



Agenda Date: 8/13/25
Agenda Item: 8E

STATE OF NEW JERSEY
Board of Public Utilities
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Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF REQUEST FOR)	ORDER GRANTING WAIVER
DETERMINATION OF ELIGIBILITY IN THE)	
ADMINISTRATIVELY DETERMINED INCENTIVE)	
PROGRAM – ED JENKS NJADRE1558195117 SELF-)	DOCKET NO. QW25030112
INSTALLED)	

Parties of Record:

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

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board") considers a petition submitted by Edward Jenks ("Mr. Jenks") on December 5th, 2024 asking the Board to waive the eligibility requirements at N.J.A.C. 14:8-11.4(b) and -11.4(c) to allow his project to be eligible for solar incentives under the Board's Administratively Determined Incentive ("ADI") Program ("Petition").

BACKGROUND

New Jersey Solar Incentive Programs

On July 23, 2012, the Solar Act of 2012 was signed into law, amending and supplementing the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 to -98.5 ("EDECA").¹ The Solar Act of 2012 directed the Board to establish a program for solar renewable energy certificates ("SRECs") as a resource under the Renewable Portfolio Standards ("RPS").² The Board's SREC Registration Program ("SRP"), now closed, implemented that directive.

On May 23, 2018, the Clean Energy Act, L. 2018, c. 17 ("CEA") was signed into law. The CEA directed the Board to close the SRP to new registrations once 5.1% of the kilowatt-hours sold in the State were generated by solar electric power connected to the distribution system ("5.1%

¹ See L. 2012, c. 24; L. 1999, c. 23, § 66.

² N.J.S.A. 48:3-87(u).

Milestone”). Pursuant to the CEA, the SRP closed on April 30, 2020, following the Board’s determination that the 5.1% Milestone had been attained.

On July 9, 2021, the Solar Act of 2021 was signed into law. The Solar Act of 2021 directed the Board to create a successor incentive program that would include a program for smaller projects, with administratively set incentive values.³ On July 28, 2021, following an extensive stakeholder process, the Board implemented the Successor Solar Incentive (“SuSI”) Program by launching the ADI Program.⁴ Designed to continue support for residential and some other solar projects while reducing costs to ratepayers, the ADI program opened to new registrants on August 28, 2021. It provides a new incentive, Solar Renewable Energy Credits (“SREC”) IIs (“SREC-IIs”), whose value is set administratively and is generally lower than the value of the SRECs under the SRP program.

The Board’s rules for the ADI Program (“ADI Rules”) restrict the projects that can qualify for the ADI Program. N.J.A.C. 14:8-11.4(b) excludes projects that commenced construction prior to conditional registration in the ADI Program,⁵ while N.J.A.C. 14:8-11.4(c) limits ADI Program eligibility to projects utilizing new equipment. Solar generation facilities that fail to meet these requirements are not eligible to earn SREC-IIs; these projects only qualify for Class I Renewable Energy Certificates (“RECs”), which provide a significantly lower incentive.

Mr. Jenks’ Petition

By the Petition, Mr. Jenks sought a waiver of N.J.A.C. 14:8-11.4(b) for his twenty-six (26)-panel self-installed residential solar panel system located at his home at 21 Georges Place, Flemington, NJ, 08822. On May 14, 2025, Mr. Jenks amended his petition to include a request for a waiver of N.J.A.C. 14:8-11.4(c).

In the Petition, Mr. Jenks stated that he originally installed a 5.72-kilowatt, eighteen (18)-panel solar system on his house in 2016 (“2016 System”) with the goal of achieving net zero emissions for the building. Mr. Jenks properly registered the 2016 System in the SRP and the system began earning SRECs upon commencing operation.

Over time, Mr. Jenks’ house ceased achieving the net zero emissions for which he was aiming. After consulting with his solar designer, Mr. Jenks expanded his solar panel system; he added eight (8) panels to the 2016 System on the same net meter and received permission to operate from his electrical distribution company, Jersey Central Power & Light Company, in September 2024.

Mr. Jenks stated in the petition that he was unaware that, after he had registered the 2016 System, the SRP had been replaced by the ADI Program, which had different eligibility requirements. Therefore, he did not attempt to register the expanded system in the ADI Program before he began construction. Nor did he realize that the ADI Rules required that all equipment be new.

³ See L. 2021, c.169, codified at N.J.S.A. 48:3-114 through -116.

⁴ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, BPU Docket No. QO20020184, Order dated July 28, 2021.

