



Agenda Date: 10/28/21  
Agenda Item: 8H

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

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM	)	ORDER
	)	
	)	DOCKET NO. QO18060646
IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2 APPLICATION FORM AND PROCESS	)	DOCKET NO. QO20080556
	)	
	)	
IN THE MATTER OF TATLEAUX SOLAR GROUP (“TATLEAUX”) – COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2, COMMUNITY SOLAR PROJECT APPLICATIONS: TATLEAUX VINELANDCS AND TATLEAUX GLASSBOROCS	)	DOCKET NO. QO21081100

**Parties of Record:**

**Brian O. Lipman, Esq., Acting Director**, New Jersey Division of Rate Counsel  
**Steven J. Schaffer, Esq.**, on behalf of Tattleaux Solar Group

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities (“Board”) addresses a petition filed by Burns & Schaffer, Attorneys at Law, on behalf of Tattleaux Solar Group (“Tattleaux” or “Petitioner”), requesting that the Board accept a community solar application that was submitted after the application deadline (“Petition”).

**BACKGROUND**

The Community Solar Energy Pilot Program (“Pilot Program”) was established by the Board pursuant to the Clean Energy Act of 2018 (L. 2018, c. 17) (“Act” or “CEA”) through rules adopted on January 17, 2019 and published in the New Jersey Register on February 19, 2019.<sup>1</sup> The Pilot Program enables New Jersey electric utility customers to participate in a solar energy project that may be remotely located from their properties and receive a credit on their utility bills. Community solar therefore enables access to clean energy generation for utility customers currently unable to place solar generation directly on their own properties. Community solar projects are selected by the Board via a competitive solicitation process.

<sup>1</sup> 51 N.J.R. 232(a).

On October 2, 2020, the Board issued the Application Form for the Program Year 2 (“PY2”) solicitation.<sup>2</sup> The deadline for submitting applications was February 5, 2021 at 5:00 p.m. EST. In January 2021, Board Staff (“Staff”) issued supplemental instructions for submitting an application via the Board’s online e-Filing portal. The instructions guided applicants on how to create a MyNewJersey Account and upload applications. For questions about the e-Filing portal, applicants were directed to email the Board’s IT Helpdesk at [BPUITHELPDESK@bpu.nj.gov](mailto:BPUITHELPDESK@bpu.nj.gov); for questions about the Application Form, applicants were directed to email [communitysolar@njcleanenergy.com](mailto:communitysolar@njcleanenergy.com). Both the IT Helpdesk and community solar Staff were on call leading up to the deadline to resolve any technical issues. In response to questions, Staff also held an informational webinar demonstrating how to upload applications to the e-Filing portal on February 3, 2021; a recording of the webinar was circulated on the community solar listserv and was posted on the New Jersey Clean Energy Program website.

### **SUMMARY OF PETITION**

On August 25, 2021, Steven Schaffer submitted the Petition of behalf of Tattleaux regarding community solar applications Tattleaux submitted or intended to submit in the PY2 solicitation. Specifically, the Petition references three (3) projects, TattleauxVinelandCS, TattleauxGlassboroCS, and TattleauxBridgetonCS (“Vineland,” “Glassboro,” and “Bridgeton,” respectively). The Petition asks that the Board accept Tattleaux’ application for the Vineland project filed after the PY2 deadline.

The Petitioner believes that two (2) issues prevented the timely filing of its application for “reasonable and good cause.” First, Tattleaux alleges that there were technical glitches with the Board’s online portal. Copies of two (2) emails dated February 5, 2021 and February 7, 2021, respectively, were included as attachments to the Petition as evidence. Second, the Petitioner states that the lawyer for the Cumberland County Charter Schools (“CCCS”) did not send Tattleaux the signed solar lease option, property owner certification and partnership agreement documents for Vineland until the afternoon of February 5, thereby making it impossible for Tattleaux to complete the applications and submit them through the online portal on time. The Petition includes as evidence a copy of the email providing the community collaboration agreement and the signed solar lease option.

The Petition includes a description of Tattleaux’ partnership with CCCS, through which the CCCS would assist Tattleaux in signing up low- and moderate-income (“LMI”) families to participate in Tattleaux’ community solar projects. The Petition alleges that “Tattleaux needs the [Vineland] project because it wishes to provide as many CCCS families as possible with Tattleaux’ discounts on clean solar electricity.” The Petition further states that there is a “clear public benefit” that would result from the Board accepting the application for the Vineland project. Specifically, the Petitioner asserts that the discounts provided to subscribers to Tattleaux’ projects are “unmatched anywhere in the U.S.” at 50% of bill credits for LMI subscribers and 15% of bill credits for non-LMI subscribers. The Petition further states that the Vineland project will be completed “much sooner [...] than most PY2 projects because subscriber acquisition, permitting and interconnection will be quick.”

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<sup>2</sup> In re the Community Solar Energy Pilot Program, In re The Community Solar Energy Pilot Program Year 2 Application Form and Process, BPU Docket Nos. QO18060646, QO20080556, Order dated October 2, 2020.

