



Agenda Date: 12/21/22

Agenda Item: 2I

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF THE COMBINED AND )  
CONSOLIDATED APPLICATION OF ATLANTIC CITY )  
ELECTRIC COMPANY TO ADJUST THE LEVEL OF ITS )  
"RIDER RGGI" RATE ASSOCIATED WITH ITS LEGACY )  
SOLAR RENEWABLE ENERGY CERTIFICATE ("SREC I") )  
FINANCING PROGRAM, ITS SUCCESSOR SOLAR )  
RENEWABLE ENERGY CERTIFICATE ("SREC II") )  
FINANCING PROGRAM, ITS SOLAR TRANSITION )  
INCENTIVE PROGRAM ("TREC"), AND ITS SUCCESSOR )  
SOLAR INCENTIVE ("SUSI") PROGRAM (2022) )

DECISION AND ORDER  
SETTING ADMINISTRATIVE  
FEE

DOCKET NO. ER22070415

**Parties of Record:**

**Philip J. Passanante, Esq.**, for Atlantic City Electric Company  
**Brian O. Lipman, Esq., Director**, New Jersey Division of Rate Counsel

BY THE BOARD:

On July 8, 2022, Atlantic City Electric Company ("ACE" or "Company" or "Petitioner") filed a petition with the New Jersey Board of Public Utilities ("Board" or "BPU") seeking authority to adjust the level of the Rider Regional Greenhouse Gas Initiative Recovery Charge ("Rider RGGI") associated with ACE's legacy Solar Renewable Energy Certificate ("SREC") Financing Program ("SREC I Program"), the Company's successor Solar Renewable Energy Certificate Financing Program ("SREC II Program"), its Transition Renewable Energy Certificate ("TREC") Program ("TREC Program"), and Successor Solar Incentive Program ("SuSI Program") ("July 2022 Petition").

**Background and Procedural History**

SREC I Program

By Order dated August 7, 2008, the Board directed Jersey Central Power & Light Company ("JCP&L") and ACE to file, by September 30, 2008, a solar financing program based upon SRECs, utilizing and incorporating certain mandatory design and filing requirements. On October 1, 2008, ACE filed a petition with a proposed SREC financing program.

ACE, JCP&L, Staff, Rate Counsel, and the Solar Alliance (“SA”) considered the ACE and JCP&L filings in the course of 11 settlement meetings held between February and March 2009. Over the course of those settlement discussions, the ACE’s and JCP&L’s proposals were incorporated into a single program that included a cost recovery mechanism and incentives. ACE, JCP&L, Staff, and SA executed a stipulation on March 13, 2009 (“March 2009 Stipulation”). Rate Counsel signed the March 2009 Stipulation, but reserved its right to contest three (3) specific issues. By Order dated March 27, 2009, the Board approved the March 2009 Stipulation and decided the contested issues.<sup>1</sup> The March 2009 Order approved, in part, the recovery of costs through an SREC Financing Program rate component of the Rider RGGI equal to a per kilowatt-hour (“kWh”) charge applicable to all customers. As net program costs for the first year of the program were uncertain, the March 2009 Order required ACE’s Rider RGGI rate component for this program to be set at 0.000000 per kWh.

On May 8, 2009, Rate Counsel filed a Notice of Appeal with the Superior Court of New Jersey, Appellate Division, regarding the “additional recoveries” portion of the contested issues. On July 29, 2009, ACE, JCP&L, Staff, and Rate Counsel entered into a stipulation of settlement regarding the contested issues (“Stipulation on Appeal”). By Order dated September 16, 2009, the Board modified its March 2009 Order to reflect the terms of the Stipulation on Appeal. Rate Counsel withdrew its appeal on September 23, 2009.<sup>2</sup>

The Board, from 2013 through 2020, approved various kWh amounts for the SREC I Program component of the RGGI rate.<sup>3</sup> The specific actions taken by the Board are as follows:

- On December 18, 2013, the Board approved the SREC I Program component of the Rider RGGI rate at \$0.000610 per kWh;<sup>4</sup>

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<sup>1</sup> In re Atlantic City Electric Company Renewable Energy Portfolio Standard Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, and;

In re the Verified Petition of Jersey Central Power and Light Company Concerning a Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1, BPU Docket Nos. EO08100875 and EO08090840, Order dated March 27, 2009 (“March 2009 Order”).

