



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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**MINUTES OF THE REGULAR MEETING OF THE  
BOARD OF PUBLIC UTILITIES**

A Regular Board meeting of the Board of Public Utilities was held on October 2, 2020, via Teleconference: 1 646 558 8656 Webinar ID: 920 7137 0677 or watch online @ <https://youtu.be/qXIQqLnpqow>

Public notice was given pursuant to N.J.S.A. 10:4-18 by posting notice of the meeting at the Board's Trenton Office, on the Board's website, filing notice of the meeting with the New Jersey Department of State and the following newspapers circulated in the State of New Jersey:

Asbury Park Press  
Atlantic City Press  
Burlington County Times  
Courier Post (Camden)  
Home News Tribune (New Brunswick)  
North Jersey Herald and News (Passaic)  
The Record (Hackensack)  
The Star Ledger (Newark)  
The Trenton Times

The following members of the Board of Public Utilities were present:

Joseph L. Fiordaliso, President  
Mary-Anna Holden, Commissioner  
Dianne Solomon, Commissioner  
Upendra J. Chivukula, Commissioner  
Robert M. Gordon, Commissioner

President Fiordaliso presided at the meeting and Aida Camacho-Welch, Secretary of the Board, carried out the duties of the Secretary.

It was announced that the next regular Board Meeting would be held on October 14, 2020 at 10:00 a.m. via teleconference.

There were no items for consideration on the Consent Agenda.

## **AGENDA**

### **1. AUDITS**

There were no items in this category.

### **2. ENERGY**

There were no items in this category.

### **3. CABLE TELEVISION**

There were no items in this category.

### **4. TELECOMMUNICATIONS**

There were no items in this category.

### **5. WATER**

There were no items in this category.

### **6. RELIABILITY AND SECURITY**

There were no items in this category.

### **7. CUSTOMER ASSISTANCE**

There were no items in this category.

## 8. CLEAN ENERGY

**Ariane Benrey, Program Administrator, Office of Clean Energy**, presented these matters.

### **A. Docket No. QX20090577 – In the Matter of a Rulemaking Proceeding to Amend the Community Solar Energy Pilot Program Rules at N.J.A.C. 14:8-9.**

**BACKGROUND AND DISCUSSION:** This matter involved the Board considering proposed rule amendments to the Community Solar Energy Pilot Program rules, intended to streamline and facilitate the implementation of community solar projects based on stakeholder feedback and lessons learned during Program Year 1 (PY1).

Lessons learned from these PY1 projects, as well as from stakeholder feedback, have informed the development of the following proposed amendments. In particular, stakeholders and Board staff (Staff) highlighted concerns with project development timelines, annual capacity allocation, low- and moderate-income (LMI) eligibility criteria, and the timing requirements for notification of changes to customer subscriber management organizations.

The Board established the Pilot Program in February 2019 pursuant to the Clean Energy Act of 2018. PY1 was launched in April 2019 and culminated in the Board's conditional approval of 45 community solar projects in December 2019. All 45 projects are low- and moderate-income projects that will dedicate at least 51% of their capacity to low- and moderate-income subscribers.

On July 9, 2020, the Board issued a request for comments regarding lessons learned from PY1. A stakeholder meeting was held on July 27, 2020, and written comments were received by August 10, 2020. The request for comments was designed to supplement Staff's assessment of the PY1 Application process by eliciting stakeholder comments on a range of questions regarding PY1 and possible improvements to the Pilot Program. Questions were structured into four topics: 1) Equity and the Inclusion of Low- and Moderate-Income (LMI) Households; 2) PY1 Application Form and Application Process; 3) Program Year 2 (PY2) Application Process; and 4) Other. The Board received 24 comments from a variety of interested stakeholders, including industry representatives and advocates.

Staff recommended that the Board consider several amendments to the Pilot Program rules in order to streamline implementation of the Pilot Program and remove barriers to project development and LMI customer enrollment. In particular, Staff recommended that the Board consider the following five amendments:

- 1- Amending the construction timelines for projects granted conditional approval to participate in the Pilot Program. Specifically, staff recommended that the Board replace the existing six-month deadline for conditionally approved projects to begin construction with a requirement that projects provide quarterly updates on project status to staff. Staff also recommended extending the existing deadline to complete construction from 12 months to 18 months, but limiting the number of extensions that staff can grant to only one six-month extension. This would both clarify and ease development timeframes, assist developers in securing their financing, and facilitate program administration;

- 2- Expanding the criteria project developers may use to confirm LMI qualification of subscribers. The current rules allow for limited or onerous means for potential subscriber to verify their status as an LMI subscriber. This complicates to enroll LMI subscribers and potentially endangers projects that cannot enroll their mandated minimum number of LMI subscribers. The proposed rule amendment would expand the list of projects which constitute automatic qualification as an LMI subscriber; enable LMI qualification or verification via residence in qualified census tracts; and allow for developers to petition the Board for alternative methods of verification;
- 3- Limiting the exemption from the 10-subscriber minimum rule so that it would only apply to LMI projects located on multi-family buildings;
- 4- Changing the requirement that the Board set the annual capacity limit for PY2 and Program Year 3 at least 30 days prior to the start of the Program Year, and replacing it with a provision that the Board will set the annual capacity limit during the relevant program year; and
- 5- Requiring that customers be notified if the subscriber organization managing their subscription has changed.

