

Agenda Date: 1/28/26
Agenda Item: 8C

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

IN THE MATTER OF THE VERIFIED PETITION OF) ORDER
AMERESCO, INC. FOR A WAIVER OF THE BOARD'S)
RULES AT N.J.A.C. 14:8-11.4(i) TO PERMIT THE JOINT)
BASE SOLAR PROJECT TO PARTICIPATE IN THE)
COMPETITIVE SOLAR INCENTIVE PROGRAM) DOCKET NO. QW25070448

Parties of Record:

Steven S. Goldenberg, Esq., Giordano, Halloran & Ciesla, P.C., on behalf of Ameresco, Inc.

BY THE BOARD:

By this Decision and Order, the New Jersey Board of Public Utilities ("Board") considers a petition filed on July 25, 2025, by Ameresco, Inc. ("Ameresco" or "Petitioner") regarding an 8.75 megawatt ("MW") net-metered solar generation facility located on 25.13 acres at Joint Base McGuire-Dix-Lakehurst ("Joint Base") in the Borough of Wrightstown and New Hanover Township, Burlington County, New Jersey ("Petition"). This facility was submitted as the North Run Solar Farm ("Project") in the third solicitation of the Competitive Solar Incentive ("CSI") Program. By the Petition, Ameresco sought a waiver of the Board's rules at N.J.A.C. 14:8-11.4(i) that restrict eligibility for the CSI Program to projects that have not commenced commercial operation.

BACKGROUND

On July 9, 2021, the Solar Act ("Act") became law, effective immediately. Among other requirements, the Act directed the Board to establish a comprehensive program to provide incentives for the development of at least 3,750 megawatts ("MW") of new solar generation by 2026. The Act directed the Board to create both a solar program for smaller projects, with administratively set incentive values, and a competitive solicitation process for awarding contracts to grid supply solar facilities and net metered solar facilities greater than five (5) MW. By Order dated July 28, 2021, the Board launched the Successor Solar Incentive ("SuSI") Program.¹ Qualifying facilities participating in the SuSI Program receive one (1) Solar Renewable Energy Certificate-II ("SREC-II") for each megawatt-hour ("MWh") of solar electricity produced.

¹ In re a Solar Successor Incentive Program Pursuant to P.L. 2018, c.17, BPU Docket No. QO20020184, Order dated July 28, 2021.

By Board Order dated December 7, 2022, the Board approved the establishment of the CSI Program to fulfill the statutory requirement for a competitive procurement program within the SuSI Program umbrella.² Rules establishing the CSI Program and codifying the accompanying siting criteria were published in the New Jersey Register on December 18, 2023.³ The Board adopted amendments to these rules on January 21, 2025.⁴

The CSI Program is open to qualifying grid supply solar projects (i.e., those selling into the wholesale markets), energy storage paired with a grid supply facility, and net metered non-residential projects greater than five (5) MW in size. The CSI Program provides for solar projects to qualify in one of five market tranches:

- Tranche 1: Basic Grid Supply
- Tranche 2: Grid Supply on the Built Environment
- Tranche 3: Grid Supply on Contaminated Sites and Landfills
- Tranche 4: Net Metered Non-residential Projects above five (5) MW
- Tranche 5: Energy Storage Paired with Grid Supply Solar⁵

For each solicitation, the Board sets the solicitation window during which projects must prequalify by providing evidence that they meet maturity requirements and specific tranche eligibility criteria. The prequalification requirements for the program are detailed at NJAC 14:8-11.10(d); additional eligibility requirements are found at N.J.A.C. 14:8-11.4, and include the following at (i):

The CSI Program shall only be open to new facilities that have not commenced commercial operation, unless the Board grants a waiver in response to a petition filed in accordance with the requirements at N.J.A.C. 14:1-1.2(b), and to facilities that were registered in either the TI or ADI Program, but failed to commence commercial operations and/or submit the post-construction certification package by the applicable expiration dates. If construction is commenced on a facility prior to receipt of conditional registration, such construction shall be undertaken at the risk of the party(ies) involved. Additionally, facilities seeking eligibility in the CSI Program that were not previously registered in the TI or ADI Program, must submit a registration and receive a notice of conditional registration, pursuant to N.J.A.C. 14:8-11.5(g), prior to beginning construction on the facility.

