Agenda Date: 5/8/19
Agenda Item: 8F

STATE OF NEW JERSEY

Board of Public Utilities
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Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF P.L. 2012, C. 24, THE SOLAR ACT OF 2012;	)	ORDER
IN THE MATTER OF THE IMPLEMENTATION OF P.L. 2012, C. 24, N.J.S.A. 48:3-87 (Q)(R)(S) – PROCEEDINGS TO ESTABLISH THE PROCESSES FOR DESIGNATING CERTAIN GRID-SUPPLY PROJECTS AS CONNECTED TO THE DISTRIBUTION SYSTEM – REQUEST FOR APPROVAL OF GRID-SUPPLY SOLAR ELECTRIC POWER GENERATION PURSUANT TO SUBSECTION (S)	)	DOCKET NOS. EO12090832V & EO12090880V
EFFISOLAR DEVELOPMENT, LLC	)	DOCKET NOS. EO12121108V, EO12121112V and EO12121120V
QUAKERTOWN FARMS	)	DOCKET NO. EO12121138V
RENEWTRICITY	)	DOCKET NO. EO12121095V
EAI INVESTMENTS, LLC	)	DOCKET NO. EO12121124V
REQUEST FOR MODIFICATION OF SETTLEMENT AGREEMENT OF BOARD ORDER DATED JUNE 29, 2016 ON BEHALF OF CEP SOLAR LTD.	)	DOCKET NO. QO19030303

Parties of Record:

Angelo J. Genova, Esq., for Petitioners
Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:[1]

BACKGROUND

The Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 to -107, was enacted on February 9, 1999. EDECA established the framework for the deregulation and restructuring of the State's electric and natural gas utilities, and set certain directives and

[1] President Joseph L. Fiordaliso recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

timetables regarding the implementation of electric retail choice. The New Jersey Board of Public Utilities ("Board" or "BPU") was given broad authority and discretion, based on its expertise, to implement and oversee the transition from a regulated to a competitive power supply marketplace. The Board also received broad authority to implement energy efficiency and renewable energy incentives.

The Solar Act of 2012, P.L. 2012, c. 24, § 3 ("Solar Act"), a bi-partisan effort to stabilize the solar market and signed into law by Governor Chris Christie on July 23, 2012, amends EDECA. In particular, the Solar Act modifies and adds to the definitions found at N.J.S.A. 48:3-51 and amends the statutory directives regarding solar energy at N.J.S.A. 48:3-87. Among other changes, the Solar Act added several provisions specific to the regulation of grid supply solar generation facilities, including N.J.S.A. 48:3-87(s) ("Subsection s").

Subsection (s) applies to land actively devoted to agricultural or horticultural use that was valued, assessed, and taxed pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 to -23.24, at any time within the ten-year period prior to the Solar Act's effective date ("farmland"). Under Subsection (s), a solar electric power generation facility on farmland that is neither net-metered nor an onsite generation facility[2] is subject to a review process by the Board to determine whether the proposed project should be approved as connected to the distribution system and therefore eligible to create Solar Renewable Energy Certificates ("SRECs"). This review process is incremental to the existing requirement to qualify through the SREC Registration Program ("SRP") process.

Subsection (s)(2) provides that the Board can only approve a proposed facility on farmland if "(a) PJM issued a System Impact Study for the facility on or before June 30, 2011, (b) the facility files a notice with the board within sixty days of the effective date of [the Act, or by September 21, 2012], indicating its intent to qualify under [Subsection (s)(2)], and (c) the facility has been approved as "connected to the distribution system by the board." N.J.S.A. 48:3-87(s)(2). The Legislature specified that "[n]othing in this subsection shall limit the board's authority concerning the review and oversight of facilities," except for those "approved pursuant to [N.J.S.A. 48:3-87(q)]." N.J.S.A. 48:3-87(s).

PROCEDURAL HISTORY

By Order dated May 10, 2013, the Board denied or deferred final decision on fifty-four (54) applications filed pursuant to Subsection (s). ("May 10 Order").[3] Thereafter, various applicants filed appeals. The Appellate Division dismissed the appeals of those matters on which the Board had deferred its decision as not ripe for appeal. Those appeals pertaining to applications which had been denied remained pending at the Appellate Division and among those were the appeals of the four projects which are the subject of the petition under review:

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[2] A facility that is net metered or constitutes an onsite generation facility generates electricity to satisfy the electrical needs of structures on or adjacent to the land where the solar facility is located.

