGRAM NJSTRE1547412138
DOCKET NO. QO22080514

IN THE MATTER OF THE SHORT FORM PETITION OF DEY ROAD SOLAR PROJECT 2021, LLC SEEKING AN EXTENSION OF TIME TO COMPLETE NJSTRE 1547407577 IN THE TRANSITION INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2), IF NEEDED (THE "SHORT FORM PETITION") SAINT GOBAIN NET METERED ROOFTOP SOLAR PROJECT
DOCKET NO. QO22080516

IN THE MATTER OF THE PETITION OF CANAL ROAD SOLAR PARTNERS FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT AT 701 RANDOLPH ROAD NJSTRE1547265156
DOCKET NO. QO22070462

IN THE MATTER OF THE PETITION OF CANAL ROAD SOLAR PARTNERS FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS GROUND MOUNT PROJECT AT 701 RANDOLPH ROAD NJSTRE1547265757
DOCKET NO. QO22070471

IN THE MATTER OF REQUEST FOR AN EXTENSION OF TIME TO COMPLETE NJSTRE1547449994 IN TRANSITION INCENTIVE PROGRAM AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(2) - NORTH BRUNSWICK CAROLIER LANE SOLAR, LLC
DOCKET NO. QO22080539

IN THE MATTER OF VERIFIED PETITION OF PRESIDENTIAL PLACE REALTY, LLC FOR AN EXTENSION OF TIME TO COMPLETE A SIX-ROOFTOP MULTI-FAMILY PROJECT LOCATED AT PRESIDENT DRIVE IN LEBANON, NJ, 08833 AND REGISTERED IN THE TRANSITION INCENTIVE PROGRAM: NJSTRE1547439926 (Building 1) NJSTRE1547451075 (Building 2) NJSTRE1547451203 (Building 3) NJSTRE1547455670 (Building 4) NJSTRE1547451989 (Building 5), and NJSTRE1547455618 (Building 6)
DOCKET NO. QO22080546

IN THE MATTER OF THE VERIFIED PETITION OF POWERFLEX SYSTEMS LLC FOR AN ORDER APPROVING THE WAIVER AND EXTENSION OF THE SOLAR TRANSITION RENEWABLE ENERGY CERTIFICATE PROGRAM DEADLINE FOR UNITED NATURAL FOOD INC'S ROOFTOP SOLAR GENERATION PROJECTS IN HOWELL
NJSTRE1547462345 NJSTRE1547522643
DOCKET NO. QO22080544

IN THE MATTER OF THE REQUEST FOR WAIVER AND EXTENSION OF TIME TO COMPLETE NJSTRE1547253964 IN TRANSITION INCENTIVE PROGRAM – PIVOT ENERGY COMMERCIAL SOLAR LLC FOR WILLIAMS SONOMA/JAMESBURG PROJECT
DOCKET NO. QO22040259

IN THE MATTER OF THE PETITION OF PIVOT ENERGY FOR AN EXTENSION OF THE EXPIRATION DATES OF TWO PROJECTS IN THE TRANSITION INCENTIVE PROGRAM LOCATED AT 152 US HIGHWAY 206 HILLSBOROUGH TOWNSHIP NJSTRE1547393209
NJSTRE1547393282
DOCKET NO. QO22070444

IN THE MATTER OF THE PETITION OF AMPERICON FOR AN EXTENSION OF THE EXPIRATION DATE IN THE TRANSITION INCENTIVE PROGRAM FOR ITS PROJECT AT 1257 SPRINGFIELD AVE AMPERICON NJSTRE1545785680
DOCKET NO. QO22070440

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