⁵ The date used to determine commencement of construction is the date of receiving permission to operate from the electric distribution company.

After the newly installed panels began generating energy, Pennsylvania-New Jersey-Maryland Interconnection, LLC Environmental Information Services, Inc (“PJM-EIS”), which administers the Generation Attributes Tracking System (“GATS”) through which SRECs and SREC-IIs are created, notified Mr. Jenks that the system was producing more energy than allowed for its registered size and was out of compliance.⁶ Mr. Jenks then filed his petition.

Discussions Between Staff and Mr. Jenks

In communications with Board Staff (“Staff”) after filing the Petition, Mr. Jenks stated that removal of the 2016 System and installation of a completely new system would not make sense for him because the installation cost would exceed the incentives the system could earn over its qualifying life.⁷ Mr. Jenks also stated that given the logistical challenges of adding a new meter, it would be costly and inefficient to install a second net meter to measure separately the generation from the eight new panels. Mr. Jenks also informed Staff that he estimated the average value of the SRECs received by the 2016 System under the SRP to be approximately \$200 per megawatt hour.

DISCUSSION AND FINDINGS

The Board’s rules state that “[i]n special cases and for good cause shown, the Board may . . . relax or permit deviations from these rules.”⁸ The rules go on to explain that “[t]he Board shall, in accordance with the general purpose and intent of the rules, waive section(s) of the rule if full compliance with the rule(s) would adversely affect the ratepayers of a utility or other regulated entity, the ability of said utility or other regulated entity to continue to render safe, adequate and proper service, or the interests of the general public.”⁹ In considering a waiver request related to the ADI Program, the Board considers first, whether waiving the rule(s) is in accordance with the general purpose and intent of the ADI Program and second, whether denying this waiver would harm the public interest.¹⁰

In considering Mr. Jenks’ request for waivers of the ADI Program eligibility rules, the Board is mindful that the general purpose and intent of the ADI Program is to encourage the continued orderly development of solar energy generation in the State while reducing the cost to

⁶ Staff then directed PJM-EIS to deactivate the GATS account for Mr. Jenks’ entire system until the compliance issues were resolved.

⁷ Mr. Jenks estimated that the cost of new engineering drawings, rewiring, inverter, trenching, and electrical work for an entirely new system would aggregate to \$4,500-\$5,500.

⁸ N.J.A.C. 14:1-1.2(b).

⁹ N.J.A.C. 14:1-1.2(b)(1).

¹⁰ In re the Verified Petition of AB Newark (Fund IV) Operating, LLC for Approval of a Waiver of the Co-Location Restrictions for the Administratively Determined Incentive Program for the Anheuser-Busch Newark Brewery Rooftop and Canopy Solar Project, BPU Docket No. QW23120927 and In re the Verified Petition of NJ Terminal Solar, LLC for Waivers of Certain Administratively Determined Incentive Program Requirements, and Related Relief, BPU Docket No. QW24050361 and In re the Verified Petition of Tuckahoe Road Solar Project 2020, LLC and Clayton Road Solar Project 2020, LLC for Approval of a Waiver of the Co-Location Restrictions for the Administratively Determined Incentive Program for the Williamstown High School and Williamstown Middle School Solar Projects, BPU Docket No. QW25030179, Order Dated May 21, 2025.

ratepayers.¹¹ As discussed above, both the 2016 System and the new panels feed into the same net meter. Although Mr. Jenks did not address this fact in the Petition, this configuration means that it is impossible to determine how much of the energy exported to the grid is produced by the 2016 System and is eligible for the SRP incentive, and how much is produced by the panels added in 2024 and presently ineligible for any incentive. Thus, at present, the entire system is ineligible for incentives under either program.

However, the Board is persuaded that Mr. Jenks expanded his solar facility in good faith to achieve a net-zero home and that he did so with the expectation that the additional panels would be eligible for a solar incentive. At the same time, the Board recognizes that the 2016 System benefited from the estimated \$200/MWh incentive of the SRP for almost seven (7) years, while the current value of SREC-IIs for small residential systems is \$85 per MWh.

