



Agenda Date: 10/22/14

Agenda Item: 8D

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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CLEAN ENERGY

ORDER

IN THE MATTER OF IMPLEMENTATION  
OF L.2012, C.24, THE SOLAR ACT OF 2012; and

Docket No. EO12090832V

IN THE MATTER OF THE  
IMPLEMENTATION OF L.2012, C.24 N.J.S.A. 48:3-87  
(Q)(R) AND (S) - PROCEEDINGS TO ESTABLISH THE  
PROCESSES FOR DESIGNATING CERTAIN GRID-  
SUPPLY PROJECTS AS CONNECTED TO THE  
DISTRIBUTION SYSTEM – REQUEST FOR  
APPROVAL OF GRID SUPPLY SOLAR ELECTRIC  
POWER GENERATION PURSUANT TO SUBSECTION  
(S) – ADDITIONAL APPLICATION CRITERIA

Docket No. EO12090880V

**PARTIES OF RECORD**  
(See Attached Service List)

BY THE BOARD<sup>1</sup>:

**BACKGROUND**

The Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 to -107, was enacted on February 9, 1999. Among its purposes was to lower the high cost of energy and improve the quality and choices of service for all the State's consumers, N.J.S.A. 48:3-50a(1). EDECA established the framework for the deregulation and restructuring of the State's electric and natural gas utilities, and set certain directives and timetables regarding the implementation of electric retail choice. EDECA also mandated that the New Jersey Board of Public Utilities ("Board" or "BPU") adopt renewable energy portfolio standards (the "RPS"), N.J.S.A. 48:3-87, culminating in the adoption by the Board of Renewable Portfolio Standards regulations, N.J.A.C.

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<sup>1</sup> Commissioner Upendra J. Chivukula has recused himself due to a possible conflict of interest and did not participate in the discussion or deliberation of this matter.

14:8-2.1 to -2.11. The RPS are designed to encourage, among other things, the development of renewable sources of electricity. N.J.A.C. 14:8-2.1(a). EDECA also mandated that the Board create a renewable energy trading program which led to the creation of renewable energy certificates, including solar renewable energy certificates ("SRECs") that can be used to assist in meeting the RPS. The Board was given broad authority and discretion, based on its expertise, to implement and oversee the transition from a regulated to a competitive power supply marketplace.

The Solar Act of 2012, a bi-partisan effort to stabilize solar market development, was signed into law by Governor Christie on July 23, 2012, and took effect immediately. L.2012, c.24, § 3 ("Solar Act"). The law amends N.J.S.A. 48:3-51 and N.J.S.A. 48:3-87, which are provisions of EDECA.

The Solar Act doubled the near term solar RPS and added requirements that are not in the Board's RPS rules, particularly the SREC Registration Program ("SRP") requirements for Board approval or designation of certain projects as being "connected to the distribution system" in order to earn SRECs. "Connected to the distribution system" is defined by the Solar Act to mean a solar electric power generation facility that is:

- (1) connected to a net metering customer's side of a meter, regardless of the voltage at which that customer connects to the electric grid,
- (2) an on-site generation facility,
- (3) qualified for net metering aggregation as provided pursuant to ... [N.J.S.A. 48:3-87(e)(4)],
- (4) owned or operated by an electric public utility and approved by the board pursuant to ... [N.J.S.A. 48:3-98.1],
- (5) directly connected to the electric grid at 69 kilovolts or less, regardless of how an electric public utility classifies that portion of its electric grid, and is designated as "connected to the distribution system" by the board pursuant to ... [N.J.S.A. 48:3-87(q) through (s)], or
- (6) is certified by the board, in consultation with the Department of Environmental Protection, as being located on a brownfield, on an area of historic fill, or on a properly closed sanitary landfill facility. Any solar electric power generation facility, other than that of a net metering customer on the customer's side of the meter, connected above 69 kilovolts shall not be considered connected to the distribution system.

[N.J.S.A. 48:3-51]

The legislative and regulatory actions to promote renewable energy, in particular solar energy, have been generally successful. The current estimates, generated by Staff on a monthly basis and critiqued by market participants in monthly open stakeholder meetings, appear to show that the market for SRECs will be long, that is, there will be more SRECs than needed to satisfy the solar portion of the RPS, through EY<sup>2</sup> 2017 or beyond. The "price of success" in the solar energy market is that as the supply of SRECs surpassed the demand established in the Board's rules and in the statute, the price fell significantly since the price of SRECs is set by the market.

N.J.S.A. 48:3-87(s) ("Subsection s") applies to land actively devoted to agricultural or horticultural use that is valued, assessed, and taxed pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 to -23.24, at any time within the 10-year period prior to the Solar Act's effective date ("farmland"). Under Subsection s, a solar electric power generation facility

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<sup>2</sup> EY or Energy Year is defined as the 12-month period from June 1 through May 31, numbered according to the calendar year in which it ends. N.J.S.A. 48:3-51.

on qualifying land that is not net-metered or an onsite generation facility (that is, the electricity is not being used to satisfy the electrical needs of structures on or adjacent to the land where the solar facility is located) is subject to a review process by the Board to determine whether the proposed project should be approved as connected to the distribution system and therefore eligible to earn SRECs. This is incremental to satisfaction of the SRP process.

A proposed solar generating facility on farmland can be reviewed under either Subsection s(1) or s(2). The provision relevant here, Subsection s(2), provides that the Board can approve a proposed facility on farmland if "PJM issued a System Impact Study for the facility before June 30, 2011," the facility filed a notice of intent to qualify under Subsection s(2) with the Board within (60) sixty days of the effective date of the Act, (i.e., by September 21, 2012), and the Board approves the facility as "connected to the distribution system." The Legislature specified that "[n]othing in this subsection shall limit the board's authority concerning the review and oversight of facilities," except for those approved under Subsection q. N.J.S.A. 48:3-87s.

By notice dated July 23, 2012, Board Staff notified stakeholders of the passage of the Solar Act; that the Board was creating processes to implement the provisions of the Solar Act; and directed that, as required by the provisions of the Solar Act, notices of intent be filed with the Board on or before September 21, 2012 by any proposed solar generating facility seeking to qualify under Subsection s(2).

After public notice, on November 9, 2012, a public hearing was held with stakeholders to discuss the various provisions of the Solar Act, and to receive oral comments on implementation of the Board's various responsibilities under the Solar Act. This was followed by a request for written comments which were due by November 23, 2012.

### **The Subsection s Application Process**

On November 30, 2012, Board Staff distributed the Subsection s(2) application via mass email to renewable energy stakeholders, and posted the application form on its webpage and on the webpage of the New Jersey Clean Energy Program. Any company applying for eligibility for SRECs under N.J.S.A. 48:3-87(s)(2) was required to submit a completed application package by December 17, 2012.

