



Agenda Date: 8/17/22
Agenda Item: 8G

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

ORDER

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY) DOCKET NO. QO18060646
PILOT PROGRAM))

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY) DOCKET NO. QO20080556
PILOT PROGRAM YEAR 2 APPLICATION FORM AND))
PROCESS))

IN THE MATTER OF A NEW JERSEY SOLAR) DOCKET NO. QO19010068
TRANSITION PURSUANT TO P.L. 2018, C. 17))

IN THE MATTER OF COMMUNITY SOLAR ENERGY) DOCKET NO. QO19091119
PILOT PROGRAM APPLICATION FORM – NEXAMP))
SOLAR, LLC, BLOCK 91, LOT 13))

IN THE MATTER OF COMMUNITY SOLAR ENERGY) DOCKET NOS.
PILOT PROGRAM APPLICATION FORM – NEXAMP) QO19091103 & QO19091108
SOLAR, LLC, BLOCK: 117 LOT:1))

IN THE MATTER OF ATLANTIC CITY UTILITIES) DOCKET NO. QO22040235
AUTHORITY'S EXTENSION OF OPERATION DEADLINE))
FOR COMMUNITY SOLAR PILOT PROJECT PURSUANT))
TO N.J.A.C. 14:8-9.3(c)(8) AND N.J.A.C. 14:1-1.2(b)))

IN THE MATTER OF COMMUNITY SOLAR ENERGY) DOCKET NO. QO19091171
PILOT PROGRAM APPLICATION FORM –))
MANCHESTER TOWNSHIP, BLOCK: 2, LOTS: 7, 64, 65))

IN THE MATTER OF COMMUNITY SOLAR ENERGY) DOCKET NO. QO19091192
PILOT PROGRAM APPLICATION FORM – AC POWER,))
LLC, BLOCK: 307, LOTS: 2 & 2.01))

IN THE MATTER OF THE PETITION FOR AN EXTENSION) DOCKET NO. QO22050324
OF THE EXPIRATION DATE OF THE CONDITIONAL)
ACCEPTANCE IN THE TRANSITION INCENTIVE)
PROGRAM AND OF THE PROJECT COMPLETION)
DEADLINE FOR THE PROJECT UNDER THE PROGRAM)
YEAR 1 (“PY1”) OF THE COMMUNITY SOLAR ENERGY)
PILOT PROGRAM NJSTRE 1545017641 – OCCS SOLAR,)
LLC OCEAN COUNTY LANDFILL)
)

IN THE MATTER OF BRICK CHURCH DEVELOPER, LLC) DOCKET NO. QO22040315
– SEEKING AN EXTENSION OF ITS PROJECT)
COMPLETION DEADLINE UNDER THE COMMUNITY)
SOLAR ENERGY PILOT PROGRAM AND SOLAR)
TRANSITION INCENTIVE PROGRAM, RESPECTIVELY,)
AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(4) – CITY OF)
EAST ORANGE, THE CROSSINGS AT BRICK CHURCH)
STATION, SOLAR PROJECT)
)

IN THE MATTER OF COMMUNITY SOLAR ENERGY) DOCKET NO. QO19091246
PILOT PROGRAM APPLICATION FORM – ADVANCED)
SOLAR PRODUCTS, BLOCK: 6 LOT: 6, 7, AND 12)
)

IN THE MATTER OF COMMUNITY SOLAR ENERGY) DOCKET NO. QO22070445
PILOT PROGRAM APPLICATION FORM – LINDEN)
HAWK RISE SOLAR, LLC, BLOCK 581, LOTS 17 & 11.03)
)

Parties of Record:

Henry T. Chou, Esq., Hill Wallack LLP, on behalf of Nexamp, Inc.

Stephanie E. Farrell, Esq., Nehmad Davis & Goldstein PC, on behalf of Atlantic County Utilities Authority

Kelsey A. McGuckin-Anthony, Esq., Dasti, Murphy, McGuckin, Ulaky, Moutsouris & Connors, on behalf of Manchester Township

John G Valeri Jr., Esq., on behalf of AC Power, LLC and Linden Hawk Rise Solar, LLC

R. William Potter, Esq., Potter and Dickson, on behalf of OCCS Solar, LLC and Belmar Gateway Solar, LLC

Adam L. Peterson, Esq., Pearlman & Miranda LLC, on behalf of Brick Church Developer, LLC

BY THE BOARD:¹

By this Order, the New Jersey Board of Public Utilities (“Board” or “NJBPU”) considers the petitions of Nexamp, Inc. (“Nexamp”); the Atlantic County Utilities Authority (“ACUA”); Manchester Township; AC Power, LLC, and 1001 Taylor’s Lane, LLC (“AC Power”); OCCS Solar, LLC (“OCCS”); Belmar Gateway Solar, LLC (“Belmar Gateway”); Brick Church Developer, LLC (“Brick Church”); and Linden Hawk Rise Solar, LLC (“Linden Hawk”) (each individually, “Petitioner”, or together, “Petitioners”) for an extension of time for registrations within the Transition Incentive (“TI”) Program and the projects’ conditional acceptance as community solar projects. The Board addresses the petitions together because the Petitioners’ projects are all conditionally

¹ Commissioner Zenon Christodoulou abstained from voting on this matter.

accepted in Program Year 1 (“PY1”) of the Community Solar Energy Pilot Program (“Pilot Program”).