Staff stated that the recommended rule amendments would facilitate project development, LMI customer enrollment, and program administration. If approved, these proposed rule amendments will be sent to the Office of Administrative Law for publication in the New Jersey Register. They will be open to public comments for 60 days, before returning to the Board for amendments or final approval.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

|                        |                               |            |
|------------------------|-------------------------------|------------|
| <b>Roll Call Vote:</b> | <b>President Fiordaliso</b>   | <b>Aye</b> |
|                        | <b>Commissioner Holden</b>    | <b>Aye</b> |
|                        | <b>Commissioner Solomon</b>   | <b>Aye</b> |
|                        | <b>Commissioner Chivukula</b> | <b>Aye</b> |
|                        | <b>Commissioner Gordon</b>    | <b>Aye</b> |

**B. Docket No. QX20090594 – In the Matter of a Rulemaking Proceeding to Amend the Community Solar Energy Pilot Program Rules at N.J.A.C. 14:8-9 to Allow Municipal Community Solar Automatic Enrollment Projects.**

**BACKGROUND AND DISCUSSION:** This matter involved Board considering proposed rule amendments to the Community Solar Energy Pilot Program rule, establishing a mechanism by which municipally-owned community solar Low- and Moderate-Income (LMI) projects can establish automatic enrollment of subscribers.

The Board established the Community Solar Energy Pilot Program (Pilot Program) in February 2019, pursuant to the Clean Energy Act of 2018. Program Year 1 (PY1) was launched in April 2019, and culminated in the Board's conditional approval of 45 community solar projects in December 2019. Based on the lessons learned from PY1, Staff is recommending that the Board consider proposed rule amendments to test a new

method of subscriber enrollment within the context of the Pilot Program. A second recommended rule amendment would create financial penalties for projects that fail to meet their LMI commitments.

Based on stakeholder feedback, as well as Staff's lessons learned from implementing and administering PY1, Staff recommended that the Board consider two further amendments to the Pilot Program rules relating to subscriber enrollment in the Pilot Program. Specifically, Staff recommended that the Board consider the following:

- 1- Implementing a financial penalty for projects that fail to meet their community solar subscription requirements, particularly those relating to Low- and Moderate-Income (LMI) subscriptions. This would enable the Board to impose proportional penalties on projects without necessarily having to cancel the project entirely in situations where they fail to meet their commitment; and
- 2- Implementing an automatic enrollment program for municipally owned LMI projects. Several stakeholders have encouraged the Board to explore an "opt-out" model of subscriber enrollment, i.e., a process by which subscribers are automatically enrolled in a community solar project and can subsequently "opt-out," rather than requiring affirmative consent.

Staff also recommended that the Board consider an amendment to the Pilot Program rules to allow LMI projects that are owned and operated by municipalities to implement automatic enrollment, providing they guarantee savings to the subscribers and adopt strict consumer privacy and protection measures.

Finally, Staff recommended that the affirmative versus automatic enrollment question issue be reexamined during the development of the permanent community solar program.

The proposed community solar rule amendments will be sent to the Office of Administrative Law for publication in the New Jersey Register. They will be open to public comments for 60 days before returning to the Board for amendments or final approval.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

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|------------------------|-------------------------------|------------|
| <b>Roll Call Vote:</b> | <b>President Fiordaliso</b>   | <b>Aye</b> |
|                        | <b>Commissioner Holden</b>    | <b>Aye</b> |
|                        | <b>Commissioner Solomon</b>   | <b>Aye</b> |
|                        | <b>Commissioner Chivukula</b> | <b>Aye</b> |
|                        | <b>Commissioner Gordon</b>    | <b>Aye</b> |

**C. Docket No. QO18060646 – In the Matter of the Community Solar Energy Pilot Program; and**

**Docket No. QO20080556 – In the Matter of the Community Solar Energy Pilot Program Year 2 Application Form and Process.**

**BACKGROUND AND DISCUSSION:** This matter involved Board considering the Community Solar Energy Pilot Program Year 2 (PY2) Application Form and process.

The Clean Energy Act of 2018 directed the Board to adopt rules and regulations establishing the Community Solar Energy Pilot Program (Pilot Program). The Board launched the three-year Pilot Program in February 2019. Program Year 1 (PY1) culminated in December 2019 with conditional awards to 45 community solar projects, representing almost 78 MWdc. Staff is now recommending that the Board adopt a PY2 Application Form and Process that builds upon the lessons learned from PY1.

The PY1 Application window opened on April 9, 2019, and closed on September 9, 2019. The Board received 252 applications, representing approximately 652 MWdc. On December 20, 2019, the Board awarded conditional approval to 45 projects, all of which are low- and moderate-income (LMI) projects that will dedicated at least 51% of their capacity to LMI subscribers.

