



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

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 A SUCCESSOR SOLAR INCENTIVE PROGRAM PURSUANT TO P.L. 2021, c. 169) ORDER ALLOWING CERTAIN
) ADI PROJECTS TO BEGIN
) CONSTRUCTION PRIOR TO
) RECEIVING CONDITIONAL
) REGISTRATION
)
) DOCKET NO. QO20020184

Parties of Record:

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BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board") considers a limited waiver of N.J.A.C. 14:8-11.4(b) to allow projects that submit a complete Administratively Determined Incentive ("ADI") initial registration package through the ADI online registration portal to begin construction before they receive conditional registration and remain eligible for the ADI Program.

BACKGROUND

New Jersey Solar Incentive Programs

On July 9, 2021, the Solar Act of 2021 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 2021 directed the Board to establish a program for Solar Renewable Energy Certificates ("SREC-IIs") that would include a program for smaller projects, with administratively set incentive values.² On July 28, 2021, following an extensive stakeholder process, the Board implemented

¹ See L. 2021, c.169, codified at N.J.S.A. 48:3-114 through -116; L. 1999, c. 23, § 66.

² See L. 2021, c.169, codified at N.J.S.A. 48:3-114 through -116.

the Successor Solar Incentive (“SuSI”) Program by launching the ADI Program.³ Designed to continue support for residential and smaller net-metered non-residential solar projects while reducing costs to ratepayers, the ADI Program opened to new registrants on August 28, 2021. It provides eligible developers fixed-price SREC-IIs for each megawatt-hour of solar energy they generate for the grid.

The Board’s rules for the ADI Program (“ADI Rules”) require projects to receive conditional registration in the ADI Program prior to commencing construction. N.J.A.C. 14:8-11.4(b).⁴ Solar generation facilities that fail to meet this requirement are not eligible to earn SREC-IIs; these projects only qualify for Class I Renewable Energy Certificates, which provide a significantly lower incentives.

Federal Investment Tax Credits

On August 16, 2022, the Inflation Reduction Act (“IRA”) was signed into law.⁵ The IRA expanded the Investment Tax Credit (“ITC”) for clean energy projects from 2022 through 2032 to a thirty percent (30%) credit for qualified expenditures, including costs to install residential and commercial solar panels. The ITC for residential clean energy installation was codified at Section 25D of the United States Tax Code.⁶ Residential solar owners could qualify for this tax credit for their solar panel installation expenditures during the past calendar year if they placed their solar panel system in service after December 31, 2024.⁷ The ITC for commercial clean energy installations was codified at Section 48E of the United States Tax Code.⁸ Commercial solar owners could also qualify for this tax credit for their solar panel installation expenditures during the past calendar year if they placed their solar panel system in service after December 31, 2024.⁹

³ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, BPU Docket No. QO20020184, Order dated July 28, 2021.

⁴ The date used to determine commencement of construction is the date of receiving permission to operate from the electric distribution company.

⁵ Pub. L. No. 117-169, H.R. 5376, 117th Cong. (2021-2022).

⁶ 26 U.S. Code § 25D.

⁷ 26 U.S. Code § 25D does not explicitly define “placed in service” in terms of the Clean Energy ITC. However, the Internal Revenue Service (“IRS”) has defined “placed in service” for other laws as “the date the property is ready and available for a specific use.” Internal Revenue Service, Depreciation of Property, Publication 946, (2024) https://www.irs.gov/publications/p946#en_US_2024_publink1000107292. This term is thus understood to be when a solar panel developer receives permission to operate their system from their utility.

⁸ 26 U.S. Code § 48E.

⁹ Pub. L. No. 117-169, H.R. 5376, 117th Cong. (2021-2022).

On July 4, 2025, the House of Representatives Bill 1 (“HR1”) was signed into law.¹⁰ HR1 amended the clean energy tax credit program and created a termination deadline for residential ITCs on December 31, 2025.¹¹ HR1 also amended the language regarding project construction requirements for clean energy ITCs. Whereas previously residential installers could only qualify if their panels were placed in service, the amended provision permits residential installers to claim the ITC for “expenditures made” before the program termination deadline.¹²

HR1 also created a “begin construction” deadline for commercial ITCs on July 4, 2026, and a program termination deadline on December 31, 2027.¹³ Additionally, recent federal actions indicate that significant investments will be required to “begin construction.” On July 7, 2025, President Donald Trump issued an executive order titled “Ending Market Distorting Subsidies for Unreliable, Foreign-Controlled Energy Sources.”¹⁴ This order directed the Secretary of the Treasury to strictly enforce the termination of clean energy tax credits and to issue new and revised guidance to redefine projects that have begun construction as projects where “a substantial portion of a subject facility has been built.”¹⁵

These changes to the ITC have caused a surge in applications, particularly residential ones, to the ADI Program as installers attempt to receive conditional registration in this program so they may begin construction and satisfy the ITC requirements before the new deadline. As a result of the surge in applications, the Board’s Program Administrator reports a delay of approximately two (2) to four (4) weeks between the submission of a complete ADI initial registration package and the issuance of a conditional registration by the Program Administrator.

¹⁰ Pub. L. No. 119-21, H.R. 1, 119th Cong. (2025).

¹¹ *Id.* at § 70506(a); Pub. L. No. 117-169, H.R. 5376, 117th Cong. (2021-2022).

¹² Pub. L. No. 119-21, H.R. 1, 119th Cong. (2025); Pub. L. No. 117-169, H.R. 5376, 117th Cong. (2021-2022); 26 U.S. Code § 25D(e)(8) (the statute defines “expenditure made” as “when the original installation of the item is completed” or “when the original use of the constructed or reconstructed structure by the taxpayer begins.” The statute does not define this term further. However, because the “placed in service” term means when a developer receives permission to operate, we can infer that “expenditure made” refers to the step before “placed in service” where a developer finishes construction yet has not received permission to operate their panels from their utility).