The Board also considers an extension for projects granted conditional approval as part of Program Year 2 (“PY2”) of the Pilot Program.

BACKGROUND

On May 23, 2018, the Clean Energy Act of 2018 (L. 2018, c. 17) (“CEA”) was signed into law and became effective immediately.² Among many other mandates, the CEA 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 SREC Program was replaced in two (2) phases: first, 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. TI Program incentives are delivered based on megawatt hours (“MWh”) of electricity produced and are tailored to specific project types through the use of factors. Community solar projects receive a factor of 0.85 and thus \$129.20/MWh. The 5.1% Milestone was found to have occurred on April 30, 2020; projects that were registered in the SREC Program but had not yet reached commercial operation by this 5.1% Milestone date were transferred into the TI Program. The TI Program portal opened to new project registrations on May 1, 2020 and remained open to new registrations until the establishment of a registration program for the new successor program.³

In the second phase, the Board developed and launched the Successor Solar Incentive (“SuSI”) Program, based on extensive stakeholder engagement conducted by NJBPU Staff (“Staff”) and the Solar Act of 2021 (L. 2021, c. 169), signed by Governor Murphy on July 9, 2021. On July 28, 2021, the Board announced the closure of the TI Program and the opening of the SuSI Program. The TI Program closed on August 27, 2021 and the SuSI Program opened on August 28, 2021.⁴ The SuSI Program consists of the Administratively Determined Incentive program (“ADI Program”) and the Competitive Solar Incentive program (“CSI Program”). The CSI Program is still under development, but the ADI Program is open to new registrations.

On July 15, 2020, the Board granted a blanket extension to all projects that were registered in the TI Program on or before October 30, 2020, setting the new expiration date for all impacted projects to October 30, 2021.⁵

² L. 2018, c. 17 (“Clean Energy Act” or “Act”).

³ 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”).

⁴ In re a New Jersey Solar Transition Program Pursuant to P.L. 2018, C.17, BPU Docket. No. QO19010068, Order dated July 28, 2021.

⁵ In re Providing Extensions to New Jersey’s Clean Energy Program Applications in Progress Delayed by Covid-19, BPU Docket. No. QO20060448, Order dated July 15, 2020.

On June 24, 2021, the Board granted projects registered in the TI Program on or before the effective date of the order an automatic six-month extension to their existing deadline established at N.J.A.C. 14:8-10.4(d) or (e).⁶

The CEA also directed the Board to adopt rules and regulations establishing a pilot program for community solar in New Jersey. The Board established the Pilot Program through rules published in the New Jersey Register on February 19, 2019 (“Pilot Program Rules”).⁷ The Pilot Program enables New Jersey electric utility customers to participate in a solar energy project that may be remotely located from their properties and receive a credit on their utility bills. Community solar therefore enables access to clean energy generation for utility customers currently unable to place solar generation directly on their own properties. The Board particularly emphasized its interest in ensuring that low-and moderate-income (“LMI”) customers are able to access community solar and, additionally, that the Pilot Program did not compromise the preservation of open space or protected lands in New Jersey. The Pilot Program was designed to provide the necessary experience and lay the groundwork for the development and implementation of a full-scale Community Solar Energy Program.

The Board selected community solar projects for participation in the Pilot Program via a competitive solicitation process, as directed by N.J.A.C. 14:8-9.3(c). During the first solicitation, the Board received 252 applications and selected 45 applications on December 20, 2019, representing approximately 78 MW.⁸ These projects initially had a deadline to become fully operational within 12 months (i.e., December 20, 2020), with the possibility of extensions for projects that demonstrated substantial progress towards completion.⁹ PY1 projects were initially registered in the SREC Program, then were transferred to the TI Program after the 5.1% Milestone was attained and benefitted from the aforementioned TI Program extensions such that their final TI Program expiration date was on April 30, 2022. In July 2020, the Board conducted a stakeholder process regarding lessons learned from PY1 and possible improvements to the Pilot Program. On December 15, 2021, the Board issued an Order extending the project completion deadlines for the PY1 projects to match the TI Program deadline of April 30, 2022.¹⁰ During the second solicitation, the Board received 412 applications and selected 105 applications on October 28, 2021, representing approximately 165 MW.¹¹ These projects have a community solar deadline 18 months from the effective date of the order, i.e., May 4, 2023, with the possibility of one six-month extension from Staff, and a TI Program conditional registration with a deadline of May 4, 2023.

⁶ 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”).

⁷ 51 N.J.R. 232(a).

⁸ In re a Community Solar Energy Pilot Program, BPU Docket No. QO18060646, Order dated December 20, 2019.

⁹ This rule at N.J.A.C. 14:8-9.3(c)(8) was subsequently amended to an 18-month deadline, with the opportunity for one six-month extension based on Staff’s assessment of the project.

