



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

CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY RENEWABLE) ORDER
PORTFOLIO STANDARD (NJ RPS) – REQUEST FOR)
BOARD ACTION EXTENDING NJ RPS COMPLIANCE)
DEADLINE FOR ENERGY YEAR 2012) DOCKET EO12080765

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Mally Becker, Esq., PSEG Services Corporation, on behalf of the Electric Distribution Companies
Murray Bevan, Esq., Retail Electric Supply Association, on behalf of third party suppliers

BY THE BOARD:

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. ("EDECA") was signed into law. EDECA requires compliance with New Jersey's Renewable Portfolio Standards ("RPS") by electric power suppliers, commonly referred to as third party suppliers ("TPS" or "suppliers"), and basic generation service ("BGS") providers ("providers"). N.J.S.A. 48:3-87 (d). On January 18, 2010, the Solar Energy Advancement and Fair Competition Act, L. 2009, c. 289 ("SEAFCA") was signed into law. SEAFCA amended several provisions of EDECA, among them the manner in which suppliers/providers were to comply with the solar portion of the RPS. SEAFCA set out a specific requirement for solar energy generation; this requirement is expressed as an absolute number of gigawatt-hours instead of as a percentage, and included a directive for dividing this requirement among the State's suppliers/providers.¹

Specific reporting requirements are set out at N.J.A.C. 14:8-2.11. An energy year ("EY") is the twelve-month period from June 1 to May 31, with the EY numbered for the year in which it ends. The compliance true-up period commences immediately after the end of the energy year, and ends on October 1. N.J.A.C. 14:8-2.2. Each electric supplier and BGS provider with retail sales in New Jersey during the EY must submit an annual report ("Annual Report") to the Board by October 1 demonstrating that it has complied with the RPS for the relevant EY. The Annual Reports for EY2012 are therefore due on October 1, 2012. In the Annual Reports, suppliers and providers must demonstrate how compliance with the RPS was achieved, including in the report the total number of megawatt-hours ("MWh") of electricity sold to retail customers, Solar

¹ These requirements are in force for EY2012 and EY2013, the current energy year, but have been superseded by more recent solar legislation for future energy years. L.2012, c. 24.

Renewable Energy Certificates (“SRECs”) and Renewable Energy Certificates (“RECs”) retired, and Solar Alternative Compliance Payments (“SACPs”) and Alternative Compliance Payments paid.

Providers comply with the regulatory requirements with the assistance of the respective electric distribution companies (“EDCs”) for which they serve load, with compliance documentation specific to the load served in each EDC’s territory. The EDCs, in turn, submit an aggregated compliance report on behalf of the BGS providers supplying energy for delivery by the EDCs to end users of retail electricity within their territories. Each EDC compiles and summarizes the reports provided by the BGS providers serving load in its market, and submits this information under one cover to the Office of Clean Energy (“OCE”).

The EDCs, on August 1, 2012, requested an extension of the deadline for complying with the RPS rules at N.J.A.C. 14:8-2.11 from October 1, 2012 to December 1, 2012, citing a number of reasons for their request, primarily the changes to the solar RPS made by SEAFCA. The EDCs also asserted that the setting of the true-up period at October 1, the same day the Annual Reports are due, means that they do not have the numbers they need to perform the necessary calculations in a timely fashion.

As previously stated, SEAFCA established a schedule of increasing solar energy requirements expressed in gigawatt-hours and changed the method by which a supplier/provider’s solar obligation is calculated. N.J.S.A. 48:3-87 (d)(3); N.J.A.C. 14:8-2.3 at Table B. Historically, a supplier/provider’s solar energy obligation was a percentage of the amount of retail electricity the supplier/provider sold, that is, a percentage of the supplier/provider’s entire electricity portfolio. Under the method set by SEAFCA, a statewide solar energy target is divided among all suppliers and providers based on the market share of each supplier/provider.²

Furthermore, SEAFCA specifically exempted from the new higher solar requirements electricity supply which was covered by a BGS contract that was executed prior to the enactment of SEAFCA. The solar obligation for this exempt electricity is determined under the rules in place when these BGS contracts were executed. Thus, exempt electricity carries a lower solar obligation than non-exempt electricity. However, notwithstanding this exempt supply, SEAFCA requires that the statewide solar target for each energy year must be met.