[3] I/M/O the Implementation of L. 2012, C. 24, The Solar Act of 2012; and I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(q), (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System – Request for Approval of Grid Supply Solar Electric Power Generation Pursuant to Subsection (s), 2013 N.J. PUC LEXIS 112 (May 10, 2013). In this order, the Board found that Subsection (s) reflects a legislative intent discouraging development of grid-supply solar facilities on farmland and mitigating volatility in the solar market, as SRECs are subsidized by ratepayers. 2013 N.J. PUC LEXIS 112, *151-155.

1. On December 17, 2012, EffiSolar Development, LLC ("EffiSolar") applied for Board designation of the grid supply solar farm designated as PJM W3-077, docketed as EO12121108V. Effisolar stated that the proposed project size was 15 MW dc[4] and that the project was to be located in Franklin Township, Warren County, New Jersey. On July 2, 2013, EffiSolar filed an appeal to the Appellate Division from the May 10 Order by way of Docket No. A-004888-12T2.

2. By December 17, 2012, Renewtricity applied for Board designation of the grid supply solar farm designated as PJM W3-044, docketed as EO12121095V. Renewtricity described that the proposed project size was 23.9 MW dc and was to be located in Washington Township, Warren County, New Jersey. On June 21, 2013, Renewtricity filed an appeal to the Appellate Division from the May 10 Order by way of Docket No. A-004990-12T2.

3. On December 14, 2012, Quakertown Farms, LLC ("Quakertown") applied for Board designation of the grid supply solar farm designated as PJM W3-003, docketed as EO12121138V. Quakertown stated that the proposed project size was 10 MW dc and that the project was to be located in Franklin Township, Hunterdon County, New Jersey. On July 2, 2013, Quakertown filed an appeal to the Appellate Division from the May 10 Order by way of Docket No. A-005143-12T2.

4. On December 17, 2012, EAI Investments, LLC ("EAI") applied for Board designation of the grid supply solar farm designated as PJM W4-073, docketed as EO12121124V. EAI stated that the proposed project was to be 17 MW dc and was to be located in Pohatcong, Warren County, New Jersey. On June 21, 2013, EAI filed an appeal to the Appellate Division from the May 10 Order by way of Docket No. A-005013-12T2.

During the pendency of their appeals, on June 6, 2016, counsel for EAI and counsel for Effisolar, Renewtricity and Quakertown reached a settlement with Board Staff ("Staff"), represented by the Division of Law ("Settlement Agreement"). Subject to BPU approval, the Settlement Agreement provided conditional SREC eligibility to each of the above 4 projects provided that the terms and conditions of the Settlement Agreement were satisfied. The Settlement Agreement reflected that these 4 projects were considered to be the last remaining active and viable projects. The Settlement Agreement also disposed of appeals involving other projects.[5]

In relevant part, the Settlement Agreement provides:

1. Staff will recommend that the Board approve the Settlement Agreement and thereby approve the projects designated as PJM W3-077, PJM W3-044, PJM W3-003, and PJM W4-073 under Subsection s so that the

[4] Effisolar's application listed the proposed project size as 15 MW ac and 13.3 MW dc. The May 10 Order indicated that these numbers were likely juxtaposed. 2013 N.J. PUC LEXIS 112, *68.

[5] Specifically, as part of the settlement, Effisolar withdrew its appeal of the denial for its Ringoes/Raritan project, W3-029, EO12121120V, and its Stewartsville/Greenwich project, W3-076, EO12121112V.

projects can be deemed conditionally connected to the distribution system and eligible to earn SRECs under the terms set forth below.

2. Each project shall be reduced to 10 MW dc.

3. Each developer shall have up to 24 months from the date of the Settlement Agreement to decide whether the developer shall pursue the development of its project.

4. If the developer wants to proceed with its project, the developer shall have the right to file a written statement with the BPU (the "Election"), which Election must be filed with the BPU before the expiration of the 24-month period. If the developer does not file the Election before the expiration of the 24-month period, the right to file an Election: a) shall be deemed to have expired, b) shall be null and void, and c) shall be deemed forfeited.

5. With the timely filing of the Election, the project shall be conditionally approved and deemed connected to the distribution system, subject to satisfaction of the SRP registration and milestone reporting requirements identified in the Settlement Agreement.

