



STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION TO REVIEW THE)
TRANSFER FROM THE SREC REGISTRATION)
(NJSRRE154410629) TO THE TREC PROGRAM)
(JOHN RANIERI).) ORDER GRANTING
RECONSIDERATION
DOCKET NO. QO21010066

Party of Record:

John Ranieri, Petitioner¹

BY THE BOARD:

In this Order the Board considers Staff’s recommendation that the Board on its own motion reconsider the request of Mr. John Ranieri (“Mr. Ranieri” or “Petitioner”) to deem his father’s solar facility eligible for the legacy Solar Renewable Energy Certificate (“SREC”) Registration Program (“SRP”).

BACKGROUND AND PROCEDURAL HISTORY

By Order dated April 7, 2021, the Board denied Petitioner’s request to deem his father’s solar system (“the Project”) eligible for the legacy Solar Renewable Energy Certificate Registration Program (“SRP”).² The Project had not received its Permission to Operate (“PTO”) by the deadline required for SRP eligibility, April 30, 2020. Thus, to be eligible for the SRP, a request for a waiver had to be filed (“PTO Waiver Request”), supported by the documentation enumerated in the Board Order establishing the PTO Waiver Request.³ Petitioner asserted that he and his father had submitted all the necessary documentation, but the Board found that one required document was missing: an affidavit from a person with direct personal knowledge that the project was complete but for final inspections or final permission to operate the installed system. The Board denied the petition on that basis.

¹ The petition was submitted by Mr. John Ranieri, Jr., the son of the John Ranieri whose system is at issue in this matter. References to “Mr. Ranieri” and “Petitioner” in this Order will be to Mr. Ranieri, Jr., unless otherwise indicated.

² In re Petition to Review the Transfer of the SREC Registration (NJSRRE154410629) to the TREC Program (John Ranieri), BPU Docket No. QO21010066, Order dated April 7, 2021 (“April 7 Order”).

³ 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 Docket No. QO18070698, Order dated April 27, 2020 (“PTO Waiver Order”).

The context of the PTO Waiver and the history of the Project are set forth in detail in the April 7, 2021 Order.

STAFF RECOMMENDATION

Following issuance of the April 7 Order, Staff became aware of facts that were not in the record considered by the Board. First, it transpired that Mr. Ranieri, Sr., the project owner, had submitted two affidavits in support of the PTO Waiver Request. The first, notarized on April 29, 2020, attested that he was the resident owner and that the project was mechanically complete on March 23, 2020. This appears to have been the only document initially submitted. On May 21, 2020, the Board's Program Administrator emailed John Ranieri, Sr. a letter stating that his waiver request was missing four required documents.⁴

On June 8, 2020, Mr. Ranieri, Sr., submitted a notarized affidavit dated June 4, 2020. This second affidavit certified to the other required documents, appended as attachments; and included an attestation of his personal knowledge that "the project was complete but for final inspections and final permission to interconnect to the grid prior to April 30, 2020." The next letter from the Program Administrator, dated July 6, 2020, reflected receipt of this second affidavit. This letter identified only one missing item, an affidavit signed by a person with direct personal knowledge that the project was complete but for final inspections and final permission to interconnect to the grid prior to April 30, 2020. Although Mr. Ranieri's affidavit included the statement that the System was complete prior to April 30, 2020, the Program Administrator construed the PTO Waiver Order to require that the "person with direct personal knowledge" of this fact be someone other than the owner.

However, neither this letter from the Program Administrator nor those sent subsequently included the explicit requirement or explained that the affidavit submitted from the "person of knowledge" could not be the same person or entity as the project owner. It is clear that the lack of this detail created confusion for Petitioner and his father, and that they did not understand that the April 20, 2020 affidavit attesting to the elder Mr. Ranieri's personal knowledge of the Project's status did not satisfy the relevant requirement as interpreted by the Program Administrator. Petitioner's failure to provide an affidavit from the installer, therefore, resulted from a lack of clear direction from the Program Administrator.