Applications are administratively reviewed by the solicitation manager, and prequalified CSI projects submit a bid for a SREC-II award in their tranche, specified in dollars per MWh ("\$/MWh") of solar electricity production. Solicitation awards are made based exclusively on bid price.

² In re Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, c.169, Order Launching the CSI Program, BPU Docket No. QO21101186, Order dated December 7, 2022 ("CSI Program Order").

³ 55 N.J.R. 2555(a).

⁴ 57 N.J.R. 200(b).

⁵ CSI Program Order at 15, 44.

By Order dated April 23, 2025, the Board set the prequalification window for the third solicitation to open May 14, 2025 and close to bids on July 23, 2025 at 11:59:59 PM.⁶ The Board also made several modifications to the CSI Program and set confidential price caps for each competitive tranche in the solicitation in the April 23 Order.

On July 4, 2025, the Act to Provide for Reconciliation Pursuant to Title II of H. Con. Res. 14 ("H.R.1")⁷ was signed into law, followed on July 7, 2025, by the issuance of Executive Order ("EO") 14315.⁸ H.R.1 directs the phase out of the federal investment tax credit ("ITC"), such that wind and solar projects must begin construction within twelve (12) months of the enactment of H.R.1 to be eligible for the tax credit. EO 14315 directs the Secretary of the Treasury of the United States to issue guidance within forty-five (45) days on the termination of tax credits for wind and solar renewable energy generation facilities, including clarification of safe harbor and "beginning of construction" guidance. This guidance was issued on August 15, 2025.

By Order on July 16, 2025, in response to these federal actions, the Board extended the solicitation window for the third solicitation until September 30, 2025, at 11:59:59 PM EST. The Board intended this extension to allow potential CSI Program applicants to access complete information on the above-described changes to federal taxation policies, as those changes could impact their bid.⁹

Petition

On July 25, 2025, Ameresco filed the Petition seeking a waiver of the CSI Program rules at N.J.A.C. 14:8-11.4(i) that restrict participation to "new facilities that have not commenced commercial operation," which is defined at N.J.A.C. 14:8-11.2 as having obtained permission to operate ("PTO") from the electric distribution company. The Petitioner stated that, with the delay of the solicitation closing ordered by the July 16 Order, the Project will obtain PTO from Jersey Central Power & Light Company ("JCP&L") before the Board's action announcing CSI awards, in violation of the Board's rules.

According to the Petition, the Project is an integral part of a multi-phase renewable energy and energy efficiency project that includes battery storage and heating, air conditioning and ventilation. Ameresco stated that the Project will be integrated into a microgrid, intended to provide electricity to the Joint Base, which was anticipated to begin operation, testing and commissioning on or about October 25, 2025. Petition at 16-17. Petitioner averred that it is performing the work under a contract obligation to the United States, with set contractual deadlines. To comply with these contractual deadlines, Ameresco indicated that it had been targeting an in-service day of October 25, 2025, for over a year. According to Petitioner, this schedule was predicated in part on the anticipated timeline of the third CSI solicitation, which it expected to open in January or February 2025. However, the Order opening the solicitation was repeatedly deferred and the solicitation did not open until late in April 2025. Petition at 18-21.

⁶ In re Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, c.169, Price Cap Determination for the Third Solicitation of the CSI Program, BPU Docket No. QO21101186, Order dated April 23, 2025. ("April 23 Order").

⁷ Pub. L. No. 119-21, H.R. 1, 119th Cong. (2025)

⁸ Exec. Order No. 14315, 90 FR 30821 (2025).

⁹ In re Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, c.169 - Order Extending the Third Solicitation of the CSI Program, BPU Docket No. QO21101186, Order dated July 16, 2025.

