



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF VERIFIED AMENDED PETITION )  
OF NJ BRANDYWINE 305 FELLOWSHIP, LLC, NJ )  
BRANDYWINE 307 FELLOWSHIP, LLC, NJ )  
BRANDYWINE 303 FELLOWSHIP, LLC, NJ )  
BRANDYWINE 308 HARPER, LLC, NJ BRANDYWINE )  
309 FELLOWSHIP, LLC, AND NJ BRANDYWINE 700 )  
EASTGATE, LLC FOR A DECLARATORY RULING )  
THAT PROJECTS #NJADRE1550891725, )  
#NJADRE1550875503, #NJADRE1550881861, )  
#NJADRE1550890991, #NJADRE1550903922, AND )  
#NJADRE1550890992 ARE NOT CO-LOCATED )  
UNDER THE SUCCESSOR SOLAR INCENTIVE )  
REGULATIONS )

ORDER

DOCKET NO. QO24060415

**Parties of Record:**

**James Laskey, Esq.**, on behalf of Aspen Power Partners LLC

**BY THE BOARD:**

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers the petition of NJ Brandywine 305 Fellowship, LLC, NJ Brandywine 307 Fellowship, LLC, NJ Brandywine 303 Fellowship, LLC, NJ Brandywine 308 Harper, LLC, NJ Brandywine 309 Fellowship, LLC, and NJ Brandywine 700 Eastgate, LLC, subsidiaries of Aspen Power Partners LLC (“Petitioners”), for a finding that their projects are not co-located or, in the alternative, a waiver of the rule regarding co-location in the Successor Solar Incentive (“SuSI”) Program.

**BACKGROUND**

On July 9, 2021, Governor Murphy signed into law the Solar Act of 2021 (“Solar Act”),<sup>1</sup> which directed the Board to establish a program to incent the development of at least 3,750 MW<sup>2</sup> of new solar capacity by 2026. The new program would provide eligible solar energy facilities with a

<sup>1</sup> L. 2021, c. 169; N.J.S.A. 48:3-114 through -121.

<sup>2</sup> All references to solar capacity in megawatts are measured in direct current.

Solar Renewable Energy Certificate II (“SREC-II”) for each megawatt-hour of electricity supplied to the grid.

The Solar Act provided that the small solar facilities program would incentivize “net metered solar facilities less than five megawatts in size, as measured in direct current, or another size specified by the board.” N.J.S.A. 48:3-116(a). On July 28, 2021, following a stakeholder process, the Board established the SuSI Program, comprised of two subprograms: 1) the Administratively Determined Incentive (“ADI”) Program for net metered residential facilities, net metered non-residential facilities of 5 MW or less, and community solar facilities; and 2) the Competitive Solar Incentive (“CSI”) Program for grid-supply solar projects and net metered non-residential projects above 5 MWdc.<sup>3</sup> These programs were subsequently codified in rules. N.J.A.C. 14:8-11. The ADI Program opened to new registrations on August 28, 2021. On December 7, 2022, the Board established the CSI Program; the first solicitation of the CSI Program opened for prequalification on February 1, 2023, and closed on March 31, 2023.

Since the ADI Program provides a fixed incentive and greater certainty than the competitive structure of the CSI Program, the Board recognized that developers might be incentivized to divide a net metered project that would otherwise be over 5 MW and CSI-eligible into smaller, ADI-eligible projects. Likewise, the ADI Program provides a larger incentive for projects under 1 MW in size than for those larger and could create the same perverse incentive to separate projects that would otherwise have been a single larger project. In order to deter such artificial division and encourage participation in the CSI Program or in the large net metered ADI market segment, the Board placed restrictions on the location of multiple projects on the same property or on contiguous properties. The Board’s rules define “co-location” as “siting two or more SuSI-eligible solar facilities on the same property or on contiguous properties”<sup>4</sup> and set the following restrictions co-location in the ADI Program:

1. Co-located net metered facilities that serve the same net metering customer as defined at N.J.A.C. 14:8-4 may sum to a capacity of no more than five MW in the ADI Program;
2. Co-located community solar and/or remote net metered facilities may sum to a capacity of no more than five MW unless sited on:
  - i. Rooftops of separate buildings on different properties; or
  - ii. A landfill that is owned by a public entity and is not properly closed at the time of registration, in which case, the total capacity of all the co-located community solar and/or remote net metered facilities may sum to no more than 10 MW; and
3. Co-located net metered facilities shall receive the lowest incentive value available to any of the facilities as if registered either individually or aggregated. The registration packages of such co-located facilities shall include an affidavit accepting the lowest incentive.

