



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 PETITION(S) OF VISION)
SOLAR TO REVIEW THE TRANSFER OF THE SREC)
REGISTRATION TO THE TRANSITION INCENTIVE)
PROGRAM)

ORDER

- Kyle Sywanycz – NJSRRE1544523888) Docket No. QO21010005
- Lawrence Ladutke – NJSRRE1544113143) Docket No. QO21010006
- Kevin Devine – NJSRRE1544441311) Docket No. QO21010007
- Lemnis Kirchmeier – NJSRRE1544501668) Docket No. QO21010022
- Bernadette Dinitnger – NJSRRE1544543171) Docket No. QO21010023
- Leonardo Lopez – NJSRRE1544501658) Docket No. QO21010024
- Audrey Shanks – NJSRRE1544519753) Docket No. QO21010025
- John Spears – NJSRRE1544521931) Docket No. QO21010026
- Robert Steiner – NJSRRE1543570764) Docket No. QO21010027
- Edwin Strunk – NJSRRE1543919023) Docket No. QO21010028
- Danielle Cullen – NJSRRE1543911612) Docket No. QO21010029
- Tony Moss – NJSRRE1544540635) Docket No. QO21010030
- Anthony Robinson – NJSRRE1544497066) Docket No. QO21010031
- Richard Garrett – NJSRRE1543841148) Docket No. QO21010032

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Alyssa Provinzano, Director of Operations, Vision Solar, LLC

BY THE BOARD:

In this Order the New Jersey Board of Public Utilities (“Board”) addresses multiple petitions submitted by Vision Solar, LLC (“Vision” or “Petitioner”), a solar installer that participated in the legacy Solar Renewable Energy Certificate (“SREC”) Registration Program (“SRP”). Vision seeks a waiver of the Board’s requirements for maintaining eligibility of each project in the SRP following its closure.

BACKGROUND

On May 23, 2018, Governor Murphy signed L. 2018, c. 17, codified at N.J.S.A. 48:3-51 to -87 into law (“Clean Energy Act” or “CEA” or “Act”), effective immediately. The CEA effected many changes to the legal and regulatory framework for solar development, including directing the closure of the SREC program no later than June 2021, reducing the SREC term or “qualification life” to 10 years, and imposing a cap on the cost to ratepayers of certain Class I renewable energy requirements.

The CEA mandates, in relevant part, that the Board close the SRP to new applications once it determines that the 5.1% Milestone has been met. The Board implemented this directive through a series of interconnected Orders and rulemaking proceedings, as detailed in previous Orders.¹

After determining that the State would generate 5.1% of its retail electricity sales from solar before May 1, 2020, the Board ordered that this determination and the closure of the SRP would be effective on April 30, 2020, on which date the SRP would be closed to new registrations. April 6 Order at 5. Projects in the SRP pipeline that had not received a Permission to Operate (“PTO”) by April 30, 2020, or failed to submit their post-construction certification package in a timely manner, would not be so eligible and would instead become eligible for the Transition Incentive Program. April 6 Order at 5; N.J.A.C. 14:8-2.4(k); N.J.A.C. 14:8-2.4(l).

Contemporaneous with the closure of the SRP and the Board’s actions in that regard, the COVID-19 outbreak produced a national state of emergency.² Travel both within and beyond the State was severely restricted as a result. On March 16, 2020, Governor Murphy signed Executive Order No. 104 (“EO 104”),³ implementing aggressive social distancing measures to mitigate further spread of COVID-19 in New Jersey. On March 21, 2020, he issued Executive Order 107 (“EO 107”),⁴ expressly superseding the operative paragraphs of EO 104 with yet more stringent measures. In addition, on April 8, 2020, the Governor ordered all “non-essential” construction to halt as of April 10, 2020.⁵

The direction the Board provided to participants in the SRP on the requirements for maintaining SREC eligibility following program closure reflected its awareness of this crisis. Given the imminent closure of the SREC market to new entrants, the Board imposed clear timelines on post-construction paperwork submission; however, the Board also acknowledged the exigent circumstances of the COVID-19 health emergency by allowing for longer timelines than would otherwise have been appropriate. March 27 Order at 5.

Specifically, the Board mandated that access to the SRP portal be closed on the ninety first (91st) day following the Board’s determination that the 5.1% Milestone was attained. The Board directed Staff to require developers to complete SRP post-construction certification packages within 90

¹ In re Closure of The SREC Registration Program Pursuant To P.L. 2018, c. 17, BPU Docket. No. QO18070698, Order dated March 27, 2020 (“March 27 Order”); In re Closure of The SREC Registration Program Pursuant To P.L. 2018, c. 17, BPU Docket. No. QO18070698, Order dated April 6, 2020 (“April 6 Order”).

² Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 FR 15337 (March 13, 2020).