The record indicates that the Program Administrator denied the waiver request for lack of an affidavit from the installer. The letters sent to Petitioner prior to denial reiterated only the "direct personal knowledge" requirement. In its last three deficiency notices, the SRP Administrator did not advise Petitioner that he needed to supplement the previously supplied owner affidavit with an affidavit from his installer.

⁴ The remaining documents requested were: An affidavit signed a person with direct personal knowledge stating that the project was complete but for final inspections and final permission to interconnect to the grid prior to April 30 2020; date-stamped pictures of array inverters and balance of system equipment; date-stamped evidence that project representatives attempted to communicate with local code officials or, if the project has already passed local code Inspections, evidence that the application to energize was submitted to the EDC; and an executed milestone report form that reflects the status of the project.

Moreover, even had he correctly understood the requirement, it was not within Petitioner's power to secure the affidavit from the developer. The April 7 Order notes Petitioner's assertion that the developer of the Project, Sunny Corp, declined to assist with the PTO Waiver process, and also that Staff has no reason to doubt this assertion. When a Sunny Corp employee did eventually submit the necessary affidavit, he did so one day after the August 30, 2020 deadline for submitting PTO Waiver Request documentation. As noted in the April 7 Order, the installer's negligence or incompetence does not constitute a basis to waive the requirements of the Board's Order establishing the PTO Waiver process. In this matter, however, the confusion created by the SRP Administrator's interpretation of the PTO Waiver Order was the original source of delay rather than the delinquency of Petitioner's installer.

Staff also notes that this PTO Waiver Request appears to be the only one rejected solely on the basis that it lacked an affidavit from a person with direct knowledge. While other applicants submitting PTO Waiver Requests were notified that this affidavit was missing, no other PTO Waiver Request was denied on this basis alone; other denials of PTO Waiver Requests rested upon different or multiple deficiencies.

Given the Petitioner's good faith attempts to follow the direction and timelines provided by the Board for projects whose final inspections and PTO were delayed by COVID-19 and the State of Emergency; the confusion caused by the lack of a clear statement that the PTO Waiver Order was interpreted to require the two affidavits to be submitted by two separate entities; and the failure of Petitioner's installer to fulfill its own obligation in a timely manner, Staff recommends that the Board reconsider its April 7 Order and grant the petition.

DISCUSSION AND FINDINGS

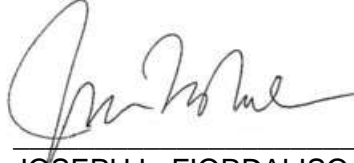
The Board may at any time reconsider and revoke or modify a prior Order. N.J.A.C. 14:1-8.6(b). After reviewing the record as supplemented and Staff's recommendation, the Board **FINDS** that reconsideration is warranted by the facts of this matter. The Board **FINDS** that Petitioner made a good faith effort to comply with the requirements of the PTO Waiver Order. The Board **FURTHER FINDS** the SRP Administrator failed to clearly articulate to Petitioner why the submitted affidavit was unacceptable or the need to supplement his previously supplied owner affidavit with an affidavit from his installer. The Board **FINDS** Petitioner reasonably relied upon his understanding of the PTO Waiver requirements as communicated to him. Therefore, the Board **HEREBY REVOKES** its prior Order in this docket and **HEREBY GRANTS** the petition.

In the PTO Waiver Order, the Board 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. The unique circumstances of the petition under review merit the action taken by the Board in this Order. This relief is based upon these unique circumstances and is limited to them.

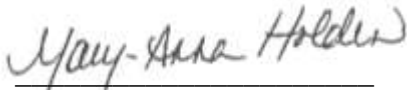
This Order will take effect on May 10, 2021.

DATED: May 5, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

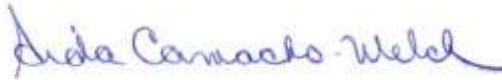


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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REGISTRATION (NJSRRE154410629) TO THE TREC PROGRAM (JOHN RANIERI)

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SERVICE LIST

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