¹⁰ In re the Community Solar Energy Pilot Program, BPU Docket No. QO18060646, Order dated December 15, 2021.

¹¹ In re the Community Solar Energy Pilot Program Year 2 Application Form and Process – Application Awards, BPU Docket No. QO20080556, Order dated October 28, 2021.

Petitions

Nexamp – South Brunswick

On March 10, 2022, Nexamp filed a petition seeking extensions in the TI Program and the Pilot Program for a 1.24 MWdc community solar project to be located on the roof of an Ashley Furniture store in South Brunswick Township. The petitioner was awarded participation in PY1 of the Pilot Program on December 20, 2019 and pursuant to the Pilot Program Rules had an expiration date of June 30, 2021. It received conditional acceptance into the TI Program and currently has a final deadline of April 30, 2022. Nexamp requested that the Board grant a four-month extension, until August 31, 2022, to the conditional acceptance expiration date of the project's registration in the TI Program.

According to the petition, the petitioner agreed to fund the replacement of a portion of the host building's roof in reliance on the project's eligibility for TRECs. The petition provided that the petitioner's original roofing company, retained in April 2021, experienced unavailability of roofing materials due to supply chain issues throughout the remainder of 2021. Nexamp stated it began construction on structural improvements to the building on June 22, 2021 but lack of roof insulation products prevented completion of the roof replacement. On December 2, 2021, Nexamp began construction on the solar project to the extent it could where the roof did not need replacement.

On January 22, 2022, Nexamp and the owner of the property terminated their contract with the original roofing company after the roofing company could not confirm with its supplier when the outstanding materials would be delivered, following a missed expected delivery in December. According to the petition, the property owner contracted with a new roofing company on January 14, 2022, and roofing construction commenced on March 9, 2022. Nexamp claimed a majority of materials for the solar system are on-site and anticipated that roofing would be completed within six to eight weeks, which would enable the installation of the remaining portion of the solar facility shortly thereafter. In support of its petition, Nexamp provided copies of the following:

- A. Roof replacement contract between property owner's contractor and Walzer Roofing Co., Inc. ("Walzer"), dated April 13, 2021;
- B. Contracts between property owner's contractor and subcontractors, dated April 14, 2021, for steel reinforcements needed to the building;
- C. Construction permit notice from South Brunswick Township Construction Department authorizing structural bracing of roof and re-roofing, dated May 21, 2021;
- D. Three (3) separate notices from Firestone Building Products to Walzer advising of extensions of indefinite delays of delivery of roofing material through 2021 and 2022;
- E. Email from property owner's contractor to Walzer terminating the Walzer roof replacement contract due to Walzer's inability to obtain roofing material, dated January 14, 2022; and
- F. New roof replacement contract between property owner's contractor and Nations Roof, LLC, dated January 14, 2022.

Nexamp stated that it enrolled 225 subscribers for the community solar project's energy, including 25 customers qualified as LMI. The petitioner claimed that the project is not economically viable without extended eligibility in the TI Program.

Nexamp – Woodbine

On March 10, 2022, Nexamp filed a petition seeking an extension in the TI Program for two (2) 4.99 MWdc community solar projects at a landfill in Woodbine Borough (collectively, "Nexamp – Woodbine"). The petition requested that the Board grant a 36-month extension to the conditional acceptance expiration date of the projects' registration in the TI Program, until April 30, 2025.

The petitioner was awarded participation for both Woodbine projects in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022.

According to the petition, Nexamp must still close and cap the landfill on which the projects will be built. The New Jersey Pinelands Commission, New Jersey Department of Environmental Protection ("NJDEP"), and other regional and municipal agencies must conduct studies and issues permits for the development. The petition stated that Nexamp's Pinelands Commission application is pending and that it could not yet file applications for other required land use approvals. The petitioner also stated that interconnection negotiations with Atlantic City Electric Company have taken two (2) years and that ACE will take 18 to 24 months to complete required interconnection upgrades following payment for the upgrades. According to the petition, the proper closure of the Woodbine landfill and the installation of the solar projects are contingent upon their ability to receive the TRECs.

Atlantic County Utilities Authority

On March 30, 2022, ACUA filed a petition seeking an extension in the TI Program for a 2 MWdc community solar project at a landfill in Egg Harbor Township. The petition requested that the Board grant an 18-month extension to the conditional acceptance expiration date of the project's registration in the TI Program, until October 31, 2023. The petitioner filed a first amendment to the petition on April 19, 2022, correcting the project's TI Program registration deadline. The petitioner filed a second amendment to the petition on June 1, 2022, asking for a further extension until April 30, 2024.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. The ACUA project differs from other PY1 projects in that administrative complexities in the processing of their TI Program registration led to a TI Program registration deadline of December 8, 2022.