N.J.A.C. 14:8-11.4(f).

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<sup>3</sup> In re a New Jersey Solar Transition Pursuant to P.L. 2018, c. 17, BPU Docket No. QO19010068, Order dated July 28, 2021.

<sup>4</sup> N.J.A.C. 14:8-11.2

## **PETITION**

On June 17, 2024, NJ Brandywine 305 Fellowship, LLC, and NJ Brandywine 307 Fellowship, LLC (together “Original Petitioners”) filed a petition requesting a declaratory ruling that their respective solar projects at 305 Fellowship Road and 307 Fellowship Road in Mount Laurel, New Jersey,<sup>5</sup> are not co-located, or, in the alternative, a waiver of the Board’s rule at N.J.A.C. 14:8-11.4(f), which requires that co-located facilities receive the lowest incentive available whether registered individually or aggregated. Original Petitioners stated that the projects are not co-located because they are owned by separate legal entities and are separate net metering customers. According to the Original Petitioners, the projects are located on separate properties, were designed and financed separately, and have separate meters and utility accounts. Original Petitioners further stated that a waiver of the co-location restrictions would be consistent with the Board’s policies.

On February 3, 2025, in response to further communication from the SuSI Program Manager, Petitioners filed an amended petition with additional Petitioners NJ Brandywine 303 Fellowship, LLC, NJ Brandywine 308 Harper, LLC, NJ Brandywine 309 Fellowship, LLC, and NJ Brandywine 700 Eastgate, LLC, and their respective solar projects at 303 Fellowship Road, 308 Harper Drive, 309 Fellowship Road, and 700 East Gate Drive in Mount Laurel, New Jersey.<sup>6</sup> These projects are located adjacent to those in the original petition and in the same situation as those projects.

The six projects covered by the amended petition are non-residential net metered canopy projects submitted to the ADI Program on November 22, 2022. Each project is individually smaller than 1 MW. The Petitioners applied for the Small Net-Metered Non-Residential located on Rooftop, Carport, Canopy and Floating Solar market segment in the ADI Program, which has an SREC-II incentive level of \$110. The Board’s SuSI Program registration manager informed Petitioners on April 4, 2024, that the projects at 305 Fellowship Road and 307 Fellowship Road were co-located and requested an affidavit accepting the lower incentive level because their aggregate capacity was greater than 1 MW and therefore would qualify for the Large Net-Metered Non-Residential located on Rooftop, Carport, Canopy and Floating Solar market segment, which has an SREC-II incentive level of \$100.

Petitioners argued that the projects should not be deemed co-located because they serve “separate net metering customers”. According to the Petitioners, each Petitioner individually owns the electrical equipment used for net metering each project; the equipment for each project is connected to an individual meter; and each project serves only the building at each property. Petitioners also stated that the projects do not serve “a [single] customer” and are not connected by “a [single] meter” and that therefore they serve “separate net metering customers”.

In the alternative, Petitioners contended that the Board should grant a waiver of the co-location restrictions because strict implementation of the rules would be inconsistent with the Board’s reasons for creating the co-location restrictions. Petitioners claimed that they are not attempting to “game the system” because the projects were designed and financed prior to the establishment of the ADI Program. Petitioners also noted that a waiver would support the State’s goals of 100 percent clean energy and would remove the “threat of a co-location determination” against similarly situated future solar development. In addition, Petitioners maintain that a waiver would be consistent with the rule because the plain language of the rule allows co-located projects that

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<sup>5</sup> Registrations NJADRE1550891725 and NJADRE1550875503.

<sup>6</sup>Registrations NJADRE1550881861, NJADRE1550903922, NJADRE1550890991, and NJADRE1550890992.

aggregate to greater than 5 MW in the Community Solar Energy Program if those projects are located on the rooftops of separate buildings on different properties.

Finally, Petitioners stated that because the projects were designed to service individual properties and because there would not have been a practical way for a single integrated solar array to serve the separate buildings, the projects had not been artificially divided into smaller co-located projects for the purpose of receiving a lower incentive level. Rather, the projects “just happen to be located in the same area” but “are legally separated and owned by different entities.”

