



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY

IN THE MATTER OF THE CLOSURE OF THE SREC	)	ORDER
REGISTRATION PROGRAM PURSUANT TO P.L. 2018,	)	
c. 17.	)	DOCKET NO. QO18070698
	)	
IN THE MATTER OF A NEW JERSEY SOLAR	)	
TRANSITION PURSUANT TO P.L. 2018, C.17 -	)	
CALCULATION OF 5.1% MILESTONE FOR SREC	)	
PROGRAM CLOSURE	)	DOCKET NO. QO19010068

**Parties of Record:**

**Stefanie A. Brand, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD:

In this Order the Board determines that New Jersey will achieve in April the milestone set forth by the Legislature in P.L. 2018, c. 17, codified at N.J.S.A. 48:3-51 to -87 (“Clean Energy Act” or “CEA” or “Act”), that 5.1% of the electricity consumed by New Jersey consumers is derived from solar power. In light of this milestone, the Order also directs Staff to expedite implementation of the Transition Renewable Energy Certificate (“TREC”) program and provides additional guidance about TREC payment schedules and timing.

**BACKGROUND AND PROCEDURAL HISTORY**

On May 23, 2018, Governor Murphy signed the Clean Energy Act into law, effective immediately. Among many other mandates, the Clean Energy Act directed the Board to adopt rules and regulations to close the SREC Registration Program (“SREC Program” or “SRP”) to new applications once the Board determines that 5.1 percent of the kilowatt-hours sold in the State by third party electric suppliers and basic generation service providers (“TPS/BGS providers”) has been generated by solar electric power generators connected to the distribution system (“5.1 % Milestone”).

On February 27, 2019, the Board clarified that the Legislature intended to limit access to the SREC market upon the attainment of the 5.1% milestone. Thus, “projects in the SRP pipeline that have not commenced commercial operations at the time the State reaches this milestone may not be eligible to participate in the SREC market.” The Board also authorized Staff’s use of the date on the Permission to Operate (“PTO”) letter issued by the Electric Distribution Companies

as a proxy for the commencement of commercial operations. In addition, the Board directed Staff to commence a rulemaking proceeding to incorporate this authorization into the Board's rules.<sup>1</sup>

On August 7, 2019, the Board approved a rule proposal addressing the methodology for determining the percentage of solar electric kilowatts sold ("5.1% Calculation Rule"), 51 N.J.R. 1457(a). On January 8, 2020, the Board approved the 5.1% Calculation Rule for publication in the New Jersey Register and it became effective upon publication in the New Jersey Register on February 3, 2020. The Rule required Staff to provide forecasts on the attainment of the 5.1% Milestone on a monthly basis, which the Board also directed Staff to publish in its January 8 Order.<sup>2</sup>

As provided in the 5.1% Calculation Rule, the CEA requires the Board to compare solar electricity generation and retail electricity sold over the same 12-month time period. Solar electricity serves as the "numerator" in this equation and retail electricity sold as the "denominator." The February 2020 Order sets out in detail Staff's methodology for arriving at the estimated solar energy generation figure and its assumptions in deriving estimated retail sales. As stated in that Order:

The estimated retail sales for the twelve-month period ending December 31, 2019 was used as the denominator in each monthly calculation of the percentage of attainment. For calculating the percentage in future months, i.e., January 2020 through June 2020, the use of this convention assumes that retail sales in these months will be identical to the corresponding months last year. Since these months are not typically subject to extreme variability in electricity consumption, Staff believe that a forecast of flat retail sales over the six months is reasonable.

February 2020 Order at 5.

As the Board noted, however, Staff's "forecast is subject to change based on variables such as monthly retail sales and the monthly rate of solar installations."<sup>3</sup>

#### Retail Sales in the 5.1% Calculation

The retail electricity sales estimate based on PJM load served data for February 2020, adjusted for line losses, was lower than the February 2019 retail electricity sales estimates when similarly adjusted. Incorporating this most recent data point into the rolling twelve-month estimate of Board-jurisdictional retail sales and removing the February 2019 data caused the forecasted date for 5.1% milestone attainment to move to May 2020.

This decline began around the middle of the previous year. Since June 2019, monthly retail electricity sales have consistently declined by comparison with sales in the same month one year

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<sup>1</sup> 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, BPU Docket No. QO18070698, Order dated October 29, 2018 ("October 29 Order") 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, BPU Docket No. QO18070698, Order dated February 27, 2019 ("February 27 Order").

<sup>2</sup> N.J.A.C. 14:8-2.4(b)(6)

<sup>3</sup> I/M/O the Closure of the SREC Registration Program Pursuant to P.L. 2018, c. 17, BPU Docket No. QO18070698, Order dated March 27, 2020 ("Closure Order").

earlier. Nonetheless, as noted above, retail sales for each month from the previous June through December had remained high enough in comparison with installed solar capacity to keep forecast 5.1% attainment in June 2020. In the February 2020 Order, therefore, Staff based its calculation of the retail sales figure in the “denominator” upon the assumption that retail sales for each month from January through June 2020 would continue to approximate the sales of the same month one year earlier. In other words, retail sales in February 2019 would reliably predict retail sales in February 2020. However, when retail sales for January 2020 became available, the decline by comparison with retail sales in January 2019 was the principal reason that January’s forecast of 5.1% attainment in June 2020 changed compared to February’s forecast of May/June. When the February 2020 retail sales data appeared, it had declined still more. The decline in Board-jurisdictional retail electricity sales is consistent with the retail electricity sales data reported for the entire state by the U.S. Department of Energy, U.S. Energy Information Administration.