Applicants were required to submit a completed application providing information in response to twenty-seven (27) questions and, where relevant, attach appendices within four general categories, all designed specifically to aid Board Staff in making a recommendation to the Board as to which proposed projects should be approved under N.J.S.A. 48:3-87(s). The required information included the following:

1. PJM Interconnection Queue Documentation
2. Permits and Qualifications
3. Current Status of Project Development
4. Project Financial Data

Applicants submitted applications for fifty-seven (57) projects. Board Staff reviewed the application for each of the fifty-seven (57) projects (including late applications and those which did not satisfy the minimum statutory requirements), along with any additional correspondence or comments submitted by the applicant. Following the review of application materials, Staff

ranked the projects by progress toward completion based on the data submitted.<sup>3</sup> The key criteria utilized by Staff to judge project progress included the application submissions regarding project completion status, anticipated completion date, pictures of any completed construction, and percentage of funding expended. Staff conducted field visits of the top twelve (12) projects to determine accuracy of the applicant's reported completion status for the proposed facilities.

Following a thorough review, Board Staff recommended that three applications, substantially closer to completion than the rest, be approved as "connected to the distribution system"; that thirty-four (34) projects be denied approval; and, finally, that twenty (20) projects be deferred for further consideration, after submission of additional information and additional milestones had been achieved. The Board adopted Board Staff's recommendations at its April 29, 2013 Agenda meeting,<sup>4</sup> approving three applications, denying thirty-four (34), and deferring a decision on twenty (20) applications for proposed solar electric generation facilities which did not demonstrate significant progress on the relevant facilities but did indicate that all unappealable federal, state and local approvals had been secured by the date the applications were submitted. The deferred applications are identified below.

	<u>Location</u>	<u>Docket No.</u>	<u>PJM No.</u>	<u>Proposed Project Size</u>
GreenPower Development Millennium	Upper Deerfield	EO12121089V	PJM V4-009	12.5MW dc
Development	Raritan/Ringoes	EO12121090V	PJM W2-050	7.8 MW dc
Pittsgrove Solar	Pittsgrove	EO12121092V	PJM V2-035	2.3 MW dc
Day Four Solar	North Hanover	EO12121093V	PJM W2-019	6.0 MW dc*
Frenchtown III Solar	Kingswood	EO12121096V	PJM W2-016	12 MW dc
Alethea Cleantech Advisors	East Amwell	EO12121104V	PJM W2-061	3.3 MW dc
EffiSolar Development	Florence	EO12121107V	PJM W3-080	15 MW dc*
EffiSolar Development	Freehold	EO12121109V	PJM W2-088	20.9MW dc
EffiSolar Development	Stewartsville/Greenwich	EO12121111V	PJM W2-091	11.4MW dc
EffiSolar Development	Kingwood/Frenchtown	EO12121113V	PJM W2-083	16.4MWdc
EffiSolar Development	Howell	EO12121114V	PJM W3-079	14 MW dc*
EffiSolar Development	Lumberton	EO12121116V	PJM W2-090	20 MW dc*
EffiSolar Development	North Hanover	EO12121117V	PJM W2-082	20 MW dc
EffiSolar Development	Pemberton	EO12121118V	PJM W1-120	22.4MW dc
EffiSolar Development	Pemberton	EO12121119V	PJM W1-119	20.2MW dc
Spano Partners/Tetrattech	Millstone Township	EO12121121V	PJM W1-113	6.5 MW dc

<sup>3</sup>"Completion" includes all the activities required in developing a project, including but not limited to construction.

<sup>4</sup> I/M/O the Implementation of L.2012, c.24, the Solar Act of 2012, Dkt. No. EO12090832V and I/M/O the Implementation of L.2012, c.24, N.J.S.A. 48:3-87(q) (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid Supply Projects as Connected to the Distribution System – Request for Approval of Grid Supply Solar Electric Power Generation Pursuant to Subsection (s), Dkt. No. EO12090880V (May 8, 2013); I/M/O the Implementation of L.2012, c.24, the Solar Act of 2012, Dkt. No. EO12090832V and I/M/O the Implementation of L.2012, c.24, N.J.S.A. 48:3-87(q) (r) and (s) – Proceedings to Establish the Processes for Designating Certain Grid Supply Projects as Connected to the Distribution System – Request for Approval of Grid Supply Solar Electric Power Generation Pursuant to Subsection (s), Dkt. No. EO12090880V (May 10, 2013) ("May 10 Order").

Spano Partners/Tetrattech	Millstone Township	EO12121122V	PJM W2-078	5.9 MW dc
Spano Partners/Tetrattech	Manalapan Wrightstown/N.	EO12121123V	PJM W1-032	1.7MWdc
Community Energy	Hanover	EO12121132V	PJM W1-129	6.0 MW dc
Community Energy	West Pemberton	EO12121133V	PJM W2-102	8.4 MW dc

- The starred projects are those which were identified by Staff in the May 10 Order as apparently having transposed the number of MW ac with the number of MW dc

The Board directed Staff to work with stakeholders to develop a recommendation to the Board for additional information and milestone reporting requirements to enable further consideration of the deferred applications. May 10 Order at 58.

In response to the Board's directive, at the May 2013 renewable energy ("RE") stakeholder meeting, Staff facilitated a discussion among the stakeholders of which additional information and reporting requirements were likely to enable further consideration of the deferred applications. Staff also requested initial public comment from the State Agricultural Development Committee ("SADC") and the New Jersey State League of Municipalities ("NJSLOM"). Staff also received initial comments from Justin Michael Murphy, Esq.

On August 5, 2013, Board Staff issued a straw proposal ("Straw Proposal") for supplementary application criteria and milestone reporting requirements for stakeholder comment. The preliminary comments from Mr. Murphy, Ms. Payne (SADC) and Mr. Cerra (NJSLOM) were appended to the Straw Proposal. Written comments on the Straw Proposal were due on or before September 5, 2013.

#### Summary of Comments on the Straw Proposal Issued on August 13, 2013

Written comments were received from: the New Jersey Conservation Foundation ("the Foundation"), KDC Solar LLC ("KDC"), Morris and Somerset Counties ("the Counties"), the NJSLOM, the Sierra Club, Bruce Van Camp, Renu Energy, Ms. Patti DiMassa and Mr. Bruce Van Camp, and the New Jersey Solar Grid Supply Association ("NJSGSA").

