



Agenda Date: 2/23/22
Agenda Item: 8A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF A NEW JERSEY SOLAR)	ORDER
TRANSITION PURSUANT TO P.L. 2018, C.17)	
)	DOCKET NO. QO19010068
IN THE MATTER OF REQUEST FOR WAIVER AND)	
EXTENSION OF TIME TO COMPLETE)	
NJSTRE1547537829 IN TRANSITION INCENTIVE)	
PROGRAM - CENTRICA BUSINESS SOLUTIONS, INC.)	
FOR THE GROUPE SEB PROJECT)	DOCKET NO. QO21111207

Parties of Record:

Murray E. Bevan, Esq., Bevan, Mosca & Guiditta, P.C., on behalf of Centrica Business Solutions, Inc.
Brian O. Lipman, Esq., Director, Division of Rate Counsel

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities (“Board” or “BPU”) considers the petition of Centrica Business Solutions (“Centrica” or “Petitioner”) for an extension of its registration within the Transition Incentive (“TI”) Program.

BACKGROUND

On May 23, 2018, the Clean Energy Act was signed into law and became effective immediately.¹ Among many other mandates, the Clean Energy Act directed the Board to adopt rules and regulations to close the Solar Renewable Energy Certificates (“SREC”) Registration Program (“SREC Program” or “SRP”) to new applications once the Board determined that 5.1 percent of the kilowatt-hours sold in the State by each Third Party Suppliers and Basic Generation Service providers (“TPS/BGS providers”) had been generated by solar electric power generators connected to the distribution system (“5.1 % Milestone”). The Clean Energy Act also directed the Board to complete a study (“Capstone Report”) that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State.

¹ L. 2018, c. 17 (“Clean Energy Act” or “Act”).

On December 6, 2019, the Board established the TI Program to provide a bridge between the legacy SREC program and a to-be-developed Successor Incentive program. The TI Program, subsequently codified in rules,² provides eligible projects with Transition Renewable Energy Certificates (“TREC’s”) for each megawatt hour of electricity produced. Incentives are tailored to specific project types by the use of factors, which are applied to a base incentive rate to provide a particular project type the full incentive amount or a set percentage of that amount depending on the costs and anticipated revenue streams for the project type. Projects located on rooftops receive a factor of 1.0 and thus the full amount of the base incentive. The TI Program portal opened to new applications on May 1, 2020; pursuant to Board Order, the TI Program remained open to new registrations until the establishment of a registration program for the new Successor Program.³

On April 21, 2021, BPU Staff (“Staff”) issued the New Jersey Successor Program Staff Straw Proposal (“Successor Straw Proposal”). The Successor Straw Proposal expanded on the two-pronged incentive program design suggested in the Capstone Report and provided Staff’s recommendations for suggested incentive levels, processes, market segment capacity caps, calculation of the statutorily mandated cost cap, and overall implementation of the Successor Program. Five public stakeholder workshops were conducted to address questions about the straw proposal and collect stakeholder feedback on Staff’s recommendations. Workshop #5, held on May 7, 2021, specifically addressed the proposed transition from the TI Program to the Successor Program.

On June 24, 2021, the Board granted projects registered in the TI Program on or before the effective date of the order an automatic six-month extension to their existing deadline established at N.J.A.C. 14:8-10.4(d) or (e).⁴

On July 9, 2021, Governor Murphy signed L. 2021, c.169 into law, effective immediately, authorizing the Board to develop and launch the Successor Program, among other requirements. On July 28, 2021, the Board announced the closure of the TI Program and the opening of the Successor Solar Incentive (“SuSI”) Program. The TI Program closed on August 27, 2021, and the SuSI Program opened on August 28, 2021.

Petition

On November 1, 2021, Centrica filed a petition requesting that the New Jersey Board of Public Utilities (“Board”) grant a one-year extension to the conditional acceptance expiration date under the New Jersey Clean Energy Program (“NJCEP”) TI Program due to what it characterizes as long delays caused by Atlantic City Electric Company (“ACE”) (“the Petition”). Specifically, Petitioner references “repeated failures” to timely send important documents and invoices to Centrica and five months of negotiations over the cost of a required substation upgrade.

² 52. N.J.R. 1850(a) (“TI Rules”).

³ In re a New Jersey Solar Transition Pursuant to P.L. 2018, c. 17, BPU Docket No. QO19010068, Order dated January 8, 2020 (“January 2020 Order”).

⁴ In re a New Jersey Solar Transition Pursuant To P.L. 2018, C.17 – Order Addressing Requests For Extension For Projects In The Solar Transition Incentive Program, BPU Docket Nos. QO19010068 & QO21060883, Order dated June 24, 2021 (“June 2021 Order”).

According to the Petition, on August 27, 2021, Centrica filed a TI registration for a 1,496.28 kW dc non-residential rooftop-mounted net-metered solar electric generation facility located in Millville, New Jersey (“the Project”). The Program Administrator issued an acceptance letter on September 20, 2021; Petitioner asks that the expiration date of September 20, 2022 be extended to September 20, 2023.