<sup>2</sup> In re Atlantic City Electric Company Renewable Energy Portfolio Standard Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy, and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, and;

In re the Verified Petition of Jersey Central Power and Light Company Concerning a Proposal for an SREC-Based Financing Program Under N.J.S.A. 48:3-98.1, BPU Docket Nos. EO08100875 and EO08090840, Order dated September 16, 2009.

<sup>3</sup> All rate quoted herein include New Jersey Sales and Use Tax (“SUT”).

<sup>4</sup> In re Atlantic City Electric Company’s Annual Filing to Set the Level of its “Rider RGGI” Rate Associated with its Solar Renewable Energy Certificate Financing Program, and;

In re Atlantic City Electric Company Renewable Energy Portfolio Standard-Amendments to the Minimum Filing Requirements for Energy Efficiency, Renewable Energy and Conservation Programs; and for Electric Distribution Company Submittals of Filings in Connection with Solar Financing, BPU Docket Nos. EO13030241 and EO12040312, Order dated December 18, 2013.

- On November 16, 2015, the Board approved the SREC I Program component of the Rider RGGI rate at \$0.000824 per kWh;<sup>5</sup>
- On November 30, 2016, the Board approved the SREC I Program component of the Rider RGGI rate at \$0.000567 per kWh, which was further reduced to reflect a change in the applicable SUT to the rate of \$0.000566 per kWh;<sup>6</sup>
- On September 22, 2017, the Board approved the SREC I Program component of the Rider RGGI rate at \$0.000392 per kWh, which was further reduced to reflect a change in the applicable SUT of \$0.000391 per kWh;<sup>7</sup>
- On January 17, 2019, the Board approved the SREC I Program component of the Rider RGGI rate at \$0.000417 per kWh;<sup>8</sup>
- On February 5, 2020, the Board approved the SREC I Program component for the Rider RGGI rate at \$0.000334 per kWh;<sup>9</sup>
- On November 18, 2020, the Board approved the SREC I Program component of the Rider RGGI Rate at \$0.000299 per kWh;<sup>10</sup> and
- On February 23, 2022, the Board approved the SREC I Program component of the Rider RGGI Rate at \$0.000189 per kWh.<sup>11</sup>

### SREC II Program

On November 8, 2011, the Board directed the Office of Clean Energy to initiate an assessment of New Jersey's renewable energy programs, as well as addressing issues raised by the Solar Energy Advancement and Fair Competition Act (L. 2009, c. 289), and the 2011 Energy Master Plan.<sup>12</sup> On May 23, 2012, the Board issued an Order directing ACE to file within five (5) business days of service of the Order, "a notice of their intention to participate or not to participate in the Extended [Electric Distribution Company] SREC Programs consistent with Staff's

<sup>5</sup> In re the Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Solar Renewable Energy Certificate Financing Program (2015), BPU Docket No. EO15050505, Order dated November 16, 2015.

<sup>6</sup> In re the Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Solar Renewable Energy Certificate Financing Program (2016), BPU Docket No. ER16050402, Order dated November 30, 2016.

<sup>7</sup> In re the Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Solar Renewable Energy Certificate Financing Program (2017), BPU Docket No. ER17040357, Order dated September 22, 2017.

<sup>8</sup> In re the Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Solar Renewable Energy Certificate Financing Program (2018), BPU Docket No. ER18050543, Order dated January 17, 2019.

<sup>9</sup> In re the Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Solar Renewable Energy Certificate Financing Program (2019), BPU Docket No. ER19060697, Order dated February 5, 2020.

<sup>10</sup> In re the Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Solar Renewable Energy Certificate (SREC I) Financing Program (2020), BPU Docket No. ER20060387, Order dated November 18, 2020.

