



Agenda Date: 3/9/22
Agenda Item: 8C

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)	
)	
IN THE MATTER OF REQUEST FOR WAIVER AND)	
EXTENSION OF THE SOLAR TRANSITION INCENTIVE)	DOCKET NO. QO19010068
PROGRAM COMMERCIAL OPERATION DEADLINE)	
FOR MULTIPLE NON-RESIDENTIAL NET-METERED)	
ROOFTOP AND CARPORT SOLAR PROJECTS -)	
CENTRICA BUSINESS SOLUTIONS)	
)	
NJSTRE1547461814)	
NJSTRE1547533249)	
NJSTRE1547457197)	
NJSTRE1547461384)	
NJSTRE1547461973)	DOCKET NO. QO21111234

Party of Record:

Murray E. Bevan, Esq., Bevan, Mosca & Guiditta, P.C., on behalf of Centrica Business Solutions, Inc

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 time for nine (9) registrations 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

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

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.

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, provides eligible projects with Transition Renewable Energy Certificates (“TRECs”) for each megawatt hour of electricity produced.² 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, for example, 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 and the TI Rules, 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 (5) 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.⁵ The TI Program closed on August 27, 2021, and the SuSI Program opened on August 28, 2021.

The SuSI Program has two (2) components: the Administratively Determined Incentive (“ADI”) Program and the Competitive Solicitation (“CSI”) Program. The ADI Program, which is available to residential projects and net metered non-residential projects of 5 MW or less, launched on

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”).

⁵ In re A New Jersey Solar Transition Pursuant to P.L. 2018, C. 17, BPU Docket No. QO19010068, Order dated July 28, 2021 (“July 2021 Order”).

August 28, 2021; the CSI Program, which will serve net metered non-residential projects over 5MW and grid supply projects, is currently under development and is anticipated to open in 2022.

Petition

On November 30, 2021, Centrica filed the instant petition requesting that the Board grant extensions to the conditional acceptance expiration dates for nine (9) non-residential net metered rooftop and carport solar projects registered in the TI Program.

According to the petition, Centrica filed TI registrations for these nine (9) non-residential rooftop- or carport-mounted net metered solar electric generation facilities between August 25, 2021 and August 27, 2021 (“Projects”). The Program Administrator issued acceptance letters for the Projects on dates from August 26, 2021 through September 13, 2021, resulting in post-construction certification deadlines ranging from August 26, 2022 to September 13, 2022.

The Petitioner now seeks an extension of “at least six month[s]” to each of the above-referenced project completion deadlines. Petitioner claims long pandemic-related delays in the supply chain for steel, both for solar panel racking and carport structures; for roofing materials such as insulation, fasteners, and slip sheets; for solar panel system modules and inverters; and for electrical components. In addition, Petitioner stated that there is a current shortage of electricians and other skilled labor to install these solar projects.

Centrica claimed that it made every attempt to move the Projects forward in a timely manner, including pursuing multiple supply sources for the materials it needs. (Petition at Par. 6 and Exhibit B). According to the petition, Centrica was told by suppliers that there is an industry-wide shortage of insulation and fasteners for commercial roofing and that the supply will be delayed until at least April 2022. Petitioner also alleged a severe shortage of slip-sheets, which it said are a required element of a solar installation even if the project does not require a new roof. Petitioner stated that it contacted many suppliers and roofing manufacturers and that all are experiencing significant supply chain delays.

STAFF RECOMMENDATION

Staff recognizes that the Covid-19 pandemic created unique challenges for the solar industry. In conjunction with the end of the TI Program, many developers find themselves facing challenges unprecedented in the history of New Jersey’s solar market. In the matter under review, however, the supply chain delays cited by Petitioner were foreseeable. The Petitioner knew or should have known of the challenges to develop projects before the submission of the registrations. Petitioner supported its discussion of supply chain challenges in part by citing an article on the issues written in April 2021, almost four (4) months before the submission of the nine registrations. Similarly, the email chain submitted by Petitioner in its Exhibit B demonstrates that Centrica knew prior to filing its TI registrations that its contractors were having difficulty securing products.

The Petition also indicated that six (6) of the nine (9) projects at issue need roof replacements prior to installation of solar panels. Staff has not yet seen a situation in which roof replacements to accommodate solar installations constituted a sufficient reason to grant an incentive extension, and Staff does not believe that Petitioner has made a case for changing that precedent here.

