

PUBLIC UTILITIES

(a)

BOARD OF PUBLIC UTILITIES

Competitive Solar Incentive Program Notice of Proposed Substantial Changes Upon Adoption to Proposed Amendments

Proposed Changes: N.J.A.C. 14:8-11.5 and 11.10

Proposed: February 6, 2023, at 55 N.J.R. 127(a).

Authorized By: New Jersey Board of Public Utilities, Christine Guhl Sadovy, President, Mary-Anna Holden, Dr. Zenon Christodoulou, and Marian Abdou, Commissioners.

Authority: N.J.S.A. 48:2-12, 48:3-49 et seq., 48:3-87, 48:3-115, and 48:3-119.

BPU Docket Number: QX22100653.

The deadline for comments on this notice of proposed substantial changes upon adoption is 5:00 P.M., on February 16, 2024.

Please submit comments directly by using the Board of Public Utilities' (Board) Public Document Search tool, search for the specific docket listed above, and post by utilizing the "Post Comments" button. Written comments may also be submitted. Please include subject matter and docket number and submit to:

Secretary of the Board
44 South Clinton Ave., 1st Floor
PO Box 350
Trenton, NJ 08625-0350
Attn: BPU Docket Number: QX22100653
Email: board.secretary@bpu.nj.gov
Phone: 609-292-1599

All comments are considered "public documents" for purposes of the State's Open Public Records Act. Commenters may identify information that they seek to keep confidential by submitting it in accordance with the confidentiality procedures set forth at N.J.A.C. 14:1-12.3.

Take notice that the Board of Public Utilities proposed amendments and a new rule at N.J.A.C. 14:8-11 on February 6, 2023, at 55 N.J.R. 127(a). The existing rule established the Successor Solar Incentive Program and one of two subprograms covered therein: the Administratively Determined Incentive (ADI) Program. The ADI Program provides an incentive for net metered residential facilities, net metered non-residential facilities five megawatts or less, and community solar facilities. The proposed amendments and new rule clarified registration requirements for the ADI Program and established rules for the Competitive Solar Incentive (CSI) Program, the second of the two subprograms under the Successor Solar Incentive Program. The CSI Program provides incentives for qualifying grid supply facilities, net metered non-residential facilities greater than five megawatts, and certain electricity storage facilities that are combined with grid supply solar installations. Specifically, the amendments and new rule:

1. Established the specifics of the CSI Program design, which includes implementation of an SREC-II award for CSI-eligible facilities determined through a competitive solicitation;
2. Established the CSI Program structure, so that it consists of separate procurement categories, or tranches, to ensure that a range of competitive solar project types qualify to receive SREC-IIs; and
3. Added language incorporating project qualification and maturity requirements that aim to strike a balance between minimizing development risk or burden on developers and supporting projects that can be successfully built and produce SREC-IIs within a reasonable timeframe. The registration requirements at N.J.A.C. 14:8-11.5(d)2 provide the minimum maturity standards that CSI-eligible facilities must meet to participate in the program and the documentation required for verification.

The public comment period closed on May 15, 2023.

The Board is proposing a substantial change to the amendments in response to a comment received from New Jersey Division of Rate Counsel (RC) on N.J.A.C. 14:8-11.10(j). A summary of the comment

which prompted the change, and the agency response, is provided below. This notice of proposed substantial changes is published pursuant to N.J.S.A. 52:14B-4.10.

Comments on the original proposal were received from Atlantic City Electric (ACE), New Jersey Division of Rate Counsel (RC), and Public Service Electric & Gas Company (PSEG).

General Comments

N.J.A.C. 14:8-11.10 Competitive Solar Incentive Solicitation Design

1. COMMENT: The commenter strongly supports the use of confidential price caps at N.J.A.C. 14:8-11.10(j), but suggests that the provision, as proposed, does not provide sufficient safeguards to ensure competitive results that reduce ratepayer costs. The commenter recommends that more rigorous bid evaluation is warranted. As currently proposed, the commenter believes that the price cap would be discretionary, would pose an unnecessary procedural hurdle before each solicitation, and would require Board review without the context provided by the actual results of the solicitation. The commenter recommends the following language in lieu of N.J.A.C. 14:8-11.10(j): "Confidential price caps based on assessments of market conditions shall be established for each tranche prior to each solicitation, and there will be an assessment of the competitiveness of the pricing resulting from the solicitation. If the Board determines that a project or projects would breach a price cap, that have been bid at prices that are not competitive, any and all such bids will be rejected regardless of whether the targeted number of megawatts in that tranche or tranches has been met." (RC)

