



Agenda Date: 3/09/20
Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE VERIFIED PETITION OF)
ASTRUM SOLAR INC. D/B/A DIRECT ENERGY SOLAR) ORDER
FOR WAIVER OF SREC REGISTRATION RULES AT)
N.J.A.C. 14:8-2.4 TO EXTEND CONSTRUCTION)
DEADLINE FOR SOLAR INSTALLATION AT THE)
CHILDREN'S HOSPITAL OF PHILADELPHIA) DOCKET NO. Q019121526

Parties of Record:

Murray E. Bevan, Esq., Bevan, Mosca & Giuditta, P.C., on behalf of Astrum Solar Inc. d/b/a Direct Energy Solar
Matthew M. Weissman, Esq., Public Service Electric & Gas

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities (“Board”) considers the petition of Astrum Solar, Inc. d/b/a Direct Energy Solar (“Astrum” or “Petitioner”) on behalf of the Children’s Hospital of Philadelphia, Plainsboro, New Jersey (“CHOP”), filed with the Board by letter dated December 13, 2019. Petitioner seeks an extension of time to complete a solar energy project (“Project”) under the Board’s Solar Renewable Energy Certificate (“SREC”) Registration Program (“SRP”).

BACKGROUND

The Board’s Renewable Portfolio Standard (“RPS”) rules, found at N.J.A.C. 14:8-2, are designed to encourage the development of renewable sources of electricity; minimize the environmental impact of air pollutant emissions from electric generation; reduce possible transport of emissions; minimize any adverse environmental impact from deregulation of energy generation; and support the reliability of the supply of electricity in New Jersey. N.J.A.C. 14:8-2.1.

N.J.A.C. 14:8-2.4 establishes the process and eligibility criteria for new solar electric generation projects to register in the SRP and become eligible to generate energy upon which SRECs can be created. SRECs can be used to satisfy New Jersey’s RPS. Upon determining that a project application meets SREC eligibility requirements, the SRP administrator issues a conditional registration to the project. If the solar facility completes construction as described in the initial

registration package; obtains permission to operate from the local Electric Distribution Company; submits a post-construction certification package; and passes inspection, if required, the SRP issues a certification number to the facility. N.J.A.C. 14:8-2.4 (n).

Pursuant to N.J.A.C. 14:8-2.4(i), construction of a solar electric generating facility shall be completed prior to expiration of conditional registration in the SRP. A registrant for facilities that are net metered, provide on-site generation, or provide power for a qualified customer engaged in aggregated net metering may request an extension of six months prior to expiration of the conditional registration. A request for extension shall include an updated schedule for project completion. Staff “may authorize one extension of the project’s registration on a case-by-case basis, based on the likelihood of timely and successful completion.” N.J.A.C. 14:8-2.4(i). The rules do not provide for a second extension, which must therefore be sought by seeking a waiver of the rules from the Board. If the conditional registration or extension expires before completion of construction, and no second extension is granted, the registrant shall begin the entire registration process again.

In addition to this long-established regulatory framework, the Board is also in the process of implementing the provisions of the Clean Energy Act of 2018, N.J.S.A. 48:3-87 (“Clean Energy Act”). Among other mandates, the Clean Energy Act directs the Board to close the SRP upon determining that 5.1% of the retail kilowatt-hours sold in the State have been generated by solar facilities connected to the State’s distribution system (“5.1% Milestone”). N.J.S.A. 48:3-87(d)(3). In compliance with the Clean Energy Act, the Board adopted rules that direct Board staff (“Staff”) to issue monthly reports providing the most current estimate of the date the 5.1% Milestone will be achieved. N.J.A.C. 14:8-2.4(b)(6); 52 N.J.R. 146(b). On February 7, 2020 Staff issued a report estimating that the 5.1% Milestone would be achieved around June 2020.

After the Board closes the SRP to new registrants, projects that have submitted complete registrations to the SRP but have not achieved commercial operations may be eligible for a transition incentive developed by Staff in a separate proceeding.

PETITION

On or about June 29, 2018,¹ the application for the Project received a conditional registration from the SRP. The Project, sized at 427.02 kilowatt dc (“kW”), was intended to be carport-mounted and net metered. The Board’s SRP administrator issued the project its conditional registration with a registration length of twelve months and an SRP registration expiration date of June 29, 2019.

