



Agenda Date: 1/26/22
Agenda Item: 8D

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

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| IN THE MATTER OF A NEW JERSEY SOLAR |) | ORDER |
| TRANSITION PURSUANT TO P.L. 2018, C.17 |) | |
| |) | DOCKET NO. QO19010068 |
| IN THE MATTER OF REQUEST FOR AN EXTENSION |) | |
| OF TIME TO COMPLETE NJSTRE1546561614 IN |) | |
| TRANSITION INCENTIVE PROGRAM - TESLA |) | |
| ENERGY OPERATIONS, INC. ON BEHALF OF |) | |
| ALBERTSONS, INC. |) | DOCKET NO. QO21101187 |

Parties of Record:

Kevin Auerbacher, Esq., Associate General Counsel, Tesla, Inc.
Brian O. Lipman, Esq., Director, Division of Rate Counsel

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers the petition of Tesla Energy Operations, Inc. (“Tesla” or “Petitioner”) for a further extension of its registration within the Transition Incentive (“TI”) Program.

BACKGROUND

On May 23, 2018, the Clean Energy Act was signed into law and became effective immediately.¹ Among many other mandates, the Clean Energy Act directed the Board to adopt rules and regulations to close the Solar Renewable Energy Certificates (“SREC”) Registration Program (“SREC Program” or “SRP”) to new applications once the Board determined that 5.1 percent of the kilowatt-hours sold in the State by each Third Party Suppliers and Basic Generation Service providers (“TPS/BGS providers”) had been generated by solar electric power generators connected to the distribution system (“5.1 % Milestone”). The Clean Energy Act also directed the Board to complete a study (“Capstone Report”) that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State.

¹ L. 2018, c. 17 (“Clean Energy Act” or “Act”).

On December 6, 2019, the Board established the TI Program to provide a bridge between the legacy SREC program and a to-be-developed Successor Incentive program. The TI Program, subsequently codified in rules,² provides eligible projects with Transition Renewable Energy Certificates (“TRECs”) for each megawatt hour of electricity produced. Incentives are tailored to specific project types by the use of factors, which are applied to a base incentive rate to provide a particular project type the full incentive amount or a set percentage of that amount depending on the costs and anticipated revenue streams for the project type. Projects located on rooftops receive a factor of 1.0 and thus the full amount of the base incentive. The TI Program portal opened to new applications on May 1, 2020; pursuant to Board Order, the TI Program remained open to new registrations until the establishment of a registration program for the new Successor Program.³

On April 21, 2021, BPU Staff (“Staff”) issued the New Jersey Successor Program Staff Straw Proposal (“Successor Straw Proposal”). The Successor Straw Proposal expanded on the two-pronged incentive program design suggested in the Capstone Report and provided Staff’s recommendations for suggested incentive levels, processes, market segment capacity caps, calculation of the statutorily mandated cost cap, and overall implementation of the Successor Program. Five public stakeholder workshops were conducted to address questions about the straw proposal and collect stakeholder feedback on Staff’s recommendations. Workshop #5, held on May 7, 2021, specifically addressed the proposed transition from the TI Program to the Successor Program.

On June 24, 2021, the Board granted projects registered in the TI Program on or before the effective date of the order an automatic six-month extension to their existing deadline established at N.J.A.C. 14:8-10.4(d) or (e).⁴

On July 9, 2021, Governor Murphy signed L. 2021, c.169 into law, effective immediately, authorizing the Board to develop and launch the Successor Program, among other requirements. On July 28, 2021, the Board announced the closure of the TI Program and the opening of the Successor Solar Incentive (“SuSI”) Program. The TI Program closed on August 27, 2021, and the SuSI Program opened on August 28, 2021.

Petition

On October 13, 2021, Tesla filed a petition requesting that the New Jersey Board of Public Utilities (“Board”) grant a seven-month extension to the conditional acceptance expiration date under the New Jersey Clean Energy Program (“NJCEP”) TI Program due to the estimated six to twelve months needed to complete a telemetry upgrade (“the Petition”).

² 52. N.J.R. 1850(a) (“TI Rules”).

³ In re a New Jersey Solar Transition Pursuant to P.L. 2018, c. 17, BPU Docket No. QO19010068, Order dated January 8, 2020 (“January 2020 Order”).

⁴ In re a New Jersey Solar Transition Pursuant To P.L. 2018, C.17 – Order Addressing Requests For Extension For Projects In The Solar Transition Incentive Program, BPU Docket Nos. QO19010068 & QO21060883, Order dated June 24, 2021 (“June 2021 Order”).

According to the Petition, on January 29, 2021, Tesla filed a TI registration for a 456.72 kW rooftop system located on property owned by Albertson's, Inc. Tesla indicated that the Program Administrator issued an acceptance letter on February 3, 2021 with an expiration date of February 3, 2022. The petition stated that the expiration date of the TREC Program conditional acceptance is April 20, 2022.

Petitioner stated that in May of 2021, it filed an interconnection application with Atlantic City Electric Company ("ACE").⁵ According to the petition, after technical review, ACE determined that a detailed study was required to continue the interconnection application review process, and a telemetry upgrade is required prior to granting permission to operate the system.