The petition stated that ACUA, as a public entity, was required to select a project contractor through a competitive request for proposal process, which was delayed due to the COVID-19 pandemic. Following this initial delay, ACUA awarded a contract on September 17, 2020. The petitioner stated that, after ACE proposed an initial interconnection agreement with a high cost, it negotiated a plan for an alternative interconnection process. According to the petition, ACUA expects that the cost of interconnection will be reasonable following ACE's updated analysis, which was nearing completion at the time of the petition. The petitioner also stated that an extension was necessary due to uncertainty regarding the Board's proposed rule amendment related to automatic enrollment for LMI customers. That rule amendment expired without being adopted. As a result, ACUA claimed it had not produced a strategy for enlisting subscribers to

the project's electricity generation and is awaiting a new automatic process for enrollment of LMI customers through an opt-out process. The petition emphasized ACUA's support for this project, noting that it will serve LMI and very low-income residents in the City of Pleasantville. The second amendment to the petition claimed interconnection upgrades would take 12 to 18 months to complete and further alleged that general supply chain issues impacted the projected construction schedule.

Manchester Township

On March 31, 2022, Manchester Township filed a petition seeking an extension in the TI Program for a 4.62 MWdc community solar project at the Manchester Township Landfill in Whiting, New Jersey. The petition requested that the Board grant an extension of unspecified duration to the conditional acceptance expiration date of the project's registration in the TI Program.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022.

The petitioner previously filed a petition on May 19, 2021, requesting an extension until April 1, 2022. According to the May 2021 petition, the New Jersey Pinelands Commission requested additional testing, evaluation, and permitting at the site. The Board granted the extension in the June 2021 Order. In its current petition, the petitioner stated that the Pinelands Commission provided responses to a Hydrogeologic Investigation Report and a Receptor Evaluation Report in March 2022 and that the Petitioner is making necessary revisions. The petitioner also stated that it completed a Habitat Assessment Report, which it will submit it to the Pinelands Commission, and that additional habitat investigation may be required.

AC Power

On April 1, 2022, AC Power filed a petition seeking an extension in the TI Program for a 2.2 MWdc community solar project located at the Hoeganaes Landfill in Cinnaminson, New Jersey. The petition requested that the Board grant a one-year extension to the conditional acceptance expiration date of the project's registration in the TI Program, until April 30, 2023.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022.

According to the petition, the petitioner's amended closure plan for the landfill was rejected by the NJDEP on April 28, 2020. After submission of an Administrative Hearing Request, the NJDEP withdrew its rejection letter on March 18, 2021. The petitioner then submitted a Modification Request on May 7, 2021 and requested supplemental information on November 3, 2021. As of the date of the petition, the landfill closure plan remained under review with NJDEP. The petitioner requested that, if its petition for extension in the TI Program is not approved, the project should instead be conditionally accepted into the ADI Program to ensure that it will have access to a renewable energy incentive with a deadline set 18 months from the date of the Order and that the project's deadline for completion in the Pilot Program be concurrently extended.

OCCS

On April 26, 2022, OCCS filed a petition seeking an extension in the TI Program for a 4.999 MWdc community solar project at the Ocean County Landfill in Manchester Township, New Jersey. The petition requested that the Board grant a six-month extension to the conditional acceptance expiration date of the project's registration in the TI Program, until October 31, 2022.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022.

According to the petition, the petitioner's project is 98% complete and is awaiting delivery of certain electrical equipment, which has been delayed due to supply chain issues. The petitioner stated that the project previously encountered and overcame delays in permitting, title research, utility issues, and landfill property changes. The petitioner stated that restricted access at the Ocean County Courthouse resulted in a seven-month time to complete a property title search and that NJDEP issued jurisdictional determination after eight (8) months of review. At the time of the petition, project completion was expected for between May and July 2022.

Brick Church

On April 28, 2022, Brick Church filed a petition seeking an extension in the TI Program for a 0.505 MWdc community solar project at The Crossing at Brick Church Station development in East Orange, New Jersey. The petition requested that the Board grant a 38-month extension to the conditional acceptance expiration date of the project's registration in the TI Program, until June 30, 2025.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022.

According to the petition, the petitioner originally intended to construct the project on a parking deck but is now requesting to modify the project location to the rooftop of a to-be-constructed mixed-use building. Both the original and newly proposed project locations require new construction associated with a larger development prior to installation of the solar system. The petitioner stated that the underlying development is to be built on multiple lots, one which has yet to be acquired, and that complexity due to its size, multiple uses, and multiple sources of government supported financing resulted in delays in financing and of construction. Brick Church anticipated its construction loan financing to close in or about June 2022. The petitioner projected installation of the solar array in June 2024, with interconnection and project completion estimated in October of 2024. Petitioner requested a further eight (8) months beyond its October 2024 estimated project completion date to "account for any number of issues that could arise during construction" that could further delay the project.

Belmar Gateway

On April 29, 2022, Belmar Gateway filed a petition seeking an extension in the TI Program for a 2.13 MWdc community solar project proposed on a municipally-owned brownfield site located in Belmar, New Jersey. The petition requested that the Board grant a six-month extension to the conditional acceptance expiration date of the project's registration in the TI Program, until October 31, 2022.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022.