<sup>11</sup> In re the Combined and Consolidated Application of Atlantic City Electric Company to Adjust the Level of its "Rider RGGI" Rate Associated with its Legacy Solar Renewable Energy Certificate ("SREC I") Financing Program, its Successor Solar Renewable Energy Certificate ("SREC II") Financing Program, and its Solar Transition Incentive Program (2021), BPU Docket No. ER21070980, Order dated February 23, 2022.

<sup>12</sup> The Office of Clean Energy was subsequently renamed the Division of Clean Energy.

recommendations adopted by the Board herein.”<sup>13</sup> On September 5, 2012, ACE submitted a petition requesting Board approval of the Company’s SREC II Program. By Order dated December 18, 2013, the Board authorized ACE to offer an SREC II Program with a total program size of up to 23 megawatts (“MW”).<sup>14</sup> The December 2013 Order set the Administrative Fee for SREC II Program participants at \$17.07 per SREC, and further ordered that, after five (5) years, there would be a true-up of administrative costs and program participant fees. The program participant fees would be adjusted on a prospective basis, beginning January 1, 2019. Additionally, the December 2013 Order directed ACE to “assess Application Fees, Assignment Fees, and Administrative Fees (collectively, “Program Participant Fees”) to Program Participants.”

Through a series of Board Orders dated December 18, 2018, October 25, 2019, December 20, 2019, May 20, 2020, December 16, 2020, June 24, 2021, December 15, 2021, and February 23, 2022, the Board approved the maintenance of the Company’s SREC II Administrative Fee at the Board’s previously approved rate of \$17.07, and maintenance of the Rider RGGI Surcharge applicable to the SREC II Program’s Direct Charges at its current rate of \$0.000000 per kWh.<sup>15</sup>

### TREC Program

By Order dated December 6, 2019, the Board established the TREC Program to bridge the gap between legacy SREC programs and a to-be-determined successor program.<sup>16</sup> The BPU directed New Jersey’s electric distribution companies (“EDCs”) to work with Staff to jointly procure a TREC Administrator that would acquire all of the TRECs produced each year by eligible solar generation projects. The TREC Administrator would then allocate the TRECs to load serving entities based upon their market share of retail sales for retirement within the generation attribute tracking system as part of the annual renewable portfolio standard compliance process.

The TREC Order further authorized the EDCs to recover reasonable and prudent costs for TREC procurement and TREC Administrator Fees, the recovery would be based upon each EDC’s proportionate share of retail electric sales. As a result, each EDC was directed to annually file for its costs and the recovery method, subject to approval by the Board.

By Order dated March 9, 2020, the Board directed Staff to work with the selected TREC Administrator to acquire all TRECs produced by eligible solar generation projects at a base compensation rate of \$152 per megawatt hour.<sup>17</sup> The TREC Administrator would then calculate

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<sup>13</sup> In re the Review of Utility Supported Solar Programs, BPU Docket No. EO11050311V, Order dated May 23, 2012. See Staff Recommendations, page 26 - line b.

<sup>14</sup> In re the Petition of Atlantic City Electric Company Concerning a Proposal for an Extended Solar Renewable Energy Certificate (SREC)-Based Financing Program Pursuant to N.J.S.A. 48:3-98.1, BPU Docket No. EO12090799, Order dated December 18, 2013 (“December 2013 Order”).

<sup>15</sup> In re the Combined and Consolidated Application of Atlantic City Electric Company to Adjust the Level of its “Rider RGGI” Rate Associated with its Legacy Solar Renewable Energy Certificate (“SREC I”) Financing Program, its Successor Solar Renewable Energy Certificate (“SREC II”) Financing Program, and its Solar Transition Incentive Program (2021), BPU Docket No. ER21070980, Order dated February 23, 2022;

See also BPU Docket Nos. ER18101192, ER19101429, ER20100688 and ER21070980.

<sup>16</sup> In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17, BPU Docket No. QO19010068, Order dated December 6, 2019 (“TREC Order”).