In the petition, Tesla stated that it anticipates the customer paying ACE's required upgrade costs "within the next two (2) months." Accordingly, the Petitioner requests a seven-month extension to allow time for ACE to complete the telemetry upgrade.

ACE Correspondence and Response

By correspondence dated August 27, 2021, ACE reported the need to upgrade the telemetry system and required installation of a remote trip push button prior to granting permission to operate ("PTO") the system. ACE estimated the cost of the upgrades to be \$45,400, and estimated the time needed to complete the upgrade at six (6) to 12 months "after receipt of a fully executed interconnection agreement, after interconnection work is invoiced, and after payment is received."⁶ ACE stated that it would need payment in full before construction could begin or approval to install could be issued.

By letter dated December 20, 2021, ACE stated that it supports the State's policy of promoting renewable energy, that Petitioner's request appears reasonable, and that ACE does not oppose the relief sought by Petitioner.

STAFF RECOMMENDATION

Staff notes that no payment for the required upgrade costs has been made to date. Upon inquiry from Staff, Petitioner stated that it would not make payment until it receives the final costs for the upgrade from ACE. ACE sent the final invoice to Albertsons Inc., the account holder on Tuesday January 25, 2022. ACE also stated that based on the schedule of other projects ahead of this one, this work most likely will take place in early May and should take only a few days to complete.

Staff also notes that the petition reflects a misunderstanding of the applicable registration expiration date. Petitioner states that its expiration date is April 20, 2022, and requested a seven-month extension of that date to November 20, 2022. In fact, as noted above, Petitioner's original expiration date was February 3, 2022, and following the automatic six-month extension granted by the June 2021 Order, the actual project completion deadline is now August 3, 2022. Although ACE's projected six (6) to 12-month time frame has not yet begun to run because Petitioner has not made the required payment, there is still time for ACE to complete its work prior to Petitioner's existing August 3, 2022 deadline, making Petitioner's extension request premature.

⁵ In response to a Staff inquiry, Tesla stated that the reason for the three-month gap between program acceptance and filing for interconnection approval was revisions to meet utility requirements.

⁶ ACE correspondence dated August 27, 2021.

Staff notes that Petitioner already benefitted from the six-month extension granted by the June 2021 Order. Additionally, the TI Program was designed as an interim measure, pending the development of a Successor Incentive Program. The Administratively Determined Incentive (“ADI”) Program opened on August 28, 2021. The TI Program is now expected to be double its previously anticipated size, and the Board’s decisions on applications such as Tesla’s, which as a rooftop project would be eligible for the highest level of TI Program incentive, will impact both the cost of the TI Program and the Renewable Portfolio Standard cost cap. Accordingly, Staff recommends that the Board deny this petition.

DISCUSSION AND FINDINGS

Following careful review of the petition and the record in this matter, the Board **FINDS** that Petitioner has not established a basis for granting a further extension at this time. The general purpose of the TI Rules, as well as the timelines contained therein, is to provide a smooth transition to the Successor Program and support to New Jersey’s thriving solar market while safeguarding the interest of the State’s ratepayers by doing so at the lowest possible cost. The Successor Program is now open. Prior to the opening of the Successor Program, the Board found good cause to waive the timelines at N.J.A.C. 14:8-10.4(d) and (e) to permit an extension of time to all projects in the TI Program, and it did so partly in recognition of interconnection delays.⁷ While the Board is sympathetic to the delays encountered by applicants during the interconnection process, the Board **FINDS** that Petitioner failed to make the required payment for necessary upgrades, and already received additional time to complete its project in the form of the six-month extension granted in June of this year.

Furthermore, Petitioner’s request to extend the TI Program deadlines for its project would necessitate an additional waiver of the TI Rules. In special cases, upon a showing of good cause the board may relax or permit deviations from the rule. N.J.A.C. 14:1-1.2(b). Additionally, the board shall waive sections of the rule if it adversely affects ratepayers, hinders safe, adequate and proper service, or is in the interest of the general public. N.J.A.C. 14:1-1.2(b)(1). While the Board understands that Petitioner may not have anticipated the amount of interconnection work required for this project, the Board does not find that this difficulty serves as a basis to waive the requirements of the TI rules. The Board must balance Petitioner’s interests as a solar developer with the public’s interest in timely completion of projects and the ratepayers’ interest in controlling the cost of solar subsidies. The TI Program was designed to be a bridge between the SRP and the now-open Successor Incentive Program. N.J.A.C. 14:8-10.1. Having found that the June 2021 Order provides additional time for the interconnection activities described in the petition and finding no further evidence of a special case or good cause to deviate from the rules, the Board **DECLINES** to waive the TI Rules to extend deadlines again for Petitioner’s project.

The Board **FINDS** that this project already benefitted from a six-month extension and may still qualify for the TI Program incentive without need of a further extension. Having carefully considered this matter, the Board **HEREBY DENIES** the petition.

⁷ June 2021 Order at 4.

The effective date of this Order is February 2, 2022.

DATED: January 26, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

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

IN THE MATTER OF REQUEST FOR AN EXTENSION OF TIME TO COMPLETE
NJSTRE1546561614 IN TRANSITION INCENTIVE PROGRAM - TESLA ENERGY
OPERATIONS, INC. ON BEHALF OF ALBERTSON, INC.
DOCKET NO. QO21101187

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