



Agenda Date: 03/29/2019
Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF HELIOS)
SOLAR ENERGY, LLC AND e2/ECTA) ORDER
)
) DOCKET NO. QO18121331

Parties of Record:

Josh Lewin, President, Helios Solar Energy, LLC
Stefanie A. Brand, Esq., Director, Division of Rate Counsel

BY THE BOARD:

By this Order, the Board of Public Utilities ("Board") considers the petition of Helios Solar Energy, LLC and e2/ECTA ("Petitioner") for an extension of the deadline to file complete registrations for seven (7) solar electric generation facilities.

BACKGROUND:

New Jersey solar electricity generation facilities may, under certain conditions, receive ratepayer-funded incentives known as Solar Renewable Energy Certificates ("SREC"). To qualify for these incentives, a project must qualify as "connected to the distribution system," N.J.S.A. 48:3-51, and file a complete registration with the Board's SREC Registration Program ("SRP").

SRECs are time-limited; that is, a solar facility that meets the eligibility criteria will receive these incentives only during the time period specified by the Board's rules. These rules currently define the period during which a facility is eligible for SRECs, its Qualification Life ("QL"), as the fifteen-year period following the date on which the facility was authorized to energize.¹

¹ More precisely, the Rules currently provide that the QL "on the first May 31 that is at least 15 years after the date of authorization to energize." N.J.A.C. 14:8-2.2. A rule proposal to amend the 15-year term was published at 50 N.J.R. 2413(a).

Clean Energy Act of 2018

On May 23, 2018, Governor Murphy signed P.L. 2018, c. 17 ("Clean Energy Act" or "Act"). Among many other changes to the regulatory framework of clean energy in New Jersey, the Act modifies the Renewable Portfolio Standard ("RPS") rules which establish the SREC market. One of these modifications significantly reduces the QL for solar facilities. The Act provides that solar electric power generation facilities which apply to the Board for designation as "connected to the distribution system" after the effective date of the Act shall have a ten-year QL. (N.J.S.A. 48:3-87(d)).

On October 29, 2018, the Board issued an Order implementing the Clean Energy Act's reduction of the QL.² The Board found that the legislative intent was to reduce the QL to ten years for all applications submitted to the SRP after the effective date of the Order, whether the project required designation by the Board or not. The October 29 Order also defined the deadline by which a complete SRP registration must be received for the project involved to receive the fifteen-year QL; that deadline was midnight on October 29, 2018. In a separate agenda item, the Board approved a rule proposal to amend the RPS rules at N.J.A.C. 14:8-2. The proposed amendments would implement various provisions of the Act, including the statutory change to the QL.³

Immediately following the October 29, 2018 agenda meeting, Staff posted notice to the Renewable Energy ("RE") email distribution list and the NJCleanenergy.com website that registrations in the SRP received after midnight, October 29, 2018 would be eligible for a ten-year QL. Registrations in the SRP prior to the deadline that fulfill all conditions established by the Board shall receive a 15-year SREC QL. The same timelines apply to applications received by the Board for Conditional Certifications pursuant to Subsection t.

On February 27, 2019, the Board clarified the provisions in the October 29 Order reducing the SREC term or QL for solar facilities in the Clean Energy Act.⁴ "The Board HEREBY ORDERS Board Staff to apply a 15-year SREC QL to all complete registrations and applications properly submitted to the Board *before* midnight on October 29, 2018. . . . [and] . . . to apply a 10-year SREC QL to all applications submitted after midnight on October 29, 2018." February 27 Order at 6.

Petition

On December 11, 2018, Petitioner filed its request that the Board extend the October 29, 2018 deadline for submitting complete registration materials by twenty-four hours. This extension to midnight, October 30, 2018 would allow the seven projects at issue to receive the fifteen-year QL. Specifically, these projects are:

² I/M/O the Modification of the Solar Renewable Portfolio Standard and Solar Alternative Compliance Payment Schedules and the Reduction of the Qualification Life for Solar Renewable Energy Certificates for Solar Facilities, Docket No. QO18070698 (October 29, 2018) ("October 29 Order").

