



Agenda Date: 5/20/20  
Agenda Item: 8B

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CLEAN ENERGY

IN THE MATTER OF REQUEST FOR A WAIVER OF ) ORDER  
SREC REGISTRATION RULES AT N.J.A.C. 14:8-2.4(i) - )  
VISION SOLAR LLC – TECHNOLOGY SERVICES ) DOCKET NO. QW20030240

**Parties of Record:**

**Valeria Alvarez**, Vision Solar, LLC  
**Peter Carlyle**, Technology Services  
**Matthew M. Weissman, Esq.**, Public Service Electric & Gas

BY THE BOARD:

In this Order, the New Jersey Board of Public Utilities (“Board”) considers the petition of Vision Solar LLC (“Vision” or “Petitioner”), filed with the Board on behalf of Technology Services by letter dated February 25, 2020. Petitioner asks the Board to reactivate an expired registration in the Board’s Solar Renewable Energy Certificate (“SREC”) Registration Program (“SRP”) and for an extension of the time to complete the project paperwork by April 1, 2020.

**BACKGROUND**

The Board’s rules at N.J.A.C. 14:8-2 are designed to “encourage the development of renewable sources of electricity and new, cleaner generation technology; minimize the environmental impact of air pollutant emissions from electric generation; reduce possible transport of emissions and 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. The rules establishing an SREC registration process at N.J.A.C. 14:8-2.4 are “intended to provide advance notice to the public and the renewable energy markets when increases in solar electric generation capacity in New Jersey are planned.”

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 for SRECs, which can be used to satisfy New Jersey’s RPS. If a project meets SREC eligibility requirements, the SRP issues a conditional registration to the project. N.J.A.C. 14:8-2.4(h)4. After issuance of the notice of conditional certification, construction of the solar facility may begin. N.J.A.C. 14:8-2.4(h)5. If the solar facility is constructed as described in the initial registration package, the SRP issues a certification

number to the facility upon completion of construction, submission of a post-construction certification package, and inspection. N.J.A.C. 14:8-2.4(h)4(i); N.J.A.C. 14:8-2.4(k).

Pursuant to N.J.A.C. 14:8-2.4(i), construction of a solar electric generating facility shall be completed prior to the expiration of conditional registration in the SRP. Additionally, “[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 “one extension” of six months prior to the expiration of the conditional registration. N.J.A.C. 14:8-2.4(i). If the conditional registration or extension expires before completion of construction, the registrant shall begin the entire registration process again. N.J.A.C. 14:8-2.4(i).

In addition to this long-established regulatory framework, the Board is also in the process of implementing the provisions of the Clean Energy Act of 2018, N.J.S.A. 48:3-87 (“Clean Energy Act”). Among other mandates, the Clean Energy Act directs the Board to close the SRP upon determining that 5.1% of the retail kilowatt-hours sold in the State have been generated by solar facilities connected to the State’s electric distribution system (“5.1% Milestone”). N.J.S.A. 48:3-87(d)(3). On April 6, 2020, the Board determined that the 5.1% Milestone would be achieved and the SRP closed on April 30, 2020.

Since the Board has closed the SRP to new registrants, projects that have submitted complete registrations to the SRP but have not achieved commercial operations shall be eligible for a transition incentive. Projects with incomplete or expired registrations may now apply to the Transition Incentive Program.

Staff recommends that the Board refuse the request to waive its rules and deny the Petitioner a second extension. Staff also recommends that the Board affirm that Vision Solar may submit a new registration. Since this new registration will be submitted after the 5.1% Milestone has been achieved on April 30, 2020, this Project will be eligible for the Transition Incentive Program.

## **PETITION**

Petitioner has installed an 83.78 kilowatt (“kW”) solar project (“Project”), SRP Registration Number NJSRRE1538473237, located on the Technology Services roof at 800 North Church Street, Moorestown, New Jersey (“Site”), which is intended to be net metered. The Board’s SRP team issued the Project’s conditional registration on or about July 6, 2018, with an expiration date of July 6, 2019. On July 8, 2019, the Project received a six-month extension to January 6, 2020. The installer cited roof replacement and redesign and permitting delays as the reasons for requiring the first extension, stating that the township took approximately 18 weeks to approve the roof redesign and get the permits approved.