According to the petition, the petitioner initially encountered delays in issuance of municipal permits and delays in utility interconnection approval. There were also delays in property record review, surveying, financing, and procurement of equipment. Because the site is a brownfield with a freshwater wetlands, it was subject to permitting from multiple agencies, several of which involved delays beyond when receipt was expected. According to the petition, these issues delayed the start of construction from April 11, 2021 to February 17, 2022. The petitioner stated that new and additional delays caused delivery of electrical components several months beyond the initially indicated lead time and that certain parts were then expected by June 1 from the manufacturer and other parts from the utility were expected in late May. Although the site was previously remediated, recent discovery of contaminated materials at the site also delayed completion of construction. Despite the delays, the petitioner estimated construction at 85% completion at the time the petition was filed and anticipated that the project would be fully complete by June 22, 2022, with additional time necessary to account for interconnection work to be completed by Jersey Central Power & Light Company.

Linden Hawk

On July 15, 2022, Linden Hawk filed a petition seeking an extension in the TI Program for a 4.5 MWdc community solar project proposed on a municipally-owned brownfield site located in Linden, New Jersey. The petition requested that the Board grant a 60-day extension to the conditional acceptance expiration date of the project's registration in the TI Program, with the 60 days to commence on the effective date of the Board's order on its petition.

The petitioner was awarded participation in the first year of the Pilot Program on December 20, 2019. It received conditional acceptance into the TI Program, with a final deadline of April 30, 2022. The petition related that petitioner became a wholly owned subsidiary of Navisun, LLC on November 2, 2020, subsequent to the project's acceptance in the TI Program. The installer, an affiliate of the previous owner CS Energy LLC, remained the same.

According to the petition, the project received permission to operate ("PTO") on December 30, 2021 but experienced delays in submitting its post-construction certification package, due primarily to a mistaken belief that inspection and sign-off from NJDEP were required prior to submittal of this post-construction paperwork. The petitioner stated that it did not realize that such an inspection was required until May 2022, after its final deadline in the TI Program. On May 26, 2022, the TI Program Administrator confirmed that all required documentation had been received.

STAFF RECOMMENDATIONS

The Pilot Program was the Board's first implementation of the community solar model of solar power development that allows electricity customers to remotely participate in a solar project. The Pilot Program was designed to be of a limited size and duration to provide an opportunity to learn how community solar projects would be developed and implemented and to lay the foundation for a lasting permanent program to be developed in the future. Staff used lessons learned in the PY1 solicitation to inform the PY2 solicitation in 2021. The Board chose to forego a third solicitation

in the Pilot Program, directing Staff to instead use the experience gained in the first and second solicitations to develop rules for a permanent community solar program.¹²

Community solar provides direct benefits to customers in New Jersey, particularly LMI customers, as all projects conditionally approved in both PY1 and PY2 have committed at least 51% of their capacity to LMI subscribers. Some of the Petitioners mention having already subscribed customers who are expecting to participate in the projects and receive bill credits when the projects are completed; for those projects that are at an advanced stage of development, Staff believes it is important to minimize disruption to the subscription process and ensure such commitments to ratepayers are honored. However, Staff also recognizes that these PY1 projects were selected as part of a Pilot Program and have already benefited from multiple extensions.

The projects described in the petitions of Nexamp – South Brunswick, OCCS, and Belmar Gateway are in advanced stages of development and are nearing commercial operation. These Petitioners requested extensions of six (6) months or less and have shown specific causes for delay and specific timelines for forthcoming completion. Linden Hawk’s petition describes a project that achieved commercial operation prior to its April 30, 2022 deadline and experienced delays only in submitting its documentation. Staff recommends that the Board approve these requests for extension and extend these projects’ expiration date of conditional registration in the TI Program and conditional approval in the Pilot Program from April 30, 2022 to October 31, 2022.

The petitions of AC Power, ACUA, Nexamp – Woodbine, Brick Church, and Manchester Township, on the other hand, describe projects that are in much earlier stages of development, have not begun construction on the solar facility, and are not nearing commercial operation. These petitioners have requested extensions of one year or longer and generally lack imminent timelines for forthcoming completion. Although these petitioners point to a variety of factors as the causes of their inability to meet their TI Program and Pilot Program deadlines, Staff believes that the long extensions requested and the uncertainty of timelines suggest that these projects have not reached a sufficient level of development to assure completion. Staff notes that, while the Board has been and remains supportive of community solar, particularly those projects selected in the first years of the Pilot Program, it would not be reasonable to expect that all projects granted conditional approval in the Pilot Program would reach commercial operation. The competitive structure of the Pilot Program resulted in the selection of some applicants that were at an earlier stage of development than others, and some projects proved to be not mature enough to reach commercial operation within a reasonable time. While Staff recognizes the challenges of developing a solar array on a landfill site or on a building that is not yet built, Staff does not believe that it is in the public’s interest to provide very long extensions to projects that do not appear likely to complete within a reasonable time period.

