



Agenda Date: 1/08/20  
Agenda Item: 8D

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF L. )  
2012, C. 24, THE SOLAR ACT OF 2012 )  
)  
IN THE MATTER OF REQUEST FOR A WAIVER OF )  
SREC REGISTRATION RULES AT N.J.A.C. 14:8-2.4(i) )  
– HESP SOLAR, LLC – PINE BROOK )  
REHABILITATION & CARE CENTER )

ORDER  
  
  
  
  
DOCKET NOS. EO12090832V &  
QO19050651

**Parties of Record:**

**Stephen B. Pearlman, Esq.**, Pearlman & Miranda, LLC  
**Susan Brodie**, Executive Vice President, HESP Solar, LLC  
**Daniel Grohman**, HESP Construction, LLC

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities (“Board”) considers the petition of HESP Solar, LLC (“HESP” or “Petitioner”) on behalf of Pine Brook Rehabilitation & Care Center, 104 Pension Road, Englishtown, New Jersey, received by the Board on October 19, 2019. Petitioner seeks a one-month extension of time to complete a solar energy project (“Project”) under the Board’s Solar Renewable Energy Certificate (“SREC”) Registration Program (“SRP”).

**BACKGROUND**

The Board’s Renewable Portfolio Standard (“RPS”) rules, found at N.J.A.C. 14:8-2, are designed to encourage the development of renewable sources of electricity; minimize the environmental impact of air pollutant emissions from electric generation; reduce possible transport of emissions; minimize any adverse environmental impact from deregulation of energy generation; and support the reliability of the supply of electricity in New Jersey. N.J.A.C. 14:8-2.1.

N.J.A.C. 14:8-2.4 establishes the process and eligibility criteria for new solar electric generation projects to register in the SRP and become eligible to generate energy upon which SRECs can be created. SRECs can be used to satisfy New Jersey’s RPS. Upon determining that a project application meets SREC eligibility requirements, the SRP administrator issues a conditional registration to the project. If the solar facility completes construction as described in the initial registration package; obtains permission to operate from the local Electric Distribution Company;

submits a post-construction certification package; and passes inspection, if required, the SRP issues a certification number to the facility. N.J.A.C. 14:8-2.4(n).

Pursuant to N.J.A.C. 14:8-2.4(i), construction of a solar electric generating facility shall be completed prior to expiration of conditional registration in the SRP. A registrant for facilities that are net metered, provide on-site generation, or provide power for a qualified customer engaged in aggregated net metering may request an extension of six months prior to expiration of the conditional registration. If the conditional registration or extension expires before completion of construction, and no additional extension is granted, the registrant shall begin the entire registration process again. The rules do not provide for a second extension, which must therefore be sought by seeking a waiver of the rules from the Board, as must the third extension now sought by Petitioner.

### **PETITION**

On or about January 23, 2018, the application for the Project received a conditional registration from the SRP. The Project, sized at 668.66 kilowatts dc, was intended to be net metered, sited partly as a roof-mounted installation of approximately 379.22 kW and partly as a ground-mounted installation of approximately 289.44 kW. The Board's SRP administrator issued the project its conditional registration with a registration length of twelve months and an SRP registration expiration date of January 23, 2019. On December 27, 2018, HESP received a six-month extension to July 23, 2019.

On May 23, 2019, HESP submitted a Petition to the Board requesting a three-month extension for its SRP application on behalf this site. Since this was a second extension request, it required a waiver of the Board's rules which limit applicants to a single six-month extension of their conditional registration. At the July 10, 2019 Agenda meeting, the Board granted HESP this second extension to the project completion date to October 23, 2019.

With this current petition, HESP submits that the project would have been completed prior to the expiration of the second extension if not for delays caused by "serial, constantly changing, local entitlement issues." HESP represents that it has made "extraordinary" efforts to satisfy its local permitting requirements but that the requirements have been onerous and ever-changing. According to HESP, it received the Certificate of Approval for the project on October 17, 2019 and submitted the application for the Permission To Operate ("PTO") to local utility Jersey Central Power and Light ("JCP&L") on the same day. Since JCP&L had not provided the system a PTO by the October 19, 2019 deadline, HESP now requests approval of a third extension to November 23, 2019. Petitioner requested only a one-month extension because when it filed for a third extension, Petitioner expected to receive its PTO "imminently."

### **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).

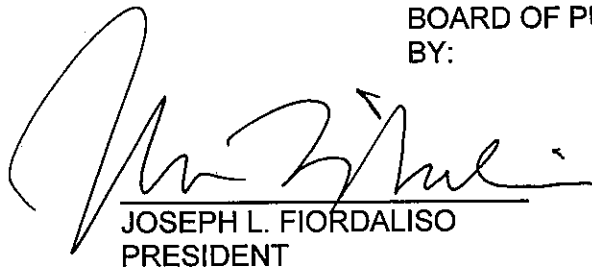
As noted above, the RPS rules are designed to encourage the development of renewable sources of electricity. However, they are also intended to establish a regulatory framework that provides predictability and transparency to the regulated solar market. This project already received two extensions that together almost doubled its initial time to complete. The local township inspection delays, while outside Petitioner's control, do not constitute such an extraordinary and startling development that they justify continuing to waive the procedural safeguards intended to ensure transparency in the amount of new generation coming on line.

HESP asserts that the local permitting requirements have been onerous and ever-changing. However, Petitioner provided no documentation of these assertions and thus no factual basis for an unprecedented third extension. Indeed, Petitioner states that it will not be filing additional background or the "complete factual record" until after the PTO has been received. Moreover, notwithstanding Petitioner's confidence at the time of filing that it would receive its PTO "imminently," it did not receive a PTO by its requested extension date of November 23, 2019 nor even by December 23, 2019.

Under these circumstances, the Board **FINDS** that the delays in the local permitting process do not constitute an extraordinary occurrence such as would justify a third extension and a second waiver of the Board's rules. Therefore, the Board **DENIES** the petition.

DATED: 1/8/20

BOARD OF PUBLIC UTILITIES  
BY:




JOSEPH L. FIORDALISO  
PRESIDENT



MARY ANNA HOLDEN  
COMMISSIONER



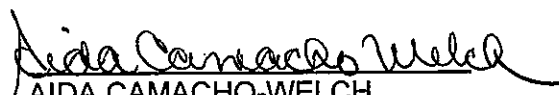
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ROBERT M. GORDON  
COMMISSIONER

ATTEST:   
AIDA CAMACHO-WELCH  
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

DOCKET NO. EO12090832V – IN THE MATTER OF THE IMPLEMENTATION OF L. 2012, C. 24, THE SOLAR ACT OF 2012; AND

DOCKET NO. QO19050651 – IN THE MATTER OF THE AMENDED PETITION OF HESP SOLAR, LLC SEEKING AN EXTENSION OF ITS CONDITIONAL SREC APPROVAL AND WAIVER OF N.J.A.C. 18:8-2(l).

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