RESPONSE: The Board thanks Rate Counsel for its support and suggestions. The Board partially integrates Rate Counsel's suggested language into proposed N.J.A.C. 14:8-11.10(j), allowing the Board to exercise discretion in considering SREC-II bid submissions in relation to the confidential, pre-determined price caps established for any and all competitive tranches. The Board considers that price caps set before the opening of a solicitation window are intended to protect ratepayers against excessive bid prices, and incentive levels are capped at prices sufficient to facilitate development of large-scale solar projects in New Jersey at the lowest viable cost to New Jersey ratepayers. However, the Board understands that changes in macroeconomic conditions including, but not limited to, interest rates and energy and capacity market prices may occur on an abbreviated timescale compared to the solicitation window, and price caps determined at the start of the solicitation may not represent best available fiscal data at the close of the solicitation. Therefore, the Board proposes that the price caps may be revised by Board Order based on an updated assessment of fiscal parameters used to set the price caps for a given solicitation. The Board declines to include the requirement that any and all bids that breach a price cap will automatically be rejected regardless of whether the targeted number of megawatts in that tranche or tranches has been met. Rather, the Board may use additional tools to consider successful bids: electing to award bids that do not exceed the price caps by more than 10 percent, adjusting the number of megawatts awarded in a tranche in response to bid prices above or below the confidential price caps, or rejecting any bids above the confidential price caps where the Board determines the bid prices are not competitive.

Summary of Agency-Initiated Change:

The Board is proposing a substantial change to proposed N.J.A.C. 14:8-11.5(d)2iv, which relaxes an administrative burden of the rule following Board action taken through a Board Order on April 12, 2023. The Board Order addressing registration requirements sought to eliminate unintended barriers to participation in the first solicitation of the CSI Program created by two registration requirements. See *Competitive Solar Incentive ("CSI") Program Pursuant to P.L. 2021, c. 169, 2023 N.J. PUC LEXIS 54* (Apr. 12, 2023). In that Board Order, the Board waived the requirement for submitting "electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality," proposed at N.J.A.C. 14:8-11.5(d)2iv, for projects that participated in the first solicitation. The Board waived this requirement because, as it learned from stakeholder comments, it created a barrier to participation in the CSI Program that outweighed the intended benefit of ensuring project maturity. Due to the lengthy development cycle for the large projects served by the CSI

Program, the permitting requirement would force participating projects to make decisions on design and engineering at a point in project development when they may not have the information necessary to do so. The Board directed Board staff to review the registration requirements for participation in the CSI Program initially promulgated by Board Order and subsequently proposed at 55 N.J.R. 127(a) and suggest any modification to program rules that would result in an effective registration process for future solicitations. The Board now proposes changes to the building and electrical permit registration requirements of the CSI Program, which were initially proposed, but not yet adopted, at N.J.A.C. 14:8-11.5(d)2iv. Specifically, the Board proposes to amend language for permitting requirements for registrants in the CSI Program to instead require documentation of applications for land use permits and approvals, including municipal and/or county site plan approvals, soil conservation district approvals, and any permitting required by the Pinelands or Highlands Commissions. The Board proposes this substantial change to its rule proposal in order to avoid jeopardizing the success of this program by ignoring the existence of unintended barriers to participation.

Effect of Proposed Change on Impact Statements Included in Original Proposal

The changes to the proposed amendment and new rule will not affect the impact statements included in the original rule proposal. The changes modify a specific registration requirement that CSI Program registrants must supply to confirm eligibility in the program and provide the Board the ability to consider the competitiveness of SREC-II bids received during a program solicitation and make awards that may exceed the confidential price caps based on this consideration. These changes will not affect the Social, Economic, Jobs, Agriculture Industry, or Racial and Ethnic Community Criminal Justice and Public Safety Impacts; the Federal Standards Statement; the Regulatory Flexibility Statement; or the Housing Affordability or Smart Growth Development Impact Analyses, as published in the original proposal.