Petitioner claims that it has made every attempt to move the Project forward in a timely manner, including diligently pursuing the interconnection process since August 2020, when it says it first submitted the Level 2 Interconnection Application to ACE.⁵ On September 17, 2020, ACE responded to the interconnection application with a letter advising that an interconnection study was required which would take from 2 to 3 months to complete and directing the applicant to sign, date, and return the letter within 30 days (“September 2020 Letter”).⁶ The September 2020 Letter also indicated that an invoice for the required \$10,000 engineering impact study would be sent to the customer after the September 2020 Letter was signed by the customer and returned to ACE. On October 1, 2020, Groupe SEB as customer-generator submitted the signed impact study intent letter to ACE.

Petitioner states that despite its repeated requests from October 20, 2020 through October 5, 2021 for the invoice for ACE’s estimate of the substation costs, the invoice was not received until October 19, 2021. Petition at Appendix A. Five of those months were spent negotiating a reduction from ACE’s original estimate for interconnection costs, \$1.47 million, to a fourth and final estimate in June 2021 of \$561,000. Each of the four cost estimates also advised that “[t]he estimated time to complete this work is 12 - 18 months after receipt of a fully executed interconnection agreement, after interconnection work is invoiced, and after payment is received[,] and that payment in full was required before construction could begin. Petition at Par. 6 and Attachment B, “Attachment D - Special Procedures for Parallel Interconnection (hereinafter, “Requirements Document”).” Pointing to this language, Petitioner notes that the Project’s TI Program deadline of September 20, 2022 occurs less than one year after the receipt of ACE’s invoice; thus, Petitioner asserts that even had it paid the invoice on the same day that it filed its petition with the Board, meeting this deadline would have been very unlikely.

ACE Response

By letter dated December 21, 2021, ACE responded to the Petition. Noting that it had no obligation to negotiate after Petitioner objected to the original substation upgrade estimate, ACE states that “mindful of the clean energy objectives of the State,” ACE representatives worked with Petitioner to reach agreement on the scope of work and the price. In ACE’s opinion, Petitioner is using this willingness to work with Petitioner against it. ACE also points to Petitioner’s statement that “even if Centrica paid the ACE invoices today, it is very unlikely that the Groupe SEB project will be able to reach PTO by the current deadline of September 20, 2022.” ACE interprets this language to indicate that it is the scope of work required to interconnect Petitioner, rather than ACE’s invoicing, that has caused delay. Additionally, ACE suggests that Petitioner is poorly placed to complain of delayed invoicing when it has not yet paid the invoice that was received on October 19, 2021. ACE takes no position on the relief requested by Petitioner.

⁵ See Exhibit A to the petition, a timeline of milestones and alleged delays in the interconnection application process managed by ACE.

⁶ See Exhibit B to the petition, including correspondence between the Petitioner and ACE, as well as two interconnection applications signed by a representative of Groupe SEB dated August 10 and August 19, 2020.

STAFF RECOMMENDATION

Petitioner contends that its inability to meet the twelve-month deadline of the TI Program is due entirely to ACE's delays in processing Petitioner's interconnection application. In support of this argument, Petitioner points to the lengthy negotiation process over the cost of the interconnection and to the three-month gap between Petitioner's signing of the "Requirements Document" and its receipt of the associated interconnection invoice. Staff agrees with the Petitioner that the one year of delay from ACE's first notification of the need for an interconnection study until the date that ACE delivered an invoice for the interconnection upgrade costs is troubling.

However, while Staff believes that ACE could and should have moved more expeditiously to process the interconnection application, Staff recognizes the importance of negotiation between the parties. ACE worked with Petitioner to reduce the original cost estimate for substation upgrades by approximately two thirds over the course of the negotiations, and Staff is concerned that the Board not chill the incentive for parties to negotiate on interconnection timelines and costs.

Additionally, Petitioner's own pursuit of interconnection has not always been zealous. Petitioner submitted its TI registration on August 27, 2021 but did not follow up on its request for an invoice from ACE until October 5, 2021. Nor has Petitioner yet paid the invoice that it received some four months ago. Petitioner states that it is unwilling to risk the payment prior to receiving Board approval of its extension, but Petitioner knew at the time of its TI registration: 1) that the program provided only 12 months to reach commercial operation, 2) that ACE estimated 12 to 18 months to complete upgrades, and 3) that ACE would not begin work without payment. However long the initial delays largely related to negotiation between the parties, Staff cannot support a one-year extension of the TI registration term, to September 20, 2023, for a project that was registered on the last day of eligibility for that program.

Moreover, Petitioner's argument ignores the reality that ongoing negotiation necessarily relates to project maturity. In this instance, whether or not blame can be laid at ACE's door, Centrica's project was not mature enough to meet TI deadlines. Petitioner registered in the TI Program with the knowledge that this program provided twelve months to achieve commercial operation and did not provide for any automatic extensions. The amount of time the applicant had spent developing the project before registering is immaterial. If Petitioner knew that it could not comply with program requirements and complete the Project within one year, without extension, then Petitioner knew or should have known that the Project was not appropriate for registration in the TI Program and would be a better candidate for the Administratively Determined Incentive ("ADI") program which opened the day after Centrica filed its TI registration and which does provide an extension opportunity.