This requirement means that during EY2011 and EY2012, when some electricity supply was exempt, the incremental solar obligation that is not met because of this exemption must be distributed across the non-exempt electricity supplied. The methodology for distributing the exempt incremental solar obligation among the non-exempt electricity supply is set forth at N.J.A.C. 14:8-2.3. The first step of this methodology is the determination of the amount of the exempt solar obligation aggregated from BGS providers with BGS contracts entered prior to the enactment of SEAFCA. The second step in allocating the solar obligation of suppliers/providers is the determination of each supplier/provider’s market share of the non-exempt electricity supplied statewide during the applicable energy year; this determination is to be made by consulting the Board’s website to obtain the number of MWh of exempt and non-exempt electricity supplied statewide during the energy year by all suppliers/providers.

² SEAFCA’s volumetric method applies only to solar requirements. The method for calculating class I and class II renewable energy requirements remains unchanged by SEAFCA, and continues to be a simple percentage of electricity supplied. L. 2012, c.24 will return calculation of the solar RPS obligation to a percentage of electricity supplied beginning with EY2014.

To put the timeline into perspective, reconciliation of the retail electricity sales data begins with the PJM financial settlement markets where the data originates; typically sixty days elapse from the end of the Energy Year until PJM provides preliminary reconciled data. PJM provides this data to the EDCs and PJM-Environmental Informational Services Generation Attributes Tracking System (GATS). PJM-EIS uses this basic data on load served to populate the accounts of each supplier/provider with a preliminary amount of load served for the relevant compliance period. The EDCs reconcile the data on load served for each of the BGS providers in their respective territories, providing each exempt provider with the retail sales data necessary to calculate their solar obligation. The exempt and non-exempt retail electric supply statistics for each of the BGS providers are then reported to OCE by the relevant EDCs for the BGS providers within their territories.

The EDCs maintain that they would not have been able to verify individual TPS and BGS provider retail electricity supply numbers for OCE in the short time which was available. They assert that without the figure for the total non-exempt retail sales, suppliers/providers would not have been able to determine their final solar generation obligations for EY2012. Their inability to do so, they assert, would in turn have delayed the ability of the EDCs and TPS to complete and submit the Annual Reports to the Board.³

A provider or supplier may secure SRECs to comply with its RPS obligation through the end of the true-up period. The timing of the posting of the non-exempt supply to the Board's website means that many providers/suppliers did not finalize their solar obligations until late September 2012. The EDCs report that during the development of past Annual Reports, there have been difficulties in completing transfers, particularly during peak periods of use on the GATS system. In addition, the EDCs state that the removal of significant numbers of reported RECs and SRECs, or "data scrubbing," can be required if the RECs and SRECs submitted by suppliers are not New Jersey certified or are otherwise defective.⁴ The EDCs claimed that they would have been unable to complete this data scrubbing, particularly for data reported close to or on October 1, 2012, for submittal of a final report on that same date. As previously stated, the EDCs have requested that the due date for the Annual Reports be extended to December 1, 2012.

Both the EDCs and the TPS have worked cooperatively with OCE to address the issues created by the compliance requirements of the rules implementing SEAFCA. Staff therefore recommends that both the EDCs and the TPS be granted an extension to December 1, 2012 for the filing of the Annual Report.⁵

DISCUSSION AND FINDING

The Board acknowledges the increased complexity of solar RPS compliance. SEAFCA changed both the solar energy generation requirements and the SREC reporting requirements

³ The EDCs maintain that they would not have been able to give OCE final reconciled data for individual TPS in sufficient time to process compliance reports; however, they have pledged to give this data several months after the end of the true up period, well after compliance reports are submitted.