Once the third solicitation opened, Petitioner claimed that in anticipation of the original July 23 solicitation closure it completed the CSI prequalification requirements in a timely manner and received notice of prequalification on June 30, anticipating awards no later than September 2025. On that timeline, Petitioners believe that their “very competitive bid” would have received an award before the Project commenced commercial operations; however, the Board’s extension of the solicitation window meant that the Project is likely to receive PTO before receiving an award and would therefore violate SuSI rules. Stating that it does not have the ability to alter the Department of Defense-approved schedule for the Project, Petitioner asserted that these circumstances constitute “good cause” for the requested relief. According to Petitioner, there is no viable pathway for the Project in other Board programs, such as ADI, and Petitioner should not be penalized for getting its work done on time by losing CSI eligibility for the Project.

On September 29, 2025, following the submission of the petition and based on information submitted therein, Board Staff (“Staff”) issued a prequalification denial letter for the Project (“Denial Letter”). This letter cited a violation of the Board’s rules at N.J.A.C. 14:8-11.4(i), specifically the portion which states that a CSI project must receive a letter of conditional registration prior to commencing construction. According to the Petition, Ameresco intended to complete construction of the Project prior to October 25, 2025, and had been targeting that date for over a year. Staff understood this statement to mean that although it did not yet have a conditional registration, the Petitioner had commenced construction significantly before that target date. Thus, Staff determined that the Project was in violation of the Board’s rules. On September 30, 2025, however, Staff issued a second letter reversing the denial, stating that, because the Board had yet to rule on Petitioner’s request for a waiver of the Board’s rules, the Project would be considered prequalified for the purpose of allowing Petitioner to submit a bid subject to the Board’s ruling on the instant petition.

On January 12, 2026, Petitioner filed a supplement to the petition to notify the Board that the Project has not yet obtained PTO or commenced commercial operation. Petitioner stated that construction of the Project was completed November 2025, with testing performed in December 2025. Petitioner further stated that it anticipates the Joint Base issuing a Certificate of Completion, which is needed before JCP&L will schedule an inspection, in the near future. Petitioner stated that the target date for PTO is now likely to occur after the Board issues awards and thus argued that the Project should be deemed eligible to participate in the third solicitation without a waiver. In the event that the Project receives PTO prior to the award, Petitioner continued to contend that a waiver should be granted.

DISCUSSION AND FINDINGS

The Board recognizes the significant benefits associated with the expansion of local, distributed, renewable, non-polluting sources of energy and has long supported solar development in New Jersey. Board policies and programs support the continued growth of the solar industry while carefully balancing the costs and benefits to ratepayers. The CSI Program forms the first incentive structure designed to facilitate large-scale grid supply solar development in the State, a type of solar development which has been shown in other states to provide clean energy at competitive prices. By incentivizing CSI-eligible facilities pursuant to the Solar Act, the Board provides a reliable funding source that assists in securing financing and driving a project to fruition.

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.” N.J.A.C. 14:1-1.2(b). 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.” N.J.A.C. 14:1-1.2(b)(1).

As noted above, Ameresco maintains that it has demonstrated good cause for the Board to waive the SuSI rule limiting participation in the CSI Program “to new facilities that have not commenced commercial operation.” N.J.A.C. 14:8-11.4(i). Petitioner argues that, but for the delay in the opening of the third solicitation, coupled with the Board’s decision to extend the solicitation window by over two months, the Project would have received an award in the third solicitation prior to commencing commercial operations.

The Board does not find Petitioner’s arguments persuasive. While the Board acknowledges Ameresco’s efforts in working with the United State Department of Defense to implement energy resilience strategies on the Joint Base, the Board understands that a contract with the United States government provides this Project an additional level of financial certainty compared to many others. The purpose of the CSI Program is to provide incentives to projects that could not otherwise be built; this purpose underlies the requirement in the SuSI rules that only projects that have not commenced commercial operation are eligible for an incentive. The facts presented by Petitioner indicate that the Project could be built, and has been built, without an incentive. Thus, the facts here do not support a waiver of the rule. Moreover, the Petitioner fails to demonstrate any specific harm resulting from not receiving an award in the CSI Program; indeed, the Project is already anticipated to reach PTO without any Board incentive and at no additional cost to New Jersey ratepayers.

