



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

CLEAN ENERGY

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM	)	ORDER
	)	
	)	
IN THE MATTER OF THE PETITION OF RADIANT ENERGY, LLC FOR A WAIVER FROM SECTION A-III 11(a) OF THE NJ BPU COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION FORM	)	DOCKET NO. QO18060646
	)	DOCKET NO. QW19091281

**Parties of Record:**

**Lloyd D. Levenson**, Cooper Levenson Attorneys at Law, Radiant Energy LLC  
**Stefanie A. Brand, Esq.**, Director, New Jersey Division of Rate Counsel

**BY THE BOARD:**

This Order concerns a petition received by Lloyd D. Levenson on behalf of Radiant Energy, LLC ("Petitioner"), requesting a waiver from Section A-III 11(a) of the Program Year 1 ("PY1") Community Solar Energy Pilot Program Application Form.

**BACKGROUND**

Pursuant to the Clean Energy Act of 2018, P.L. 2018, c. 17, on January 17, 2019, the Board adopted the rules for the Community Solar Energy Pilot Program ("Pilot Program"). The adopted rules were filed with the Office of Administrative Law and published in the New Jersey Register on February 19, 2019. The final rules provide the framework necessary for the development and implementation of community solar in New Jersey.

On March 29, 2019, the Board approved and released the Community Solar Energy Pilot Program, Program Year 1 Application Form ("PY1 Application Form"), pursuant to the rules at N.J.A.C. 14:8-9.3(c). The Application Period opened on April 9, 2019 at 9:00 a.m. and closed on September 9, 2019 at 5:00 p.m. A Frequently Asked Questions ("FAQs") page was created on the New Jersey Clean Energy Program ("NJCEP") website; questions received through the [communitysolar@nicleanenergy.com](mailto:communitysolar@nicleanenergy.com) email address were responded to via the FAQs page.

N.J.A.C. 14:8-9.4(i) states that "existing solar projects may not apply to requalify as a community solar project," and N.J.A.C. 14:8-9.2 defines an "existing solar project, for the purposes of the Community Solar Energy Pilot Program [as] a solar project having begun operation and/or been approved by the Board for connection to the distribution system prior to February 19, 2019."

Section B-XIII 4 "Special Authorizations and Exemptions" of the PY1 Application Form created an exemption for projects having received a subsection (t) conditional certification from the Board prior to February 19, 2019: specifically, the PY1 Application Form stated that a project having received, in part or in whole, a subsection (t) conditional certification from the Board prior to February 19, 2019 may apply to participate in the Community Solar Energy Pilot Program if it commits to withdrawing the applicable subsection (t) conditional certification immediately if it is approved by the Board for participation in the Community Solar Energy Pilot Program. Applicants wishing to exercise this exemption were required to attach to their Application a signed affidavit that the Applicant will immediately withdraw the applicable subsection (t) conditional certification if the proposed project is approved by the Board for participation in the Pilot Program.

Section A-III 11 of the PY1 Application Form notified Applicants that, should their proposed community solar project be approved by the Board for participation in the Pilot Program, such approval would be contingent upon the project being constructed and operated as it was proposed in its Application. Specifically, Section A-III 11(a) laid out requirements that Applicants for projects selected by the Board were to fulfill prior to beginning construction on the project: "the Applicant must provide evidence that commitments in the following categories have been met: project location, community and environmental justice engagement, other benefits."

#### Radiant Energy Petition

Petitioner submitted a community solar Application to the Board for a 3.0 MWdc ground-mounted system on Price's Landfill, located in both Egg Harbor Township and the City of Pleasantville in Atlantic County, BPU Docket Number: QO19091126 ("Radiant Energy Project"). The Application for the Radiant Energy Project was received prior to the September 9, 2019 deadline. This project had previously received subsection (t) conditional certification from the Board on February 24, 2016; the Board approved an extension of the Subsection (t) Order on May 5, 2018. The proposed Radiant Energy Project was therefore applying to become a community solar project under the exemption created in Section B-XIII 4 of the PY1 Application Form. The Application included an affidavit signed by Rose Cheung, the Applicant, stating that "Radiant Energy will immediately withdraw the applicable Subsection (t) conditional certification if the proposed project is approved by the Board for participation in the Community Solar Pilot Program."

On September 20, 2019, Lloyd D. Levenson filed a petition with the Board on behalf of Petitioner, requesting a waiver from Section A-III 11(a) of the Program Year 1 Community Solar Energy Pilot Program Application Form. The Petitioner alleges that there is no prohibition in either the Pilot Program rules at N.J.A.C. 14:8-9 et seq. or in the PY1 Application Form prohibiting an Applicant from commencing construction while their Application to participate in the Pilot Program is pending. However, the Petitioner notes that Section A-III 11(a) of the PY1 Application Form includes a milestone which must be completed prior to the beginning of construction of projects approved by the Board. The Petitioner states that construction on the Radiant Energy Project began prior to the publication of the PY1 Application form, and therefore prior to being notified of the existence of a pre-construction milestone. The Petitioner claims that it had no choice but to begin construction on the system at the beginning of 2019, in order to a) complete construction in time to receive the federal Investment Tax Credit prior to their reduction in value at the end of 2019, and b) comply with a May 2020 deadline for completion set forth by the SREC program rules. Finally, the Petitioner alleges that project costs have risen significantly, and that project revenue expectations have declined; the Petitioner therefore alleges that "only participation in this [Pilot] Program would actually make this solar project financially viable again."

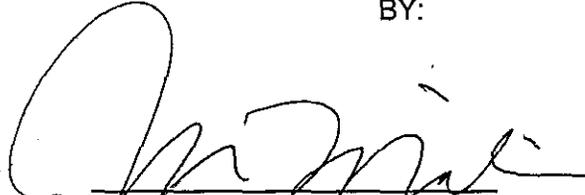
**FINDINGS AND DISCUSSION**

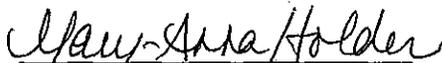
The Board **FINDS** that, pursuant to the Board's Order issued December 20, 2020,<sup>1</sup> the proposed Radiant Energy Project was not selected for PY1 of the Pilot Program. The Board therefore **FINDS** that the petition requesting a waiver from Section A-III 11(a) PY1 Application Form is moot, and **DISMISSES** said petition without prejudice.

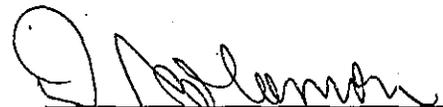
The effective date of this order is December 30, 2019.

DATED: 12/20/19

BOARD OF PUBLIC UTILITIES  
BY:

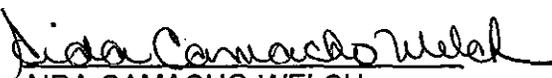
  
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COMMISSIONER

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.

<sup>1</sup> I/M/O the Community Solar Energy Pilot Program, Docket No. QO18060646 et al.

IN THE MATTER OF A NEW JERSEY SOLAR TRANSITION PURSUANT TO P.L. 2018, C.17  
DOCKET NO. QO19010068

IN THE MATTER OF THE PETITION OF RADIANT ENERGY, LLC FOR A WAIVER FROM  
SECTION A-III 11(a) OF THE NJ BPU COMMUNITY SOLAR ENERGY PILOT PROGRAM  
APPLICATION FORM  
DOCKET NO. QW19091281

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