Finally, the Petition states that, if necessary, Tattleaux is willing to “withdraw and exchange the Glassboro project’s PY2 acceptance for the Vineland project because Glassboro poses more permitting issues” that would delay its completion.

### **STAFF RECOMMENDATIONS**

First, Staff wishes to clarify the subject, circumstances, and timing of submission of Tattleaux’ applications: in the first paragraph, the Petitioner states that the Petition is about two (2) projects, Vineland and Glassboro, and that these “applications were not timely received by the Board.” The Petition further states that “Tattleaux originally submitted the completed applications for both projects shortly after the 5:00 p.m. deadline.” However, in the following paragraphs, the Petitioner states that the Board “accepted the Bridgeton and Glassboro applications that were submitted around or just after the February 5, 2021 5:00 pm deadline but rejected the Vineland application because the latter ‘missed the deadline.’” The remainder of the Petition focuses on Tattleaux’ request that the Board accept the application for the Vineland project, including a suggestion that Tattleaux would be willing to “withdraw and exchange” the Glassboro project for the Vineland project. Staff therefore understands the Petition to be specifically about Tattleaux’ application for one project, Vineland.

For the avoidance of any doubt: the Board did not accept any documents submitted “just after” the deadline. The application deadline was applied strictly, and the Board therefore did not accept any applications or supplemental information submitted after 5:00 p.m. on Friday, February 5, 2021. Staff used the automated electronic timestamp generated at the time of submission to determine whether documents had been submitted in a timely manner, and no allowances or approximations were made. Staff notes that Tattleaux was not the only applicant to submit documents after the deadline; all cases of late submittal were treated identically and were rejected.

Tattleaux’ submittal included multiple documents for each of the three (3) applications. The files associated with the Bridgeton application were all submitted before 5:00 p.m., and were all accepted as timely. For the Glassboro application, only one (1) file was submitted prior to 5:00 p.m. That document was accepted; any additional documents submitted after 5:00 p.m. were rejected. The Glassboro application was reviewed solely on the basis of the documents submitted by the deadline. Finally, none of the documents associated with the Vineland application were submitted prior to 5:00 p.m., and therefore this project is not under consideration for PY2.

Second, Staff wishes to address the Petitioner’s justifications for the delay. The fact that Tattleaux received the option to lease agreement and other documents in the afternoon of February 5, 2021 is regrettable, but is not a special circumstance outside the company’s control. Applicants were given over four (4) months to develop their applications, having been given notice on October 2, 2020 when the Board issued the PY2 Application Form. As the Applicant, it was the responsibility of Tattleaux to ensure that all required documents were collected sufficiently in advance of February 5, 2021 in order to meet the deadline.

The Petitioner also alleges that timely submission of the Vineland application was prevented due to technical glitches with the Board’s online e-Filing portal. As evidence, the Petitioner provided copies of two (2) emails. The first email was sent on February 5, 2021 at 12:12 p.m., with the subject line “URGENT – Glitch in the Fillable PDF Application Form.” The email refers to an issue with saving the PDF Application Form, stating that certain answers were being cut off when the PDF was saved. Issues with saving a PDF on the applicant’s computer are not within the Board’s

control, and are not indications that the Board's e-Filing Portal was experiencing glitches. As an additional note, the email regarding saving a PDF was sent to the wrong email address, as it was sent to the Transition Incentive Program Registration Manager, not to the either of the two email addresses provided in the instructions for submitting a community solar application. Tattleaux had previously been in contact with the community solar Program Administrator with questions about program definitions and net metered projects, as well as with the BPU IT Helpdesk for the creation of its MyNewJersey Account, and therefore had utilized the appropriate email addresses previously. The second email provided in the Petition is an email dated February 7, 2021, in which Tattleaux alleged that several technical glitches prevented the timely submission of its PY2 applications. First, the email references issues with saving the fillable PDF Application Form – issues which no other applicant reported, and which are separate from the upload of an application to the e-Filing Portal. Second, the email notes difficulties with selecting the docket number associated with community solar, and indicates that Tattleaux eventually uploaded the applications without a docket number. Finally, the email states that the button needed to transmit applications did not appear immediately on the screen.

No attempt was made by Tattleaux to communicate with Board Staff on or before February 5, 2021 via the community solar email, the community solar Program Administrator, or the BPU IT Helpdesk regarding any technical difficulties using the portal. Had Tattleaux done so, they would have received immediate assistance. Other applicants reached out with questions in using the portal. In every instance, issues that were raised with BPU Staff on or before February 5, 2021 were resolved in advance of the deadline.

In the days following receipt of the February 7, 2021 email, BPU Staff reached out to Tattleaux seeking further information. After some communication, Tattleaux appeared satisfied that its applications had been correctly uploaded to the portal; at the time, the applications had not yet been processed and therefore no determination regarding the timeliness of the submittal had been made. Given the lack of communication at the time of submission, and the absence of any actual evidence of the alleged portal glitches, Staff did not consider that there was any cause to believe that there had been a failure of the e-Filing Portal that would warrant further investigation. Rather, Staff considered that the applicant had simply not allowed sufficient time to upload its applications prior to the deadline. Staff maintains the same position today.