#### Cumulative Installed Capacity in the 5.1% Calculation

The difference in actual installed solar capacity reported through December 2019, as compared to forecasted amounts in the January and February 5.1% status reports, also contributes slightly to the shift forward in the milestone attainment date. However, the contribution to the shift forward from the lower estimates of installed capacity in the January report is less significant than that contributed by the decrease in actual retail electricity sales as opposed to the sales previously forecast. The January 2020 milestone attainment report issued by Staff on February 7, 2020 used an estimate of installed capacity for December 2019 of 3,166 MWdc. After developers submitted additional post-construction certification packages for projects that had received PTO in December in both January and February 2020, installed capacity for December increased by 24 MWdc to 3,190 MWdc.<sup>4</sup> As a result, the forecasted solar electricity generation for March 2020 increased by 1,728 MWh over the forecasted generation in the January 2020 report. However, this change represented an increase of only 0.76 percent. The cumulative underestimation of solar electricity generation was approximately 21,000 MWh or 0.6% of the original estimate for twelve months of solar electricity generation included in the January Report.

More recently still, the COVID-19 outbreak has produced a national state of emergency.<sup>5</sup> Travel both within and beyond the State has been severely restricted as both government and commercial carriers respond to the health threat. Governor Murphy has signed Executive Order No. 104 (“EO 104”)<sup>6</sup>, implementing aggressive social distancing measures to mitigate further spread of COVID-19 in New Jersey. Among numerous other directives, EO 104 mandates that all non-essential retail, recreational, and entertainment businesses must cease daily operations from 8:00 p.m. to 5:00 a.m. The recommendations below recognize the current extraordinary circumstances and their impact upon the State’s solar market. Specifically, Staff urges the Board to acknowledge the impact of these measures upon the timeline of the Solar Transition.

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<sup>4</sup> Most recently reported in the New Jersey Clean Energy Program Solar Installation Report dated March 18, 2020.

<sup>5</sup> Presidential Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak. Available at: <https://www.whitehouse.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/> (March 13, 2020; accessed March 30, 2020).

<sup>6</sup> <https://nj.gov/infobank/eo/056murphy/pdf/EO-104.pdf> (issued March 16, accessed March 31)

## **STAFF RECOMMENDATIONS**

Staff recommends that the Board formally declare that the State will generate 5.1% of its retail electricity sales from solar before May 1, 2020 making New Jersey one of the leading states in the country for clean, carbon-free, generation from solar. As a result of having met this milestone Staff recommends that the Board announce the closure of the SRP effective April 30, 2020, more than a full year ahead of the statutory deadline established by the Legislature of June 1, 2021.

Staff recommends that the Board direct Staff to undertake the necessary administrative steps to close the market by that date. Specifically, the Board should direct Staff to cease accepting Solar Renewable Energy Certificate ("SREC") registrations on April 30, 2020. The Board should order that all projects with active registrations in the SRP pipeline must have a PTO letter issued by their Electric Distribution Company prior to that date to be eligible for SRECs.

Staff is cognizant of the complications caused by the current emergency. While Staff does not believe that the Board should or can waive the requirement that projects reach PTO by April 30, 2020, Staff does support permitting more time to meet post-construction obligations than under the current rules. At the March 27, 2020 agenda meeting, the Board adopted the SRP Closure Order in which it directed Staff to grant first and second extensions of SRP eligibility. The Board also allowed submission of certification packages for projects having attained PTO prior to the 5.1% Milestone within 90 days of its date of issuance. Therefore, post-construction certification packages will not be accepted after 90 days from April 30, 2020.<sup>7</sup>

Staff is also cognizant of the concerns regarding the implementation of the TREC program, particularly in light of the current COVID-19 Pandemic. To alleviate some of these concerns, Staff recommends that the Board accelerate the full rollout of the TREC program, with the goal that TREC payments commence as soon as possible after the closure of the SRP. Specifically, Staff recommends that the Board direct the electric distribution companies to accelerate the selection of the TREC Administrator, and that the TREC Administrator purchase TRECs on a monthly basis. Additionally, Staff notes that projects in the SRP pipeline as of attainment of the 5.1% Milestone will be given a new conditional registration that allows a full 12 months following attainment of the 5.1% Milestone to reach PTO, per the draft rule approved on the March 27, 2020 agenda, and posted on a preliminary basis on the Board's website.<sup>8</sup> The Board expects that solar developers will enter the TREC program and avoid taking unnecessary steps to reach PTO by the 5.1% Milestone date. Further details will be announced via the New Jersey Clean Energy Program website and email distribution lists.