In addition, Petitioner stressed that the Project, as a part of a larger energy project on the Joint Base, “has been carefully designed, contracted and budgeted in accordance with Department of Defense requirements” and acknowledges the Project’s “long-planned trajectory.” The Petitioner’s Approval to Install, submitted as a required element of the CSI prequalification application, further supports the extended Project timeline – it was issued by JCP&L in 2021. The Board notes that the CSI Program was launched in December of 2022 and that two (2) solicitations have already occurred. Both solicitations overlapped with the Project’s timeline; the first opened to prequalification applications on February 1, 2023, and the second opened November 27, 2023. As the Petitioner notes, no projects were awarded in Tranche 4 in either solicitation, suggesting capacity would have been available to the Project. While the third CSI Program solicitation did open later than the Petitioner expected, Petitioner has not explained why it did not participate in either previous CSI Program solicitation. Such participation could have allowed the Project to comply with N.J.A.C. 14:8-11.4(i) by receiving an award before beginning construction or commencing commercial operations, thus avoiding the violation cited by Staff in the Denial Letter. However, the Project’s “long-planned trajectory,” and its expectation of receiving PTO in the near future demonstrate that construction began well before an award in the third solicitation could be received. Petitioner’s January 12 supplement to the Petition asserts the Project has not yet received PTO—and may not receive PTO before an award would be issued—but this does nothing to change the fact that the Project began construction prior to conditional registration in violation of the SuSI Program rules at N.J.A.C. 14:8-11.4(i).

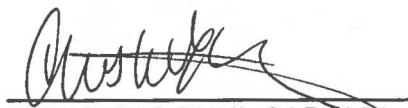
The Board **FINDS** that the Petitioner attests to the existence of a contract with the United States Department of Defense and has failed to show a need for an incentive in the CSI Program. The Board **FINDS** that Petitioner has not identified a specific harm resulting from not receiving such an incentive. As the anticipated PTO date for the Project was known before the opening of the third CSI Program solicitation, the Board **FINDS** that Petitioner knew or should have known that its Project would not comply with N.J.A.C. 14:8-11.4(i) and the CSI Program requirements. The Board **FURTHER FINDS** that, based on the Project information submitted by the Petitioner, the

Project had opportunities prior to the third solicitation to apply for a CSI Program incentive, and did not do so. The Board FINDS that the Petitioner has not demonstrated good cause pursuant to N.J.A.C. 14:1-1.2(b) for the Board to waive its rules at N.J.A.C. 14:8-11.4(i) and HEREBY DENIES the petition for a waiver of the eligibility requirements for the CSI Program. The Board therefore ORDERS that the Petitioner's bid shall not be considered for an SREC-II award. Because the bid will not be considered, as the Project is not eligible for participation, the Board DIRECTS that the \$1,000/MW bid fee be returned to the Petitioner. The Board FINDS that after receiving PTO, the Project may register for Class I Renewable Energy Certificates.

This Order shall be effective on February 4, 2026.

DATED: January 28, 2026

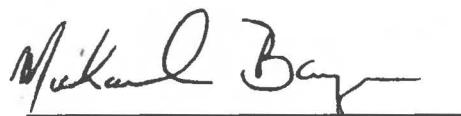
BOARD OF PUBLIC UTILITIES
BY:



CHRISTINE GUHL-SADOV
PRESIDENT

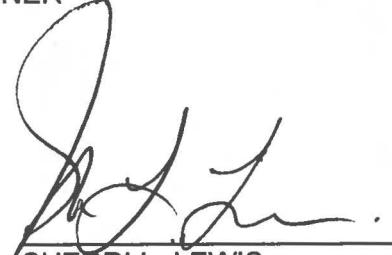


DR. ZENON CHRISTODOULOU
COMMISSIONER



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 THE VERIFIED PETITION OF AMERESCO, INC. FOR A WAIVER OF THE BOARD'S RULES
AT N.J.A.C. 14:8-11.4(i) TO PERMIT THE JOINT BASE SOLAR PROJECT TO PARTICIPATE IN THE
COMPETITIVE SOLAR INCENTIVE PROGRAM

DOCKET NO. QW25070448

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