



April 30, 2015

B. Scott Hunter  
Renewable Energy Program Administrator,  
Office of Clean Energy  
Division of Economic Development and Energy Policy  
New Jersey Board of Public Utilities  
44 S. Clinton Ave., POB 350  
Trenton, NJ 08625-0350

Dear Scott,

NJR Clean Energy Ventures ("CEV") offers comments in response to staff request for input on the implementation of Section R of the Solar Act.

Among the approval criteria defined, we believe that the "No Detrimental Impact on the SREC Market" to be the most important and pivotal. We believe that the Board ("BPU") should defer land use decisions to local zoning authorities, and electric utility safety concerns to established interconnection review processes. Economic development is a difficult criterion to apply on a project by project basis, as all solar projects will contribute to construction jobs. In the absence of a subjective threshold level of jobs per project, or using jobs created as a basis to compare between projects, it will be difficult to differentiate between projects.

In terms of "Detrimental Impact to the SREC market", while staff seeks stakeholder input to define this, it has also recognized oversupply risks, uncertainties around ITC expiration, and post-ITC market conditions which make planning difficult. Similarly, the decline in the incremental RPS requirement, as noted in the "Solar Market Volatility Report" ("Report"), highlights that grid projects will not be compatible with the goal of minimizing solar market volatility. As stated in the Report:

*".. the small incremental annual increases in demand in the 2019-2023 period creates the potential for significant market development volatility as it would only take several large unexpected MW-scale projects to lead to multi-year oversupply conditions. Given the already low required annual build rates needed to meet the small incremental annual demand increases during this period, aggressive market build-out in one year may necessitate a significant decrease in future development for several years in order for demand to catch up with existing capacity."*



Based on the latest reported data from the NJCEP for EY15, the current net metered install pace is about 120 MW per year, in excess of what the RPS will support in EY19-24. CEV believes that the NJ market can sustain this net metered installation pace during this period.

In terms of an administrative procedure, we would recommend the BPU apply a 2MW project size cap for grid projects. This project size cap had been in effect prior to the Solar Act of 2010, and is consistent with policy objectives to limit solar market volatility. In addition to the cap, we would suggest two alternative approaches to project approvals:

- 1) The rule should be that no grid projects be approved if the market is estimated to be oversupplied in the current and subsequent energy year. The Renewable Energy Market Manager has already developed methods for estimating SREC market supply and demand, and these can be further refined with stakeholder input. In practice, in EY19-24 it is likely this approach will be restrictive, while after EY24 the need for new projects to replace SREC expiring projects will be more accommodating to grid projects. Further details on the process to notify the market when windows of opportunity become available, as well as the rules governing the application process, would need to be developed.
  
- 2) Through exercising its authority to increase the RPS, the BPU can have more discretion to approve grid projects without detriment to the SREC market by adding the MW for any approved projects to the RPS. As the costs of solar come down, new technologies like storage become cost effective, risks in central station generation are revealed, new regulations relating to carbon are introduced, or stimulating job growth becomes a greater priority, there may be reasons for the BPU to support grid projects that should not be constrained by the shape of the RPS curve, particularly during the EY19-EY24 time period. Longer term the BPU may wish to consider more formal alternatives outside the solar RPS structure to encourage the development of these projects.

Please let me know if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Larry Barth', written in a cursive style.

Larry Barth  
Director – Policy & Strategic Initiatives

## COMMENTS

### SUBSECTION r OF THE SOLAR ACT (P.L. 2012, c.24)

Staff has requested stakeholder comments on regulations for Subsection (r) solar projects under the Solar Advancement Act (the Solar Act).

KDC Solar LLC (KDC), is an active stakeholder in the New Jersey solar market and is pleased to provide the following comments.

KDC Solar is a developer of large (1 MW+) dual benefit, net metered projects. A New Jersey based company; KDC has been active in the State since 2009, providing stably priced, renewable electricity to many of New Jersey's largest employers. Since its inception, KDC has been keenly aware of NJ solar policy and accordingly, has chosen to focus on projects which deliver multiple benefits. KDC Solar provides some of the largest companies in the State with a basis to remain in New Jersey by fixing the cost of electricity over the long term, realizing significant savings for these companies, while delivering clean, renewable electricity to New Jersey, and helping the State efficiently reach its clean energy goals.

#### **Summary:**

Subsection (r) contains four factors, which the Board is to consider before allowing grid connected projects to be SREC eligible. It is critical for the BPU to provide clear direction and signals to all market participants as well as potential applicants with respect to how it will administer this section. This clarity will help preserve stability in SREC markets by assuring that "surprise" grid supply additions become unlikely and will allow developers of potential grid projects to make informed decisions on whether to pursue such projects.

The first criterion in Subsection (r) is a consideration of the impact on the SREC market. This is a threshold factor to be examined before the other three are considered.

For purposes of providing transparency to the market, the BPU should signal before the start of each Energy Year, the amount of grid-supply MWs under subsection (r) that the BPU will consider approving in that upcoming Energy Year, subject to meeting the other three criteria. The setting of this level should be based on a transparent and rigorous analysis and forecast of SREC market supply and demand, and an open public process.

Subsection (r) applicants should be permitted to propose a project for review in an "open season," similar to what was done for subsection (q), offered one time during the Energy Year.

