



**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 THE VERIFIED PETITION OF )  
GLC - (NJ) NACR 2, LLC FOR APPROVAL OF AN )  
EXTENSION OF TIME TO COMPLETE THE )  
CONDITIONS PRECEDENT UNDER ITS EXTENSION )  
REQUEST FOR SOLAR RENEWABLE ENERGY )  
CERTIFICATE (SREC) PURCHASE SALE )  
AGREEMENTS (PSA) WITH ROCKLAND ELECTRIC )  
COMPANY )

ORDER

DOCKET NO. EO12060555V

**Parties of Record:**

**James H. Laskey, Esq.**, Norris, McLaughlin & Marcus, P.A., on behalf of GLC (NJ) NACR 2  
**Stephanie Brand, Esq.**, Director, New Jersey Division of Rate Counsel  
**Zac Christie**, Borrego Solar Systems, Inc.  
**John L. Carley, Esq.**, General Counsel for Rockland Electric Company

**BY THE BOARD:**

In this Order, the New Jersey Board of Public Utilities ("Board") considers the petition of GLC (NJ) NACR 2, LLC ("GLC" or "Petitioner") for an extension of time, as within time, to complete three solar energy projects under its Solar Renewable Energy Certificate ("SREC") long-term contracts with Rockland Electric Company ("RECO").

On or about February 15, 2011, as a winning bidder in RECO's SREC financing solicitation, GLC entered into three SREC Purchase and Sale Agreements ("PSA") with RECO for the SRECs from the solar energy to be generated from the following three projects: 85.5 kW to be installed at Our Lady of Perpetual Help, Oakland, New Jersey ("OLPH"); 200.7 kW at the Academy of the Most Blessed Sacrament, Franklin Lakes, New Jersey ("MBS"); and 79.4 kW at St. Joseph Regional High School, Montvale, New Jersey ("St. Joseph"). Contemplated project completion for all three projects was prior to February 15, 2012 ("Expiration Date"). No request for any extension was filed. In May 2012, RECO issued termination letters for the three projects. According to the petition, all three projects had been completed prior to receipt of the termination letters, and GLC seeks extensions as within time.

GLC states that it did not seek an extension prior to the expiration date because it did not fully understand the extension process. GLC also maintains that it continued to have discussions with RECO after the expiration date concerning finalizing the projects and transferring the SRECs and did not realize until receipt of the termination letters that an extension from the Board would be needed. Petitioner provided a supplemental certification signed July 6, 2012 by the Project Manager for the three projects, Charles E. Hughes, providing further explanations of the reasons for the delays ("Certification") as follows:

- OLPH – various unforeseen structural deficiencies and design changes. RECO identified changes to be made during its interconnection inspection. Nonetheless, Mr. Hughes certifies that a Certificate of Completion issued by RECO's interconnection department was supplied to RECO's SREC finance program staff and a formal Permission to Operate was received from RECO's interconnection department prior to the Expiration Date.
- MBS – various unforeseen structural deficiencies, shading issues, and redesign work. RECO identified changes to be made during its interconnecton inspection. A certificate of Completion was delivered to RECO's SREC finance program staff on February 15, 2012. Permission to Operate from RECO's interconnection department was not received until April 5, 2012, two months after the SREC PSA Expiration Date.
- St. Joseph – various unforeseen structural deficiencies. RECO identified changes to be made during its interconnection inspection. A Certificate of Completion from RECO's interconnection department was delivered by project developers to the RECO SREC finance program staff on January 29, 2012. Permission to Operate from RECO's interconnection department was received on February 29, 2012, two weeks after the PSA Expiration Date.

By letter dated July 12, 2012, RECO has stated that while the Board authorized the Electric Distribution Companies ("EDCs") to grant first extensions of up to six months in March 2012, RECO does not interpret the Order to grant that authority to EDCs for projects which had expired prior to the date of that Order. RECO also asserts that no written notices that the projects were operating and able to generate SRECs were delivered to RECO's SREC finance program staff that would have resulted in a "Commencement Date" for each project prior to the Expiration Dates. RECO also objects to any implication that it was responsible for any delay. Lastly, RECO states that the SREC purchase price guaranteed under the PSAs is significantly above current market rates for SRECs, and asks that should the Board grant the extension, it include an express statement that such an extension will in no way limit RECO's ability to recover the costs paid for the SRECs, including all transactional costs, from its ratepayers.

