



Agenda Date: 9/21/11

Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY RENEWABLE)
PORTFOLIO STANDARD (NJ RPS) – REQUEST FOR)
BOARD ACTION EXTENDING NJ RPS COMPLIANCE)
DEADLINE FOR ENERGY YEAR 2011)
ORDER
DOCKET NO. EO11080500V

Parties of Record:

Stefanie A. Brand, Director, New Jersey Division of Rate Counsel
John L. Carley, Esq., Rockland Electric Company, on behalf of the Electric Distribution Companies
Murray Bevan, Esq., Retail Electric Supply Association, on behalf of third party suppliers

BY THE BOARD:

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (“EDECA”) was signed into law. EDECA includes the requirement for compliance with New Jersey’s Renewable Portfolio Standards (“RPS”) by electric power suppliers, commonly referred to as third party suppliers (“TPS” or “suppliers”), and basic generation service (“BGS”) providers (“providers”). N.J.S.A. 48:3-87 (d). On January 18, 2010, the Solar Energy Advancement and Fair Competition Act, .L. 2009, c. 289 (“SEAFCA”) was signed into law. SEAFCA amended several provisions of EDECA, among them the manner in which suppliers/providers were to comply with the solar portion of the RPS. SEAFCA set out a specific requirement for solar energy generation; this requirement is expressed as an absolute number of gigawatt-hours instead of as a percentage, and a directive for dividing this requirement among the State’s suppliers/providers.

Specific reporting requirements are set out at N.J.A.C. 14:8-2.11. An energy year (“Energy Year”) is the twelve-month period from June 1 to May 31, with the Energy Year numbered for the year in which it ends. The compliance true-up period commences immediately after each compliance period ends on May 31, beginning on June 1 and ending on October 1. N.J.A.C. 14:8-2.2. Each electric supplier and Basic Generation Service (“BGS”) provider with retail sales in New Jersey during the Energy Year must submit an annual report (“Annual Report”) to the Board by October 1 demonstrating that it has complied with the RPS for the relevant Energy Year. The Annual Reports for Energy Year 2011 are due on October 1, 2011. The Annual Reports must demonstrate how compliance with the RPS was achieved, including in the report

the total number of megawatt-hours (“MWh”) of electricity sold to retail customers, Solar Renewable Energy Certificates (“SREC”) and Renewable Energy Certificates (“REC”) retired, and Solar Alternative Compliance Payments (“SACP”) and Alternative Compliance Payments (“ACP”) paid.

Providers comply with the regulatory requirements with the assistance of the respective Electric Distribution Companies (“EDCs”) for which they serve load, with compliance documentation specific to the load served in that territory. The EDCs, in turn, submit an aggregated compliance report on behalf of the BGS providers supplying energy for delivery by the EDCs to end users of retail electricity within their territories. Each EDC compiles and summarizes the reports provided by the BGS providers serving load in its market, and submits this information under one cover to the Office of Clean Energy (“OCE”).

The EDCs, on August 19, 2011, and the Retail Electric Supply Association (“RESA”), on September 13, 2011, (together, “Petitioners”) have requested an extension of the deadline for complying with the RPS rules at N.J.A.C. 14:8-2.11. The EDCs have requested an extension to November 1, 2011, and RESA to January 1, 2012. Petitioners cite a number of reasons for their request, primarily the changes to the RPS made by SEAFCA. The EDCs also assert that the extension of the true-up period to October 1, the same day the Annual Reports are due, means that they do not have the numbers they need to perform the necessary calculations in a timely fashion.

As previously stated, SEAFCA establishes a schedule of increasing solar energy requirements expressed in gigawatt-hours and changes the method by which a supplier/provider’s solar obligation is calculated. N.J.S.A. 48:3-87 (d)(3); N.J.A.C. 14:8-2.3 at Table B. Historically, a supplier/provider’s solar energy obligation was a percentage of the amount of retail electricity the supplier/provider sold, that is, a percentage of the supplier/provider’s entire electricity portfolio. Under the method set by SEAFCA, a statewide solar energy target is divided among all suppliers and providers based on the market share of each supplier/provider.¹

Furthermore, SEAFCA specifically exempts from the new higher solar requirements electricity supply which is covered by a BGS contract that was executed prior to the enactment of SEAFCA. The solar obligation for this exempt electricity is determined under the rules in place when these BGS contracts were executed. Thus, exempt electricity carries a lower solar obligation than non-exempt electricity. However, notwithstanding this exempt supply, SEAFCA requires that the statewide solar target for each energy year must be met.