It is true that other applicants had reported on February 5, 2021 that the e-Filing Portal was slow, which was expected in light of the volume of applications being submitted at that time. However, in each case, Board Staff followed up and the applicants who flagged delays were successful in submitting their applications by the deadline. Furthermore, applicants had been warned that they should account for any potential issues with slow internet or upload delays and were reminded that the application deadline was a strict cut-off.

Third, the Petitioner alleges that there are unique characteristics of the Vineland project that merit special consideration. Staff respects and shares Tattleaux' enthusiasm for community solar, particularly community solar serving LMI subscribers. However, Staff notes that the solicitation for projects seeking to be awarded participation in PY2 is highly competitive: the Board received a total of 412 applications prior to the deadline, of which 411 are proposed to be LMI projects. Many of these applications include collaboration or partnerships with local municipalities, community organizations, or affordable housing providers. As such, the fact that the Vineland project is an LMI project developed in partnership with a local community organization (in this case, the Cumberland County Charter Schools), is not unique. Additionally, the statement that "the Vineland project will be completed [...] much sooner [...] than most PY2 projects" is purely speculation from the Petitioner. All applications received in PY2 have been kept highly

confidential for the duration of the evaluation process, and therefore the Petitioner has no basis for comparing the anticipated speed of completion of the Vineland project versus other PY2 applications. Furthermore, project maturity is one of the criteria considered as part of the PY2 scoring rubric. As such, it is highly likely that many PY2 applications will have sought to maximize their project maturity in order to receive points in that category. The Board has expressed preference for community solar projects that are LMI, have community partnerships, and are further along in the development process, as evidenced by the fact that all three of these criteria are included in the PY2 evaluation rubric. However, Staff believes that these characteristics will be evidenced and scored in many PY2 applications, that none are unique to the Vineland project, and therefore that this project does not warrant special treatment or consideration.

Fourth, Staff wishes to address Tattleaux' suggestion that it would substitute the PY2 award of the Glassboro project for the Vineland project. Staff believes that such a substitution would be contrary to the intent of the Pilot Program solicitation process, in which each application undergoes a detailed and rigorous review based on the specific contents of the application, and is scored following the evaluation criteria set by the Board in the PY2 Application Form. In light of this application-specific review, applications and projects are not interchangeable. Furthermore, no information regarding the status of an application's review is provided prior to a decision being made by the Board, and no application is given any special treatment. While Staff appreciates that Tattleaux believes that the Glassboro application is strong, the Petitioner cannot assume that Glassboro will be granted a PY2 award.

Fifth and finally, Staff notes that the Petition was submitted to the Board on August 25, 2021, i.e., over six and a half months after the February 5, 2021 deadline.

Staff, therefore, recommends that the Board deny the Petition.

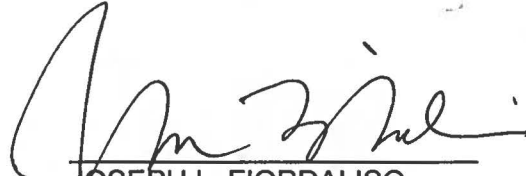
### **FINDINGS AND DISCUSSION**

The Board has reviewed the Petition and Staff's recommendations. The Board is highly supportive of community solar projects, particularly projects serving LMI customers. However, the Board has an obligation to conduct solicitations in a manner that is transparent and fair to all applicants. In this instance, the deadline for submission of applications for consideration in PY2 was set well in advance, and resources were made available to all interested parties to facilitate the submission of applications. Tattleaux' failure to timely file its applications was not the result of any fault of the Board in implementing the application process. As such, the Board **FINDS** that there was not reasonable or good cause for the delay in submittal. The Board **FURTHER FINDS** that there is no clear public benefit to treating applications submitted by Tattleaux any differently from applications submitted by other applicants. To the extent not otherwise expressly stated herein, the Board accepts and adopts Staff's Recommendations. Therefore, the Board **HEREBY DENIES** the Petitioner's request for consideration of community solar applications submitted after the PY2 solicitation deadline. The Board encourages Tattleaux to submit its applications in future community solar program years.

The effective date of this Order is November 4, 2021.

DATED: 10/28/2021

BOARD OF PUBLIC UTILITIES  
BY:

  
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AIDA CAMACHO-WELCH  
SECRETARY

IN THE MATTER OF THE COMMUNITY SOLAR ENRGY PILOT PROGRAM  
DOCKET NO. QO18060646

IN THE MATTER OF THE COMMUNITY SOLAR ENERGY PILOT PROGRAM YEAR 2  
APPLICATION FORM AND PROCESS  
DOCKET NO. QO20080556

IN THE MATTER OF TATLEAUX SOLAR GROUP (“TATLEAUX”) – COMMUNITY SOLAR  
ENERGY PILOT PROGRAM YEAR 2, COMMUNITY SOLAR PROJECT APPLICATIONS:  
TATLEAUX VINELANDCS AND TATLEAUX GLASSBOROCS  
DOCKET NO. QO21081100

SERVICE LIST

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