## **DISCUSSION AND FINDINGS**

As a threshold matter, the Board notes that as the Expiration Dates for the PSAs at issue occurred prior to the Board's March 2012 Order authorizing the EDCs to grant first extensions of the completion dates under the PSAs, the extensions of the contracts at issue are properly reviewed by the Board.

In addressing Petitioner's request for an extension of time to complete under its SREC financing contracts with RECO, the Board looks to the language of the General Terms and Conditions of the PSAs with RECO ("General Terms"). The General Terms provide that:

...in the event the Commencement Date has not occurred within one year of the Effective Date, Purchaser shall have the right, exercisable upon written notice to Seller, to terminate this Agreement without further obligation or liability to Seller and shall be under no further obligation to advance this Agreement. Such one-year period may be extended only by Order of the Board following formal petition to the Board for such an extension.

Exhibit A to PSA, General Terms at Par. 3

The Board has previously ruled upon requests for an extension made by participants in long-term SREC contracts. In reviewing such requests, the Board has looked first at whether the applicant could document significant progress toward completion of the project, and, second, whether the delay was unavoidable and unforeseeable at the time of the execution of the PSA. I/M/O Dobco, Inc. – Request Extension for SREC Purchase Sale Agreement with JCP&L and I/M/O Request for Extensions of Project Completion in the SREC Registration Program REIPNR-06120, REIPNR-06121 REIPNR-06621 REIPNR-06631 REIPNR-06744 REIPNR-06745, Docket Nos. EO11050269V and EO08090840 (July 1, 2011); I/M/O Dykes Lumber Company – Request Extension for SREC Purchase Sale Agreement with JCP&L and I/M/O Request for Extensions of Project Completion in the SREC Registration Program, Docket No. EO11060350V (July 14, 2011).

Applying the standard to the matters at hand, the Board looks at the representations made in the petition as well as in the Certification that:

- Petitioner had made very substantial progress on all three projects prior to the Expiration Dates; and
- All three projects have now been finished

Therefore, the Board **FINDS** that Petitioner has documented significant progress toward completion of the projects prior to the Expiration Dates.

In the second prong of the analysis, the Board looks at whether the cause of the delay was unavoidable and unforeseeable at the time Petitioner applied for the relevant incentive, in this case, application to the long-term SREC financing program. In the instant matter, Petitioner avers that unexpected structural issues as well as interconnection requirements imposed by RECO's interconnection inspection resulted in changes to the design and/or construction of the solar installations. The Board **FINDS** that the delays caused by the permitting and interconnection processes were unavoidable and unforeseeable at the time Petitioner entered into its PSAs with RECO as part of the SREC long-term financing program.

After consideration of the above, the Board **HEREBY GRANTS**, as within time, the request for extension of the deadlines for completion of the projects under the PSAs with RECO to May 15, 2012. The Board **AUTHORIZES** RECO to recover the costs paid for the SRECs, including all

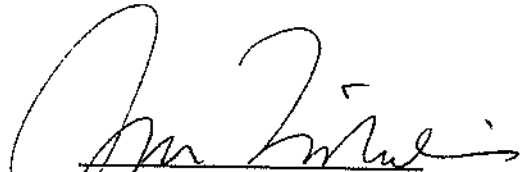
transactional costs, from its ratepayers in accordance with the terms and conditions of RECO's long term SREC financing program, In the Matter of the Verified Petition of Rockland Electric Company for Approval of a Residential Solar Loan Program Pursuant to N.J. S.A. 48:3-98.1, Docket No. EO08090903 (July 31, 2009).


DATED: 8/15/12

BOARD OF PUBLIC UTILITIES  
BY:

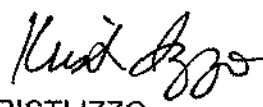
  
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PRESIDENT

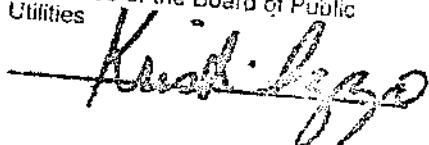
  
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ATTEST:  
  
KRISTI IZZO  
SECRETARY

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 GLC (NJ) NACR 2, LLC EXTENSION REQUEST  
FOR SOLAR RENEWABLE ENERGY CERTIFICATE (SREC) PURCHASE SALE  
AGREEMENT (PSA) WITH JERSEY CENTRAL POWER AND LIGHT COMPANY (JCP&L)

DOCKET NO. EO12010066V

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