This requirement means that during Energy Years 2011 and 2012, when some electricity supply will be exempt, the incremental solar obligation that is not met because of this exemption must be distributed across the non-exempt electricity supplied. The methodology for distributing the exempt incremental solar obligation among the non-exempt electricity supply is set forth at N.J.A.C. 14:8-2.3. The first step of this methodology is the determination of the amount of the exempt solar obligation aggregated from BGS providers with BGS contracts entered prior to the enactment of SEAFCA. The second step in allocating the solar obligation of suppliers/providers is the determination of each supplier/provider’s market share of the non-exempt electricity

¹ This new volumetric method applies only to solar requirements. The method for calculating class I and class II renewable energy requirements remains unchanged by SEAFCA, and continues to be a simple percentage of electricity supplied.

supplied statewide during the applicable Energy Year; this determination is to be made by consulting the Board's website to obtain the number of megawatt-hours (MWh) of exempt and non-exempt electricity supplied statewide during the Energy Year by all suppliers/providers.

To put the timeline into perspective, reconciliation of the retail electricity sales data begins with the PJM financial settlement markets where the data originates; typically sixty days elapse from the end of the Energy Year until PJM provides preliminary reconciled data. PJM provides this data to the EDCs and PJM-EIS GATS (Generation Attribute Tracking System). PJM-EIS uses this basic data on load served to populate the accounts of each supplier/provider with a preliminary amount of load served for the relevant compliance period. The EDCs reconcile the data on load served for each of the BGS providers in their respective territories, providing each exempt provider with the retail sales data necessary to calculate their solar obligation. The exempt and non-exempt retail electric supply statistics for each of the BGS providers are then reported to OCE by the relevant EDCs for the BGS providers within their territories.

On August 29, 2011, via email distribution through PJM-EIS GATS to all retail supplier/providers with GATS accounts as well as by a posting to the NJCleanEnergy.com website, OCE instructed supplier/providers of their opportunity to review the load served data recorded in their GATS accounts and report any deviations from their actual retail sales amount to OCE. OCE then published the preliminary report of total, exempt and non-exempt retail electricity sales statistics with instructions for final reconciliation including a deadline of September 12, 2011. Due to problems with the Board's computer servers during the week prior to the deadline, OCE extended the deadline for submission of final reconciled retail sales data by non-exempt suppliers and providers to September 23, 2011.

Petitioners maintain that they were unable to verify individual TPS and BGS provider retail electricity supply numbers for OCE in the short time available. Petitioners assert that without the figure for the total non-exempt retail sales, suppliers/providers could not determine their final solar generation obligations for Energy Year 2011. Their inability to do so, they assert, in turn, delayed the ability of the EDCs and TPS to complete and submit the Annual Reports to the Board.²

A provider or supplier may secure SRECS to comply with its RPS obligation through the end of the true-up period. The timing of the posting of the non-exempt supply to the Board's website means that many providers/suppliers may not finalize their solar obligations until late September 2011. The EDCs report that during the development of past Annual Reports, there have been difficulties in completing transfers, particularly during peak periods of use on the GATS system. In addition, the EDCs state that the removal of significant numbers of reported RECs and SRECs, or "data scrubbing," can be required if the RECs and SRECs submitted by suppliers are not New Jersey certified or are otherwise defective.³ The EDCs claim that they will likely be unable to complete this data scrubbing, particularly for data reported close to or on October 1, 2011, for submittal of a final report on that same date. As previously stated, the

² The EDCs maintain that they are unable to give OCE final reconciled data for individual TPS in sufficient time to process compliance reports; however, they have pledged to give this data several months after the end of the true up period, well after compliance reports are submitted.

³ Although the EDCs reference data scrubbing as a problem with respect to "suppliers," it is the BGS providers that submit RECs to the EDCs, so that any data scrubbing issues for the EDCs would appear to originate with provider data.

EDCs have requested that the due date for the Annual Reports be extended to November 1, 2011.

RESA has requested an extension to January 1, 2012, contending that the TPS will need sixty days to review estimates of non-exempt and exempt load posted on the website, and a further thirty days to complete transactions related to the acquisition of SRECs. RESA has also requested that the Board also provide the exempt and solar obligation by BGS contract year beginning with Energy Year 2012.