#### **Comment: New Jersey State League of Municipalities (Michael Cerra):**

The NJSLOM believes applications need to be evaluated using three 'yardsticks': Consistency with the Solar Act, the 2011 New Jersey Energy Master Plan ("EMP"), and local zoning and planning ordinances (in particular when a municipality has zoned for renewable energy in the community). The NJSLOM points out that both the Solar Act and the EMP discourage grid-connected solar projects on farmland. With respect to local zoning and planning, the NJSLOM states that all solar applications must demonstrate compliance with all local ordinances and that the Board review process must allow for the active participation of the host municipalities. In addition, the NJSLOM proposes four specific rules for approving projects and SRECs:

- In evaluating funds committed, only expenses incurred before passage of the Solar Act should be considered; more than half the estimated project costs must have been spent.
- All necessary unappealable permits must have been obtained.

- In aggregate, no more than 20MW should be approved.
- No SRECs from any approved project should be eligible to satisfy the New Jersey RPS until EY2017.

**Response:** Staff appreciates the comments in support of a recommendation that takes a comprehensive approach to consideration of expressed state policy and law toward fulfillment of the Solar Act's requirements and has recommended that applicants be directed to provide the updated status of municipal approvals as a data point. In Staff's opinion, delaying the creation of SRECs until a definite date in future will be more appropriately addressed when conditional approvals are considered, not during the application evaluation. Staff believes that the number of megawatts approved will be a function of the projects which the Board approves based on the criteria it uses for the further evaluation of these projects.

**Comment: The Foundation (Alison Mitchell)**

The Foundation supports the growth of the solar industry in New Jersey when solar installations are appropriately located on brownfields, rooftops, parking lots, and garages rather than on open space and farmland. Public discussion on the topic must include site characteristics related to state, regional and local land use policies. The Foundation agrees with SADC that solar facilities should not negatively impact Farmland Preservation Programs or other important resources within New Jersey.

**Response:** Staff appreciates the comments in support of the process taken to involve a broad representation of state environmental and local government interests in the discussion of implementation of the Solar Act. The Foundation's concerns have been incorporated in the recommended criteria insofar as they are relevant to the preservation of open space as directed by the Energy Master Plan and the Solar Act.

**Comment: KDC (Tom Lynch)**

KDC supports the position of the NJSLOM. Specifically, KDC believes that allowing no greater than 20 MW in aggregate of Subsection (s) projects to qualify for SREC eligibility permits a reasonable balance between what it characterizes as the oversupplied SREC market and consideration of developers' stranded costs. KDC believes that because there is broad authority granted to the BPU by the Solar Act, the BPU has a responsibility to encourage orderly market development. The 20 MW number is a reasonable balancing of interests. KDC wants any grandfathering considerations to only apply to expenses incurred before the passing of the Solar Act. It would not be appropriate to apply grandfathering policy to any expenses incurred after the passage of the Solar Act, when developers were on notice regarding explicit discouragement of grid supply solar on New Jersey farmlands. The commenter states that the Board should consider approving only projects which are "shovel ready", an approach which the commenter believes is consistent with the Board's analysis in its April 2013 Order denying 33 applications for approval under Subsection s. KDC believes SREC generation for any Subsection s project that receives approval should not commence until Energy Year 2017.

**Response:** Staff appreciates the comments in support of the Board's stated policy goal of sustained, orderly development of the solar market at least cost to the ratepayer and agrees that the Board has broad authority to review proposed solar facilities under the Solar Act. As it stated in its May 10 Order, the Board has found that the extent of progress made toward completion is a key measure of certainty of a facility coming on-line and thus in reducing solar market volatility. Staff concurs that whether expenses were incurred before or after July 23,

2012 is relevant to the Board's consideration of whether a solar facility should be deemed 'connected to the distribution system.'

**Comment: Sierra Club, New Jersey Chapter (Jeff Tittel)**

The Sierra Club states that while New Jersey should not prevent solar on farmlands, it should be regulated and done in a way that will help New Jersey meet its renewable energy goals. The commenter suggests using the SADC rules on the construction of ground-mounted solar as a template and requiring that solar installations be located near existing power lines and substations so that line running is minimized. Referencing the availability of farmland for development as housing developments and commercial buildings, the Sierra Club argues that solar is a more beneficial use. The commenter also claims that there is insufficient space on properly closed landfills and brownfields for the amount of solar energy that New Jersey should develop, arguing that these locations are often prohibitively expensive for solar development.

**Response:** This proceeding involves grid supply merchant power generation facilities that do not serve onsite energy needs. Properly closed landfills and brownfields are not the only remaining alternatives for solar besides farmland. There are currently no limitations in the RPS rules or the Solar Act for solar located on farmland that serves onsite energy needs, typically located on rooftops. There have been no representations made by any members of the solar community that insufficient rooftop space exists to accommodate the goals expressed in the RPS.

**Comment: Bruce Van Camp, P.E. (Burlington Township) / Patti DiMassa (Florence Township):**

The commenters request the BPU deny the EffiSolar Development Dkt. No. EO12121107V (PJM W3-080) project eligibility for SRECs as well as any others that have not shown significant progress or investment after further Board scrutiny. They claim that the EffiSolar project would remove approximately 10% of remaining farmland in Florence Township and is in conflict with the Florence Township Master Plan, as well as being sited on a Rural Planning Area 4 as defined by the State. The commenters allege that EffiSolar's estimated completion date is not until EY15-16, that this is too speculative, and that as of the December 17, 2012 filing deadline for Subsection s projects EffiSolar had no construction contracts in place, no construction financing secured, and only 1.3% of total estimated costs expended.

While noting that primary jurisdiction for land use lies with municipal planning and zoning boards, the commenters point to the 2011 EMP for its statement that many solar projects are investor-driven and are installed without regard for appropriate land use. In addition, they assert that many variances for solar projects have been granted by zoning boards insufficiently sophisticated to recognize the true impact. They state that ground-mounted solar arrays are not necessary or practical in such a densely populated state.

**Response:** Staff notes the commenters' concern over large ground-mounted solar installations and has recommended the status of local government approvals as a criterion. Action on the deferred application identified with Board Docket Number EO12121107V remains before the Board. Comments on a pending application are outside the scope of the proceeding.

**Comment: Renu Energy (Neal Zislin, VP Engineering):**

The commenter asserts that the issues raised in section 2 of the Straw Proposal (Site Characteristics) are beyond the purview of the Board and should be left to the local and state agencies which regulate them. Renu asserts that the purpose of Subsection s was to offer a

pathway to approval for developers who had already invested a considerable amount of time and money in their proposed projects. Renu rejects NJSLOM's proposed limitation of capacity approved to 20 MW and also its suggestion that the SRECs from any projects approved not be eligible to satisfy the New Jersey RPS until EY2017. Renu also disagrees with Justin Michael Murphy's comments requiring information on the economic benefits incurred by the public, and believes that the examination of site overview and land use is superfluous. The commenter feels that the SADC should be directing its recommendations to local planning boards rather than to the Board. The commenter proposes the following criteria and milestone reporting:

- All final and unappealable approvals and permits have been issued
- The total project scope and cost to upgrade EDC systems have been identified and quantified and PJM has expressed an intent to issue an interconnection permit.
- Power Purchase Agreement or PJM wholesale market participation agreement has been completed.
- A schedule for completion exists with defined key milestones (including interim reporting).
- The Board should impose as a deadline date a reasonable period after the official date certifying the project.