³ Exec. Order No. 104 (March 16, 2020), 52 N.J.R. 550(a) (April 6, 2020).

⁴ Exec. Order No. 107 (March 21, 2020), 52 N.J.R. 554(a) (April 6, 2020).

⁵ Exec. Order No. 122 (April 8, 2020), 52 N.J.R. 959(a) (May 4, 2020).

days of receipt of PTO or of the Board's determination that the 5.1% milestone had been attained, whichever was earlier. Those projects which did not cure all deficiencies in their post-construction certification package in a timely manner were held ineligible for SRECs, regardless of the date of their PTO, and were advised to register for the Transition Incentive program. Id. at 5.

Subsequently, in recognition of the extraordinary circumstances, the Board waived certain of its rules to allow Board Staff and the SREC Registration Program administrator ("SRP Administrator") flexibility in determining when projects commence commercial operations. Specifically, in order to accommodate projects that would have achieved commercial operations by the April 30, 2020 deadline, the Board approved a narrow and time-limited waiver of the need to have the PTO for purposes of determining SREC eligibility for those projects that awaited only final inspections and final permission to interconnect to the grid prior to the April 30, 2020 closure of the SRP program.⁶

PROCEDURAL HISTORY

Vision submitted a petition dated November 13, 2020, on behalf of each of the fourteen customers identified below. In each petition, Vision indicates that a PTO was received prior to April 30, 2020; thus, by the terms of the March 27 Order, each of these systems would be eligible to participate in the SRP provided its post-construction certification package was submitted within 90 days of when its PTO was received. Specific information on each system follows.

Kyle Sywanycz/NJSRRE1544523888

According to Vision's petition, this system was accepted into the SRP on February 26, 2020, and received its PTO on March 31, 2020. Vision submitted the post-construction certification package on July 7, 2020; on July 8, 2020, Vision states that it received "an As-built Incomplete waiver."⁷ TRC advises that the certification package was missing meter information and a photo of the meter showing a legible serial number. This missing information was not provided by August 1, 2020, and TRC moved the system into the Transition Incentive ("TI") program.

TRC's records indicate that Vision first submitted an incomplete PTO Waiver Request, and TRC informed Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Lawrence Ladutke/NJSRRE1544113143

According to Vision's petition, this system was accepted into the SRP on January 9, 2020, and received its PTO on March 23, 2020. Vision submitted the post-construction certification package on July 2, 2020; Vision states that it received an email from TRC advising that its certification package was incomplete on the same day. TRC's records indicate the post-construction certification was missing an instantaneous system production (IPS) report showing that all

⁶ In re Closure Of The SREC Registration Program Pursuant To P.L. 2018, C. 17 – Procedure for Requesting Extended Time to Obtain Final Inspections and Permission to Operate, BPU Dkt. No. QO18070698, Order dated April 27, 2020 ("April 27 Order").

⁷ Vision uses this phrase in each of its petitions; it appears to refer to receipt of an email from TRC informing Vision that its post-construction certification package was incomplete.

inverters are producing and a photo showing meter serial number, and that these were not provided prior to August 1, 2020.

TRC's records indicate that Vision first submitted a PTO Waiver Request, and TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Kevin Devine/NJSRRE1544441311

According to Vision's petition, this system was accepted into the SRP on February 17, 2020, and received its PTO on April 22, 2020. Vision submitted the post-construction certification package on July 8, 2020; on July 9, 2020, Vision received an email from TRC informing it that its certification package was incomplete. According to Vision, TRC advised that its submittal was missing the utility company's email confirming authorization to operate; Vision states that it had uploaded this email and therefore TRC erred in deeming its paperwork incomplete. TRC's records, however, indicate that the Technical Worksheet dated 2015 was missing a PTO, photos of the system, and meter information.

TRC has indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Lemnis Kirchmeier/NJSRRE1544501668

According to Vision's petition, this system was accepted into the SRP on February 24, 2020, and received its PTO on March 31, 2020. On July 8, 2020, Vision received an email from TRC informing it that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet submitted with a 2015 date was missing meter information and a photo of the meter that showed its serial number.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Bernadette Dintinger/NJSRRE1544543171

According to Vision's petition, this system was accepted into the SRP on February 28, 2020, and received its PTO on March 30, 2020. On July 8, 2020, Vision received an email from TRC advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet submitted with a 2015 date was missing meter information and a photo of the meter that showed its serial number.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that

the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Leonardo Lopez/ NJSRRE1544501658

According to Vision's petition, this system was accepted into the SRP on February 24, 2020, and received its PTO on March 25, 2020. On July 8, 2020, Vision received an email from TRC informing it that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet submitted with a 2015 date was missing meter information and a photo of the meter that showed its serial number.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Audrey Shanks/NJSRRE1544519753

According to Vision's petition, this system was accepted into the SRP on February 21, 2020, and received its PTO on March 24, 2020. Vision states that it received an email from TRC on July 8, 2020, advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet was missing an IPS report showing production for each inverter and a photo of the meter that showed its serial number.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

John Spears/NJSRRE1544521931

According to Vision's petition, this system was accepted into the SRP on February 25, 2020⁸ and received its PTO on February 24, 2020. On July 2, 2020, Vision received an email from TRC advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet was dated 2015 and was missing an IPS report showing production for each inverter and all meter information.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

⁸ In the context of the other dates provided by Petitioner, this appears to be a typo for "January 25, 2020."