6. Within 14 days of the effective date of the Board Order approving the Settlement Agreement, the developer shall file an SRP registration package to reflect the 10 MW dc. If the developer does not file the Election before the expiration of the 24-month period, the SRP: a) shall be cancelled, b) shall be null and void, and c) shall be deemed forfeited.

7. Staff will recommend that the Board extend the current one-year SRP Registration length under the Renewable Portfolio Standards rules, N.J.A.C. 14:8-2.1 to -2.11 ("RPS rules"), to a three-year SRP Registration length consistent with the Settlement Agreement. Any enlargement of the SRP Registration length under the RPS rules will not further extend the three-year SRP Registration length for the developers.

8. The developer shall construct and provide documentation of the Electric Distribution Company's ("EDC") authorization to energize the project within 12 months of the date the Election is filed with the Board. If the developer constructs and provides documentation of authorization to energize before the 12 months have elapsed, the project shall continue to be deemed connected to the distribution system and therefore eligible to generate SRECS.

9. If the developer does not construct and provide documentation of authorization to energize before the 12 months have elapsed, the project: a) shall no longer be conditionally approved, b) shall no longer be deemed connected to the distribution system, and c) shall not be eligible to generate energy upon which SRECS may be based.

10. Each developer shall have the right to request one six-month extension to the aforesaid 12 months and such extension may be granted by the SRP Manager upon a showing that the extension is necessitated by events beyond the developer's control despite good faith efforts by the Developer to timely construct and energize the project. Such extension request must be filed with the SRP Manager prior to the expiration of the aforesaid 12 months period.

11. The appeals are to be deemed settled as of the effective date of the BPU Order approving the Settlement Agreement.

12. Within 10 days of the effective date of the Board Order approving the Settlement Agreement:

    a. Effisolar shall file a Stipulation of Dismissal with Prejudice withdrawing its appeal of its Ringoes/Raritan project, W3-029, EO12121120V, and its Stewartsville/Greenwich project, W3-076, EO12121112V.

    b. Effisolar, Renewtricity, Quakertown, and EAI shall file a Stipulation of Dismissal with Prejudice withdrawing the appeals of W3-077, W3-044, W3-003, and W4-073.

13. The Settlement Agreement shall be binding on all parties, their agents, successors, and assigns.

The Board approved the Settlement Agreement on June 29, 2016 ("June 29 Order").[6] The reduction of each project to 10 MW dc was critical to the Board's approval. Specifically, the Board noted that under the Settlement Agreement, all of the projects "will reduce their size to ten (10) MWdc and no [p]roject will necessarily exercise its Election. Thus, the Settlement Agreement minimizes the impact on the SREC market and eliminates the need for additional litigation over the Subsection (s) process." 2016 N.J. PUC LEXIS 178, *8. The Board directed the developers to comply with the terms of the Settlement Agreement. Ibid.

On July 7, 2016, Effisolar, Renewtricity, Quakertown, and EAI filed a Stipulation of Dismissal with Prejudice with the Appellate Division. On or about August 2, 2016, EAI received an SRP Acceptance Letter for 9,994.95 kW dc; Quakertown received an SRP Acceptance Letter for 9,994.95 kW dc; Effisolar received an SRP Acceptance Letter for 9,999.83 kW dc; and Renewtricity received an SRP Acceptance Letter for 9,999.42 kW dc.[7]

Subsequently, CEP Solar, LTD ("CEP" or "Petitioner") purchased the development rights of the four projects covered by the Settlement Agreement. On June 6, 2018, counsel for CEP and its

[6] I/M/O the Implementation of L. 2012, C. 24, The Solar Act of 2012; and I/M/O the Implementation of L. 2012, c. 24, N.J.S.A 48:3-87(q), (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System – Request for Approval of Grid Supply Solar Electric Power Generation Pursuant to Subsection (s) Effisolar Development, LLC, Quakertown Farms, Renewtricity, EAI Investments, LLC, 2016 N.J. PUC LEXIS 178 (Jun. 29, 2016).

[7] On January 31, 2018, Renewtricity's successor, Washington Solar Farm, LLC, received the SRP Acceptance Letter for 9,999.42 kW dc.

subsidiaries Quakertown Solar Farm, LLC ("Quakertown Solar"),[8] Washington Solar Farm, LLC ("Washington"),[9] and Pohatcong Solar Farm, LLC ("Pohatcong Solar")[10] filed the Election for their projects. On June 25, 2018, Pohatcong Creek ("Pohatcong Creek")[11] filed its Election.

On March 1, 2019, CEP filed the petition under review, asking the Board to modify the Settlement Agreement, and hence the June 29 Order, and allow the successor developers to build larger projects. Specifically, CEP asks that the Board approve the 4 projects at the following size and location:

- 18 MW dc solar farm designated as W3-077 in Franklin Township, Warren County;[12]
- 23 MW dc solar farm designated as W3-044 in Washington Township, Warren County;[13]
- 23 MW dc solar farm designated as W3-003 in Franklin Township, Hunterdon County;[14] and
- 20 MW dc solar farm designated as W4-073 in Pohatcong, Warren County.[15]

CEP also asks that each project be granted an additional 24 months to construct and energize. In addition, CEP requests authority to file amended SRP registrations and to receive an SREC qualification life of 15 years for each of the projects. CEP annexed affidavits from some of the property owners and the mayor of Franklin Township to the effect that solar was the only type of development being considered that would allow the land to return to agricultural use and a labor union affidavit asserting additional job creation would result from enlargement of the four projects under review.

DISCUSSION AND FINDINGS

As a threshold matter, the Board addresses Petitioner's allegation that the legal standard for modifying a settlement agreement is only that it not be precluded by law. Pursuant to N.J.S.A. 48:2-40(e), the Board may modify a prior decision. In exercising its discretionary authority under N.J.S.A. 48:2-40(e) to determine whether to modify the Settlement Agreement, the Board notes New Jersey precedent on settled matters. "A settlement agreement between parties to a lawsuit is a contract." Pascarella v. Bruck, 190 N.J. Super. 118, 124 (App. Div.) certif. denied, 94 N.J. 600 (1983). The courts have held that settlement agreements should be honored and enforced like other contracts "absent a demonstration of 'fraud or other compelling circumstances.'" Id. at 125 (quoting Honeywell v. Bubb, 130 N.J. Super. 130, 136 (App. Div. 1974)(emphasis added)). See also, DeCaro v. DeCaro, 13 N.J. 36, 44 (1953) (party could be compelled to specifically perform under a contract because the terms of the agreement did not shock the conscience and where there was no showing of any artifice or deception, lack of independent advice, abuse of confidential relation, or similar indicia).

[8] Successor in interest to Quakertown.
[9] Successor in interest to Renewtricity.
[10] Successor in interest to EAI.
[11] Successor in interest to EffiSolar.
[12] The application filed with the Board was for 15 MW dc, not 18 MW dc. 2013 N.J. PUC LEXIS 112, *68.
[13] The application filed with the Board was for 23.9 MW dc. 2013 N.J. PUC LEXIS 112, *58.
[14] The application filed with the Board was for 10 MW dc, not 23 MW dc. 2013 N.J. PUC LEXIS 112, *92.
[15] The application filed with the Board was for 17 MW dc, not 20 MW dc. 2013 N.J. PUC LEXIS 112, *51.

Petitioner has not alleged fraud, lack of independent advice or similar indicia, and the Board notes that each of the four predecessors in interest was represented by counsel when they settled their appeals and agreed that each project would be sized at 10 MW dc. As such, they each received the benefit of the bargain – the ability to move forward with the projects – in exchange for dismissing the appeals with prejudice. Petitioner contends, however, that as a subsequent purchaser it should not be precluded from receiving a modification to the settlement "simply because [Petitioner was] not at the original negotiating table." Petition at 3. The Board rejects this argument. Petitioner was presumably aware of the size of these projects and of the terms of the Settlement Agreement – which was binding on successors and assigns – when it bought them. Had it not wished to purchase projects sized at 10 MW dc, it need not have done so. Nor is the Board persuaded by Petitioner's allegation that the change in energy policy from the former administration to the current one constitutes a changed circumstance justifying a modification. Simply put, ratepayer-subsidized incentives for solar development were available at the time of the Settlement Agreement and remain available today. Petitioner's projects received the ability to earn incentives under the Settlement Agreement and will remain eligible for those incentives, provided that they are developed in compliance with applicable law and with the remaining terms of the Settlement Agreement; one such term is providing documentation of authorization to energize within 12 months of the date an Election was filed.

The Board now turns to the other arguments in the petition. Petitioner rests its argument for granting its petition on its assertion that increasing the size of its solar projects would further the clean energy policies of the current gubernatorial administration and the Board. Petitioner has chosen to focus exclusively on the Murphy Administration's goal of moving the State to reliance on exclusively clean energy sources by 2050. Petition at 4. This argument, however, disregards the complicated context of this policy goal and the competing policy considerations which must be taken into account in implementing the policy and state law in the shape of EDECA and the Solar Act.

On May 23, 2018, Governor Murphy signed into law the Clean Energy Act, P.L. 2018, c. 17 ("2018 Act" or "Clean Energy Act"), which mandated significant changes to policies underlying the state's solar market. Among many other changes, the 2018 Act modified the solar RPS schedule of percentage obligations, effectively increasing SREC demand for Energy Year[16] 2019 by an estimated 750,000 MWh. N.J.S.A. 48:3-87(d)(2). As a result, the EY19 solar market became able to accommodate an estimated additional 620 MW dc of solar generation capacity. Petitioner relies heavily on these statutory provisions. Petition at 4.

However, as noted above, the Clean Energy Act makes many other modifications to previously existing law, including EDECA and the Solar Act. For example, the new law requires the Board to close the SRP once the Board has determined that 5.1% of the total kilowatt-hours sold in New Jersey have been generated by SREC-eligible solar generation installations ("5.1% Milestone"). N.J.S.A. 48:3-87(d)(3). The Board must also modify or replace the existing SRP. Ibid. Moreover, for the first time, and in the same subsection increasing the solar RPS, the 2018 Act capped the annual cost to ratepayers of the New Jersey Class I RPS, including the solar RPS, at nine percent of retail electricity costs in EY19, EY20, and EY21 and at seven percent thereafter. N.J.S.A. 48:3-87(d)(2). Furthermore, the 2018 Act set the SREC term for 10 years. N.J.S.A. 48:3-87(d).

[16] "Energy year" or "EY" as defined at N.J.A.C. 14:8-2.2 means the 12-month period from June 1st through May 31st and shall be numbered according to the calendar year in which it ends.

In evaluating Petitioner's claim that approving an increase in the size of its projects would further the policy goals behind the 2018 Act, the Board must look to all of these provisions to determine the objectives of the statute. N.J.S.A. 1:1-1 provides that in statutory construction, "words and phrases shall be read and construed with their context, and shall, unless inconsistent with the manifest intent of the legislature or unless another or different meaning is expressly indicated, be given their generally accepted meaning. . . ." N.J.S.A. 1:1-1. "To that end, 'statutes must be read in their entirety; each part or section should be construed in connection with every other part or section to provide a harmonious whole.'" Burnett v. Cnty. of Bergen, 198 N.J. 408, 421 (2009).

In addition, "administrative agencies are part of the executive branch of government, charged under the State constitution with the responsibility of faithfully executing the laws." In re Appeal of Certain Sections of Uniform Administrative Procedure Rules, 90 N.J. 85, 93 (1982) (citing N.J.Const. (1947), Art. 5, § 1, para. 11)). The Board "may not under the guise of interpretation . . . give the statute any greater effect than its language allows." In re Freshwater Wetlands Prot. Act Rules, 180 N.J. 478, 489 (2004). See also T.H. v. Division of Developmental Disabilities, 189 N.J. 478, 491 (2007) (an administrative agency may not "alter the terms of a legislative enactment or frustrate the policy embodied in the statute").

In light of the Board's duty to construe each part of the Clean Energy Act in connection with every other part, the Board cannot follow Petitioner's lead and look at the increase in the short term RPS in isolation. Construed as a whole, the statute demonstrates an equal concern with the monetary impacts on New Jersey ratepayers. With respect to the SREC program in particular, from which Petitioner seeks additional incentives for a period of 15 years, the Legislature has directed the Board to close that program and has set the SREC term at 10 years. In short, the Board **FINDS** that the Clean Energy Act and the policies underlying it do not support approval of the petition.

Petitioner also contends that denying its request to reopen the Settlement Agreement and enlarge the solar projects at issue would send the wrong message to other would-be renewable energy developers. The Board, however, believes that its denial will send precisely the correct message: since the Legislature has directed the closure of the SREC market and has capped the cost of clean energy incentives to ratepayers, attempts to increase the size of projects approved for incentive on farmland during an earlier period are not encouraged.