## **DISCUSSION AND FINDINGS**

The Board is authorized to relax or waive its rules pursuant to N.J.A.C. 14:1-1.2, which provides that the rules may be liberally construed to permit the Board to carry out its statutory functions. In considering whether to grant a request for a waiver, the Board looks to the standards provided in this rule. In special cases upon a showing of good cause the Board may relax or permit deviations from the rule. N.J.A.C. 14:1-1.2(b). Additionally, the Board shall waive sections of the rule if it adversely affects ratepayers, hinders safe, adequate and proper service, or is in the interest of the general public. N.J.A.C. 14:1-1.2(b)(1). In considering a waiver request related to solar programs, the Board weighs the interest of the developers and the customers to be served; the State’s renewable energy development goals; its interest in controlling the cost of solar subsidies to ratepayers; and the benefits of facilitating a smooth transition for solar projects and developers.

New Jersey has a strong and diverse landscape of solar development, and the Board has a long history of facilitating its continued health and expansion to meet clean energy goals and offer economic opportunities to a variety of commercial players. Through its array of solar programs, the Board intends to provide opportunities to many different types of consumers seeking to take advantage of the benefits of solar, and to many different types of companies providing the materials and services needed to deliver these benefits. The diversification of solar has increasingly led to a diversification of needs, both in terms of incentives and in terms of rules governing development. Thus, the Board developed the ADI and CSI Programs with the goal of providing the necessary incentives required for solar development of both large and small facilities at the lowest cost to ratepayers. As noted above, the ADI Program provides fixed SREC-II incentive values in order to provide certainty in available incentives for net metered projects smaller than 5 MW, while accounting for the different cost profiles of these projects by providing different incentives for different market segments.

It is in this context that the Board rejects Petitioners’ argument that the projects should not be considered co-located. As a threshold issue, the Board notes that amended rules took effect on March 17, 2025. The rules in effect at the time of the petition were more favorable to Petitioners, and the Board has analyzed their arguments under the then-current rules; however, Petitioners’ arguments fail under either version of the rule. The projects in question are sited on adjacent properties, thus falling within the Board’s definition of co-location, “siting two or more SuSI-eligible solar facilities on the same property or on contiguous properties.”

The Board’s rule at the time of submission of the petition provided an exemption to the co-location definition to net metered projects that “serve separate net metering customers<sup>7</sup> as defined at

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<sup>7</sup> A net metering customer is defined as “a customer that owns and/or operates electrical wires and/or equipment that is connected to the EDC’s electric distribution system through a meter used for net metering.” N.J.A.C. 14:8-4.2.

N.J.A.C. 14:8-4.”<sup>8</sup> However, that exemption does not apply to the subject projects. Each individual project serves the same customer: the owner of each building is Map Ground Lease Owner, LLC, and Map Ground Lease is named as the utility account owner for each building’s meter. A single company does not constitute multiple customers because it owns multiple meters. While Petitioners state the projects are not connected by “a [single] meter,” the use of singular nouns in the Board’s definition of “net metering customer” does not exclude a single customer, particularly a non-residential customer, from having more than one meter. In fact, it is a common arrangement for companies to have multiple meters and utility account numbers, on the same or multiple tax parcels, each of which has independently connected solar projects. The Petitioners state that “separate entities own and/or operate the electrical wires and/or equipment that is connected to the EDC’s electrical distribution system,” but the Board rejects the premise that these are separate entities. All of the purpose-created subsidiary companies share the same beneficial owner. Furthermore, the ADI Registration Certification Form for each project lists MAP Ground Lease Owner, LLC, as the company name under “Premise Contact and System Location,” and the Solar Power Purchase Agreement (PPA) Disclosure Form for each project also lists MAP Ground Lease Owner, LLC as the customer. Similarly, the Board previously considered the case of four projects serving Williamstown Middle School and Williamstown High School, which were owned by separate legal entities, were developed and financed separately, and had separate meters and EDC accounts, and found that the projects were nonetheless co-located, as the same board of education contracted for the installation of the systems and paid the electric bills for both entities, and the two schools are located on adjacent properties.<sup>9</sup>