³ I/M/O N.J.A.C. 14:8 Rulemaking Regarding Amendments to Certain Solar Energy Provisions Pursuant to P.L. 2018 c 17, Docket QX18101098, at proposed amendments to N.J.A.C. 14:8-2.2.

⁴ In The Matter Of The Modification Of The Solar Renewable Portfolio Standard And Solar Alternative Compliance Payment Schedules And The Reduction Of The Qualification Life For Solar Renewable Energy Certificates For Solar Facilities, Docket. No. QO18070698 (February 27, 2019) ("February 27 Order").

- NJSRRE1539708864;
- NJSRRE1539708928;
- NJSRRE1539709555;
- NJSRRE1539709600;
- NJSRRE1539709762;
- NJSRRE1539709816; and
- NJSRRE1539709843

Petitioner represents that it contacted the SRP team to ask when the ten-year QL would be implemented on October 24, 2018, but did not learn of the actual deadline until it received an email from SRP staff at 4:27 pm on October 29, 2018. Petitioner says that this timeline meant that Petitioner could obtain necessary signatures, finalize contracts, and complete registrations for only six of its thirteen pending projects. Most of the remaining seven projects were commercial, and Petitioner states that it was not able to complete those registrations until the next day.

STAFF RECOMMENDATIONS

Staff notes that the plain language of the Clean Energy Act states that the QL shall be ten years for all applications filed with the Board after the date of enactment, May 23, 2018. The Board, as an administrative agency, is charged with implementing the Act. Although the many simultaneous changes made by the Act did not permit immediate implementation of the QL reduction, every participant in the solar market was on notice that implementation was coming.

In light of these facts, Staff recommends that the Board deny the petition.

DISCUSSION AND FINDINGS

As noted by Staff, the Clean Energy Act set the QL for new applicants. In addition, the Legislative Statement accompanying the Act explains that the bill impacts “any new applications,” without further qualification. The Board has previously found that the Legislature intended to reduce the QL to ten-years for all solar electric generation facilities applying for SREC eligibility after enactment.

While the Board appreciates that developers and prospective owners of the solar electric generation facilities were uncertain as to the manner in which the reduction of the QL would be implemented, the Board **FINDS** that all of these entities were on notice that the Board would implement the reduction, thereby bringing its rules and practice into conformity with the Clean Energy Act, at the earliest feasible time. The Board **FINDS** that while the solar market participants were equally uncertain as to the timing of the Board’s implementation, they were on notice that such change was coming. The Board **HEREBY REAFFIRMS** its implementation of the reduction in QL in the October 29 Order. In these circumstances, the Board **FINDS** that it would be inequitable to make an exception for Petitioner.

The Board **HEREBY DENIES** the petition of Helios Solar Energy LLC.

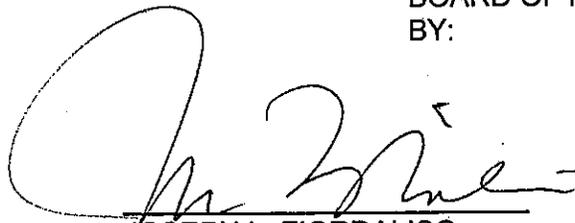
Provided the seven projects identified as having been complete after midnight on October 29, 2018 meet all other requirements of the RPS and of state and federal law, the Board **HEREBY ORDERS** Staff to apply a 10-year SREC QL to these projects. Specifically, the Board orders Staff to apply a 10-year SREC QL to the following projects:

- NJSRRE1539708864;
- NJSRRE1539708928;
- NJSRRE1539709555;
- NJSRRE1539709600;
- NJSRRE1539709762;
- NJSRRE1539709816; and
- NJSRRE1539709843

The effective date of this Order is April 8, 2019.

DATED: 3/29/19

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



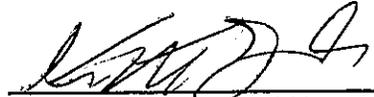
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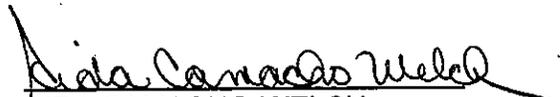


UPENDRA J. CHIVUKULA
COMMISSIONER



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 PETITION OF HELIOS SOLAR ENERGY, LLC AND e2/ECTA

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