In light of these facts, the Board **FINDS** that waiver of N.J.A.C. 14:8-11.4(b) and -11.4(c) to allow the entire system to register in the ADI Program is consistent with the general purpose of the ADI Program because it avoids stranding the system without an incentive and thus furthers the orderly development of solar generation. The prohibition in N.J.A.C. 14:8-11.4(b) on commencing construction prior to conditional registration in the program is intended to ensure that only projects that need the incentive will receive it, while the requirement of N.J.A.C. 14:8-11.4(c) that all equipment be new reflects the fact that incentive levels were developed on the assumption that registrants would have incurred the cost of new equipment and that these incentives would be excessive for a project that did not incur those costs.¹² Both rules seek to control the cost to ratepayers. Here, transitioning Mr. Jenks' entire system to the ADI Program will reduce the value of the incentive received by the 2016 System to \$85/MWh, while limiting the qualification life of the entire system to that of the 2016 System. This will achieve the goal of controlling costs, while also providing a mechanism for Mr. Jenks to continue to receive incentives for his system. Providing the same incentive to the entire system also eliminates the need for a second revenue grade meter, which Mr. Jenks has stated would be prohibitively costly for him.

Additionally, the Board **FINDS** that denying this petition would harm the public interest. The Board recognizes the importance of waiving ADI Rules for residential solar customers that invest in solar in the expectation of incentives but are unaware of changes in specific incentive requirements.¹³ Refusing to waive the ADI Rules would strand Mr. Jenks' entire solar facility without incentives and tend to chill participation in the solar market. Thus, waiving this requirement will benefit the public interest by encouraging residential solar development and the benefits of clean energy.

¹¹ 53 N.J.R. 1337(a) (August 16, 2021).

¹² In re a Successor Solar Incentive Program Pursuant to P.L. 2021, C. 169, BPU Docket No. QW22030128, et al., Order dated October 12, 2022; In re 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, BPU docket No. QO23030179 and In re Petition to Waive Rule N.J.A.C. 14:8-11.4 (C); RE: NJADRE1548563276 Comb Properties, LLC, BPU Docket No. QO23020097, Order dated March 20, 2024.

¹³ See 54 N.J.R. 368(a) (comment 9) ("The Board has encountered a number of situations where a project was built with the expectation of receiving an incentive in a specific incentive program, but for some reason, failed to meet all of the requirements of the program... The Board's experience is that this type of "incentive cliff" creates significant difficulty in financing renewable energy infrastructure and increases the cost of all solar projects in the State. Such a result would be chilling to the State's solar industry and would tend to undermine its renewable generation goals.").

Having found good cause, the Board **HEREBY WAIVES** the prohibition against commencing construction prior to receipt of the ADI Program notice of conditional registration enumerated in N.J.A.C. 14:8-11.4(b) and the prohibition against reusing old materials enumerated in N.J.A.C. 14:8-11.4(c). The Board **GRANTS** the petition.

The Board also recognizes that, as a result of this waiver, petitioner will benefit from an incentive for which it would not otherwise qualify. Thus, the Board **FURTHER FINDS** good cause, under these particular facts and circumstances, to transition Mr. Jenk's 2016 System from the SRP to the ADI program and modify the date on which the SREC-II qualification life begins. The Board **DIRECTS** Mr. Jenks to work with PJM-EIS GATS to close his existing SRP account. The Board **HEREBY WAIVES** N.J.A.C. 14:8-11.6(a) to the extent necessary to permit the SREC-II qualification life for Mr. Jenk's entire system to commence on November 15, 2016, the day Mr. Jenks began commercial operation of his 2016 System, and end on May 31, 2032, as provided by the rules for the legacy SRP.¹⁴ After the qualification life for the 2016 System ends, the entire system will be eligible for Class I RECs.

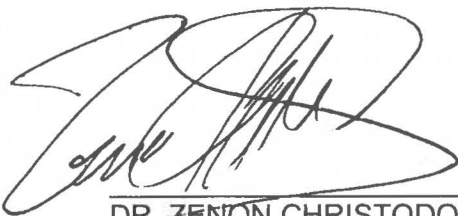
The effective date of this Order is August 20, 2025.

DATED: August 13, 2025

BOARD OF PUBLIC UTILITIES
BY:



CHRISTINE GUHL-SADOWY
PRESIDENT



DR. ZENON CHRISTODOULOU
COMMISSIONER



MICHAEL BANGE
COMMISSIONER

ATTEST:



SHERRI L. LEWIS
BOARD SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities.

¹⁴ N.J.A.C. 14:8-2.2; 41 N.J.R. 1261(a), March 16, 2009.

IN THE MATTER OF REQUEST FOR DETERMINATION OF ELIGIBILITY IN THE ADMINISTRATIVELY
DETERMINED INCENTIVE PROGRAM - ED JENKS NJADRE1558195117 SELF-INSTALLED

BPU DOCKET NO. QW25030112

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