**Response:** Staff notes the commenter's desire for Staff to limit its recommendations for the Board's consideration for its review pursuant to Subsection s. Staff does not agree that the review should be limited to project completion milestones and refers to the May 10 Order, where the Board noted that other considerations such as impacts on the SREC market, solar development, and the preservation of open space are relevant to the policies expressed in the Energy Master Plan and the several sections of the Solar Act directed toward stabilizing the solar market.

**Comment: Stephen Pearlman (representing Morris and Somerset Counties):**

The Counties presented separate comments on the three areas proposed for comment in the Straw. With respect to supplementary data on project characteristics, the Counties don't believe documentation of project expenditures incurred after the passage of the Solar Act should be reviewed in the context of deciding SREC eligibility. They further propose that the BPU request information from the developer to determine if the project has been put into suspension at PJM, stating their understanding that suspensions may extend the timeline of a project for three additional years, which the Counties argue would allow these projects to apply under Subsection (q) or possibly Subsection (r), which will be effective beginning in EY2017. With regard to supplementary data on site characteristics, the commenters support the consideration of State, regional and local land use policies. They agree with comments made by SADC that suggest consideration of impacts of solar facilities on the on-going Farmland Preservation Program. Lastly, the Counties support milestone reporting requirements, as well as the four requirements proposed by the NJSLOM. In particular, the commenters stress that any Subsection s projects that qualify for SRECs should not be allowed to generate SRECs until Energy Year 2017.

**Response:** Staff notes the commenter's recommendation to request documentation of individual project expenditures and to differentiate between costs expended prior to and after the enactment of the Solar Act. Staff believes that this concern is addressed within the criteria



regarding the status of an individual solar facility. Staff does not agree that a solar facility's potential state of suspension at PJM is relevant to the ability to construct pursuant to Subsection s.

**Comment: New Jersey State Agriculture Development Committee (Susan Payne, Executive Director):**

SADC focused its comments on locational and farmland quality considerations, in particular the impacts of a solar facility on the Farmland Preservation Program. SADC proposes a number of criteria on this area, such as location within an Agricultural Development Area or a Farmland Preservation Program 'Project Area', the associated impact of any utility infrastructure required for a solar facility, and the concentration of solar facilities in one area. Specifically, the commenter suggests that farms of 100 acres or more, possessing a high degree of 'tillable soil', at least 50 acres of soil rated as "prime" or of "statewide importance", or that are within one-half mile of a preserved farm should be off limits for solar development.

**Response:** Staff appreciates the interest and participation of the State Agriculture Development Committee in these proceedings. Staff agrees that the potential impacts of solar facility development on state farmland preservation efforts are relevant to the review enabled by Subsection s and has incorporated the SADC's positions, though not all of its specific criteria, in support of State policy in Staff's recommendations to the Board.

**Comment: New Jersey Solar Grid Supply Association (James Spano, President):**

The NJSGSA, which includes 18 of the 20 applicants and developers designated as Deferred (s) projects in the May 10 Order, believes that the Board's position in its Order denying Community Energy's motion for reconsideration is unreasonable. According to the commenter, requiring a solar developer to obtain building permits and/or surety bonds in order to be considered for approval places developers at risk, as obtaining permits and posting bonds would be reckless when there is no certainty that Board approval will be granted. NJSGSA believes the creation of additional Deferred (s) criteria is an intentional misinterpretation of the Solar Act. In their opinion, the three criteria expressly mentioned in Subsection s – possession of a PJM System Impact Study issued before June 30, 2011, notice filed by the Board-ordered deadline, and Board approval as "connected to the distribution system"- were intended by the Legislature to be straightforward and readily implemented. It is their contention that the stakeholder process is in direct contravention of a plain meaning and reading of the statute. In closing, they propose a meeting with the Board and developers to work out a development schedule that will support the Solar Act as they understand it and allow developers to recoup their investments.

**Response:** Staff notes the commenter's interpretation of Subsection s and also notes that review of the propriety of the Board's interpretation of its authority under this section is pending on appeal. The Board has determined that Subsection s does bestow discretion for review by the Board beyond the limited criteria cited by the commenter. As the Board noted in the May 10 Order, the third criteria cited by the commenter, "approved as 'connected to the distribution system' by the board" would be meaningless if the commenter's interpretation were adopted. In addition, Subsection s concludes with the sentence, "[n]othing in this subsection shall limit the board's authority concerning the review and oversight of facilities[.]" The limited criteria cited by the commenter were met by 50 projects totaling approximately 600 MW dc. The speculative nature of many of these projects, the amount of capacity proposed, and the amount of farmland potentially impacted, as evidenced by the participation in this public process, raise a broad spectrum of public policy issues.

After carefully reviewing the comments received on the Straw proposal, Board Staff issued a second straw proposal with additional criteria and several questions for stakeholders ("Revised Straw"). Written comments were originally due May 14, 2014; this deadline was extended to June 5, 2014 to allow additional comments to be submitted.

#### Summary of Comments on Revised Straw

Written comments were received from: the Foundation, the Counties, Millennium Land Development ("Millennium"), the Association of New Jersey Environmental Commissions ("ANJEC") and KDC.

These comments and Staff's responses are summarized below.

#### **Comment: The Association of New Jersey Environmental Commissions (David Peifer)**

In general, ANJEC believes that the renewable energy goals established in the EMP are achievable without creating conflicts with other desired societal objectives, in particular the preservation of natural resources and of farmland. The commenter believes that solar generation is more appropriately developed on landfills, rooftops, and previously developed land. It recommends that the Board investigate the City University of New York's policies and mapping tool with an eye toward implementing a similar program in New Jersey.

With regard to supplemental data on project characteristics, ANJEC supports requiring a full disclosure of expenditures and site work completed on a solar facility. The commenter asserts that systems that provide distribution system stabilization within "load pockets" should be prioritized. It also strongly supports the proposal to require a demonstration of compliance with state, regional and local land use policies, but believes a more structured planning process is highly desirable. In addition, it proposes that the Board provide technical assistance to municipalities in developing regulatory ordinances dealing with renewable energy.

The commenter also supports requiring evidence of local government support and decommissioning plans. ANJEC does not oppose consideration of job creation but asserts that solar facilities produce few local jobs in comparison to local agriculture.

