



Philip D. Murphy  
Governor

Sheila Y. Oliver  
Lt. Governor

## State of New Jersey

BOARD OF PUBLIC UTILITIES  
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Joseph L. Fiordaliso  
President

Mary-Anna Holden  
Commissioner

Dianne Solomon  
Commissioner

Upendra Chivukula  
Commissioner

Bob Gordon  
Commissioner

April 8, 2021

To the Service List:

Re: Docket No. QO21010066 – In the Matter of Petition to Review the Transfer of the SREC Registration (NJSRRE154410629) to the TREC Program (John Ranieri).

**Agenda Date: April 7, 2021 – Agenda Item: 8F**

Please be advised that the Board of Public Utilities (“Board”) is re-issuing the Order for the above-referenced agenda item that was approved by the Board at the April 7, 2021 Board agenda meeting to correct an error in the listing of Parties of Record. Stefanie Brand, Director of the Division of Rate Counsel was incorrectly listed as a Party to this proceeding, when in fact the Division of Rate Counsel has had no involvement.

This is the only change to the Order, which will be re-distributed to the parties of record and the attached Service List.

Sincerely,

A handwritten signature in blue ink that reads "Aida Camacho-Welch".

Aida Camacho-Welch  
Secretary to the Board

/dg



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CLEAN ENERGY

IN THE MATTER OF PETITION TO REVIEW THE )  
TRANSFER OF THE SREC REGISTRATION )  
(NJSRRE154410629) TO THE TREC PROGRAM )  
(JOHN RANIERI) ) DOCKET NO. QO21010066

**Party of Record:<sup>1</sup>**

**John Ranieri, Petitioner<sup>2</sup>**

BY THE BOARD:

In this Order the Board considers the request of Mr. John Ranieri ("Mr. Ranieri" or "Petitioner") to deem his father's solar facility eligible for the legacy Solar Renewable Energy Certificate ("SREC") Registration Program ("SRP").

**BACKGROUND AND PROCEDURAL HISTORY**

On May 23, 2018, Governor Murphy signed L. 2018, c. 17, codified at N.J.S.A. 48:3-51 to -87 into law ("Clean Energy Act" or "CEA" or "Act"), effective immediately. The CEA effected many changes to the legal and regulatory framework for solar development, including directing the closure of the SREC program upon the attainment of the 5.1% Milestone, reducing the SREC term or "qualification life" to 10 years, and imposing a cap on the cost to ratepayers of certain Class I renewable energy requirements.

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<sup>1</sup> The Director of the Division of Rate Counsel was previously shown as a Party of Record to this matter. Rate Counsel had no involvement in this matter, so the Director's name has been removed.

<sup>2</sup> The petition was submitted by Mr. John Ranieri, Jr., the son of the John Ranieri whose system is at issue in this matter. References to "Mr. Ranieri" and "Petitioner" in this Order will be to Mr. Ranieri, Jr., unless otherwise indicated.

The CEA mandates, in relevant part, that the Board close the SREC market to new entrants once it determines that the 5.1% Milestone has been met. The Board implemented this directive through a series of interconnected Orders and rulemaking proceedings, as detailed in previous Orders.<sup>3</sup>

After determining that the State would generate 5.1% of its retail electricity sales from solar before May 1, 2020, the Board ordered that this determination and the closure of the SRP would be effective on April 30, 2020. April 6, 2020 Order at 5. Projects in the SRP pipeline that had not received a Permission to Operate authorization letter (“PTO”) dated prior to April 30, 2020, or failed to submit their post-construction certification package in a timely manner, would be not be eligible for the SRP and would instead become eligible for the Transition Incentive Program. Id.