Staff therefore recommends that the Board deny these requests for extensions as inconsistent with the interim nature of the TI Program and the trial nature of the Pilot Program. Staff further recommends that these petitioners be strongly encouraged to submit a registration in the permanent Community Solar Energy Program when it opens to applications. Staff is in the process of developing proposals and recommendations for the design and implementation of the permanent Community Solar Energy Program. Staff further recommends that the Board state its intent that projects that were accepted into the Pilot Program will be provided an opportunity to transition to the Permanent Program, so as not to strand these projects that have been under

¹² In re the Community Solar Energy Pilot Program; In re the Community Solar Energy Pilot Program Year 2 Application for and Process - Application Awards, BPU Docket Nos. QO18060646 & QO20080556, Order dated October 28, 2021.

development without an incentive. The ADI Program provides 18 months from conditional registration to reach commercial operation and, unlike the TI Program, does provide an opportunity for a six-month extension. Staff also recommends that, should the petitioners seek to register in the ADI Program, the Board waive for these projects the ADI Program rules that prohibit projects from commencing construction without first obtaining a notice of conditional registration in the program. N.J.A.C. 14:8-11.4(b).

Finally, Staff has received several reports from projects granted conditional approval to participate in PY2 of the Pilot Program that the 18-month timeframe allowed may not be sufficient, particularly in ordering equipment necessary for utility interconnection upgrades. Given the challenges reported by many of the PY1 participants and the delays that some community solar projects are facing in achieving commercial operation, Staff believes that a blanket extension of the deadlines for PY2 would provide additional certainty to participants in the market and increase the likelihood that these projects will reach commercial operation. Staff notes that the community solar rules at N.J.A.C. 14:8-9.3(c)(8) already provide for a six-month extension to these projects' community solar deadline, but that no similar extension to the TI Program exists. At this time, Staff believes that a single blanket extension would be more equitably levied and will be much less administratively burdensome than consideration of extension requests on a case-by-case basis. Therefore, Staff recommends granting a six-month extension of TI Program deadlines to projects registered in TI and conditionally approved in PY2 of the Pilot Program. The expiration date of conditional registration in the TI Program and Pilot Program conditional approval is recommended to be extended from May 4, 2023 to November 4, 2023.

DISCUSSION AND FINDINGS

The Board has long supported New Jersey's solar industry. It endeavors, at all times, to support that 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 for a limited time. 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 an extension is in the public interest. With respect to projects participating in the Pilot Program, the Board acknowledges the novel nature of that program and the unique challenges facing its participants.

Community solar enables New Jersey electric utility customers to participate in a solar energy project that may be remotely located from their properties and receive a credit on their utility bills. The Pilot Program therefore enables access to clean energy generation for utility customers currently unable to place solar generation directly on their own properties. The Board is deeply committed to this effort to increase clean energy equity, and it recognizes the challenges faced by these entities in seeking to install solar facilities while registering low-income customers who may be difficult to reach and who lack experience with solar installations. At the same time, the Board is always mindful of the costs and benefits to ratepayers and does not believe that all community solar projects must move ahead regardless of cost.

The Petitioners' request to extend the TI Program deadlines for their projects necessitates a waiver of both the TI Program rules and the Pilot Program Rules, which establish clear and unambiguous deadlines. The waiver process is provided for in the Board's rules, which state that "[i]n special cases, and for good cause shown, the Board may . . . relax or permit deviations from these rules." N.J.A.C. 14:1-1.2(b). The Board's rules go on to explain that "[t]he Board shall, in accordance with the general purpose and intent of its rules, waive section(s) of its rules if full

compliance with the rule(s) would adversely affect the ratepayers of a utility or other regulated entity, the ability of said utility or other regulated entity to continue to render safe, adequate and proper service, or the interests of the general public.” N.J.A.C. 14:1-1.2(b)1. The Board must balance the Petitioners’ interests as solar developers with the public’s interest in timely completion of projects, the ratepayers’ interest in controlling the cost of solar subsidies, and the State’s interest in ensuring that incentive levels appropriately reflect the time period during which a project reaches commercial operation. The TI Program was designed to be a limited bridge between the SRP and the now-open SuSI Program. N.J.A.C. 14:8-10.1. The Pilot Program was intended to be a trial of the community solar approach to renewable energy equity in New Jersey.

Following careful review of the individual petitions and the records for each, the Board **FINDS** that petitioners Nexamp – South Brunswick, OCCS, Belmar Gateway, and Linden Hawk have established good cause to grant extensions. In each of these cases, the petitioners have shown significant progress toward the construction and completion of the projects in the Pilot Program and have requested extensions of six months or less. Nexamp – South Brunswick stated that a majority of materials for the solar system are on-site and anticipated that roofing would be completed within six to eight weeks, enabling installation of the remaining portion of the solar facility shortly thereafter. OCCS asserted that its project is 98% complete and awaits only delivery of certain electrical equipment. Belmar Gateway estimated construction at 85% completion at the time it filed for this extension and project completion by June 22, 2022. Linden Hawk received its PTO prior to the expiration date and has requested an extension only to complete its paperwork requirements. Having reviewed the petitions of Nexamp – South Brunswick, OCCS, Belmar Gateway, and Linden Hawk and Staff’s recommendation, the Board **FINDS** that full compliance with the timelines at N.J.A.C. 14:8-10.4(e) and (f) and N.J.A.C. 14:8-9.3(c)(8) would adversely impact New Jersey ratepayers. Therefore, the Board **HEREBY FINDS** good cause and **WAIVES** the timelines at N.J.A.C. 14:8-10.4(e) and (f) and N.J.A.C. 14:8-9.3(c)(8) to permit a six-month extension of time to these projects in the TI Program, as well as a concurrent six-month extension to these projects’ community solar conditional approval, from April 30, 2022 to October 31, 2022.