On June 12, 2019, the Petitioner submitted an extension request to the SRP processing team citing delays to the project timeline stemming from planned building expansions at the hospital including design, interconnection and permitting issues. The extension request was accompanied by an updated project timeline which showed project completion occurring on December 16, 2019.

¹ The petition states that the Notice of Conditional Registration was issued on June 29, 2019, but from the context and the citation to Appendix B, which evidences a Notice dated June 29, 2018, appears to have intended to state June 29, 2018.

Astrum submits that the project would have been completed prior to the expiration of the first extension if not for expansions added to the host facility and the resulting need to redesign the project as ground-mounted and then to re-size it. Astrum states that it acted quickly in response to the changing needs of the host facility. In addition, Petitioner states that PSE&G has approved the interconnection application for the now 410 kw ground mounted system; that final design and system location have been approved by CHOP's Executive Leadership; that solar panel equipment and the balance of the electrical system have been procured; and that Petitioner has secured project financing. On July 2, 2019, Astrum received a six-month extension of the twelve-month completion deadline for the Project to December 29, 2019.

DISCUSSION AND FINDINGS

The Board is authorized to relax or waive its rules pursuant to N.J.A.C. 14:1-1.2, which provides that the rules may be liberally construed to permit the Board to carry out its statutory functions. In considering whether to grant a request for a waiver, the Board looks to the standards provided in this rule. In special cases upon a showing of good cause the board may relax or permit deviations from the rule. N.J.A.C. 14:1-1.2(b). Additionally, the board shall waive sections of the rule if it adversely affects ratepayers, hinders safe, adequate and proper service, or is in the interest of the general public. N.J.A.C. 14:1-1.2(b)(1).

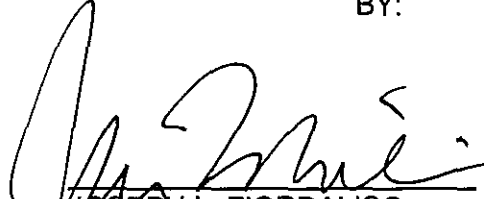
As noted above, the RPS rules are designed to encourage the development of renewable sources of electricity. Astrum's petition details a series of regulatory compliance actions that evidence its diligent pursuit of a goal that would further this end, the full certification of its solar generation project. However, the one-year extension sought by Petitioner would run through the end of 2020, several months past the currently estimated date for achieving the 5.1% Milestone which will trigger the closure of the SREC Program.

Under these circumstances, while the Board **FINDS** that the changing requirements resulting from the planned expansion of the hospital, as described in the petition, represents good cause to relax or permit deviation from the rules, the Board **ALSO FINDS** that granting a one-year extension could potentially undermine a smooth transfer of incomplete projects from the SRP to the Transition Incentive program. Thus, the Board **GRANTS** the petition in part and **APPROVES** an extension to June 29, 2020. Should the Project achieve commercial operations prior to the time the Board determines that the 5.1% Milestone has been achieved, the Board **DIRECTS** Staff to issue full certification to the project upon Petitioner's demonstration that all requirements, including the SRP requirements at N.J.A.C. 14:8-2.4, have been satisfied. The Board **FURTHER ORDERS** that if the Board determines that the 5.1% Milestone is attained prior to the time the Project achieves commercial operations, the Project shall not be eligible for the SREC but may instead be eligible for the transition incentive or successor program.

The effective date of this Order is March 19, 2020.

DATED: 3/9/20

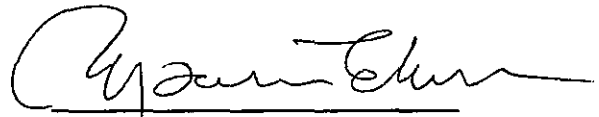
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BY:



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PRESIDENT



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COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
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 IMPLEMENTATION OF L. 2012, C. 24, THE SOLAR ACT OF 2012

IN THE MATTER OF THE VERIFIED PETITION OF ASTRUM SOLAR INC. D/B/A DIRECT ENERGY SOLAR FOR WAIVER OF SREC REGISTRATION RULES AT N.J.A.C. 14:8-2.4 TO EXTEND CONSTRUCTION DEADLINE FOR SOLAR INSTALLATION AT THE CHILDREN'S HOSPITAL OF PHILADELPHIA - Docket No. QO19121526

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