The incentive values in the TI program were designed for projects expected to construct in 2019 and 2020. As a non-residential rooftop solar project, this project would have received the highest available TI Program incentive. However, the time required to complete distribution system upgrades and subsequently install the 1.2 MW solar facility could push completion of this project until September 2023. Given the general declining costs of solar installations, allowing a project expected to reach commercial operation in late 2023 access to incentive levels established under the TI program would be inappropriate. The incentive levels established in the ADI Program, which were specifically designed to appropriately incentivize projects planning on reaching commercial operation in 2023, would be more appropriate.

For these reasons, Staff recommends that the Board deny Petitioner's request to extend the September 20, 2022 deadline for the Project. Staff further recommends that if the Petitioner feels it cannot complete by the existing deadline, it be encouraged to withdraw its TI registration and submit an application for eligibility in the ADI Program.

DISCUSSION AND FINDINGS

Following careful review of the petition and the record in this matter, the Board **FINDS** that Petitioner has not established a basis for granting an extension. The general purpose of the TI Rules, as well as the timelines contained therein, is to provide a smooth transition to the Successor Program and support to New Jersey's thriving solar market while safeguarding the interest of the State's ratepayers by doing so at the lowest possible cost. The ADI Program, which establishes appropriate incentives for projects reaching commercial operation in the 2023 timeframe, is now open and accessible by this project. While the Board is sympathetic to the delays encountered by applicants during the interconnection process, and does not condone the failure of Petitioner's electric distribution company to respond timely to Petitioner's requests for meetings and status updates which occurred prior to the project's TI registration, the Board **FINDS** that Petitioner was aware at the time of registering that the Project was unlikely to meet the completion deadlines of the TI Program. The Board **FINDS** that the delays encountered during the interconnection process do not, based on the record before the Board, constitute grounds to waive TI Program requirements.

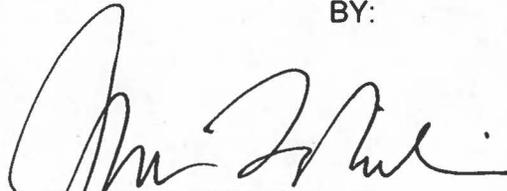
Furthermore, Petitioner's request to extend the TI Program deadlines for its project would necessitate a waiver of the TI Rules. The Board's rules state that "[i]n special cases, upon a showing of good cause the [B]oard may relax or permit deviations from the rule." N.J.A.C. 14:1-1.2(b). The Board's rules go on to explain that "the Board shall, in accordance with the general purpose and intent of the rules, waive section(s) of the rule if full compliance with the rule(s) would adversely affect 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). While the Board understands that Petitioner may not have anticipated the amount of time required to complete the interconnection study process, or to negotiate costs, the Board does not find that the public interest is served by granting the requested waiver of the TI rules. The Board must balance Petitioner's interests as a solar developer with the public's interest in timely completion of projects, the ratepayers' interest in controlling the cost of solar subsidies, and ratepayers' interest in ensuring that incentive levels appropriately reflect when a project reaches commercial operation. The TI Program was designed to be a bridge between the SRP and the now-open Successor Incentive Program. N.J.A.C. 14:8-10.1. Noting that this registration was made on the last day of the TI Program with Petitioner having knowledge that it would likely be unable to comply with the TI Program deadlines, and finding no further evidence of a special case or good cause to deviate from the rules, the Board **FINDS** that this project is not entitled to receive one or more waivers of the TI Program rules in order to qualify for those incentives. Having carefully considered this matter, the Board **DECLINES** to waive the TI Rules to extend deadlines for Petitioner's project, and **HEREBY DENIES** the petition.

Should the Petitioner believe that it cannot complete by the existing deadline, the Board encourages Petitioner to withdraw its TI registration and submit an application for eligibility in the ADI Program.

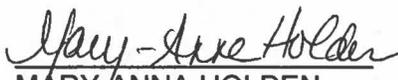
The effective date of this Order is March 2, 2022.

DATED: February 23, 2022

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



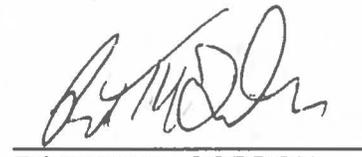
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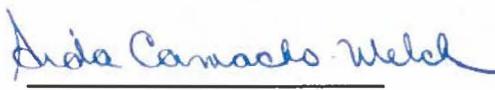
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ATTEST: 

AIDA CAMACHO-WELCH
SECRETARY

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DOCKET NO. QO19010068

I/M/O REQUEST FOR WAIVER AND EXTENSION OF TIME TO COMPLETE
NJSTRE1547537829 IN TRANSITION INCENTIVE PROGRAM - CENTRICA BUSINESS
SOLUTIONS, INC. FOR THE GROUPE SEB PROJECTS

DOCKET NO. QO21111207

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