Following careful review of the individual petitions and the records in each, the Board **FINDS** that petitioners AC Power, ACUA, Nexamp – Woodbine, Brick Church, and Manchester Township have not established sufficient good cause to warrant multiple waivers of the Board’s rules so as to grant extensions. In each of these cases, as more particularly described in this order, the petitioners have experienced significant project issues and delays that make them better candidates for the future community solar permanent program or other solicitation. Unlike the other petitions considered above, none of these projects are nearing commercial operation. In fact, none of the AC Power, ACUA, Nexamp – Woodbine, Brick Church, or Manchester Township projects has begun construction on the proposed solar facilities. Furthermore, these petitioners all requested extensions of at least one year, with several seeking much longer extensions.

For these reasons, as well as those detailed in Staff’s recommendation above, Board **FINDS** that AC Power, ACUA, Nexamp – Woodbine, Brick Church, and Manchester Township failed to adequately demonstrate good cause to justify a waiver of both the TI Program Rules and Pilot Program Rules. The Board **FINDS** that the delays encountered during the project development process do not, based on the record before the Board, alone constitute sufficient grounds to waive TI Program and Pilot Program requirements. Nor do the particular facts and circumstances detailed in the record and summarized in this order justify waiver of the Board’s rules for the AC Power, ACUA, Nexamp – Woodbine, Brick Church, or Manchester Township projects. The Board therefore **DENIES** these petitions. However, the Board **STATES** its intent to provide these PY1 projects that were denied an extension in this order an opportunity to apply to the permanent Community Solar Energy Program and therefore encourages the petitioners to consider future

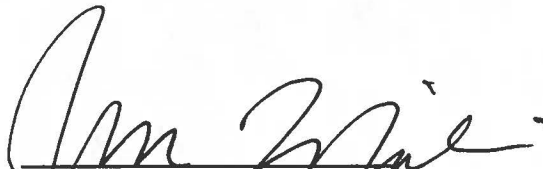
avenues for developing these projects. The Board **HEREBY WAIVES** for any such PY1 project the requirement at N.J.A.C. 14:8-11.4(b) that projects in the ADI Program obtain a notice of conditional registration prior to beginning construction.

Additionally, the Board recognizes that many of the same challenges that affected participants in the PY1 program are likely to affect participants in the PY2 program as well. The Board **FINDS** that it is in the public interest to provide PY2 projects a six-month extension as provided for in N.J.A.C. 14:8-9.3(c)(8) immediately and to **WAIVE** the TI Program rules at N.J.A.C. 14:8-10.4(e) and (f) to permit a concurrent six-month extension to the PY2 projects' TI Program registration deadline. The Board thus **DIRECTS** that the expiration date of conditional registration in the TI Program and conditional approval in the Pilot Program be extended from May 4, 2023 to November 4, 2023 for all projects granted conditional approval in PY2.

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

DATED: August 17, 2022

BOARD OF PUBLIC UTILITIES
BY:

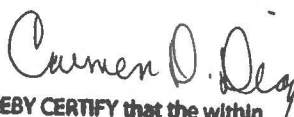

JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


ROBERT M. GORDON
COMMISSIONER

ATTEST: 
CARMEN D. DIAZ
ACTING SECRETARY


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

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM - DOCKET NO.
QO18060646

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2
APPLICATION FORM AND PROCESS - DOCKET NO. QO20080556

IN THE MATTER OF A NEW JERSEY SOLAR TRANSITION PURSUANT TO P.L. 2018, C. 17
- DOCKET NO. QO19010068

IN THE MATTER OF COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION
FORM – NEXAMP SOLAR, LLC, BLOCK 91, LOT 13 - DOCKET NO. QO19091119

IN THE MATTER OF COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION
FORM – NEXAMP SOLAR, LLC, BLOCK: 117 LOT: 1 - DOCKET NOS. QO19091103 &
QO19091108

IN THE MATTER OF ATLANTIC CITY UTILITIES AUTHORITY'S EXTENSION OF
OPERATION DEADLINE FOR COMMUNITY SOLAR PILOT PROJECT PURSUANT TO
N.J.A.C. 14:8-9.3(c)(8) AND N.J.A.C. 14:1-1.2(b) - DOCKET NO. QO22040235

IN THE MATTER OF COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION
FORM – MANCHESTER TOWNSHIP, BLOCK: 2, LOTS: 7, 64, 65 - DOCKET NO.
QO19091171