Contemporaneous with the closure of the SRP and the Board’s actions in that regard, the COVID-19 outbreak produced a national state of emergency.<sup>4</sup> Travel both within and beyond the State was severely restricted as a result. On March 16, 2020, Governor Murphy signed Executive Order No. 104 (“EO 104”),<sup>5</sup> implementing aggressive social distancing measures to mitigate further spread of COVID-19 in New Jersey. On March 21, 2020, he issued Executive Order 107 (“EO 107”),<sup>6</sup> expressly superseding the operative paragraphs of EO 104 with yet more stringent measures. And on April 8, 2020, the Governor ordered all “non-essential” construction to halt as of April 10, 2020.<sup>7</sup>

In recognition of the extraordinary circumstances, the Board waived certain of its rules to allow Board Staff and the SREC Registration Program administrator (“SRP Administrator”) flexibility in determining when projects commence commercial operations. Specifically, in order to accommodate projects that would have achieved commercial operations by the April 30, 2020 deadline but for delay in obtaining a local code inspection and authorization to energize the project by the local Electric Distribution Company (“EDC”), the Board approved a narrow and time-limited waiver of the need to have the PTO for purposes of determining SREC eligibility for those projects that awaited only final inspections and final permission to operate the interconnected solar project prior to the April 30, 2020 closure of the SRP program.<sup>8</sup>

To obtain this relief (“PTO Waiver”), the April 27, 2020 Order required registrants to submit the following to TRC, the Board’s SRP Administrator:

1. An affidavit<sup>9</sup> from the project owner that the failure to obtain PTO was attributable to COVID-related closures of critical local government offices or delays in the EDC issuance of PTO;

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<sup>3</sup> In re Closure of The SREC Registration Program Pursuant To P.L. 2018, c. 17, BPU Docket. No. QO18070698, Order dated March 27, 2020; In re Closure of The SREC Registration Program Pursuant To P.L. 2018, c. 17, BPU Docket. No. QO18070698, Order dated April 6, 2020 (“April 6, 2020 Order”).

<sup>4</sup> Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 FR 15337 (March 13, 2020).

<sup>5</sup> Exec. Order No. 104 (March 16, 2020), 52 N.J.R. 550(a) (April 6, 2020).

<sup>6</sup> Exec. Order No. 107 (March 21, 2020), 52 N.J.R. 554(a) (April 6, 2020).

<sup>7</sup> Exec. Order No. 122 (April 8, 2020), 52 N.J.R. 959(a) (May 4, 2020).

<sup>8</sup> In re Closure Of The SREC Registration Program Pursuant To P.L. 2018, C. 17 – Procedure for Requesting Extended Time to Obtain Final Inspections and Permission to Operate, BPU Docket. No. QO18070698, Order dated April 27, 2020 (“April 27, 2020 Order”).

<sup>9</sup> The Board noted that on April 14, 2020, Governor Murphy signed into law bill A-3903/S-2336 (2020),

2. An affidavit signed by a person with direct personal knowledge stating that the project was complete but for final inspections or final permission to interconnect to the grid prior to April 30, 2020;
3. Date-stamped pictures of the array, inverter and balance of system;
4. Date-stamped evidence that project representatives attempted to communicate with local code officials (e.g. emails with the local code officials requesting an inspection); or, if the project has already passed local code inspections, evidence that the application to energize (Part II of the interconnection application) was submitted to the EDC;
5. An executed milestone report form that reflects the status of the project, including the date the request for inspection was filed with the municipal officials, date of receipt of inspection approval, and date of submission of application to energize (Part II of the interconnection application) with the EDC<sup>10</sup>; and
6. Such other evidence as the Board's Staff and/or SRP Administrator may request.

## **PETITION**

By petition dated January 25, 2021, Mr. Ranieri advises that his father contracted with Sunny Corp for a solar system and that the project was completed in April 2020. TRC's records reflect that the 8.7750 kilowatt system ("the System") was accepted in the SRP on January 9, 2020. Mr. Ranieri represents that his father, with his assistance, "did everything that we need to do to get this completed project to the State with ample time to be set up with the SREC trading." Petition at Par. 3. Further, he asserts that everything necessary for SRP eligibility was submitted prior to July 1, 2020. Petition at Par. 2.