The interim nature of the TI Program has been consistently communicated since the program was first proposed in 2019. The requirement for projects to complete construction, commence

commercial operations and submit post-construction certification materials within one year is also embodied in the TI rules. Those rules do not provide for extensions.

In this instance, the Projects were not mature enough to meet TI deadlines. Petitioner registered in the TI Program with the knowledge that this program provided 12 months to achieve commercial operation and did not provide for extensions. In addition, as noted above, the existence of widespread supply chain delays was common industry knowledge. If Petitioner knew that it could not comply with program requirements and complete the Projects within one year, without extension, then Petitioner knew or should have known that the Projects would be better candidates for the ADI Program which opened the day after Centrica filed its TI registration and which does provide an extension opportunity.

Furthermore, the incentive values in the TI Program were designed for projects that had registered in the SRP and expected to construct in 2019 and 2020. As non-residential rooftop and carport solar projects, the Projects would have received the highest available TI Program incentive. The Petitioner's extension request, however, would result in the Projects completing as late as 2023. At the same time, the costs of solar installations are generally declining. Staff believes that 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. Staff notes that the ADI Program offers an opportunity for a six (6) month extension should the Petitioner anticipate it needs more than one (1) year to complete a project.

One of the Projects, referenced by Petitioner as the Cornerstone solar project, has a projected size of 6.28 MW dc. As such, it would not be eligible for the ADI Program but may be eligible to apply in the CSI Program.

Staff recommends the Board deny the Petitioner's request to extend the deadlines for the Projects as unwarranted. Staff recommends that, if the Petitioner feels it cannot complete one (1) or more of the eight (8) projects sized below 5 MW by the deadlines provided, Petitioner be encouraged to withdraw the TI registration(s) and submit an application for eligibility in the ADI Program. With respect to the Cornerstone project, should it not complete by its TI deadline of August 27, 2022, Staff recommends that Petitioner monitor the ongoing development of the CSI Program to determine if it wishes to apply. Alternatively, Petitioner may wish to consider reducing the size of this project so that it would be eligible for the ADI Program.

DISCUSSION AND FINDINGS

The Board recognizes that the solar industry continues to adjust to significant and rapid change in the wake of the CEA and the resulting restructuring of New Jersey's solar programs. The Board is also aware that the Covid-19 pandemic has caused widespread and long-lasting disruptions to the supply chains on which solar developers rely. Nonetheless, 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. While the Board is sympathetic to the delays encountered by applicants during the time of the pandemic, the Board **FINDS** that Petitioner was aware at the time of registering that the Projects were unlikely to meet

the completion deadlines of the TI Program. The Board **FINDS** that the delays encountered with the supply chain do not, based on the record before the Board, constitute sufficient grounds to waive TI Program requirements.

Furthermore, Petitioner's request to extend the TI Program deadlines for the Projects 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 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). While the Board understands that the supply chain delays caused by the Covid-19 pandemic may have been beyond Petitioner's control, 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 these registrations were made in the final days 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 the Projects are not entitled to receive a waiver 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 the Projects, and **HEREBY DENIES** the petition.

Should the Petitioner believe that it cannot complete one or more of the Projects by the existing deadline, the Board encourages Petitioner to withdraw the associated TI registration(s) for the eight (8) projects under 5 MW dc and submit an application(s) for eligibility in the ADI Program. The Board also encourages Petitioner to monitor the development of the CSI Program should it decide to apply for incentives for the Cornerstone project through that program.

The effective date of this Order is March 16, 2022.

DATED: March 9, 2022

BOARD OF PUBLIC UTILITIES
BY:



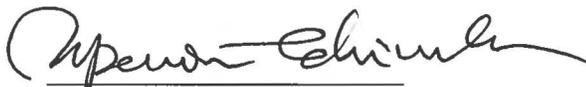
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COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

IN THE MATTER OF A NEW JERSEY SOLAR TRANSITION PURSUANT TO P.L. 2018, C.17
DOCKET NO. QO19010068

I/M/O REQUEST FOR WAIVER AND EXTENSION OF THE SOLAR TRANSITION INCENTIVE
PROGRAM COMMERCIAL OPERATION DEADLINE FOR MULTIPLE NON-RESIDENTIAL
NET-METERED ROOFTOP AND CARPORT SOLAR PROJECTS - CENTRICA BUSINESS
SOLUTIONS
DOCKET NO. QO21111234

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