As to the proposed supplementary data on site characteristics, ANJEC strongly supports the inclusion of local land use history and an alternative land use analysis consideration of soils information; requiring applicants to obey DEP rules with regard to Class 1 waters and "Highlands Open Waters;" and considering proximity to substations, as well as the associated impact of connecting lines, pole configuration and appearance.

ANJEC also strongly supports conditioning and precluding installations from farms and recommends that the Board use a percentage of 'prime' or 'statewide' tillable soil as the basis for these decisions. It also supports disclosure of proximity to historic districts.

ANJEC believes that large ground-mounted solar facilities should not be located in sewer service areas which it characterizes as "scarce resources."

**Response:** Staff appreciates the commenter's concerns regarding the appropriate location of a solar facility, local planning, and open space issues. ANJEC's suggestion for the Board's use of a specific planning tool will be taken under consideration in subsequent proceedings as it is outside the scope of this matter. Staff concurs that in the context of open space, decommissioning plans are an appropriate consideration and that jobs created by the

development of a solar facility must be weighed against any lost in agriculture and associated businesses. Staff believes that ANJEC's comments on preserving farmland are addressed in the recommended criteria.

**Comment: The New Jersey Conservation Foundation (Allison Mitchell)**

In general, the Foundation strongly supports the Revised Straw, which it believes contains important elements of protection from the impacts of large-scale solar development on farmland and other natural resources. The Foundation also supports the inclusion of criteria recommended by ANJEC and guidelines from SADC. The Foundation hopes that the addition of criteria that measure concerns for local wildlife, vital food production and carbon sequestration, preservation of water quality, compaction of hydric soils, and the loss of light for vegetation will allow the BPU to deny any further large-scale solar development on farmland or open space. In particular, the Foundation supports a requirement that projects may not be located upon:

- Farms possessing a high degree of tillable soil
- Farms including at least 50 acres of soil rated as 'prime' or of 'statewide importance'
- Any area within one half mile of a preserved farm.

In the Foundation's opinion, large-scale solar installations should also be discouraged upon farmlands that are priorities of the Farmland Preservation Program. The commenter believes that by denying such projects the Board would uphold the intent of the EMP and the Solar Act.

The Foundation does support the growth of the solar industry on brownfields, rooftops, parking lots, garages, and other previously developed sites.

**Response:** Staff appreciates the Foundation's comments in support of the consideration of factors relevant to preserving open space but wishes to clarify that the purpose of the proposed criteria is not to "allow" denial of all grid supply facilities on farmland but rather to ensure that the development of grid supply facilities takes place in conformity with the other policy goals expressed in the Energy Master Plan and the Solar Act. Staff agrees that consideration of the impact upon farmland is important and this consideration is included in the recommended criteria.

**Comment: Stephen Pearlman, Esq. (representing the Counties)**

The Counties, which say that they have a significant investment in the stability of the solar market, generally support the Revised Straw. They believe the additional criteria and proposed milestones represent a reasonable attempt by the Board to understand the impact of these projects on the SREC market, farmland in New Jersey, and the development of grid projects on landfills, brownfields and areas of historic fill, encouraged in the EMP. With regard to the disposition of the deferred Subsection s projects, the Counties assert that the Board is legally required to implement the EMP "to the maximum extent practicable and feasible," and that therefore none of the remaining Subsection s projects should be granted SREC eligibility.

**Response:** Staff is not privy to what the commenter considers implementation of the EMP to "the maximum extent practicable and feasible" but notes that the Board has looked to the EMP for guidance in reviewing the Subsection s applications. Staff appreciates the commenter's support of the proposed milestones.

**Comment: Justin Michael Murphy, Esq. (representing Millennium Land Development)** Millennium expresses “great disappointment” in the Board’s implementation of Subsection s but has provided comments on each of the four sections of the Revised Straw: project characteristics, site characteristics, proposed milestones, and impact on the solar marketplace.

With respect to project characteristics, the commenter believes that the Board needs to incorporate into its process a distinction between “farmland assessed” and “agricultural zoning” and look to the latter as the critical concern. Millennium asserts that loss of open space is not a concern since solar facilities allow for reversion to farming activity after the solar project is no longer operative. The commenter objects to criteria regarding agricultural or environmental concerns, stating that the permitting process at the municipal level is “thorough, comprehensive, and omnipotent.” The commenter asserts that the local process is the appropriate forum for “evidence of local government support”; for ensuring that a project is within the intent of a municipality’s master plan and planning objectives; evidence of community support; and addressing any issues that might arise regarding the decommissioning of a solar project. According to the commenter, asking a project to demonstrate significant progress or investment before the enactment of the Solar Act is misguided because it believes that the implementation of the Solar Act in and of itself shuts off capital flow into grid supply projects as a result of the requirement for Board approval before SREC registration is permitted. On this basis, the commenter argues that criteria addressing a project’s status, expenditures, or governmental approvals are likewise unfair.

The commenter states that job creation should not be a consideration in reviewing deferred projects. “All parties should rest assured that jobs are created by installing PV grid-connected projects in New Jersey.” Moreover, Millennium expresses concern that if the Board were to use ‘job-creation’ as a criterion, the Board might establish a threshold number of jobs that a project must create to be approved.

As far as site characteristics are concerned, the commenter believes that there will be no detrimental impact on an EDC’s ability to provide safe, adequate and proper service as a result of the installation of a solar project, and that the Board should rely upon PJM’s feasibility, impact, and facilities studies, as well as the Wholesale Market Participation Agreement (“WMPA”) and the Interconnection Agreement. Similarly, the commenter states that the Board need not consider proximity to other grid supply projects or require solar developers to identify those in the area, as the Board should defer to the “rigorous PJM and LDC [EDC] interconnection process” for interconnection. Millennium states that current and past zoning classifications, as well as habitat classifications, riparian buffer zones, and historic and aesthetic concerns are under the jurisdiction of the local government(s) and are thoroughly vetted in the local process.

The commenter alleges that looking at ‘proximity to nearest preserved farm,’ and the associated directive to the applicant to get input from the agricultural board on farm-to-county preservation projects and to demonstrate that the project has not prevented the host site from going into the preserved farmland program, are irrelevant and onerous.

Millennium claims that requiring that projects not be located within one-half mile of a preserved farm is arbitrary and capricious, and that a more realistic approach would be the establishment of parameters wherein ‘net acres’ of panels is the number considered. The commenter also states that a landowner might decline to commit the land to farming operations for fear of being “penalized” by the Board should the landowner wish to install a solar project in the future. Stating that the application fee for a soil conservation district is \$10,000, the commenter objects to requiring a project to have secured these approvals because they are required late in the

process and solar facilities have not pursued these as a result of the uncertainty over whether a project will be approved as eligible to create SRECs for use in the New Jersey RPS.

