

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.

On July 28, 2021, the Board took a major step toward implementing the Solar Act by creating the Successor Solar Incentive (“SuSI”) Program.² The SuSI Program is divided into the Administratively Determined Incentive (“ADI”) and the Competitive Solar Incentive (“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.

The Board’s rules for the ADI Program (“ADI Rules”) took effect February 22, 2022. N.J.A.C. 14:8-11.1 to -11.9³ The ADI Rules expressly limit ADI Program eligibility to projects utilizing new equipment, “The equipment used in an ADI-eligible facility must be new; that is, none of the equipment may have been used prior to the installation of the ADI-eligible facility.” N.J.A.C. 14:8-11.4(c).

PETITIONS

On February 17th, 2023, COMB Properties, LLC filed a petition seeking a waiver of the ADI Program Rules at N.J.A.C. 14:8-11.4(c) for a 16.15kw ground mount project located at 143 Route 94, Blairstown, NJ 07825. COMB provided that at the time of purchase in 2013 the property had partially functioning panels. The system was damaged by lightning which destroyed the inverter. Furthermore, COMB stated that the modules were operating at materially lower efficiency than when they were installed. According to the petition, COMB secured Advanced Solar and Energy Systems, LLC to install new panels and a new inverter on the existing metal framework in the fall of 2021. On November 11th, 2021, a professional engineer inspected the system and found it compliant with the applicable New Jersey standards. In December 2021 the system received permission to operate from JCP&L and was issued a NJ Certification Number by ADI Program Registration Manager TRC. On January 10th, 2022 the system was registered with GATS to receive SREC-IIs. However, on February 9th, 2022, TRC notified COMB that its system was not eligible for SREC-IIs because it re-used a number of components and thus did not comply with N.J.A.C. 14:8-11.4(c).

On March 29, 2023, a separate petition was filed by Bruce Goldsmith, seeking waiver of N.J.A.C. 14:8-11.4(c) for a 12 kW residential project located at 7 Rosedale Way, Pennington, NJ 08534. Exact Solar was the project installer. According to the petition, the system used the existing ground mount infrastructure and that infrastructure had been determined adequate by an engineering review.

STAFF RECOMMENDATION

² In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, 2021 N.J. PUC LEXIS 300, BPU No. QO19010068 (Order dated July 28, 2021) (“SuSI Program Order”).

³ 54 N.J.R. 368

As noted above, the ADI Program Rules expressly provide that no previously used material may be used in projects eligible for the ADI Program. This rule codifies a long standing Board policy of requiring new materials; incentives are determined using the cost of new materials and the labor to install those new materials. Projects reusing racking equipment would be expected to have significantly lower costs and thus provide a windfall to investors if they received the standard ADI incentives. To provide the standard incentive to a project that incorporates avoided material and labor expenses would result in an overly rich incentive for the SREC-II owner at the expense of ratepayers.

COMB asserted that the intent of N.J.A.C. 14:8-11.4(c) is to prevent only the use of used “operational” components such as panels and inverters. As the above discussion of avoided costs demonstrates, the petitioner is mistaken. The ADI incentives were developed on the basis of detailed analyses of costs and revenue streams. Where, as here, a project has not incurred all of the assumed costs, the otherwise applicable ADI incentive becomes inappropriate.

Staff also recognizes there are complex financial and environmental considerations and consequences to limiting incentive eligibility to projects which include all new materials. Both petitioners argue that their existing racking structures are suitable for their intended purpose and that denying incentives because of their reuse promotes waste. Petitioners’ argument is not without merit. Current incentive eligibility requirements may motivate removing functional equipment. Moreover, as solar installations continue to increase, the potential for reusing equipment will also increase. The solution, however, is not to provide an outsized incentive to projects that incorporate reused elements; the Board has a responsibility to protect ratepayers. Rather, there should be an investigation into how to encourage future reuse rather than requiring unnecessary infrastructure disposal. Such an investigation would entail an itemized budget breakdown to better understand New Jersey’s specific cost situation and to make recommendations on future incentive levels for projects that propose the reuse of existing equipment. In addition, any targeted incentive would have to be designed to minimize the possibility that it might hasten the disposal of functioning solar modules and inverters to facilitate reuse of the racking materials.

Staff recommends that the Board deny the Petitioners’ requests to waive requirement of all new materials in the ADI program. Staff further recommends that the Board direct an investigation into the market potential for re-use of existing solar equipment; the potential implications for providing incentives for the practice; and the establishment of a separate incentive segment within the ADI Program for projects seeking to re-use mounting material. Finally, Staff recommends that the Board clarify that the two projects will be able to earn Class-I RECs.

DISCUSSION AND FINDINGS

The Board has been a longstanding supporter of solar in New Jersey and aims to design policies and programs that will support the continued growth of the solar industry while carefully balancing the costs and benefits to ratepayers. In keeping with this mission, the Board carefully reviews the facts and circumstances of each petition, balancing the program constraints with the consequences of waivers of program rules. In the matters under review, the applicable rule states that “The equipment used in an ADI-eligible facility must be new; that is, none of the equipment may have been used prior to the installation of the ADI-eligible facility.” N.J.A.C. 14:8-11.4(c).

Having reviewed the facts presented in the two petitions, and Staff’s recommendations, the Board **FINDS** that both Petitioners did not use new mounting equipment, as is required by the ADI

Program rules, and **DECLINES** to waive the applicability of N.J.A.C. 14:8-11.4(c) in the matter of both Petitioners.

The Board acknowledges that each Petitioner tried to responsibly ascertain the suitability of the mounting equipment for reuse and acted in an environmentally conscientious manner. The Board **FINDS** that these projects are eligible for Class I RECs and **DIRECTS** staff to process their registrations accordingly. The Board **FINDS** that the environmental and financial costs of equipment reuse deserve further consideration within an expanding and maturing solar market, as do the effects of such reuse on ratepayers. The Board **DIRECTS** Staff to evaluate the market potential for re-use of mounting equipment towards determining an appropriate incentive level for such projects within the ADI Program, and to consider any necessary changes to the Board's rules.

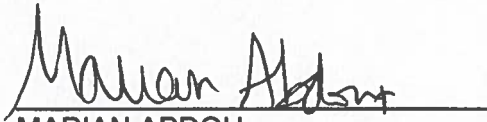
The effective date of this Order is March 27, 2024.

DATED: March 20, 2024

BOARD OF PUBLIC UTILITIES
BY:


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PRESIDENT


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COMMISSIONER


MARIAN ABDOU
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MICHAEL BANGE
COMMISSIONER

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.

I/M/O THE REQUEST FOR A WAIVER OF THE REQUIREMENT TO USE NEW EQUIPMENT
IN THE ADMINISTRATIVELY DETERMINED INCENTIVE PROGRAM AT N.J.A.C. 14:8-11.4
(C). - BRUCE GOLDSMITH - NJADRE1548327280 – Docket No. QO23030179

I/M/O PETITION TO WAIVE RULE N.J.A.C. 14:8-11.4 (C) RE: NJADRE1548563276 COMB
PROPERTIES, LLC - DOCKET NO. QO23020097

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