The Board now turns to the Petitioners’ request for a waiver of the requirement that co-located projects receive the lowest incentive available if the projects were registered individually or in aggregate. The Board accepts Petitioners’ statement that these projects were designed prior to the launch of the ADI Program and its requirements, such that Petitioners were not trying to game the system or circumvent the Board’s rules. The Board acknowledges that the projects were always designed to serve individual buildings and that it would be infeasible for a single solar generation facility to net meter all of their consumption together. However, the projects are still eligible for incentives through the ADI Program. In this program, the Board developed its co-location rules in conjunction with its market segments for scenarios such as this one when projects are built in the same area as part of a single development. All the projects were developed together, as evidenced by the contract between the primary installer, Safari Energy, LLC, and the customer, MAP Ground Lease Owner, LLC, which covers the solar arrays built on all the relevant properties; the interconnection applications were submitted on the same date, the ADI Program registrations were submitted on the same date, and construction was near-simultaneous. The co-located projects have a combined capacity of 4.38 MW, which is substantially larger than the 1 MW threshold the Board set for large projects. Although the projects were initially designed during the Transition Incentive Program, the projects remain eligible for the ADI Program; thus, Petitioners do not have to fear being pushed to the CSI Program, with the attendant uncertainties.

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<sup>8</sup> The rules defined co-location as “siting two or more SuSI-eligible solar facilities on the same property or on contiguous properties, such that the individual facilities are eligible for a higher incentive value than they would be if they were combined into one single facility. In the case of net metered projects, SuSI-eligible solar facilities shall . . . not be deemed co-located if they serve separate net metering customers as defined at N.J.A.C. 14:8-4” and prohibited co-location in the ADI program “unless the Board grants a waiver in response to a petition.”

<sup>9</sup> 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, Docket No. QW25030179, Order dated May 21, 2025.

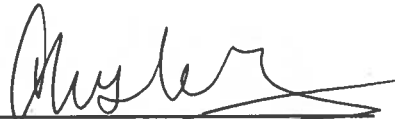
A waiver would only grant Petitioners a higher incentive. The Board notes that Petitioners are already receiving SREC-IIs for their projects' solar production at the value for the Large Net-Metered Non-Residential located on Rooftop, Carport, Canopy and Floating Solar market segment.

After review of the petition and the record in these matters, the Board **FINDS** that the subject projects are co-located on contiguous properties and do not serve different net metering customers. The Board **FINDS** that the subject projects are co-located and are not eligible for the incentive for small projects. The Board **FURTHER FINDS** that Petitioners failed to adequately demonstrate good cause to justify a waiver of the ADI Program rules. The Board therefore **DENIES** the waiver request in the petition.

The effective date of this Order is April 29, 2026.

DATED: April 22, 2026

BOARD OF PUBLIC UTILITIES  
BY:



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PRESIDENT



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COMMISSIONER



MICHAEL BANGE  
COMMISSIONER

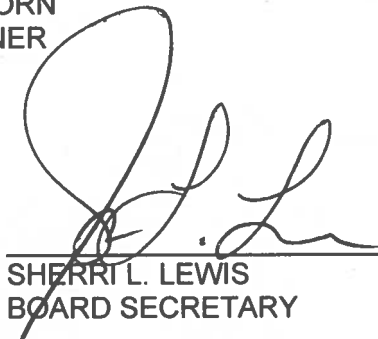


EMMA REBHORN  
COMMISSIONER



JOSEPH COVIELLO  
COMMISSIONER

ATTEST:



SHERRIL 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 VERIFIED AMENDED PETITION OF NJ BRANDYWINE 305 FELLOWSHIP, LLC, NJ BRANDYWINE 307 FELLOWSHIP, LLC, NJ BRANDYWINE 303 FELLOWSHIP, LLC, NJ BRANDYWINE 308 HARPER, LLC, NJ BRANDYWINE 309 FELLOWSHIP, LLC, AND NJ BRANDYWINE 700 EASTGATE, LLC FOR A DECLARATORY RULING THAT PROJECTS #NJADRE1550891725, #NJADRE1550875503, #NJADRE1550881861, #NJADRE1550890991, #NJADRE1550903922, AND #NJADRE1550890992 ARE NOT CO-LOCATED UNDER THE SUCCESSOR SOLAR INCENTIVE REGULATIONS

DOCKET NO. QO24060415

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