With respect to requiring the applicant to demonstrate whether there is a real need for the project in the area, Millennium states that the Board should be aware that New Jersey imports approximately 25% of its electric power needs and that New Jersey needs in-state generation.

However, Millennium does believe that asking whether any prior approvals were abandoned as a condition of the solar use variance or site plan approval is a constructive one, stating that abandonment of prior approvals demonstrates the commitment of the solar developer and also the economic harm a project developer or land owner would incur should the solar facility be denied.

The commenter states that there should be no reporting milestone requirements imposed by the Board because the Interconnection Agreement and the EDC Interconnection Agreement required for a facility's commercial operation already impose the necessary milestone requirements the project must meet and that the milestone requirements as proposed would become a reason for the Board to deny an application.

Finally, Millennium objects to the additional criterion regarding the solar marketplace. Millennium claims that deferred Subsection s projects should not be asked to prove or forecast a projected impact on the SREC market, as providing such an estimate or forecast would be overly onerous, requiring the project developer to obtain knowledge of all projects and potential projects that affect the SREC market.

**Response:** Staff thanks the commenter for its detailed response to the proposed criteria. Staff believes that the commenter's concern regarding agricultural zoning and prior zoning is addressed in the proposed criteria. As to whether the underlying ground of a solar facility may return to agricultural use or another type of open space after the project is no longer in operation, it is for that reason that Staff has asked for decommissioning plans. Staff respects the local knowledge of the municipal permitting agencies and has incorporated the status of these approvals in the criteria but believes that the Solar Act empowers the Board to consider these concerns insofar as they relate to the impact upon the solar market, the preservation of open space, and any impacts on the electric grid. The commenter's concern regarding soil conservation district approval is reflected in the recommended criteria. Staff concurs that some environmental, historic, and aesthetic concerns are the province of local authorities and this is reflected in the proposed criteria. However, Staff believes that the close connection between farmland and preserving open space should also be considered. Millennium's comments about demonstrating real need in the local area are reflected in the recommended criteria.

Staff disagrees that the milestone reporting requirements can be replaced by reliance upon interconnection agreements. The Board requires milestone reporting from grid supply projects approved under Subsections q and t of the Solar Act, and has required them of net metered projects as well, in order to monitor solar development volatility and impact upon the SREC market. The impact of a solar facility's creation of SRECs upon the SREC market is an important factor in the Board's consideration of an application and is consistent with the Board's rulings in the May 8 and May 10 Orders.

**Comment: KDC (Tom Lynch)**

KDC believes that in the context of a power purchase agreement or a wholesale market power agreement, "remains active" should be amended to include "and has not received a notice of

default or delinquency from PJM.” KDC believes that requiring developers to submit any default notices from PJM would better enable the Board to determine whether a project is likely to move forward. The commenter supports requiring a demonstration of compliance with state, regional, and local land use policies, including requiring that all necessary permits have been obtained; it proposes expanding this criterion to include requiring additional state and local approvals.

KDC proposes that rather than simply considering project decommissioning plans, the Board require developers to submit decommissioning plans, as well as evidence of any bonding required by a municipality during the land use permitting process.

With respect to the proposed criterion that projects may not be located upon farms of 100 or more acres, KDC proposes that solar facilities be prohibited if located upon a “total farm site” of more than 100 acres; that is, if two fifty-acre lots are being farmed contiguous to each other and are either owned by the same entity or are operating in conjunction with each other, they should be considered to be a single 100-acre farm.

**Response:** Staff has recommended that the Board require the submittal of a decommissioning plan. Staff’s recommended criteria focus upon location of a proposed solar facility with respect to preserved farms and farmland sought to be preserved rather than upon the size of an individual farm.

#### Staff Recommendation

Pursuant to the Board’s directive in the May 10 Order, Staff conducted the public process described above to develop the criteria for further evaluation of the deferred projects. In drafting and then revising these potential supplementary criteria, Staff was guided in part by the Board’s determination that in enacting Subsection s, the Legislature and the administration sought to limit the development of solar facilities on farmland. May 10 Order at 52-53. In this context, Staff asked the stakeholders, in providing their input on the Straw Proposal and the Revised Straw Proposal, to consider the impact of solar development on farmland; associated environmental and community issues; the larger solar market’s potential development volatility; and the impact of a given grid-supply project. In addition, Staff sought input on a variety of factors related to the other provisions of the Solar Act and the other goals behind it, as well as a list of project completion milestones.

An important factor to be considered is the potential impact of proposed projects on the SREC market and the appropriate development of the solar market in the State. In the May 10 Order, the Board concluded that a project should be deemed “connected to the distribution system” pursuant to Subsection s(2)(c) only if its approval would not cause further volatility in the New Jersey solar market. The Board approved Staff’s recommendation that the Subsection s applications should be evaluated on their likelihood of completion based on Staff’s belief that uncertainty regarding likelihood of construction leads to an inability to properly forecast new capacity coming into the market and contributes to solar market volatility. *Id.* at 52. Staff continues to believe that this is the case.

As of October 14, 2014, the reports provided by Staff to the Renewable Energy Committee project an oversupply through Energy Year 2017. Staff therefore recommends that the Board consider the impact of the SRECs potentially created by forecast generation in evaluating the deferred projects. Staff also recommends that the Board require the submittal of the following information by the applicants:

- 1) Expected commissioning date with description of remaining milestones in construction and development process;
- 2) Documentation of current interconnection application status and all federal, state, and local approvals at the effective date of this Order; and
- 3) Forecast of annual MWh of facility production based on proposed facility capacity and commencement date.

Staff will then use the information provided to determine the potential impact of a project approval, in relationship to market-wide cumulative installed capacity, monthly installment rates, and solar development volatility.

Staff also seeks to apply the Board's determination that implementation of Subsection s involves furthering the policy goals of the EMP, including Section 7.2.6. Preserving open space is a priority in the EMP. The Legislature has found that the retention of agricultural activities serves the best interests of all citizens of this State by insuring the numerous social, economic and environmental benefits which accrue from one of the largest industries in the State. See, N.J.S.A. 4:1C-2. Accordingly, Staff sought the input of the SADC.

In its comments, appended to the Straw Proposal, SADC advised that it believed the potential harm outweighed the benefits for projects over 2 MW which: are sited on a designated Agricultural Development Area ("ADA") and/or on a farm preserved under the farmland preservation program; are located in a farmland preservation area; require distribution lines intersecting preserved farmland; or create a concentration that would disrupt other potential land uses. The SADC also noted that avoiding development on high quality farmland should be a priority, while other commenters raised concerns regarding the broader environmental impact of grid supply solar facilities. Staff proposed criteria regarding location in relationship to Agricultural Development Areas and farmland preservation areas and proximity to preserved farms, as well as the quality of the farmland and potential impact on the environment. These criteria included, but were not limited to soil composition, local wildlife destruction, permanent compaction of hydric soils, and loss of light for vegetation. After reviewing the public comments, Staff has included those criteria which it believes fall within the Board's jurisdiction under the Solar Act and directly support the implementation of Subsection s in accordance with the other policy priorities of the Legislature.