Based on the lessons from PY1 and stakeholder feedback, Staff recommended that the Board adopt a PY2 application process and application form. Staff recommended that this process build upon the application structure that was used in PY1, with some modifications. Specifically, Staff recommended:

- 1- Increasing PY2 capacity to 150 megawatts dc, which represents a doubling of the capacity compared to what was allocated in PY1. Staff recommended that the Board retain discretion to allocate up to 10% over or under this 150 megawatt capacity limit; at least 40% of capacity will be allocated to LMI projects, pursuant to the Pilot Program rules.
- 2- Shortening the application window from 5 months to 4 months. The PY2 application period would close on February 5, 2021;
- 3- Guaranteeing eligibility for projects granted conditional approval in PY2 to register for the Transition Incentive program, subject to maintaining compliance with all applicable Transition Incentive program rules and deadlines;
- 4- Implementing an online application process; and
- 5- Introducing a limited test case for automatic enrollment in municipally owned LMI projects. This, of course, would be contingent on the Board approving the rule amendment allowing automatic enrollment of community solar subscribers that was discussed in the previous agenda item.

Staff also recommended that the Board lay the groundwork for longer-term questions. In particular, that the Board direct the electric distributions companies to update the community solar bill credit calculations at least once a year; direct the electric distribution companies (EDCs) to submit a report to the Board on options to implement consolidated billing for community solar, no later than February 26, 2021; direct Staff to explore a mechanism to foster partnerships between government entities and developers; and direct the EDCs to provide existing data on the prevalence of master metered accounts, so as to better inform a potential future action by the Board on this issue.

The application process and form would be posted to the Board's website and distributed on the community solar Listserv. The application form would be available to view to enable stakeholders to begin developing applications; however, applicants would not be able to submit an application until the opening of the online application portal.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

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|------------------------|-------------------------------|------------|
| <b>Roll Call Vote:</b> | <b>President Fiordaliso</b>   | <b>Aye</b> |
|                        | <b>Commissioner Holden</b>    | <b>Aye</b> |
|                        | <b>Commissioner Solomon</b>   | <b>Aye</b> |
|                        | <b>Commissioner Chivukula</b> | <b>Aye</b> |
|                        | <b>Commissioner Gordon</b>    | <b>Aye</b> |

**D. Docket No. QO18060646 – In the Matter of the Community Solar Energy Pilot Program; and**

**Docket No. QO20090588 – In the Matter of Income Verification Measures in the Community Solar Energy Pilot Program.**

**BACKGROUND AND DISCUSSION:** This matter involved Board considering changes to the existing income verification requirements for low- and moderate-income (LMI) subscribers to the Community Solar Energy Pilot Program.

The Clean Energy Act of 2018 (the Act) directed the Board to adopt rules and regulations establishing the Community Solar Energy Pilot Program (Pilot Program). The Board launched the three-year Pilot Program in February 2019. Program Year 1 (PY1) culminated in December 2019 with conditional awards to 45 community solar projects, representing almost 78 MWdc.

On July 9, 2020, the Board issued a request for comments regarding lessons learned from PY1. A stakeholder meeting was held on July 27, 2020, and written comments were received by August 10, 2020. The request for comments was designed to supplement Staff's assessment of the PY1 Application process by eliciting stakeholder comments on a range of questions regarding PY1 and possible improvements to the Pilot Program.

Current rules allow for limited or onerous means for a potential subscriber to verify LMI status, and LMI subscribers are not advantaged above non-LMI subscribers to explain or justify this burden. In particular, the current verification method states that any customer that does not participate in Low Income Home Energy Assistance Program, Universal Service Fund, Comfort Partners, or the Lifeline Utility Assistance Program must provide three years of tax returns using three years of federal income tax returns. This requirement is burdensome both to customers and to the companies that are required to hold this sensitive information. Stakeholders indicate that this may complicate efforts to enroll LMI subscribers and potentially endanger projects that cannot enroll their mandated minimum number of LMI subscribers.

Staff recommended that the Board consider waiving the existing LMI verification requirements. Staff also recommended that this waiver not obviate the need to demonstrate LMI eligibility. PY1 projects wishing to avail themselves of the waiver would therefore be required to provide alternative LMI documentation or evidence to Staff of their proposed alternative income verification method.

Finally, Staff recommended that the Board designate Commissioner Mary-Anna Holden to oversee the process of verifying income eligibility, and to report back to the Board periodically as the Commissioner deems it necessary.

**DECISION:** After discussion, the Board adopted the recommendation of Staff as set forth above.

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|------------------------|-------------------------------|------------|
| <b>Roll Call Vote:</b> | <b>President Fiordaliso</b>   | <b>Aye</b> |
|                        | <b>Commissioner Holden</b>    | <b>Aye</b> |
|                        | <b>Commissioner Solomon</b>   | <b>Aye</b> |
|                        | <b>Commissioner Chivukula</b> | <b>Aye</b> |
|                        | <b>Commissioner Gordon</b>    | <b>Aye</b> |

**9. MISCELLANEOUS**

There were no items in this category.

There being no further business before the Board, the meeting was adjourned.



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AIDA CAMACHO-WELCH  
SECRETARY OF THE BOARD

Date: December 16, 2020