Petitioner states that to date it has achieved the following milestones in connection with the Project:

- The construction of the Project was completed on December 20, 2019, prior to the January 6, 2020 second extension deadline.
- On December 27, 2019, Moorestown completed the system inspection. However, Petitioner states that the town did not issue a final certificate of approval for another eight weeks, after the January 6, 2020 expiration date of the registration.

After the original contractor went out of business, Vision Solar was contracted to take over the Project. They requested the SRP Administrator to replace the installer of record on the registration to Vision Solar on February 12, 2020.

On February 25, 2020, Vision Solar submitted a Petition requesting a two-month extension for the Project construction completion deadline to April 1, 2020. Petitioner also requests a reactivation of the SRP registration. However, Vision Solar did not file the petition for the second extension until after the first extension had expired.

Petitioner points to the time it took to replace the roof, the eight weeks taken by the township to issue the final certificate of approval, and its own position as successor to an original contractor that went out of business as the reasons why the Project did not receive its Permission to Operate ("PTO") prior to the first extension deadline. Petitioner asserts that these factors were out of its control. Petitioner also states that, as a participant in the PSE&G Solar Loan program, it stands to lose its loan commitment since PSE&G will not finalize the loan while Petitioner is "not in compliance with the SREC program." As a result, Petitioner notes that it will not obtain its PTO until it has an active SRP registration to avoid losing the loan commitment.

### **DISCUSSION AND FINDINGS**

The Board is authorized to 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. Since this request could be viewed as either a reactivation of an expired registration or an ex-post second extension request, granting it would require a waiver of the Board's rules requiring timely registration, N.J.A.C. 14:8-2.4(h), or the rules limiting applicants to a single six-month extension of their initial conditional registration, N.J.A.C. 14:8-2.4(i). The Board has the authority to waive its rules pursuant to N.J.A.C. 14:1-1.2(b), which provides that "[i]n special cases and for good cause shown," the Board may relax or permit deviations from these rules. Further, in accordance with the general purposes and intent of its rules, the Board shall waive sections of its rules if "full compliance with the rule would adversely affect the ratepayers of a utility or other regulated entity, the ability of said utility or other regulated entity to continue to render safe, adequate and proper service, or the interests of the general public." N.J.A.C. 14:1-1.2(b).

As noted above, the RPS rules are designed to encourage the timely development of renewable sources of electricity. In addition, these rules are also designed to provide predictability for the market. This Project has already received one extension. The local township inspection delays, while outside of Petitioner's control, do not constitute such an extraordinary and startling development that they justify continuing to waive the procedural safeguards intended to ensure timely development of renewable sources of electricity and transparency in the amount of new generation coming on line. While Vision has only recently taken on this Project, it is the owner's responsibility to ensure that all SRP rules are followed. Furthermore, the second extension for the Project was not timely filed. Petitioner's proffered rationale does not constitute good cause for a second extension, let alone for the Board's intervention in the normal processes of the SRP. The Board **FINDS** that such an intervention is unwarranted and risks creating confusion and uncertainty in the market.

Under these circumstances, the Board **FINDS** that there is no justification for an unprecedented "reactivation" of the registration. The Board **FURTHER FINDS** that the replacement of the roof and the delay in receipt of municipal permits were not extraordinary occurrences such as would justify a waiver of the Board's rules. Therefore, the Board **DENIES** the petition.

The Board **FURTHER ORDERS** that the Project shall not be eligible for the SRP but **AFFIRMS** that Vision Solar, on behalf of Technology Services, may submit a new registration for the installation and may be eligible for the Transition Incentive Program.

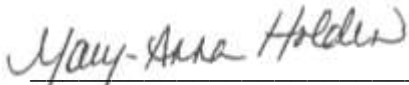
The effective date of this Order is May 30, 2020.

DATED: May 20, 2020

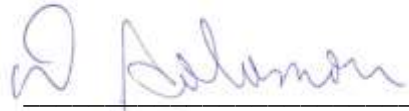
BOARD OF PUBLIC UTILITIES  
BY:



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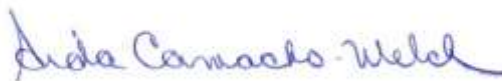


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AIDA CAMACHO-WELCH  
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N.J.A.C. 14:8-2.4(i) - VISION SOLAR – TECHNOLOGY SERVICES  
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