



Agenda Date: 10/16/13
Agenda Item: 8A

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 FOR WAIVER OF)	ORDER
<u>N.J.A.C. 14:8-2.9(C)</u> – PAUL AND GLORIA VAN)	
HOUTEN)	
)	DOCKET NO. EO13070606V

Parties of Record:

Paul and Gloria Van Houten, pro se

BY THE BOARD:

Paul and Gloria Van Houten ("Petitioners" or "Van Houtens") have filed a request for a ruling that their solar installation may be credited with Solar Renewable Energy Certificates ("SRECs") on the basis of energy output measured by some means other than their SREC meter for a period of time when the meter was not functioning.

BACKGROUND

On February 9, 1999, the New Jersey Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq., was enacted. L. 1999, c. 23, § 66. Among other things, EDECA established requirements to advance renewable energy and energy efficiency goals in New Jersey. The New Jersey Board of Public Utilities ("Board") adopted Renewable Portfolio Standards ("RPS") rules, N.J.A.C. 14:8-2.1 et seq., to implement those provisions of EDECA. N.J.S.A. 48:3-87 and the RPS rules require entities that sell electricity at retail in this State, electric power suppliers and basic generation service providers, to include minimum percentages of qualified renewable energy in the electricity they sell; those minimum percentages increase over time. The rules specify separate minimum percentages for solar electric generation, for Class I renewable energy, and for Class II renewable energy, as each of these categories of renewable energy is defined by N.J.S.A. 48:3-51 and N.J.A.C. 14:8-1.2.

To comply with the RPS, suppliers and providers obtain and use Renewable Energy Certificates ("RECs"), which represent the environmental attributes of one megawatt-hour (MWh) of renewable energy. N.J.S.A. 48:3-51, N.J.A.C. 14:8-2.8. To comply with the solar electric generation portion of the RPS, suppliers and providers obtain and use SRECs. N.J.S.A. 48:3-87.

The Van Houtens' petition, submitted via email on July 1, 2013, alleges that the SREC meter on their 18 kW system ("System") failed subsequent to Hurricane Sandy, resulting in the loss of credit for SRECs produced during the months of December 2012 and January 2013. According to Petitioners, the System typically produces about 1,000 hours in a month.¹ Petitioners offer no specific basis for this figure and do not propose any alternate method for measuring the output from the System. Petitioners go on to assert that the loss of the SRECs which would otherwise have accrued to them is unfair, and ask the Board for redress, which would entail waiving the regulatory requirement that SRECs be based only upon metered output. N.J.A.C. 14:8-2.9(c).

DISCUSSION AND FINDINGS

RECs and SRECs have a monetary value; over the course of their useful lives, they are bought, sold, and ultimately retired to comply with the RPS in New Jersey or another state. N.J.A.C. 14:8-2.9 describes the conditions that must be satisfied for energy generated by a solar facility in this State to qualify for the issuance of RECs and SRECs.

During the time at issue, N.J.A.C. 14:8-2.9(b) required that energy produced by a solar electric generation facility greater than 10 kilowatts, such as the System, must be reported through "[p]eriodic readings of a meter that records megawatt-hour production of electrical energy." The rule formerly provided that solar systems less than ten kW had the option of submitting engineering estimates in lieu of actual metered data; however, the Board eliminated this option, even for small systems, when it readopted the renewable energy rules last year.

At its May 1, 2012 Agenda meeting, the Board voted to approve a rule amendment which requires that all RECs and SRECs be based upon actual metered data. These rules became effective upon publication on June 4, 2012. 44 N.J.R. 1703(a). This elimination of the exemption for even small solar systems evidences the Board's policy that the most accurate measurement possible must underlie all claims for RECs and SRECs. As stated on the New Jersey Clean Energy Program website at the page addressing the metering requirements for renewable systems, "A revenue grade meter is required to be installed and is the only acceptable method of determining SREC generation." www.njcleanenergy.com. Under revised N.J.A.C. 14:8-2.9 (c), as of December 4, 2012, a qualifying meter must also satisfy the American National Standards Institute Standard C12.1-2008 and additional PJM-EIS (Environmental Informational Services) Generation Attribute Tracking System ("GATS") requirements.

Moreover, the owner/operator of a renewable energy system is responsible for the proper installation and maintenance of its equipment. The Board's rules define "customer-generator facility" as "the equipment used by a customer-generator to generate, manage and/or/monitor electricity." N.J.A.C. 14:8-4.2 (emphasis added). A customer-generator that seeks the benefits of the rules must assume the responsibility to comply with those rules. The Board may, in special cases and for good cause shown, permit deviation from its rules. N.J.A.C. 14:1-1.2(b)(1). Under the first prong of the waiver test, the Board considers whether Petitioners' request supports the general purpose and intent of the rules. In this instance, as noted above, the Board's rules governing SRECs are designed to promote and secure maximum accuracy in the measurement of the energy underlying all claims for SRECs. Permitting Petitioners to claim SRECs on some unspecified basis other than meter readings would not support the purpose and intent of these rules. The second prong of the waiver test requires that the Board also

¹ Petitioners do not specify but presumably intend to refer to 1000 kilowatt hours ("kWh") or one megawatt hour.

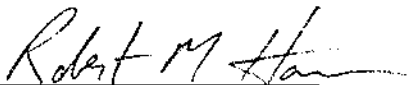
consider whether full compliance with the rules would adversely affect the interest of the public. Clearly, the interest of the public in the promotion of clean solar generation, and specifically the interest of the ratepayers who ultimately bear the cost of the SRECs based on that generation, would not be served by permitting the use of a different measuring methodology in place of the metering required by the Board's rules. Malfunction of a customer's equipment thus does not constitute sufficient cause to waive the rules requiring use of actual metered energy as the basis for the issuance of RECs and SRECs.

Therefore, based on the information provided, the Board **ACCEPTS** that Petitioners possess a photovoltaic system of approximately 18 kW and that the SREC meter failed following Hurricane Sandy. The Board also **ACCEPTS** that, as a result, no energy production was recorded on the SREC meter for the months of December 2012 and January 2013. The Board **FINDS** that Petitioners ultimately bear the responsibility for the proper functioning of the System. The Board also **FINDS** that Petitioners have failed to establish a basis for waiver of the requirement that only metered data can form the basis for issuance of SRECs.

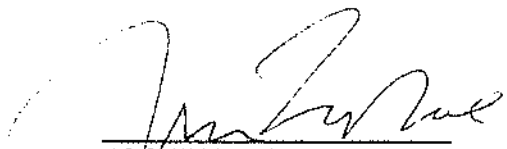
Accordingly, the request for a waiver of the Board's rules is **HEREBY DENIED**.

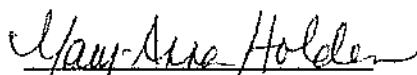
DATED: 10/16/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

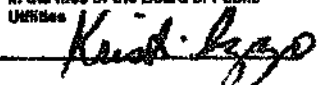

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COMMISSIONER


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ATTEST: 
KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
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Utilities



IN THE MATTER OF THE PETITION FOR WAIVER OF
N.J.A.C. 14:8-2.9(C) – PAUL AND GLORIA VAN HOUTEN

DOCKET NO. EO13070606V

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