Staff believes that potential benefits to the local community must also be weighed. For example, a solar installation on farmland could mean the loss of agricultural jobs such as picking, packing, and shipping, but those losses might be offset by the addition of other jobs for the construction, installation and maintenance of the solar installation. Staff recommends that the Board approve consideration of the impact of solar development upon open space and farmland, as well as the effect on the local community(ies) and the community's support or lack of support for a solar facility. Staff also recommends that the Board require applicants to submit the following information:

- 4) Demonstration of location and associated impacts including identification of farm parcel location within an Agricultural Development Area ("ADA") or Farmland Preservation Program 'project area;' proximity to the nearest preserved farmland; and concentration of solar capacity in megawatts within the nearest ADA;
- 5) The current zoning designation(s) for the proposed host site and the date of the most recent change in zoning designation;

- 6) Evidence of community support, including but not limited to current support by the local authority(ies) having jurisdiction over farmland preservation in the municipality(ies) containing the location of the proposed solar facility and any local historic preservation body;
- 7) Project decommissioning plan for the end of the useful life of the facility;
- 8) Expected number of newly created jobs identified by type - such as construction or operations - directly related to the proposed facility identified in the supplemental filing and associated only with that facility. For each job, the anticipated duration should be provided.
- 9) A certification, signed by the applicant, that all information provided and statements made in the supplemental filing are true and correct to the best of the applicant's knowledge.

The Board directed Staff to develop appropriate milestones for the progress of a solar facility once it has received Board approval. Staff recommends that approvals of applications be conditioned upon adherence to the following milestones:

Reporting Milestone Requirements (all relate to the effective date of the Board Order approving the relevant project):

- 1) SRP registration secured within 14 days;
- 2) Mounting system on-site and installed within 300 days;
- 3) More than half of the solar panels installed within 360 days;
- 4) All solar panels installed within 420 days; and
- 5) All equipment installed, system testing complete, and request sent to EDC to test and authorize operation of system by June 1, 2016.

Staff recommends that the Board direct Staff to develop an application based upon the above identified information and direct the applicants to submit their supplemental applications within thirty days of the issuance of that application. Staff further recommends that the Board direct Staff to present its recommendation on the deferred applications at the next regularly scheduled agenda following the thirtieth day after Staff receives completed submissions. Finally, Staff recommends that the Board evaluate these applications using the evaluation criteria identified above to the extent that they are within the Board's jurisdiction and authority.

### Findings and Discussion

Staff initiated the stakeholder process which led to the recommendations above at the monthly meeting of the Renewable Energy Committee in May 2013. Staff discussed possible criteria with the stakeholders, invited written comments, and received one response. Staff then reached out to the State Agricultural Development Commission and to the New Jersey State League of Municipalities and received written comments from them. On August 5, 2013, Staff issued a straw proposal with the written comments of these entities attached. Additional written comments were accepted through September 5, 2013. After reviewing these comments, Staff issued a revised straw proposal on April 10, 2014, with comments due back on May 14, 2014, a deadline extended to June 5, 2014 in order to provide adequate time for commenters. The Board **FINDS** that the proposed criteria were developed in a full and public process.



As the Board noted in the May 10 Order, the Legislature stated in Subsection s. that “[n]othing in this subsection shall limit the board’s authority concerning the review and oversight of facilities.” May 10 Order at 52, citing N.J.S.A. 48:3-87(s)(2). The Board also approved Staff’s recommended criterion of extent of progress toward completion. Id. at 53-54. The Board agreed that use of this criterion furthered the Solar Act’s underlying goal of stabilizing the solar market by limiting eligibility of grid-supply projects to create SRECs to those which were less speculative, and thereby providing some certainty to the market.

In determining how to further evaluate the applications under review, the Board looks to the Solar Act as a whole and to the bipartisan policies of the Administration and the Legislature as demonstrated by the Solar Act. As it did in the May 10 Order, the Board notes two distinct policies underlying the Solar Act to be particularly instructive. First, in enacting Subsection s, the Legislature sought to limit the development of solar facilities on farmland. This policy is clearly reflected in a press release announcing Governor Christie’s signing of the Solar Act, which identified one of the Solar Act’s objectives as “discouraging large-scale solar projects on farmland and open space.” Office of the Governor, News Release for S-1925 (July 23, 2012). See State v. Drury, 190 N.J. 197, 212 (2007)(noting that press releases from the Executive Branch upon the signing of a bill into law offer a reliable aid in determining legislative intent). Consistent with this policy, Subsection s, which applies specifically to solar development on farmland, provides that a solar facility “shall only be considered “connected to the distribution system” if it meets the enumerated criteria. N.J.S.A. 48:3-87(s) (emphasis added). See McComb v. Hanly, 132 N.J. Eq. 182, 185 (E. & A. 1942) (“only” is a word of limitation); 3 Sutherland Statutory Construction § 57:9 (7<sup>th</sup> ed. 2007) (the use of the word “only” indicates that the particular course of action is intended to be exclusive).

N.J.S.A. 48:3-87(r) (“Subsection r”) lays out the areas of inquiry for Board review of proposed grid supply solar generating facilities, indicating that the Legislature committed these areas to the Board’s jurisdiction when determining the eligibility of these projects for ratepayer subsidies in the form of SRECS. Therefore, the Board **FINDS** that the criteria in Subsection r can also be used by the Board as a guide to its review of the deferred projects under Subsection s.

Subsection r directs the Board to evaluate grid supply solar applications for SREC eligibility with regard to four specific criteria. The first is whether the SRECs forecast to be created by the proposed facility would have a detrimental impact on the SREC market or on the appropriate development of solar power in New Jersey. This criterion is closely related to the Board’s determination in the May 10 Order that the overall purpose of the Solar Act is to promote the stable growth of the solar market. The Board **FINDS** that this criterion is an appropriate guide to its evaluation of the deferred applications.

Subsection r next directs the Board to determine that development of a given facility would not significantly impact the preservation of open space in New Jersey. As the Board noted in the May 10 Order, the Legislature sought to limit the development of solar facilities on farmland. Id. at 53-54. In doing so, the Legislature acted consistently with the declaration in the EMP that “the Christie Administration does not support the use of ratepayer subsidies to turn productive farmland into grid-supply solar facilities.” EMP at 7.2.6. The Board **FINDS** that preserving open space is an appropriate consideration in evaluating the deferred Subsection s applications.

