



Agenda Date: 6/9/21
Agenda Item: 8D

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

CLEAN ENERGY

)	ORDER
)	
IN THE MATTER OF THE COMMUNITY SOLAR)	
ENERGY PILOT PROGRAM)	
)	DOCKET NO. QO18060646
IN THE MATTER OF A COMMUNITY SOLAR ENERGY)	
PILOT PROGRAM APPLICATION FORM - SOLTAGE,)	
LLC - BLOCK: 1900, LOT: 7)	DOCKET NO. QO19091046

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Henry T. Chou, Esq., Hill Wallack LLP, for Soltage, LLC

BY THE BOARD:

In this Order, the Board addresses a Petition filed by Hill Wallack LLP on behalf of Soltage, LLC (“Soltage”), requesting a waiver from the Board’s rules at N.J.A.C. 14:8-9.6(c), which set a maximum number of subscribers per megawatt (“MW”) installed capacity.

BACKGROUND

On May 23, 2018, the Clean Energy Act, L. 2018, c. 17 (“the Act” or “CEA”), was signed into law. Among other mandates, the CEA directed the Board of Public Utilities (“Board” or “BPU”) to adopt rules and regulations within 210 days establishing a Community Solar Energy Pilot Program (“Pilot Program”). The Pilot Program enables New Jersey electric utility customers to participate in a solar energy project that may be remotely located from their properties and receive a credit on their utility bills. Community solar therefore enables access to clean energy generation for utility customers currently unable to place solar generation directly on their own properties. The BPU is particularly interested in ensuring that low- and moderate-income (“LMI”) customers are able to access community solar, and that community solar development is pursued without materially compromising the preservation of open space or protected lands in New Jersey. The Pilot Program is designed to provide the necessary experience and lay the groundwork for the development and implementation of a full-scale Community Solar Energy Program.

The Board adopted the Pilot Program rules on January 17, 2019 following stakeholder engagement. The rules were filed with the Office of Administrative Law and published in the New Jersey Register on February 19, 2019.¹ The rules provide the framework necessary for the development and implementation of community solar in New Jersey during each of the Pilot Program's three Program Years. These rules include provisions relating to community solar subscriptions, including minimum and maximum numbers of subscribers allowed for each community solar project.

On March 29, 2019, the Board approved and released the Program Year 1 ("PY1") Application Form, and the Board conditionally approved 45 community solar projects, representing almost 78 MWdc, on December 20, 2019.² One of the projects awarded was submitted by Soltage, located at 900 Coopertown Road, Delanco Township, and not to exceed 3.15 MWdc (the "Delanco project").

SUMMARY OF PETITION

On February 24, 2021, Hill Wallack LLP filed a petition on behalf of Soltage, seeking a waiver for the Delanco project from the Board's rules at N.J.A.C. 14:8-9.6(c), which state the following:

- (c) The maximum number of participating subscribers for each community solar project shall be set at 250 subscribers per one MW installed capacity (prorated to project capacity).

Soltage stated in its petition that it has been continually signing up customers for its Delanco project. Based on the Board's rules at N.J.A.C. 14:8-9.6(c) and a system size of 3.1 MWdc, the project may have no more than 775 subscribers. At the time of filing the petition, Soltage indicated that it had signed up 495 LMI subscribers, with an average subscription size of 3.21kW per subscriber, and 96 non-LMI subscribers, with an average subscription size of 4.85kW per subscriber. Based on this subscription rate, Soltage stated that it was on track to subscribe 815 subscribers to the Delanco project. Soltage therefore expressed concern that it would be forced to triage subscribers in order to meet the 775 subscriber maximum.

Soltage alleged that maintaining the subscriber maximum would present particular harm to LMI residents by making it more difficult for them to subscribe to a community solar project. Based on its experience, Soltage stated that LMI subscribers tend to have smaller subscription sizes than non-LMI subscribers. Soltage suggested the reasons for this may be that residents in apartments or smaller houses tend to have a lower electric usage, and that Soltage sizes subscriptions to 50% of load for subscribers on energy assistance in order to ensure that those subscribers receive all available energy assistance credits.

STAFF RECOMMENDATIONS

In reviewing the Pilot Program rule adoption document published in the New Jersey Register on February 19, 2019, Staff found that three comments were filed that suggested changing or eliminating of the proposed maximum number of subscribers per MW installed capacity. The

¹ 51 N.J.R. 232(a).

² In re the Community Solar Energy Pilot Program, BPU Docket No. QO18060646 et al., Order dated December 20, 2019. Staff notes that the petition states that Soltage was awarded conditional approval for their project on February 25, 2020. This date is incorrect.