Both the EDCs and the TPS have worked cooperatively with OCE to address the issues created by the compliance requirements of the new rules implementing SEAFCA. Staff therefore recommends that both the EDCs and RESA be granted a sixty-day extension. With respect to the provision of exempt retail electric sales and solar obligation, Staff does not anticipate that preliminary retail sales data will be available earlier in future Energy Years than those numbers were available for Energy Year 2011. BGS auction results from February 2009 which would enable an estimation of exempt supply for Energy 2012 are available to the public on the Board's website.

DISCUSSION AND FINDING

The Board acknowledges the increased complexity of RPS compliance. SEAFCA has changed both the solar energy generation requirements and the SREC reporting requirements for the TPS and the EDCs, with the changes requiring more complex calculations to determine the EDCs' and TPS' solar generation requirements. As stated above, final non-exempt supply numbers are not expected to be posted until later in September 2011, and the timeframe for the data availability results in an extremely abbreviated time period for the EDCs and TPS to generate accurate and timely reports by October 1, 2011. Under the current circumstances, the Board **FINDS** that extending the time for submission of the Energy Year 2011 Annual Reports to December 1, 2011 will provide Petitioners with sufficient time to comply with RPS reporting requirements while not unduly delaying the completion of transactions for Energy Year 2011.

Under its authority to relax its procedural rules for good cause under N.J.A.C. 14:1-1.2, the Board **HEREBY APPROVES** an extension of sixty (60) days to December 1, 2011 for the EDCs and the TPS to comply with the reporting requirements of New Jersey's Renewable Portfolio Standards by submitting their Annual Reports.

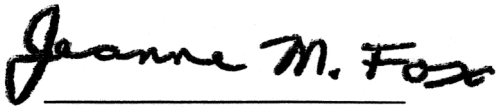
The Board **DIRECTS** staff to report back to the Board on the results of the sixty-day extension so that this process may inform a determination of whether an extension of time to file the Annual Reports should be codified in rules.

DATED: 9/26/11

BOARD OF PUBLIC UTILITIES
BY:



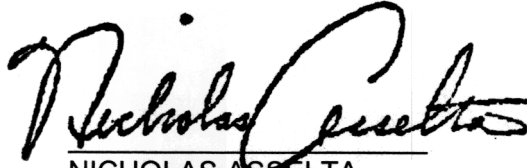
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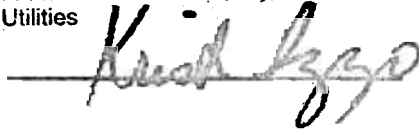
NICHOLAS ASSELTA
COMMISSIONER

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 THE NEW JERSEY RENEWABLE PORTFOLIO STANDARD (NJ RPS) –
REQUEST FOR BOARD ACTION EXTENDING NJ RPS COMPLIANCE DEADLINE FOR
ENERGY YEAR 2011

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SERVICE LIST

Stefanie A. Brand
Director
New Jersey Division of Rate Counsel
31 Clinton Street – 11th Floor
Newark, NJ 07102

John L. Carley, Esq.
Rockland Electric Company
4 Irving Place
New York, NY 10003

Michael Winka
Office of Clean Energy
Board of Public Utilities
P.O. Box 350
Trenton, NJ 08625-0350

Rachel Boylan
Office of Clean Energy
Board of Public Utilities
P.O. Box 350
Trenton, NJ 08625-0350

Allison E. Mitchell
Office of Clean Energy
Board of Public Utilities
P.O. Box 350
Trenton, NJ 08625-0350

Kristi Izzo, Secretary
Board of Public Utilities
P.O. Box 350
Trenton, NJ 08625-0350

Babette Tenzer
Deputy Attorney General
Division of Law
Department of Law and Public Safety
124 Halsey Street
Newark, NJ 07101

Benjamin S. Hunter
Office of Clean Energy
Board of Public Utilities
P.O. Box 350
Trenton, NJ 08625-0350

Andrew Dembia
Division of Economic Development &
Energy Policy
Board of Public Utilities
P.O. Box 350
Trenton, NJ 08625-0350

Murray Bevan, Esq.
Bevan, Mosca, Giuditta & Zarillo
222 Mount Airy Road – Suite 200
Basking Ridge, NJ 07920