Full text of the proposed substantial change to the proposed amendments follows (additions to proposal indicated in italicized boldface *thus*; deletions from proposal indicated in italicized cursive brackets *{thus}*):

SUBCHAPTER 11. SUCCESSOR SOLAR INCENTIVE PROGRAM

14:8-11.5 Successor Solar Incentive Program registration process

(a)-(c) (No change.)

(d) The registrant shall meet minimum facility maturity standards according to the ADI or CSI Program conditions and provide all required documentation as part of its initial registration package.

1. (No change.)

2. For the CSI Program, the registrant shall supply the following and any other information the Board, or its designee, may deem necessary to confirm eligibility for the program:

i.-iii. (No change.)

{iv. Electrical and building permits or documentation that applications for electrical and building permits have been submitted to the relevant municipality;}

iv. Evidence of filed applications or approvals for all discretionary land use approvals and entitlements applicable to the project, such as municipal zoning permit or municipal site plan approval, county site plan approval, soil conservation district approval, and Pinelands Commission or Highlands Commission approval, with a list of all land use permits to be applied for;

v.-viii. (No change.)

(e)-(l) (No change.)

14:8-11.10 Competitive solar incentive solicitation design

(a)-(i) (No change.)

(j) The Board may establish, by Board Order, confidential, pre-determined price caps based on assessments of market conditions for any, or all, tranches prior to the solicitation. {If the Board determines that a project would breach a price cap, further procurement in the affected tranche or tranches will not be undertaken. Procurement shall cease regardless of whether the targeted number of megawatts

in that tranche or tranches has been met.} If the Board establishes confidential price caps, the Board may:

1. Revise confidential price caps by Board Order, based on an updated assessment of relevant parameters, including cost of capital, revenue expectations, and net installation and operational costs as specified in the Board Order establishing the caps;

2. Elect to award bids that do not exceed the price caps by more than 10 percent;

3. Adjust the number of megawatts awarded in a tranche, if bid prices are above or below any confidential pre-determined thresholds established for the solicitation; and/or

4. Reject bids above the confidential bid threshold, where the Board determines that the bid prices are not competitive and/or are not fiscally responsible, regardless of whether the targeted number of megawatts in that tranche or tranches has been met.

(k)-(l) (No change.)

STATE

(a)

DIVISION OF ELECTIONS

Elections

Proposed New Rules: N.J.A.C. 15:10

Authorized By: Tahesha Way, Lieutenant Governor/Secretary of State.

Authority: N.J.S.A. 19:23-45.3, 19:31-6.4a through 6.9, 19:31-30, 19:31-38, and 19:59-13.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2023-123.

Submit comments by February 16, 2024, to:

New Jersey Division of Elections
ATTN: Donna Barber
PO Box 304
Trenton, NJ 08625-0304
Email: donna.barber@sos.nj.gov

The agency proposal follows:

Summary

N.J.A.C. 15:10 expired on March 31, 2021, and the Department of State (Department) proposes to adopt the expired rules as new rules without change. The expired rules proposed herein as new rules augment and clarify Title 19 of the New Jersey Statutes providing a positive impact on election administration for all interested properties. Moreover, the expired rules proposed herein as new rules have a beneficial impact on the citizens of New Jersey in that they will be apprised of the specific procedures for voter registration, receipt of voter registration forms, and the procedures for declaring party affiliation. The expired rules proposed herein as new rules will also have a beneficial impact on people with disabilities in that specific guidelines are set forth on the accessibility of polling places, including providing for the establishment of a "Voting Accessibility Advisory Committee" in each county whose responsibilities will include, but are not limited to, inspection of all polling places and reporting to the Secretary of State regarding the status of polling places and present a plan to the Secretary of State that will specifically outline all measures that will be undertaken in order to comply with the mandates of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and P.L. 2005, c. 146.

Subchapter 1 sets forth the purpose and scope of Chapter 10, the definitions used throughout Subchapter 1, the rules governing voter registration applications, the Federal standards governing voter registration applications, and the voter registration complaint procedure.

Subchapter 2 sets forth the rules governing voter declaration of a political party, the responsibilities of municipal clerks, county of election