<sup>17</sup> In re a New Jersey Solar Transition Pursuant to P.L. 2018, C.17 – TREC Base Compensation Schedule, BPU Docket No. QO19010068, Order dated March 9, 2020.

the actual value of a TREC to be acquired by multiplying the base compensation rate by a factor applicable to the solar project type set forth in the table below:

Solar Project Type	TREC Factor
Subsection (t): landfill, brownfield, areas of historic fill	1.0
Grid Supply [subsection (r)] rooftop	1.0
Net metered non-residential rooftop and carport	1.0
Community solar	0.85
Grid supply [subsection (r)] ground mount	0.6
Net metered residential ground mount	0.6
Net metered residential rooftop and carport	0.6
Net metered non-residential ground mount	0.6

On April 10, 2020, the EDCs issued a joint Request for Proposal to 17 vendors to provide TREC administrator services for three (3) years beginning June 2020. The EDCs received four (4) bids on April 27, 2020. In July 2020, the EDCs executed a contract with InClimate, Inc. to serve as the TREC Administrator. The EDCs estimated the cost of the TREC Administrator Services Fees for the initial three (3) year period to be between \$3.4 million and \$3.8 million.

- By Order dated August 12, 2022, the Board approved and established a new component of the Company’s Rider RGGI to recover costs associated with TREC. The initial TREC component of the Rider RGGI was set at a rate of \$0.000559 per kWh.<sup>18</sup>
- On February 23, 2022, the Board approved the TREC Program component of the Rider RGGI Rate at \$0.000988 per kWh.<sup>19</sup>

SuSI Program

In accordance with the Clean Energy Act of 2018, L. 2018, c. 17 (“CEA”), and the Solar Act of 2021, L. 2021, c. 169, the Board issued an Order on June 28, 2021 establishing a new solar incentive program to incent up to 3,750 MW of new solar generation by calendar year 2026.<sup>20,21</sup> The SuSI Program was the culmination of a nearly three (3) year solar transition process mandated by the CEA to replace the State’s legacy SREC program with new incentives that encourage solar development while minimizing ratepayer costs.

The SuSI Program contained two (2) sub-programs:

- 1) The Administratively Determined Incentive (“ADI”) Program: a fixed incentive payment for net-metered solar projects of 5 MW or less – including all residential customers and most

<sup>18</sup> In re the Petition of Atlantic City Electric Company Concerning the Initial Setting of the Regional Greenhouse Gas Initiative Recovery Charge (“Rider RGGI”) Associated with the New Jersey Solar Transition Incentive Program, BPU Docket No. ER20050344, Order dated August 12, 2020.

<sup>19</sup> In re the Combined and Consolidated Application of Atlantic City Electric Company to Adjust the Level of its “Rider RGGI” Rate Associated with its Legacy Solar Renewable Energy Certificate (“SREC I”) Financing Program, its Successor Solar Renewable Energy Certificate (“SREC II”) Financing Program, and its Solar Transition Incentive Program (2021), BPU Docket No. ER21070980, Order dated February 23, 2022.

<sup>20</sup> N.J.S.A. 48:3-87(d); N.J.S.A. 48:3-115.

<sup>21</sup> In re a Solar Successor Incentive Program Pursuant to P.L. 2018, C.17, BPU Docket No. QO20020184, Order dated June 28, 2021 (“SuSI Order”).

commercial and industrial buildings -- and all Community Solar installations. The incentive value varies based upon project type and size, and is guaranteed for a term of 15 years; and

- 2) The Competitive Solar Incentive (“CSI”) Program, which is still under development, is a competitive solicitation designed to incentivize the lowest financial contribution from ratepayers for grid supply projects and net-metered commercial and industrial projects larger than 5 MW.

The SuSI Program provided one (1) SREC II for every megawatt-hour (“MWh”) of solar electricity produced by a qualifying facility. The ADI Program was designed to support different solar market segments through long-term, tailored incentives for a variety of project types; the fixed, tailored incentives give the Board the ability to both contain program costs and provide financial certainty for market participants. ADI Program incentives include a \$20 per MWh adder for public entities such as school districts, municipalities, public colleges, etc.