While Petitioner does not go into detail regarding what was submitted on what date, TRC's communications with Petitioner's father document the submittals made to comply with the PTO Waiver requirements. On May 21, 2020, TRC sent John Ranieri, Sr., a letter stating that his waiver request was missing four of the five required documents: an affidavit signed by a person with direct personal knowledge that the System was complete but for final inspections and/or authorization to energize prior to April 30, 2020; date-stamped pictures of array inverters and balance of system equipment; date-stamped evidence that project representatives attempted to communicate with local code officials or, if the project has already passed local code Inspections, evidence that the application to energize was submitted to the EDC; and an executed milestone report form that reflects the status of the project.

The next letter to Petitioner's father, dated July 6, 2020, indicates that only one item remained outstanding: "An affidavit signed by a person with direct personal knowledge stating that the project was complete but for final inspections and final permission to interconnect to the grid prior to April 30 2020." However, despite subsequent letters dated July 8, 2020, August 13,

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effective immediately, allowing remote notarial acts during the Public Health Emergency and State of Emergency declared by Governor in Executive Order 103 of 2020. L. 2020, c. 26; [https://www.njleg.state.nj.us/2020/Bills/AL20/26\\_.PDF](https://www.njleg.state.nj.us/2020/Bills/AL20/26_.PDF)

<sup>10</sup> The "Milestone Report Form" is a specific form used by TRC to track the progress of projects accepted into the SRP.

2020, and August 26, 2020, each of which reiterated the need for this affidavit and each of which stressed the imperative of all required documentation being received no later than August 31, 2020, there is no record that this affidavit was ever submitted. By letters dated October 7, 2020 and October 8, 2020, respectively, TRC informed Petitioner's father that his SRP registration had been cancelled and the System had been transferred to the TI program.

### **STAFF RECOMMENDATION**

Petitioner appears convinced that he and his father submitted everything necessary to qualify for the PTO Waiver. However, the record does not support this. Although Petitioner claims that "everything was submitted" by July 1, 2020, he provides no evidence that the affidavit identified and repeatedly requested by TRC was ever filed.

Petitioner asserts, and Staff has no reason to doubt, that his father's installer Sunny Corp declined to assist his father with the PTO Waiver process. Staff is willing to accept Petitioner's assertion that his father was poorly served by his installer, but the installer's negligence or incompetence does not constitute a basis to waive the requirements of the Board's Order establishing the PTO Waiver process.

Given the failure to meet the full requirements established by the Board for projects whose final inspections and PTO were delayed by COVID-19 and the State of Emergency, Staff recommends that the Board deny this petition.

### **DISCUSSION AND FINDINGS**

The Board has reviewed the record and Staff's recommendation. The Board does not find that Petitioner provided sufficient information that can serve as a basis to waive the requirements of the April 27, 2020 Order. Based on the clear requirements established for the PTO Waiver and the failure to provide one of the necessary documents by the stated deadline, the Board **DENIES** the petition.

In the April 27, 2020 Order, the Board noted that the COVID-19 crisis has affected solar installations in various stages of development. While noting its sympathy for the plight of such projects, the Board stressed the need to balance prompt closure of the SREC program with the desire to prevent manifest unfairness to projects that are otherwise complete. Then, as now, the Transition Incentive program ensures that significant financial incentives remain available for projects that did not attain completion in time to be eligible for SRECs.

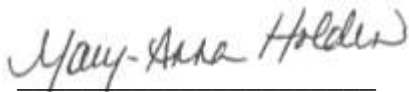
This Order will take effect on April 17, 2021.

DATED: April 7, 2021

BOARD OF PUBLIC UTILITIES  
BY:



JOSEPH L. FIORDALISO  
PRESIDENT



MARY-ANNA HOLDEN  
COMMISSIONER



DIANNE SOLOMON  
COMMISSIONER

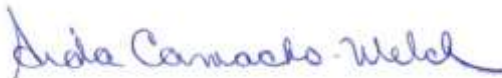


UPENDRA J. CHIVUKULA  
COMMISSIONER



ROBERT M. GORDON  
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH  
SECRETARY

**IN THE MATTER OF PETITION TO REVIEW THE TRANSFER OF THE SREC  
REGISTRATION (NJSRRE154410629) TO THE TREC PROGRAM (JOHN RANIERI)**

**BPU DOCKET NO. QO21010066**

**SERVICE LIST**

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