As part of the public process undertaken to develop evaluation criteria, Staff sought and received comments from the SADC on appropriate considerations with respect to farming, the major commercial activity that preserves open space. As the objective of open space preservation also requires consideration of the environmental impact of a grid supply solar

installation, Staff sought comment upon criteria for environmental evaluation as well. Staff received comments from several entities concerned with these impacts. The SADC and other commenters submitted numerous recommendations for criteria for the Board's consideration.

While not all of the criteria proposed to evaluate agricultural and environmental concerns are sufficiently germane to the preservation of open space to be within the Board's purview, the Board **FINDS** that Staff has recommended a set which are relevant and which are within the Board's jurisdiction and authority. Therefore, the Board **APPROVES** these criteria for its further evaluation of the deferred applications.

Subsection r also directs the Board to determine that the impact of an installation is beneficial to electric rates and to economic development. While such a determination is a complicated one, job creation is one important indicator of economic development. The Board **FINDS** that consideration of jobs created as a result of a solar project is relevant to determining whether that project is beneficial to economic development.

The Board must also determine that there will be no detrimental impact on an electric public utility's ability to provide safe, adequate, and proper service to its customers. This directive speaks to the core mission of the Board, to ensure safe, adequate and proper service at reasonable rates to customers in New Jersey. N.J.S.A. 48:2-21, -23. Therefore, the Board **FINDS** that this is an appropriate criterion for evaluating the deferred applications.

Accordingly, the Board **THEREBY FINDS** that the deferred Subsection s projects shall be evaluated using the following criteria: the impact of the SRECs forecasted to be created by a facility upon the SREC market and upon solar development in the State; the impact upon the preservation of open space, with special attention to the State's farmland preservation programs; and economic benefit, in particular the creation of jobs. The Board will also consider the effect of solar development upon the local community(ies) and the support or lack of support from municipal bodies. Staff has recommended that the Board direct the applicant to submit the following information:

- 1) Expected commissioning date with description of remaining milestones in construction process;
- 2) Documentation of current interconnection status and all federal, state, and local approvals as of the effective date of this Order;
- 3) Forecast of annual MWh of facility production based on facility capacity and commencement date;
- 4) Demonstration of location and associated impacts including identification of farm parcel location within an Agricultural Development Area or Farmland Preservation Program 'project area;' proximity to the nearest preserved farmland; and concentration of solar capacity in megawatts within the nearest ADA;
- 5) The current zoning designation(s) for the proposed host site and the date of the most recent change in zoning designation;
- 6) Evidence of community support, including but not limited to current support by the local authority(ies) having jurisdiction over farmland preservation in the municipality(ies)

containing the location of the proposed solar facility and any local historic preservation body;

- 7) Project decommissioning plans for the end of the useful life of the facility; a
- 8) Expected number of newly created jobs identified by type, such as construction or operations, directly related to the proposed facility identified in the supplemental filing and associated only with that facility. For each job, the anticipated duration should be provided; and
- 9) A certification, signed by the applicant, that all information provided and statements made in the supplemental filing are true and correct to the best of the applicant's knowledge.

To expedite the Board's evaluation, given the specificity of the information requested, the Board **HEREBY DIRECTS** the applicants for the deferred Subsection s projects to submit the above information within 30 days of the effective date of this Order. Information shall be provided in the order listed above, clearly marked to indicate the applicable request. The Board **FURTHER DIRECTS** the applicants to submit 5 copies of the supplemental submission and to send it to the attention of the Secretary of the Board.

The Board **DIRECTS** Staff to review these supplemental filings for completeness. If Staff determines that a filing is incomplete, it shall notify the applicant promptly of what is needed to complete the supplemental filing and that the missing material must be sent within 15 days of the notification.

The Board has reviewed the milestones recommended by Staff in response to the Board's directive to develop milestones to comply with N.J.S.A. 48:3-87(u). These milestones are consistent with those set by the Board in the Orders approving solar applications under Subsections q and t. The Board **FINDS** that these milestones are reasonable and appropriate. Therefore, the Board **APPROVES** the following milestones for any deferred Subsection s project subsequently approved as "connected to the distribution system". These milestones all relate to the effective date of the Board Order approving designation of the relevant project:

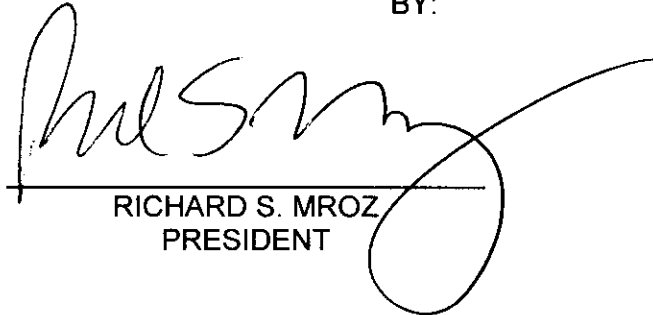
- 1) SRP registration secured within 14 days;
- 2) Mounting system on-site and installed within 300 days;
- 3) More than half of the solar panels installed within 360 days;
- 4) All solar panels installed within 420 days; and
- 5) All equipment installed, system testing complete, and request sent to EDC to test and authorize operation of system by June 1, 2016.

The Board intends to issue a final decision on the deferred Subsection s applications within the next three months. This timeline will accommodate the expressed urgency of the Subsection s applicants, while providing time for appropriate review. Therefore, the Board **DIRECTS** the applicants to submit their supplemental filings within 30 days of the effective date of this Order. The Board further **DIRECTS** Staff to review these responses and to prepare a recommendation for the Board's review by the February 2015 Agenda.

The effective date of this Order is November 10, 2014.

DATED: 10/31/14

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



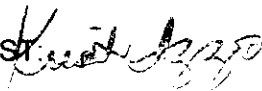
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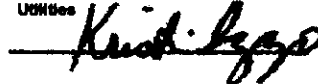


DIANNE SOLOMON  
COMMISSIONER

ATTEST: 

KRISTI IZZO  
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 IMPLEMENTATION  
OF L.2012, C.24, THE SOLAR ACT OF 2012  
and

IN THE MATTER OF THE IMPLEMENTATION OF L.2012, C.24 N.J.S.A. 48:3-87 (Q)(R) AND  
(S) - PROCEEDINGS TO ESTABLISH THE PROCESSES FOR DESIGNATING CERTAIN  
GRID SUPPLY PROJECTS AS CONNECTED TO THE DISTRIBUTION SYSTEM – REQUEST  
FOR APPROVAL OF GRID SUPPLY SOLAR ELECTRIC POWER GENERATION PURSUANT  
TO SUBSECTION (S) – ADDITIONAL APPLICATION CRITERIA  
DOCKET NOS. EO12090832V & EO12090880V

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