Incentive levels for the ADI Program, set out below, range from \$70-\$120 per SREC-II, providing continued support for solar development in New Jersey while also offering significant savings over the prior SREC value of approximately \$220.

<u>Market Segment</u>	<u>Size (Measured in MWdc)</u>	<u>Recommended Incentive Value (\$/SREC-II)</u>	<u>Recommended Incentive Value for Public Entities (\$/SREC-II)</u>	<u>Recommended MW Block (MW)</u>
Net Metered Residential	All types and sizes	\$90	N/A	150 MW
Small Net Metered Non-Residential, Rooftop, Carport, Canopy and Floating Solar	All projects smaller than 1 MW	\$100	\$120	150 MW (for 4 segments)
Large Net Metered Non-Residential, Rooftop, Carport, Canopy and Floating Solar	Projects 1 MW to 5 MW	\$90	\$110	
Small Ground Mount Net Metered Non-Residential	Projects smaller than 1 MW	\$85	\$105	
Large Ground Mount Net Metered Non-Residential	Projects 1 MW to 5 MW	\$80	\$100	
Community Solar Non-LMI	Up to the 5 MW statutory limit	\$70	N/A	150 MW (for 2 segments)
Community Solar LMI	Up to the 5 MW statutory limit	\$90	N/A	
Interim Subsection (t) Program	All types and sizes	\$100	N/A	75 MW

\*All MW are in Direct Current capacity, as is standard practice for the Board.

The SuSI Order also directed the New Jersey EDCs to jointly procure an SREC-II Administrator or to expand the scope of duties for the existing TREC Administrator. On November 1, 2021, the EDCs and the TREC Administrator entered into an agreement amending the terms of the administrator's existing contract to reflect the inclusion of the ADI Program portion of the SuSI Program within the Administrator's scope of work.

By Order dated June 29, 2022, the Board approved and established a new component of the Company's Rider RGGI to recover costs associated with SuSI. The initial SuSI component of the Rider RGGI was set at a rate of \$0.000379 per kWh.<sup>22</sup>

### **July 2022 Petition**

The Company requested the following in the July 2022 Petition:

#### **SREC I Program**

Based upon actual SREC I Program costs through May 2022, and forecasted costs from June 2022 through October 2023, the Company proposed to recover approximately \$831,259 in costs associated with SREC I Program. The proposed decrease reduces the Rider RGGI charge from the current per kWh charge of \$0.000189 to (\$0.000103), a decrease of \$0.000292 per kWh.

#### **SREC II Program**

From the inception of the SREC II Program until the end of 2022, based upon actual data through May 2022, and estimated data through December 2022, the Company claimed to have incurred recoverable administrative costs of \$366,757. In addition, in determining the Administrative Fee for 2023, ACE projected its administrative costs over the next period (calendar year 2023), to be approximately \$32,007 with \$8,658 in interest (calendar year 2022) resulting in a total projection of administrative costs of \$407,422 to be collected from program participants in calendar year 2023. Therefore, the projected Administrative Fee for 2022 would be \$46.81 per SREC. However, ACE asserted that an increase of this magnitude from the current Administrative Fee of \$17.07 would cause SREC II Program to fail, as project participants will likely seek to terminate their participation. In order to avoid the premature termination of SREC II Program participants, ACE requested that the Board allow the Company to maintain the Administrative Fee at its current level of \$17.07 for calendar year 2023. ACE further requested that the Company be authorized to carry forward any unrecovered SREC II Program Participant Fees, including Administrative Fees, for recovery from SREC II Program participants in future annual period(s).

Regarding the SREC II Program costs, which were based upon actual costs through May 2022, and projected costs through October 2023, there is a projected over-recovered balance, including interest, for Direct Costs of \$2,268,216. However, ACE proposed to continue its SREC II costs at the current rate of \$0.000000 per kWh, resulting in no change in both the Administrative Fee and SREC II Program costs rate.

