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March 15, 2023

Client/Matter No. 19306/01

VIA EMAIL SUBMISSION

Carmen D. Diaz
Acting Secretary of the Board
44 South Clinton Ave., 1st Floor
Trenton, NJ 08625-0350
Email: board.secretary@bpu.nj.gov

**Re: Docket No. QO21101186
NOTICE: In the Matter of Competitive Solar Incentive (“CSI”) Program
Pursuant to P.L. 2021, c.169 Request for Information**

Dear Secretary Diaz:

On March 7, 2023, the Board of Public Utilities (“BPU”) Staff published a Request for Information Notice under Docket No. QO21101186, *In the Matter of Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c.169*, requesting responses to questions regarding the CSI Program, particularly regarding the CSI Program requirement that eligible project registration packages must include electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality (“Notice”).

My firm has been active in representing the solar industry from both a land use and transactional perspective from the beginning of the state’s solar incentive program. I have personally represented many solar developers on many different development projects, from due diligence to permitting and approvals, through construction, including some of the largest solar development projects in the state. I understand how these projects work and what has to happen and by when.

With that being said, I believe the electrical and building permits requirement is inappropriate for the registration phase of the CSI Program. That type of requirement will likely render many, if not all, of the interested parties ineligible to participate should it remain in place. I recommend that the requirement simply be stricken as a prerequisite to registration.

Please see my responses to the Notice questions below. Thank you.

1. Have you experienced or do you anticipate barriers to submitting applications for electrical and building permits to relevant municipalities within the timeframe in accordance with the requirements of the CSI Program?

Yes.

In determining the CSI Program's finalized project pre-qualification and maturity requirements, BPU Staff reasoned between awarding projects which are "sufficiently early in the development process to avoid undue development risk for developers" and "supporting projects that can be successfully built and produce SREC-II's within a reasonable timeframe." Agenda Item 8C, *Order Launching the CSI Program, In The Matter Of Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, C.169*, (the "Board Order") p.20. That balance was found at the point of the PJM Feasibility Study, Phase I study, or, for those projects not interconnecting with PJM, an executed Part 1 Interconnection Agreement (the "Feasibility Study Phase"). *Id.* at p.23. Staff's analysis included a review of three possible PJM studies with which to set the milestone and each study's respective location on the solar-energy-project-completion-timeline and determined that "the greatest uncertainty in timing has recently occurred before the completion of a Feasibility Study, and that the process of moving through the queue after this milestone has been reasonably predictable." *Id.* at p.21. The possibility of requiring projects to enter the CSI Program at a more advanced stage was considered and rejected because "such a requirement would prevent prospective projects from qualifying for the CSI Program for several years." *Id.* Staff's final determination was to place the qualification entrance point at the Feasibility Study Phase "[t]o maximize the amount of competition" and to "expand the number of projects qualified to receive pre-qualification." *Id.* at p. 21-22.

Electrical and building permit applications are usually submitted to the municipality at the final stage of project development, once all permitting and approval work has been completed. This phase of project planning and construction usually occurs approximately 12 months after the Feasibility Study Phase (under normal PJM conditions). Essentially, the electrical and building permit application phase is a different phase of construction entirely. Any developer would want to know that it has already qualified for CSI and obtained an incentive award before moving forward with construction drawings and submitting construction permit applications. Both of those tasks are extraordinarily expensive and represent a good portion of the upfront costs of solar development.

Pursuant to the Board Order, bidding for those projects that have been qualified to submit bids through the pre-qualification evaluation process will close on March 31, 2023 at 11:59 pm. *Id.* at p. 45. The Board will grant awards through the issuance of a Board Order announcing the same, and the participants have thirty (30) days to register their CSI-eligible facility with the Board. *Id.* at p. 32. In addition, the program registration portal will open to new registrants on April 15, 2023 at 12:00 am. *Id.* Therefore, upon notice from the board of receipt of an award, Staff is asking the developers to demonstrate a much more advanced phase of the development process than what they were asked to demonstrate only two weeks previously and must be able to do so within only a 30-day period. The logistical inappropriateness of this request is apparent.

2. What if any, changes to the registration requirement do you consider necessary?

In order to remedy the incongruency in project maturity requirements found between the pre-qualification stage of the CSI Program and the registration phase, the Board should simply remove the requirement from the registration phase entirely, relying on the 36-month completion timeline as the sole mechanism of the program to ensure that the greatest number of projects reach completion.

Thank you for requesting comments on this very important subject which must be addressed in order to create a seamless program in which commercial and industrial developers may participate in the State of New Jersey.

Very truly yours,



STEVEN P. GOUIN

SPG/mea
Enclosures

cc: