



Agenda Date: 12/20/19  
Agenda Item: 8E

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>L.</u>	)	ORDER
2012, <u>C. 24</u> , THE SOLAR ACT OF 2012	)	
	)	
IN THE MATTER OF REQUEST FOR A WAIVER OF	)	
SREC REGISTRATION RULES AT N.J.A.C. 14:8-2.4(l)	)	
– EZENERGY NJ LLC – ARTS HIGH SCHOOL,	)	DOCKET NOS. EO12090832V
NEWARK BOARD OF EDUCATION	)	and QO19080985

**Parties of Record:**

**Joseph Accardo, Esq.**, Public Service Electric and Gas Company  
**William Lodato**, EZenergy NJ LLC

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities (“Board”) considers the petition of EZenergy NJ LLC (“EZenergy” or “Petitioner”) received by the Board on August 27, 2019. On behalf of the Newark Board of Education (“NBOE”) and its financing entity GreenSkies Renewable Energy, LLC Petitioner seeks an extension of time to complete a solar energy project (“Project”) under the Board’s Solar Renewable Energy Certificate (“SREC”) Registration Program (“SRP”).

The Board’s Renewable Portfolio Standard (“RPS”) rules, found at N.J.A.C. 14:8-2, are designed to encourage the development of renewable sources of electricity; minimize the environmental impact of air pollutant emissions from electric generation; reduce possible transport of emissions; minimize any adverse environmental impact from deregulation of energy generation; and support the reliability of the supply of electricity in New Jersey. N.J.A.C. 14:8-2.1.

N.J.A.C. 14:8-2.4 establishes the process and eligibility criteria for new solar electric generation projects to register in the SRP and become eligible to generate energy upon which SRECs can be created. SRECs can be used to satisfy New Jersey’s RPS. Upon determining that a project application meets SREC eligibility requirements, the SRP issues a conditional registration to the project. If the solar facility completes construction as described in the initial registration package; submits a post-construction certification package; and passes inspection, if required, the SRP issues a certification number to the facility. N.J.A.C. 14:8-2.4(h)(4).

Pursuant to N.J.A.C. 14:8-2.4(i), construction of a solar electric generating facility shall be completed prior to expiration of conditional registration in the SRP. A registrant for facilities that are net-metered, provide on-site generation, or provide power for a qualified customer engaged in aggregated net-metering may request an extension of six months prior to expiration of the conditional registration. The rules do not provide for a second extension, which must therefore be sought by seeking a waiver of the rules from the Board. If the conditional registration or extension expires before completion of construction, and no second extension is granted, the registrant shall begin the entire registration process again.

On or about June 5, 2018, the application for the Project received a conditional registration from the SRP. The Project, sized at 220 kilowatt direct current (kWdc), is a roof mounted system located on the Arts High School ("Site") and is to be net-metered. This project is one of six projects planned for the Newark public school system. The Board's SRP administrator issued the project its conditional registration with a registration length of twelve months and an SRP application expiration date of June 5, 2019. Prior to expiration of the initial SRP registration, Petitioner submitted an extension request to the SRP program administrator along with an updated schedule for anticipated project completion. On May 23, 2019, EZnergy received an initial six-month extension of the twelve-month completion deadline to December 5, 2019.

In August 2019, EZnergy petitioned the Board for a second extension of four months to April 5, 2020. Petitioner submits that the NBOE requirement to replace the roof of the public school, issue local public bonds and solicit bids for the rooftop replacement for this and the five other Newark schools subsumed over a year. According to EZnergy, this process also prevented NBOE from issuing the solar power contracts for over a year. Additionally, since other construction work for the schools was going on at the same time, EZnergy also had to work around both the school schedule and the other construction schedules to replace the roofs and begin the carport canopy installations. Petitioner says that it has been delayed as NBOE sought bid quotes for the roof replacement for five schools, coordinated construction schedules for the simultaneous construction of all six projects around the public school schedule (i.e. only during the summer), and Petitioner reconfigured two systems within the project to account for the limited capacity of the local distribution system.

In addition, on September 27, 2019, Eznergy amended its petition, requesting an eight (8) month extension to August 31, 2020. In support of the longer extension request, Eznergy stated that the roof replacement work had not been completed until the end of the summer. At first the NBOE would not allow Eznergy to keep equipment at the school or take up any parking spots or drill holes for the carport pillars during the school year. The Petitioner, in discussions with Staff over its request for a second extension, initially stated that it would not be able to complete construction of all six (6) school systems simultaneously with the inclusion of the carport construction until the summer of 2020. Petitioner in December confirmed that after meeting with the Newark Planning Board and with the elimination of one carport system, it will be able to complete construction and obtain a Permission to Operate by April 5, 2020. EZnergy submits that these delays were unforeseeable and unavoidable.

The Petitioner states that as of Dec. 16, 2019, it has completed the following in connection with the Project:

- The roof replacement has been completed.
- PSE&G has approved the Interconnection application.
- The Structural Engineering and the Conceptual Design drawings have been completed.
  
- The Newark Planning Board has given final project approval.

- Once the Planning Board memorialize the meeting minutes, EZnergy will submit the permits. The Newark Planning Board also said it will expedite the permit approval process.
- The Planning Board has agreed to waive the usual zoning approval process requirements.

Given the lengthy roof replacement, local permitting, and public school bonding process described by Petitioner, as well as the logistical difficulties presented by the operation of a public school during construction on the Site, the redesign required by PSE&G, and the installation work completed to date, Staff believes that with the benefits accruing to the Newark Public Schools from the new roofs and promise of electricity bill savings from the project, extending the SRP registration period comports with the general intent and purpose of the rules. Therefore, Staff recommends that the Board grant the Petitioner a four-month extension to April 5, 2020, on the condition that if prior to that date the Board determines that 5.1% of the kilowatt hours sold in the State have been generated by solar energy ("5.1% Milestone"), the extension shall cease to have effect.

### **DISCUSSION AND FINDINGS**

The Board is authorized to waive its rules pursuant to N.J.A.C. 14:1-1.2, which provides that the rules may be liberally construed to permit the Board to carry out its statutory functions. In considering whether to grant a request for a waiver, the Board applies the two-pronged test set forth at N.J.A.C. 14:1-1.2(b)(1) and determines: (1) whether the request is in accord with the general purposes and intent of the rules; and (2) whether full compliance with the rules would adversely affect ratepayers, a utility or other regulated entity, or the public interest.

As noted above, the RPS rules are designed to encourage the development of renewable sources of electricity. EZnergy's petition for a second extension of the SRP registration deadline details a series of delays related to the construction and interconnection of six (6) solar facilities on multiple urban public schools and actions by the developer to overcome the barriers in a timely fashion evidenced by its diligent pursuit of full certification of its solar generation project. Under these circumstances, the Board **FINDS** that the cumulative delays from the roof replacement, local public bonding, and local distribution interconnection challenges to date cumulatively represent good cause to relax the rule. Moreover, and despite the over one year delay occasioned by these challenges, EZnergy has replaced the school roofs, secured all permits, and obtained interconnection approval by the local Electric Distribution Company at all six solar electric generation facilities including the Arts High School. Therefore, the Board **FINDS** that Petitioner made substantial progress on the Project.

The Board **FURTHER FINDS** that granting Petitioner an extension to finish the Project comports with the general intent and purpose of the rules by furthering the State's goal of encouraging the development of renewable sources of electricity. The Board **ALSO FINDS** that, to further the Legislature's directive to close the SRP upon attainment of the 5.1% Milestone, this extension shall only extend SREC eligibility to the date upon which the Board determines that the 5.1% Milestone has been attained.

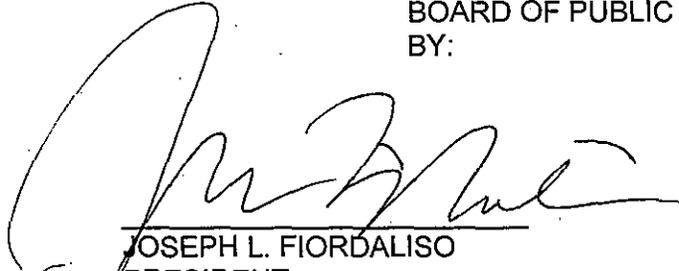
The Board **GRANTS** the petition in part. Petitioner may have an additional four months, to April 5, 2020, to achieve commercial operation of the Project, and retain SREC eligibility provided that the 5.1% Milestone does not occur prior to the Project's achieving commercial operation. Should the Board determine that the 5.1% milestone has been attained prior to the commencement of commercial operations and the project commences commercial operations prior to expiration of the four-month extension, then the Project will be eligible in the Transition Incentive program. The Board **WAIVES** the requirement to re-apply to the SRP set forth at N.J.A.C. 14:8-2.4(i).

The Board **DIRECTS** Staff to issue full certification to the project upon Petitioner's demonstration that all requirements, including the SRP requirements at N.J.A.C. 14:8-2.4, have been satisfied.

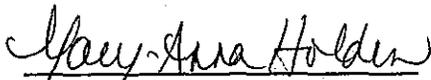
DATED: 12/20/19

BOARD OF PUBLIC UTILITIES

BY:



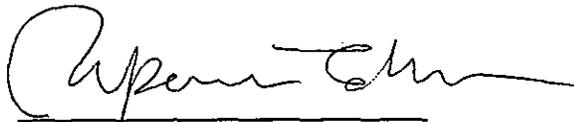
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MARY-ANNA HOLDEN  
COMMISSIONER



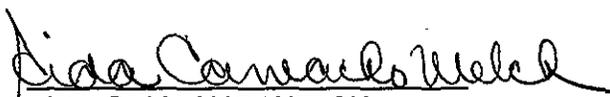
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UPENDRA J. CHIVUKULA  
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ROBERT M. GORDON  
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ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

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 IMPLEMENTATION OF L. 2012, C. 24, THE SOLAR ACT OF 2012

IN THE MATTER OF REQUEST FOR A WAIVER OF SREC REGISTRATION RULES AT  
N.J.A.C.14:8-2.4(l) – ARTS HIGH SCHOOL, NEWARK BOARD OF EDUCATION  
DOCKET NOS. EO12090832V & QO19080985

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