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<sup>22</sup> In re the Petition of Atlantic City Electric Company Regarding the Initial Setting of the Regional Greenhouse Gas Initiative Recovery Charge Associated with the New Jersey Successor Solar Incentive ("SUSI") Program, BPU Docket No. ER21121236, Order dated June 29, 2022.

### TREC Program

ACE performed a calculation of its annual total revenue requirement necessary to recover its portion of the costs for TREC, including the estimated TREC Administrator Fee, for the November 2022 through October 2023 program year. Based upon actual costs from June 2021 through May 2022, and forecasts from July 2022 through October 2022, the projected revenue requirement for the program year was \$19,621,011. Based upon this total projected annual revenue requirement for the program year, ACE proposed to update its RGGI TREC charge from \$0.000998 to \$0.002442 per kWh, an increase of \$0.001444 per kWh.

### SuSI Program

ACE performed a calculation of its total annual revenue requirement necessary to recover its percentage of costs of the SuSI Program, including the estimated SuSI Administrator Fee, for the November 2022 through October 2023 program year. Based upon actual costs from April 2022 through May 2022, and forecasts from June 2022 through October 2022, the projected revenue requirement for the program year was \$389,828. Based upon this annual revenue requirement for the program year, ACE proposed to update its RGGI SuSI charge from \$0.000379 to \$0.000048 per kWh, a decrease of \$0.000331 per kWh.

After notice in newspapers of general circulation within the Company's service territory, virtual public hearings were held on October 13, 2022 at 4:30 p.m. and 5:30 p.m.<sup>23</sup> No members of the public attended the hearing. Additionally, no written comments were received by the Board.

### **DISCUSSION AND FINDINGS**

The parties are in the process of reviewing the July 2022 Petition, which will not be complete prior to the impending change in the SREC II Program Administrative Fee required by the December 2013 Order. Accordingly, after reviewing the record to date, including the July 2022 Petition, the Board **HEREBY FINDS** it appropriate to maintain the SREC II Administrative Fee for calendar year 2023 at its current level. Accordingly, the Board **HEREBY ORDERS** the continuation of the SREC II Program Administrative Fee at the Board's previously approved rate of \$17.07 for calendar year 2023.

The Board notes that the parties will continue to review all matters concerning the July 2022 Petition. The Company's costs, including those related to the programs described above, remain subject to audit by the Board. As such, this Decision and Order shall not preclude or prohibit the Board from taking any actions determined to be appropriate as a result of any such audit.

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<sup>23</sup> Due to the COVID-19 Pandemic, the public hearings were held telephonically/virtually.



The effective date of this Order is December 28, 2022.

DATED: December 21, 2022

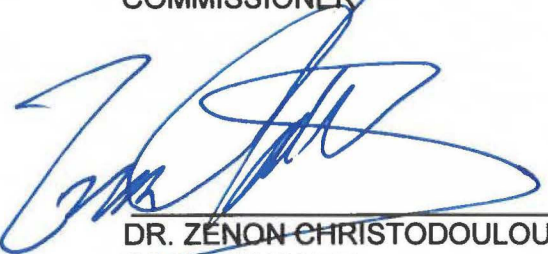
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COMMISSIONER

ATTEST:   
CARMEN D. DIAZ  
ACTING SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public Utilities.

IN THE MATTER OF THE COMBINED AND CONSOLIDATED APPLICATION OF ATLANTIC CITY ELECTRIC COMPANY TO ADJUST THE LEVEL OF ITS "RIDER RGGI" RATE ASSOCIATED WITH ITS LEGACY SOLAR RENEWABLE ENERGY CERTIFICATE ("SREC I") FINANCING PROGRAM, ITS SUCCESSOR SOLAR RENEWABLE ENERGY CERTIFICATE ("SREC II") FINANCING PROGRAM, ITS SOLAR TRANSITION INCENTIVE PROGRAM ("TREC"), AND ITS SUCCESSIVE SOLAR INCENTIVE ("SUSI") PROGRAM (2022)

DOCKET NO. ER22070415

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