¹³ Pub. L. No. 119-21, H.R. 1, 119th Cong. (2025) § 70513(a), (f)(5); Pub. L. No. 117-169, H.R. 5376, 117th Cong. (2021-2022); Internal Revenue Service, Beginning of Construction for Purposes of the Renewable Electricity Production Tax Credit and Energy Investment Tax Credit, Notice 2018-59, (June 2018) <https://www.irs.gov/pub/irs-drop/n-18-59.pdf>. The current IRS policy provides that a developer begins construction when they start physical work of a significant nature, such as the manufacture of project components or equipment or installation of racks or structures to affix solar panels; or spend five percent or more of the total cost of the energy property and makes continuous efforts to advance towards completion.

¹⁴ 90 Fed. Reg. 30821 (July 7, 2025).

¹⁵ *Id.* at § 3a; Pub. L. No. 119-21, H.R. 1, 119th Cong. (2025) § 70512(J) (stating that the IRS may issue new guidance to clarify, modify, or update the beginning construction requirements).

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."¹⁶ 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."¹⁷ In considering a waiver 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.¹⁸

In considering a waiver 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 ratepayers.¹⁹ As discussed above, changes to federal ITCs have drastically altered the ITC timeline and eligibility requirements. Residential installers who previously expected to take advantage of these credits over the next several years now only have four (4) months to construct their projects before the safe harbor deadline. Additionally, commercial installers have only eleven (11) months to "begin construction", and the vague "substantial portion" requirement raises concerns about what amount of construction is needed by the deadline to qualify.

In light of these facts, the Board **FINDS** that a limited waiver of N.J.A.C. 14:8-11.4(b) to allow developers to begin construction after submitting a complete ADI initial registration package through the ADI online registration portal but before receiving conditional approval is consistent with the general purpose of the ADI Program to further the orderly development of solar generation. By allowing residential installers that submit a complete ADI initial registration package to commence construction prior to receiving conditional registration, this waiver will remove an administrative delay of approximately two (2) to four (4) weeks and help alleviate some of the time pressures imposed by the changed federal ITC deadline, thereby promoting the orderly development of solar generation in the State. This waiver will also provide short term relief for installers of small commercial and industrial projects, who may face time pressure due to new potential IRS guidance about what amount of work is required to "begin construction" by the July 4, 2026, deadline. The prohibition in N.J.A.C. 14:8-11.4(b) on commencing construction prior to conditional registration in the ADI Program seeks to control costs to ratepayers by ensuring that

¹⁶ N.J.A.C. 14:1-1.2(b).

¹⁷ N.J.A.C. 14:1-1.2(b)(1).

¹⁸ 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.

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

only projects that need the incentive will receive it.²⁰ In the current exigent circumstances, waiving this rule for these projects accords with the intent of the rule because the Board will only waive this requirement for those who apply for pre-approval, thereby demonstrating that they expect and need ADI incentives. The Board also **DIRECTS** the electric distribution companies to expedite, to the fullest extent possible, processing interconnection applications for residential customers ahead of the December 31, 2025 deadline.

Additionally, the Board **FINDS** that enforcing the rule strictly would harm the public interest. The Board recognizes that the ITCs are a valuable incentive that often determine whether a solar installation is an affordable investment. Recognizing that the end of the ITCs will likely chill participation in the solar market by increasing the cost of installing solar panels, the Board seeks to provide installers as much time as possible to qualify for the ITC program before it ends. Thus, waiving this rule will benefit the public interest by providing additional solar energy generation that might not otherwise have been built.

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) for net-metered residential and net-metered non-residential projects that submit a complete ADI initial registration package through the ADI online registration portal for pre-approval into the ADI Program and begin construction without notice of conditional registration to meet the ITC deadline. This waiver does not apply to projects registering in the Community Solar Energy Program or Remote Net Metering market segment.²¹ Notwithstanding this waiver, construction commenced prior to receipt of conditional approval is undertaken at the risk of the parties involved as stated in N.J.A.C. 14:8-11.4(b). This waiver shall take effect immediately and end on December 31, 2025, for residential and net metered non-residential solar projects. The Board also **DIRECTS** Board Staff ("Staff") to monitor any IRS guidance regarding the "begin construction" requirement and **AUTHORIZES** Staff to extend the end date for this waiver for net metered non-residential solar projects until July 4, 2026, if necessary.

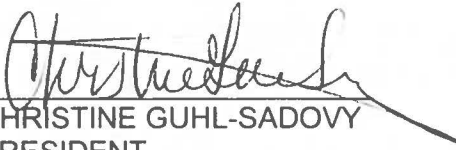
²⁰ In re A Successor Solar Incentive Program Pursuant to P.L. 2021, C. 169, BPU Docket No. QW22030128, et al. Order dated October 12, 2022.

²¹ This waiver also does not apply to projects in the Competitive Solar Incentive ("CSI") Program, which is not a part of the ADI Program.

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

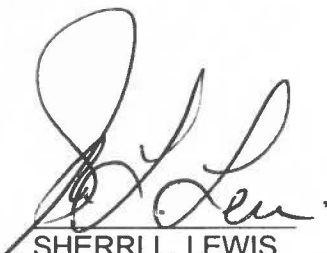
DATED: August 13, 2025

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BY:


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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.

IN THE MATTER OF A SUCCESSOR SOLAR INCENTIVE PROGRAM PURSUANT TO P.L. 2021, c. 169

BPU DOCKET NO. QO20020184

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