Board responded by stating that “[t]he BPU understands that community solar subscribers may have subscriptions of varying sizes. The BPU standard established at N.J.A.C. 14:8-9.6(c) aims to both encourage sizing subscriptions according to subscriber’s historic annual usage and facilitate the administration of the Pilot Program. Throughout the data collection and implementation of the Pilot Program, the BPU will consider ways in which administrative processes for community solar can be adjusted.”³

Staff believes that the Board’s justification for implementing a maximum number of subscribers per MW installed capacity remains valid, and that maintaining a maximum number of subscribers is important both to maximize the size of individual subscriptions, and to facilitate administration of bill credits. However, Staff recognizes Soltage’s first-hand experience in subscribing customers for the Delanco project, and in particular the company’s statement that subscriptions for LMI subscribers are lower, on average, than those for non-LMI subscribers.

Staff notes that, based on the numbers provided by Soltage, it appears that the Delanco project has already met its minimum LMI customer acquisition obligations. By rule, an LMI project is defined as one in which a minimum 51% of project capacity is subscribed by LMI customers. In the case of a 3.1 MW project, this means allocating at least 1.581 MW to LMI subscribers. Based on the numbers provided by Soltage, 495 subscribers multiplied by an average 3.21kW per LMI subscriber is 1.592 MW. However, a 250 subscriber per MW installed limit suggests a minimum average subscription size of 4kW per subscriber, and Staff understands that this is higher than Soltage’s experience with LMI subscribers in the Delanco project. Based on the statements made in the petition, Staff believes that a strict enforcement of the rules would be counter to the intent of the program, namely increasing solar accessibility to New Jersey electric utility customers.

FINDINGS AND DISCUSSION

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).

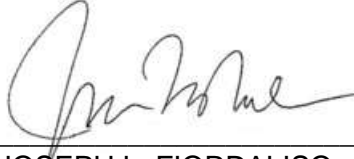
Community solar is an important new program to increase access to solar energy for all ratepayers in the State, particularly low- and moderate-income residents. The Board remains committed to assessing and refining the Pilot Program to better reflect real world implementation and to ensuring LMI access to community solar. Having reviewed the petition and Staff’s recommendations, the Board agrees that the existing rules do not match the real-world experience and subscription rate of the Delanco project. The Board therefore finds good cause to grant the petition and **HEREBY WAIVES** the application of the maximum subscribers rule at N.J.A.C. 14:8-9.6(c) for the Soltage Delanco community solar project. Other community solar projects participating in the Pilot Program may petition the Board for similar relief should an analysis of the subscription rates of those projects suggest that they are likely to exceed the rules’ subscriber limits.

³ 51 N.J.R. 232(a).

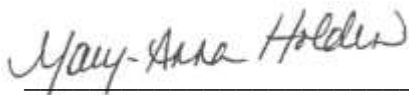
This Order shall be effective June 16, 2021.

DATED: June 9, 2021

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

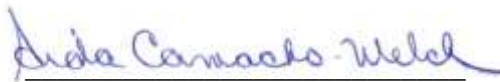


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF THE I/M/O THE COMMUNITY SOLAR ENERGY PILOT PROGRAM
COMMUNITY SOLAR ENERGY PILOT PROGRAM APPLICATION FORM - SOLTAGE, LLC -
BLOCK: 1900, LOT: 7

DOCKET NO. QO18060646 and QO19091046

SERVICE LIST

Hill Wallack LLP

Henry T. Chou, Esq.
Hill Wallack LLP
21 Roszel Road, P.O. Box 5226
Princeton, New Jersey 08543-5226
hchou@hillwallack.com

Division of Rate Counsel

140 East Front Street, 4th Floor
Trenton, NJ 08625-0003

Stefanie A. Brand, Esq., Director
sbrand@rpa.nj.gov

Division of Law

R.J. Hughes Justice Complex
25 Market Street, P.O. Box 112
Trenton, N.J. 08625

Darren Eppley
Darren.eppley@law.njoag.gov

Pamela Owen, Assistant Section Chief
pamela.owen@law.njoag.gov

Michael Beck
michael.beck@law.njoag.gov

Board of Public Utilities

44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350

Aida Camacho-Welch, Board Secretary
Board.secretary@bpu.nj.gov

General Counsel's Office

Abe Silverman, General Counsel
abe.Silverman@bpu.nj.gov

Carol Artale
carol.artale@bpu.nj.gov

Suzanne Patnaude
suzanne.patnaude@bpu.nj.gov

Office of the Chief of Staff

Christine Sadovy, Chief of Staff
christine.sadovy@bpu.nj.gov

Executive Director's Office

Paul Flanagan, Executive Director
paul.flanagan@bpu.nj.gov

Bob Brabston
robert.brabston@bpu.nj.gov

Office of Policy and Planning

Ariane Benrey
ariane.benrey@bpu.nj.gov

Division of Clean Energy

Kelly Mooij, Director
kelly.mooij@bpu.nj.gov