



Agenda Date: 4/12/23
Agenda Item: 8D

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

CLEAN ENERGY

IN THE MATTER OF THE COMPETITIVE SOLAR)
INCENTIVE (“CSI”) PROGRAM PURSUANT TO P.L.)
2021, C. 169)
)
) ORDER ADDRESSING
REGISTRATION
REQUIREMENTS
)
) DOCKET NO. QO21101186

Party of Record:

Brian O. Lipman, Esq., Director, New Jersey Division of Rate Counsel

BY THE BOARD:

By Order dated December 7, 2022, the New Jersey Board of Public Utilities (“Board” or “BPU”) established the Competitive Solar Incentive (“CSI”) Program.¹ The CSI Program is open to qualifying grid supply solar installations and non-residential net metered solar installations with a capacity greater than five (5) megawatts (“MW”), as well as to eligible grid supply solar installations in combination with energy storage. The first solicitation of the CSI Program opened for prequalification on February 1, 2023, and closed to bids on March 31, 2023 at 11:59:59 pm EST. Through this Order, the Board waives, for registrants awarded under the first CSI Program solicitation, the registration requirement for electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality.

BACKGROUND

On June 9, 2021, Governor Murphy signed into law the Solar Act of 2021 (“Solar Act” or “Act”).² The Act directed the Board to establish a program to incent the development of 3,750 MW of solar by 2026 by establishing a new program for incentivizing solar in New Jersey through the mechanism of Solar Renewable Energy Certificates (“SREC-IIs”). SREC-IIs represent the value of the environmental attributes produced by the solar electric power generation facility. The Act directed the Board to create both a solar facilities program for smaller projects, with administratively set incentive values, and a solicitation process for awarding contracts for grid supply solar facilities and net metered solar facilities greater than five (5) MW.

¹ In re Competitive Solar Incentive (“CSI”) Program Pursuant to P.L. 2021, c.169, 2022 N.J. PUC LEXIS 367, BPU No. [QO21101186](http://www.nj.gov/bpu/), (Dec. 7, 2022) (“CSI Order”).

² L. 2021, c. 169.

The Board took a major step forward to implementing the Solar Act on July 28, 2021, voting unanimously to implement the Clean Energy Act of 2018 (P.L. 2018, c. 17) and the Solar Act by creating the Successor Solar Incentive (“SuSI”) Program.³ The SuSI Program sets the State on a path to double its solar capacity by 2026. This target reflects both New Jersey’s 2019 Energy Master Plan and Governor Murphy’s goal of achieving 100% clean energy by 2050.⁴

The SuSI Program is divided into the Administratively Determined Incentive (“ADI”) and CSI Programs. The ADI Program, which opened to new registrants on August 28, 2021, offers a fixed incentive in the form of New Jersey SREC-IIs for net metered residential projects, net metered non-residential solar projects of five (5) megawatts (“MW”) or less, and all community solar programs. Incentive values are set administratively, following comprehensive modeling of costs and multiple rounds of stakeholder involvement. Incentive values vary by market segment; in some cases, they vary according to project size and siting.

On December 7, 2022, the Board approved the establishment of the CSI Program through the CSI Order. The CSI Program covers all grid supply solar projects (i.e., those selling into the wholesale markets) and net metered non-residential projects above five (5) MW in size. This program will award SREC-IIs through a competitive solicitation, with separate solicitations for several selected market tranches: basic grid supply, the built environment, contaminated lands, net metered over five (5) MW, and solar plus storage. On the same date, the Board approved for publication in the New Jersey Register one rule proposal codifying the CSI Program and a second implementing siting criteria required by the Solar Act.⁵

The CSI Program is structured into four (4) market segments, or tranches: basic grid supply; grid supply projects located on the built environment; grid supply projects on contaminated sites and landfills; and net metered non-residential projects greater than five (5) MW. An additional fifth tranche allows for storage in combination with a grid supply solar award. The total procurement for the first solicitation sums to 300MW. Megawatt allocations for the tranches are as follows:

Tranche	Target (MW)
1. Basic Grid Supply	140
2. Grid Supply on the Built Environment	80
3. Grid Supply on Contaminated Sites & Landfills	40
4. Net Metered Non-residential above 5 MW	40
TOTAL	300
5. Storage Paired with Grid Supply Solar	160 MWh

All projects seeking to compete in the CSI Program solicitation must prequalify, providing evidence that they meet specific tranche eligibility criteria and other project maturity requirements. After prequalification, facilities determined to be CSI-eligible will submit a bid for an SREC-II award, specified in dollars per MWh of solar electricity production, and will compete on price only. Projects may compete in all tranches for which they are eligible but will only be awarded once.

³ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, 2021 N.J. PUC LEXIS 300, BPU no. [QO20020184](#) (July 28, 2021).

⁴ 2019 New Jersey Energy Master Plan: Pathway to 2050, https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf

⁵ 55 N.J.R. 127(a) (Feb. 6, 2023); 55 N.J.R. 135(a) (Feb. 6, 2023).

To compete in Tranche 5, a solar plus storage project will provide a two-part bid: a solar-only SREC-II price (eligible to compete in tranches 1, 2 and 3) and a storage adder price that will be considered separately in the storage tranche for award of a storage adder. As noted above, the prequalification window for the first solicitation opened February 1, 2023, and the bid submission closed on March 31, 2023 at 11:59:59 PM.

After receiving an award in the solicitation, a project seeking incentives under the CSI Program will be required to submit a complete CSI Program registration with the CSI Program registration manager prior to beginning construction on the facility. The CSI Program registration manager will open the CSI registration portal to new registrations at 12:00:00 AM on April 15, 2023. With the exception of projects proposed on contaminated sites and landfills, bidders granted a CSI award will have 30 days following the Board Order announcing the award to register their CSI-eligible facility with the Board. Projects on contaminated sites and landfills will need to obtain Board approval for conditional registration, which will only be granted upon a determination of eligibility in consultation with New Jersey Department of Environmental Protection (“NJDEP”).

Prior to beginning construction on a CSI-eligible facility, developers or project owners are required to submit a complete registration package that includes:

1. a registration form;
2. a description of the project according to the specific tranche for which the project is qualified, including: type of proposed installation, MW or MWh capacity of project, GIS coordinates, address, project address, link to PJM feasibility study, and number of acres proposed for development;
3. a contract between the primary installer or the third-party owner, as applicable, and the bidder or customer of record;
4. a site plan signed and sealed by a licensed professional engineer, as defined in the pre-qualification section of the CSI Order, showing all proposed and installed ADI and CSI-eligible facilities;
5. for net metered facilities, a utility bill showing the site host’s name, address, and electric tariff;
6. electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality;
7. for net metered facilities, an executed Part 1 interconnection agreement;
8. a Milestone Reporting Form; and
9. evidence of the project’s accepted bid into the CSI program.

On March 7, 2023, Board Staff (“Staff”) issued a Request for Information (“RFI”) regarding the requirement in the CSI Order that a registration package shall include electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality. Staff invited interested parties to submit comments on the timeframe of this requirement and barriers that it might impose on parties bidding into the first CSI Program solicitation.

SUMMARY OF COMMENTS

Staff received nine (9) comments in response to the RFI from the following entities:

- Passaic Valley Sewerage Commission
- ENEL North America, Inc.
- CS Energy

- Steven P. Gouin, Esq.
- MAREC Action
- Nexamp
- New Jersey Resources Clean Energy Ventures Corporation
- North Jersey District Water Supply Commission
- Advanced Energy United and Solar Energy Industries Association

Parties that submitted comments included four (4) solar generation facility developers, two (2) industry associations, a law firm representing solar generation facility developer clients, and two (2) public entities. Eight (8) commenters stated that the electrical and building permitting requirement was inappropriate given the 30-day registration timeline provided in the Order.⁶

Commenters cited several issues:

- Electrical and building permits are usually submitted to the municipality at the final stage of project development, once all permitting and approval work has been completed;
- Permit applications and modifications are multi-step processes that are costly and time-intensive;
- For a public entity, permitting sometimes requires reviews that delay the process further;
- Requiring near-final project design and technology choices so far in advance of commencing commercial operation places untenable risk and cost on developers;
- Early permit submission means that permit applications do not reflect any subsequent technological advances over the project development timeline, leading to costly permit modifications if design choices are updated;
- The upfront costs of construction drawings and permits are sizeable and could render potential participants unable to compete.

Several commenters suggested that the registration requirement be removed entirely from the requirements; other commenters suggested that projects receive a conditional certification and must submit permits before the expiration of the conditional certification. Additionally, two (2) commenters suggested that the submission of documentation that a project's proposed use or site plan is approved or conditionally approved by host municipality be used as an alternative registration requirement.

The two (2) public entities, as well as two (2) developers, commented on an additional requirement. These commenters stated that having a contract in place between the primary installer or third-party owner and the bidder or customer of record could not be accomplished within the 30-day registration window as public entity contracts may be subject to review by State Comptroller's Office, a months-long process. Three of these parties recommended an extension of the 30-day registration period for contracts, such that contracts would be delivered within one (1) year of award.