IN THE MATTER OF COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION
FORM – AC POWER, LLC, BLOCK: 307, LOTS: 2 & 2.01 - DOCKET NO. QO19091192

IN THE MATTER OF THE PETITION FOR AN EXTENSION OF THE EXPIRATION DATE OF
THE CONDITIONAL ACCEPTANCE IN THE TRANSITION INCENTIVE PROGRAM AND OF
THE PROJECT COMPLETION DEADLINE FOR THE PROJECT UNDER THE PROGRAM
YEAR 1 ("PY1") OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM NJSTRE
1545017641 – OCCS SOLAR, LLC OCEAN COUNTY LANDFILL - DOCKET NO.
QO22050324

IN THE MATTER OF BRICK CHURCH DEVELOPER, LLC – SEEKING AN EXTENSION OF
ITS PROJECT COMPLETION DEADLINE UNDER THE COMMUNITY SOLAR ENERGY
PILOT PROGRAM AND SOLAR TRANSITION INCENTIVE PROGRAM, RESPECTIVELY,
AND WAIVER OF N.J.A.C. 14:8-10.4(f)(4)(ii)(4) – CITY OF EAST ORANGE, THE
CROSSINGS AT BRICK CHURCH STATION, SOLAR PROJECT - DOCKET NO.
QO22040315

IN THE MATTER OF COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION
FORM – ADVANCED SOLAR PRODUCTS, BLOCK: 6 LOT: 6, 7, AND 12 - DOCKET NO.
QO19091246

IN THE MATTER OF COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION
FORM – LINDEN HAWK RISE SOLAR, LLC, BLOCK 581, LOTS 17 & 11.03 - DOCKET NO.
QO22070445

SERVICE LIST

Nexamp, Inc

Henry T. Chou, Esq.
Hill Wallack LLP
21 Roszel Road P.O. Box 5226
Princeton, NJ 085453
hchou@hillwallack.com

Atlantic County Utilities Authority

Stephanie E. Farrell, Esq.
Nehmad Davis & Goldstein PC
4030 Ocean Heights Ave
Egg Harbor Township, NJ 08234
sfarrell@ndglegal.com

AC Power LLC

Annika Colston
465 Grand Street – Suite 5
New York, NJ 10002
annika@acpowerllc.com

Manchester Township

Kelsey A. McGuckin-Anthony, Esq.
Dasti, Murphy, McGuckin, Ulaky,
Moutsouris & Connors
620 West Lacey Road
Forked River, NJ 08731
kmanthony@dmmlawfirm.com

**OCCS Solar, LLC and Belmar
Gateway Solar, LLC**

R. William Potter, Esq.
Potter and Dickson
194 Nassau Street
Princeton, NJ 08542
potterrex@cs.com
rwppddl@cs.com

Linden Hawk Rise Solar, LLC

John G. Valeri, Esq.
Chiesa Shahinian & Giantomasi PC
One Boland Drive
West Orange, NJ 07052
jvaleri@csqlaw.com

Brick Church Developer, LLC

Adam L. Peterson, Esq.
Pearlman & Miranda, LLC
110 Edison Place, Suite 301
Newark, NJ 07102
apeterson@pearlmanmiranda.com

New Jersey Board of Public Utilities

44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, NJ 08625-0350

Carmen Diaz, Acting Secretary
board.secretary@bpu.nj.gov

Bob Brabston, Esq., Executive Director
robert.brabston@bpu.nj.gov

Taryn Boland, Chief of Staff
taryn.boland@bpu.nj.gov

Abe Silverman, Esq., Executive Policy
Counsel
abe.silverman@bpu.nj.gov

Stacy Peterson, Deputy Executive Director
stacy.peterson@bpu.nj.gov

General Counsel's Office

Carol Artale, Esq., Deputy General Counsel
carol.artale@bpu.nj.gov

Rachel Boylan, Esq., Legal Specialist
rachel.boylan@bpu.nj.gov

NJBPU, cont'd

Division of Clean Energy

Kelly Mooij, Director
kelly.mooij@bpu.nj.gov

Benjamin S. Hunter, Manager
benjamin.hunter@bpu.nj.gov

Véronique Oomen, Project Manager
veronique.oomen@bpu.nj.gov

Ronald Jackson, Research Scientist
ronald.jackson@bpu.nj.gov

Earl Thomas Pierce
earl.pierce@bpu.nj.gov

New Jersey Division of Rate Counsel

Brian O. Lipman, Esq., Director
140 East Front Street, 4th Floor
Trenton, NJ 08625-0003
blipman@rpa.nj.gov

New Jersey Division of Law

Public Utilities Section
R.J. Hughes Justice Complex
25 Market Street
P.O. Box 112
Trenton, NJ 08625-0112

Daren Eppley, Section Chief, DAG
daren.eppley@law.njoag.gov

Pamela Owen
Assistant Section Chief, DAG
pamela.owen@law.njoag.gov

Michael Beck, DAG
michael.beck@law.njoag.gov