⁴ Although the EDCs reference data scrubbing as a problem with respect to "suppliers," it is the BGS providers that submit RECs to the EDCs, so that any data scrubbing issues for the EDCs would appear to originate with provider data.

⁵ At the Board's September 13, 2012 Agenda, Staff inadvertently recommended a ninety-day rather than a sixty-day extension. At the Board's October 4, 2012 Agenda, Staff requested that the Board correct its extension to result in the December 1, 2012 filing date which was reflected in the EDCs' petition and Staff's intended recommendation.

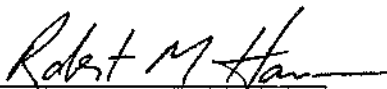
for the TPS and the EDCs, with the changes requiring more complex calculations to determine the EDCs' and TPS' solar generation requirements. As stated above, consistent with the process followed by staff in facilitating compliance with the solar portion of the RPS for EY2011, final non-exempt supply numbers were not expected to be posted until the last week in September 2012, and the timeframe for the data availability resulted in an extremely abbreviated time period for the EDCs and TPS to generate accurate and timely reports by October 1, 2012.

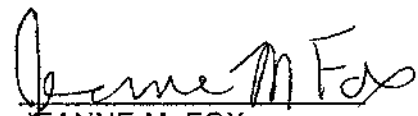
Under the current circumstances, the Board **FINDS** that extending the time for submission of the Energy Year 2012 Annual Reports for the RPS requirements to December 1, 2012 will provide the EDCs and the TPS with sufficient time to comply with RPS reporting requirements while not unduly delaying the completion of transactions for EY2012. The sixty day length of the extension is appropriate since this is the extension requested and it was proven to be sufficient when this situation arose last year. Moreover, based on available data, extending the RPS compliance deadline tends to depress the SREC price, and extending the compliance period longer than necessary may depress the price more than necessary. SREC owners are at an inherent disadvantage in selling SRECs when the deadline is extended, and the problem is exacerbated when the market is long, as it is now.


Under its authority to relax its procedural rules for good cause under N.J.A.C. 14:1-1.2, the Board **HEREBY APPROVES** an extension to December 1, 2012 for the EDCs and the TPS to comply with the reporting requirements of New Jersey's Renewable Portfolio Standards by submitting their Annual Reports.

DATED: 10/4/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

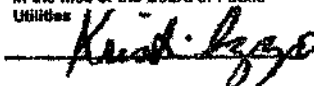

NICHOLAS ASSELTA
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER

ATTEST:

KRISTI IZZO
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 NEW JERSEY RENEWABLE PORTFOLIO STANDARD (NJ RPS) –
REQUEST FOR BOARD ACTION EXTENDING NJ RPS COMPLIANCE DEADLINE FOR
ENERGY YEAR 2012

DOCKET NO. EO12080765

SERVICE LIST

Stefanie A. Brand, Esq.
Director
New Jersey Division of Rate Counsel
31 Clinton Street – 11th Floor
Newark, NJ 07102

Mally Becker, Esq.
PSEG Services Corporation
80 Park Plaza - T5
PO Box 46005, Newark, NJ 07102-4194

Michael Winka
Office of Clean Energy
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350, Trenton, NJ 08625-0350

Rachel Boylan
Office of Clean Energy
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Allison E. Mitchell
Office of Clean Energy
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Kristi Izzo, Secretary
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Babette Tenzer, Esq.
Deputy Attorney General
Division of Law
Department of Law and Public Safety
124 Halsey Street
Newark, NJ 07101

Benjamin S. Hunter
Office of Clean Energy
Board of Public Utilities
44 S. Clinton Avenue, P.O. Box 350
Trenton, NJ 08625-0350

Elizabeth Ackerman
Division of Economic Development &
Energy Policy
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
PO Box 350, Trenton, NJ 08625-0350

Murray Bevan, Esq.
Bevan, Mosca, Giuditta & Zarillo
222 Mount Airy Road -Suite 200
Basking Ridge, NJ 07920