Robert Steiner/NJSRRE1543570764

According to Vision's petition, this system was accepted into the SRP on December 23, 2019, and received its PTO on January 13, 2020. On July 2, 2020, Vision received an email from TRC advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet and the IPS report were missing a serial number for the meter.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Edwin Strunk/NJSRRE1543919023

According to Vision's petition, this system was accepted into the SRP on February 3, 2020, and received its PTO on January 6, 2020.⁹ On July 2, 2020, Vision received an email from TRC advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet was dated 2018 and had an incorrect serial number.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Danielle Cullen/NJSRRE1543911612

According to Vision's petition, this system was accepted into the SRP on January 7, 2020, and received its PTO on April 1, 2020. Vision states that it received an email from TRC on July 6, 2020, advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet.

TRC's records reflect that the Technical Worksheet dated 2015 had an incorrect serial number; these records also indicate that they submitted the same incorrect 2015 Technical Worksheet on July 9, 2020, and never submitted the correct 2019 Technical Worksheet.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

⁹ In the context of the other dates provided by Petitioner, this appears to be a typo for "March 6, 2020."

Tony Moss/NJSRRE1544540635

According to Vision's petition, this system was accepted into the SRP on February 28, 2020, and received its PTO on April 1, 2020. On July 8, 2020, Vision received an email from TRC informing it that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet needed updating and that the photo of the meter did not contain a legible serial number.

TRC's records indicate that Vision first submitted a PTO Waiver Request and that TRC responded informing Vision that as a PTO was received prior to May 1, 2020, Vision did not require a PTO Waiver and should submit the final as-built package for this project. TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

Anthony Robinson/NJSRRE1544497066

According to Vision's petition, this system was accepted into the SRP on February 19, 2020, and received its PTO on April 2, 2020. On July 9, 2020, Vision received an email from TRC advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records reflect that the Technical Worksheet needed updating and that the photo of the meter did not contain a legible serial number. TRC's records also reflect that Vision failed to submit the correct paperwork for the TI program until after the final deadline had passed; hence, this project is not eligible for the TI program.

Richard Garrett/NJSRRE1543841148

According to Vision's petition, this system was accepted into the SRP on January 6, 2020, and received its PTO on April 8, 2020. On July 8, 2020, Vision states that it received an email from TRC advising that its post-construction certification package was incomplete because of an inaccurate Technical Worksheet. TRC's records indicate that the Technical Worksheet reflected a 2015 date.

TRC has also indicated that the final as-built paperwork for this project was supplied prior to the final deadline for the TI program and it is now registered in the TI program.

STAFF RECOMMENDATIONS

Vision asserts it was dealing with a large number of applications that needed either a PTO waiver request or a post-construction certification package submitted in a compressed time frame. Petitioner also notes that its offices were closed on March 13, 2020, and operations did not resume until March 31, 2020, with all employees working remotely. According to Vision, the volume of paperwork in conjunction with the need to work remotely were responsible for its failure to timely submit the missing information. Failure to provide "[s]uch a small piece of information," contends Petitioner, should not operate to exclude these projects from the SRP. In addition, Vision argues that each project was sold to the third-party owner, Vision's partner IGS Solar, on the basis of the pricing in the legacy program.

Staff does not agree that an inaccurate Technical Worksheet is a small piece of information. The contents of the post-construction certification packages, including the technical worksheet, are

required by rule at N.J.A.C. 14:8-2.4(k) and (l). The post-construction paperwork process ensures that only eligible solar electric generation facilities are provided certification and accurate facility data is provided to PJM-EIS GATS. This chain of eligibility verification is important to ensure ratepayer funds are used to procure solar electricity that meets the state requirements. Thus, Staff recommends that the Board refuse to waive the requirement to submit a complete post-construction certification package to maintain eligibility in the SRP.

Staff also notes that all but one of the projects for which Vision submitted a petition completed submittal of the TI program paperwork by the final deadline and are eligible for incentives under that program. Although Vision's failure to timely comply with the post-construction certification deadline for the SRP meant the exclusion of these thirteen projects from the legacy program, they will receive an incentive.¹⁰

DISCUSSION AND FINDINGS

The Board has reviewed the record and Staff's recommendations. While the Board understands that Petitioner found itself in an unprecedented situation with respect to the volume of paperwork required at short notice, the Board does not find that these difficulties serve as a basis to waive the requirements of the March 27 Order. Based on the clear requirements and extended timelines established in that Order and the apparent deficiencies in what was submitted for Petitioner's projects, the Board **DENIES** the petition.