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<sup>7</sup> Staff will continue to monitor the COVID-19 situation and may make further recommendations to the Board if the situation warrants.

<sup>8</sup> Specifically, the draft rule states that:

Solar electric generation facilities that have received: (i) a conditional registration for SRECs pursuant to N.J.A.C. 14:8-2.4(h)4 that has not expired, been cancelled nor commenced commercial operations prior to the 5.1% Milestone . . . that have been transferred to the Transition Incentive registration program will receive a new conditional registration. The new registration will incorporate a requirement to commence commercial operations and submit a post-construction certification package within one year of the date that the Board determines that the 5.1% Milestone has been attained.

## **DISCUSSION AND FINDINGS**

Over the past 20 years, the Legislature and the Board have taken a variety of steps to fundamentally reshape the resource mix of electric generation in New Jersey.<sup>9</sup> Among these efforts, the creation, evolution, and management of the SREC Registration Program has been paramount. The SRP has been extremely successful; it has played a key role in making New Jersey one of the most vibrant solar marketplaces in the world. Now that it must be closed, the Board is committed both to maintaining our State's position as a marketplace leader and to fulfilling the Clean Energy Act's directive to control ratepayer costs.

In large part thanks to the success of the SRP, the solar industry no longer needs the same level of subsidy that was required to support it in the past. The Legislature recognizes this and so does the Board. Having leveraged the generous ratepayer subsidies of the past twenty years, the industry can now survive and thrive at a lower cost to ratepayers. The Board anticipates that New Jersey's solar market will continue to be a vital and dynamic one as it transitions to a new incentive mechanism, but it has nonetheless made every effort to ensure that this is so. Through rulemakings and informal requests for comment, the Board has sought the input of the solar industry, the Division of Rate Counsel, the electric utilities, Low and Moderate Income advocates, and all other interested members of the public.

The record in this case is particularly complex, given that it covers multiple orders and rulemaking proceedings extending over almost two years. The Clean Energy Act includes multiple significant directives to the Board, of which few, if any, attracted more stakeholder interest and generated more discussion than the directive to close the SREC Registration Program upon attainment of the 5.1% Milestone and the associated directive to modify or replace the SRP. While the Board must close the SRP when the 5.1% Milestone is achieved, the Board has sought and continues to seek to implement that closure in the most effective way possible; in part by providing the opportunities for public stakeholder input described above.

The Board **FINDS** that the 5.1% Milestone will be attained before May 1, 2020. Therefore, the Board **ORDERS** that this determination and the closure of the SRP will be effective on April 30, 2020. The Board **ORDERS** Staff to close the SRP to new registrations on that date. The Board **FURTHER ORDERS** that only projects in the SRP pipeline that have received a PTO by April 30, 2020 from the Electric Distribution Company shall be eligible to receive SRECs. Projects in the SRP pipeline that have not received a PTO by April 30, 2020 shall be eligible for the Transition Incentive.

In compliance with the March 27, 2020 Closure Order, the Board **DIRECTS** project developers seeking to demonstrate SREC eligibility for registered projects to submit the post-construction certification package within 90 days of the date of issuance of the PTO. In compliance with the Clean Energy Act and with the Closure Order, the Board **FURTHER ORDERS** Staff to close the SRP portal for use in processing post-construction certification packages on the 91<sup>st</sup> day following April 30, 2020.

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<sup>9</sup> The Clean Energy Act amends the Electric Discount and Energy Competition Act of 1999, PL 1999, c 23, codified at N.J.S.A. 48:3-49-98.5 ("EDECA").

The Board **DIRECTS** utilities and Staff to accelerate the selection of the TREC Administrator, and **DIRECTS** the TREC Administrator to purchase TRECs on a monthly basis. The Board **FURTHER DIRECTS** Staff to work with market participants to facilitate the process for registering proposed solar electric generation facilities for TREC eligibility, with the goal of making the process as transparent and seamless as possible.

Lastly, the Board stresses that keeping safe and healthy during this epidemic is of paramount importance. The Board urges all parties to exercise responsible judgement in going on site and to maintain social distancing.

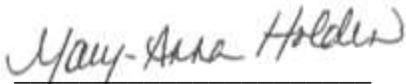
This Order shall be effective on April 6, 2020.

DATED: April 6, 2020

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

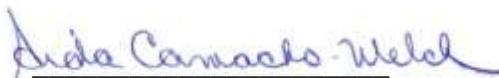


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ROBERT M. GORDON  
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ATTEST:



AIDA CAMACHO-WELCH  
SECRETARY

IN THE MATTER OF THE MODIFICATION OF THE CLOSURE OF THE SREC  
REGISTRATION PROGRAM PURSUANT TO P.L. 2018, c. 17.

BPU DOCKET NO. QO18070698

IN THE MATTER OF A NEW JERSEY SOLAR TRANSITION PURSUANT TO P.L. 2018, C.17 -  
CALCULATION OF 5.1% MILESTONE FOR SREC PROGRAM CLOSURE

BPU DOCKET NO. QO19010068

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