STAFF RECOMMENDATIONS

Staff notes that the straw proposal for the CSI Program did not include the requirement for electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality. As a result, this requirement did not

⁶ The ninth commenter did not address this issue.

benefit from stakeholder feedback prior to program launch. After reviewing the comments received in response to the Request for Information, Staff believes that this requirement creates a barrier to participation in the CSI Program that outweighs the intended benefit of ensuring project maturity. Due to the lengthy development cycle for the large projects served by the CSI Program, the permitting requirement forces developers to make decisions on design and engineering at a point in project development when they may not have the information necessary to do so. Developers have expressed concern about either committing to a design that proves less than optimal or, alternatively, needing to make costly engineering changes and permit modifications to redesign the project closer to completion. One (1) public entity commenter also pointed to a lengthy review process for permitting that can significantly delay the process.

Several commenters also highlighted an issue with the requirement for a contract to be in place between the primary installer or third-party owner and the bidder or customer of record. Both public entities stated that this requirement is untenable for a public entity given both the internal approval process and external reviews that could take months. One (1) developer echoed the concerns of the public entities, while the other asserted that requiring a contract so early in the process deprived it of significant bargaining power. Three of the parties recommended that the 30-day registration period be extended for contracts, such that contracts could be delivered within one year of award.

Finally, one (1) developer asked the Board to clarify that the requirement for an “executed Part 1 interconnection agreement” may be satisfied by providing an email from the Electric Distribution Company, noting that approval is typically provided via email.

The first CSI solicitation is now open. Therefore, any developer hoping to receive an award in this initial solicitation needs to determine now whether, to comply with the permitting requirement, they should make final design and procurement decisions three years before they anticipate achieving commercial operation. Staff is concerned that some developers may elect to abstain from the solicitation. Staff believes that Board action now is necessary to avoid the unintended consequence of dampening participation in this first solicitation.

The requirement to have a contract in place by the close of the 30-day period to register, like that of building and electrical permits, did not benefit from the public stakeholder process on the straw proposal for the CSI. Staff believes that the parties have raised valid issues regarding the timeline for this requirement, particularly as it bears upon public entities. As with the permitting requirement, Staff believes that to avoid an unintended chilling of participation in the first CSI solicitation, the Board needs to act now.

Staff recommends that the Board waive, for all projects that participate in the 2023 solicitation, the registration requirement of electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality. Staff also recommends that the Board allow participants in the first solicitation to submit a contract with the primary installer or the third-party owner up to one (1) year after receiving conditional registration in CSI Program. Staff recommends that the Board direct Staff to review both requirements and suggest any modifications that will result in an effective registration process in future solicitations.

With respect to the request for clarification of the requirement for an executed Part I interconnection agreement, Staff recommends that the Board direct Staff to respond to this

request in the Frequently Asked Questions that are posted on the CSI Program solicitation website.

DISCUSSION AND FINDINGS

As the Board noted in the CSI Order, public participation is invaluable to the Board's decision-making process. Each contribution made in a public meeting or in written comments helps inform the Board's conclusions. As the registration requirements were not available for stakeholder input prior to the opening of the first solicitation, the Board did not benefit from that input.

Launching the CSI Program to incentivize large scale solar projects represents a significant step in New Jersey's impressive record of solar development. The Board wants to avoid jeopardizing the success of this program by ignoring the existence of unintended barriers to participation. The Board **FINDS** that requiring CSI registrants to provide electrical and building permits, or documentation that applications for electrical and building permits have been submitted to the relevant municipality, forces the registrants to make design and procurement decisions at too early a point in the development process. The Board **FINDS** that waiving this requirement will tend to promote participation in the CSI Program thereby increasing competition. The Board **FURTHER FINDS** that requiring registrants to supply a contract between the primary installer or the third-party owner, and the bidder or customer of record, within 30 days after receiving an award, conflicts with the timelines of internal and external review for many of those entities.

The Board **HEREBY WAIVES** the requirement for submitting electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality, for projects that participate in the 2023 solicitation. The Board also **EXTENDS** the time for registrants to supply a contract between the primary installer or the third-party owner, and the bidder or customer of record, to one (1) year after receiving notice of conditional registration in the CSI Program.

The Board **ORDERS** Staff to conduct a review of the registration requirements prior to the next solicitation. The Board **DIRECTS** Staff to address clarification of the submission of an executed Part I Interconnection agreement in the Frequently Asked Questions for the CSI Program.

The effective date of this Order is April 19, 2023.

DATED: April 12, 2023

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BY:



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PRESIDENT



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COMMISSIONER



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ATTEST:



SHERRI L. GOLDEN
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 COMPETITIVE SOLAR INCENTIVE (“CSI”) PROGRAM PURSUANT TO P.L. 2021, C. 169

DOCKET NO. QO21101186

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