Moreover, when the Board denied the applications of Petitioner's predecessors in interest, it cited as one of the main reasons for its denial the State policy of reducing volatility in the SREC market. The Board determined to limit its approval "to projects whose approval would not cause further volatility in the New Jersey solar market at this time" because notwithstanding the investment made by solar developers, "the public interest in achieving the Solar Act's goals must be weighed against any detriment which may be claimed by owners of proposed solar facilities that are subject to this designation process." 2013 N.J. PUC LEXIS 112, *167. That public interest, as the Board determined then and confirms today, "outweighs any single project developer's reliance [on the SREC financing mechanism.]" Ibid.

The record of the specific projects at issue reinforces this conclusion. The second term in the Settlement Agreement quoted above mandates the reduction of these projects to 10 MW dc. This reduction in size, together with the possibility that no developer may choose to exercise its Election, are the two factors cited by the Board for its conclusion that "the Settlement Agreement minimizes the impact on the SREC market and eliminates the need for additional

litigation over the Subsection s process." 2016 N.J. PUC LEXIS 178, *8. Thus, the Board **FINDS** that approval of this petition would not be in the public interest.

The Board further **FINDS** that a modification of the Settlement Agreement is not in the public interest for other reasons. To implement the provisions of the 2018 Act, the Board has issued orders and provided guidance to developers and ratepayers on, among other things, how the State will monitor the attainment of the 5.1% milestone and which projects will be subject to the 10-year SREC term. The Board has also indicated that SREC eligibility is contingent on projects commencing commercial operations prior to the attainment of the 5.1% milestone.[17] In addition, the Board has previously advised that its SRP registration rules ensure transparency, provide advance notice to solar market participants of new renewable energy generation entering the market, and protect ratepayers who bear the SREC cost. Here, Petitioner has filed SRP registrations for these projects, all of which disclose that each project is less than 10 MW dc. These projects have already been included in the 5.1% projection at their registered size, and if Petitioner builds each project in accordance with the Settlement Agreement and applicable law, each project will receive a 15-year SREC term. Indeed, the Hunterdon County solar project, designated as PJM W3-003, has already been built. Affidavit of Mr. Den Hollander, paragraph 3.

The Board also notes that Petitioner is seeking more than a modification of the Settlement Agreement. Petitioner is actually seeking to build solar projects at capacities that were not reflected in the applications filed with the Board. Specifically, Petitioner's claims that the applications for PJM W3-077 in Franklin Township, Warren County, for PJM W3-003 in Franklin Township, Hunterdon County, and for PJM W4-073 in Pohatcong, Warren County were for 18 MW dc, 23 MW dc, and 20 MW dc, respectively, are incorrect. The applications filed with the Board for PJM W3-077 in Franklin Township, Warren County, for PJM W3-003 in Franklin Township, Hunterdon County, and for PJM W4-073 in Pohatcong, Warren County were for 15 MW dc, 10 MW dc, and 20 MW dc, respectively. 2013 N.J. PUC LEXIS 112, *68, *92, *51; 2016 N.J. PUC LEXIS 178, *9-12. Petitioner cannot obtain approval today for projects larger than their December 2012 applications with the Board reflected and which applications were settled in 2016. In short, fairness dictates that Petitioner's requests be denied.

After careful review of the record and based on the analysis set out above, the Board **HEREBY DENIES** the petition. The Board **HEREBY AFFIRMS** the Settlement Agreement and its June 29 Order as they apply to the four projects designated as PJM W3-077, PJM W3-044, PJM W3-003, and PJM W4-073.

[17] For example, 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, 2018 N.J. PUC LEXIS 251 (Oct. 29, 2018); and 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, 2019 N.J. PUC LEXIS 20 (Feb. 27, 2019).

This Order shall be effective on May 18, 2019.

DATED: 5/8/19

BOARD OF PUBLIC UTILITIES
BY:

MARY-ANNA HOLDEN
COMMISSIONER

DIANNE SOLOMON
COMMISSIONER

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.

Docket No. EO12090832V – In the Matter of the Implementation of L. 2012, C. 24, The Solar Act of 2012; and

Docket No. EO12090880V – In the Matter of the Implementation of L. 2012, C. 24, N.J.S.A. 48:3-87(Q)(R) and (S) – Proceedings to Establish the Processes for Designating Certain Grid-Supply Projects as Connected to the Distribution System; and

Docket Nos. EO12121108V, EO12121112V and EO12121120V – EffiSolar Development, LLC
Docket No. EO12121138V – Quakertown Farms
Docket No. EO12121095V – Renewtricity
Docket No. EO12121124V – EAI Investments, LLC

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