The Board has previously noted that the COVID-19 crisis has affected solar installations in various stages of development. While noting its sympathy for the plight of such projects, the Board stressed the need to balance prompt closure of the SREC program with the desire to prevent manifest unfairness to projects that are otherwise complete. Then, as now, the Transition Incentive program ensures that significant financial incentives remain available for projects that did not attain completion in time to remain in the SRP and such projects will continue to be automatically transitioned into this new program.

In the case of the registration for a project identified above as Anthony Robinson, NJSRRE154497066, the registration transferred from the SRP to the TI program failed to meet the requirements and/or deadlines for that program as well. For such projects, the Successor Program, still under development, appears to offer the potential for the receipt of incentives. While it cannot be known whether a project will be eligible for the Successor Program before that program has been approved and launched, the Board encourages project developers or owners that did not qualify for the SRP or the TI program to pursue eligibility in the Successor Program.

¹⁰ Projects that received a PTO prior to May 1, 2020 were initially ineligible for the TI program under the TI rules as promulgated, so that projects in the position of the fourteen Vision projects would have received no incentive. On November 18, 2020, the Board addressed this situation by waiving the TI rule eligibility requirement that a PTO must have been received on or after May 1, 2020, provided that projects that received a PTO prior to that deadline submitted their final paperwork by December 30, 2020. Staff subsequently authorized TRC to extend this deadline to February 15, 2021. It is this extended deadline which a single Vision project failed to meet.

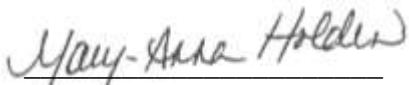
This Order will take effect on April 3, 2021.

DATED: March 24, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

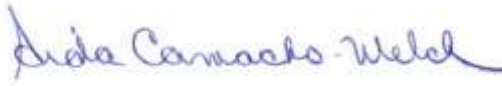


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

VISION SOLAR LLC - REQUEST FOR TRANSFER OF SOLAR PHOTOVOLTAIC PROJECT
FROM TI PROGRAM TO SREC REGISTRATION PROGRAM

KYLE SYWANYCZ / NJSRRE1544523888
LAWRENCE LADUTKE / NJSRRE1544113143
KEVIN DEVINE / NJSRRE1544441311
LEMNIS KIRCHMEIER / NJSRRE1544501668
BERNADETTE DINITNGER / NJSRRE1544543171
LEONARDO LOPEZ / NJSRRE1544501658
AUDREY SHANKS / NJSRRE1544519753
JOHN SPEARS / NJSRRE1544521931
ROBERT STEINER / NJSRRE1543570764
EDWIN STRUNK / NJSRRE1543919023
DANIELLE CULLEN / NJSRRE1543911612
TONY MOSS / NJSRRE1544540635
ANTHONY ROBINSON / NJSRRE1544497066
RICHARD GARRETT / NJSRRE1543841148

BPU DOCKET NO. QO21010005-QO21010007 & QO21010022-QO21010032

SERVICE LIST

VISION SOLAR, LLC	BPU
Alyssa Provinzano Director of Operations Vision Solar, LLC 511 Rte. 168 Blackwood, NJ 08012	New Jersey Board of Public Utilities 44 South Clinton Ave. 9 rd Floor Post Office Box 350 Trenton, NJ 08625-0350
DIVISION OF LAW	Paul Flanagan, Executive Director Paul.flanagan@bpu.nj.gov
25 Market Street Post Office Box 112 Trenton, NJ 08625-0112	Aida Camacho-Welch, Secretary board.secretary@bpu.nj.gov
Pamela Owen, DAG Assistant Section Chief pamela.owen@law.njoag.gov	Kelly Mooij kelly.mooij@bpu.nj.gov
Michael Beck, DAG michael.beck@law.njoag.gov	B. Scott Hunter B.hunter@bpu.nj.gov
Daren Eppley, DAG Daren.eppley@law.njoag.gov	Ron Jackson Ronald.Jackson@bpu.nj.gov
	Rachel Boylan Rachel.boylan@bpu.nj.gov
	Babatunde Odobekun Babtunde.odobekun@bpu.nj.gov

<p>DIVISION OF RATE COUNSEL</p> <p>140 East Front Street, 4th Floor Post Office Box 003 Trenton, New Jersey 08625</p> <p>Stefanie A. Brand, Esq., Director sbrand@rpa.nj.gov</p> <p>Debra Layugan dlayugan@rpa.nj.gov</p> <p>Brian Lipman blipman@rpa.nj.gov</p>	
---	--