For the amount of capacity the BPU will consider in any given Energy Year, applications should be accepted for consideration for compliance with the other three criteria, up to the amount of capacity announced.

**Background:**

In response to an oversupplied solar market, the Solar Advancement Act of 2012 (the Solar Act) was signed into law. SREC prices had decreased significantly in response to an oversupply of solar energy. Oversupply was due to the confluence of several events: high NJ SRECs prices, lower panel prices, lack of adequate transparency and detail on solar pipeline, and generous subsidies from the Federal Government.

The Solar Act pulled the solar RPS forward to help support the recovery of SREC prices to levels that would support a reasonable amount of solar development, keeping the industry moving forward. In addition to accelerating solar development, the Solar Act took specific actions to limit the development of grid supply projects in order to maintain solar market balance, and allow dual benefit projects the State favors to move forward.

Subsections (q), (r), (s) and (t) outlined specific pathways for specific types of grid-supply projects to be granted SREC eligibility by the Board of Public Utilities (BPU).

Subsection (r) is the last section the BPU is implementing, as it provides a pathway for SREC eligibility for grid supply projects proposed in each Energy Year following Energy Year 2016. The Solar Act gives the BPU discretion to grant grid supply projects SREC eligibility after consideration of four specific criteria, which govern the Boards' discretion. The Solar Act also provides a minimum set of items that must be included in an application.

*r. (1) For all proposed solar electric power generation facility projects except for those solar electric power generation facility projects approved pursuant to subsection q. of this section, and for all projects proposed in each energy year following energy year 2016, a proposed solar electric power generation facility that is neither net metered nor an on-site generation facility, may be considered "connected to the distribution system" only upon designation as such by the board, after notice to the public and opportunity for public comment or hearing. A proposed solar power electric generation facility seeking board designation as "connected to the distribution system" shall submit an application to the board that includes for the proposed facility: the nameplate capacity; the estimated energy and number of SRECs to be produced and sold per year; the estimated annual rate impact on ratepayers; the estimated capacity of the generator as defined by PJM for sale in the PJM capacity market; the point of interconnection; the total project acreage and location; the current land use designation of the property; the type of solar technology to be used; and such other information as the board shall require.*

*(2) The board shall approve the designation of the proposed solar power electric generation facility as "connected to the distribution system," if the board determines that: (a) the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State;(b) the approval of the designation of the proposed facility*

*would not significantly impact the preservation of open space in this State;(c) the impact of the designation on electric rates and economic development is beneficial; and (d) there will be no impingement on the ability of an electric public utility to maintain its property and equipment tin such a condition as to enable it to provide safe, adequate and proper service to each of its customers.*

**The first criterion, impact on the SREC market, is a threshold factor to be examined before the other three would be considered.**

Although the statute does not assign specific weight to each criteria, the first criteria listed, impact on the SREC market, should be considered first because it is most general and the market needs it for guidance; the other criteria are project specific.

Additionally, the Solar Act put significant brakes on solar grid supply development for the purpose of maintaining SREC market balance. It would therefore be consistent with the legislature's intent to give careful and initial consideration to the level of grid supply capacity that will be considered in order to maintain stability and balance to the SREC market. Grid projects are of lesser a priority to the State, as clearly recognized by the Act and the Energy Master Plan, and this policy should inform the BPU's determination in this regard.

After a rigorous analysis and forecast of SREC market supply and demand, and for purposes of providing transparency to the market, the BPU should signal by January 1<sup>st</sup> of the prior Energy Year, the amount of grid-supply MWs under subsection (r) that the BPU will consider approving in the upcoming Energy Year that will begin on June 1<sup>st</sup>. The "open season" process should take place in time for BPU to make a determination on which projects will be approved in a particular Energy Year, before the beginning of that particular Energy Year. The approved projects will have the Energy Year for which they were approved and one additional Energy Year to complete the project.

For example, on January 1, 2016, BPU will announce how many megawatts it will consider for approval, subject to meeting the other three criteria, for Energy Year 2017. After the "open season" process as described previously, and before June 1, 2016 (the first day of Energy Year 2017), the BPU will announce which projects, if any it would approve for SREC eligibility for Energy Year 2017. Any approved projects must complete construction by the end of Energy Year 2018 (May 31, 2018) or loose the SREC eligibility status granted by the BPU.

Development of solar grid projects is complex and takes time and effort. In announcing the amount of capacity for consideration, the BPU will send an early and important signal to the development community so that it may gauge pursuit of development of such grid projects accordingly.

The BPU should not use the definition of 'solar development volatility' it used in its report pursuant to subsection --- as a reference point in determining whether a specific amount of

capacity will have a “detrimental impact on the SREC market.” The Board's definition of 'solar development volatility' is based on “significant and rapid changes in the rate of market capacity additions over time” and is explicitly NOT focused on volatility in the SREC market.

In determining the maximum capacity of for grid supply projects under Subsection r to be considered for SREC eligibility in each energy year (subject to meeting the other three criteria), the BPU should conduct a market demand and supply analysis in an open stakeholder process with full rights for parties to participate.

Further, in that stakeholder process, the BPU should consider the following factors when assessing how much capacity would have a detrimental impact on the SREC market:

- SRP pipeline, including the likelihood and timing of projects coming on line under the EDC SREC finance programs, and projects approved under subsections (s),(q) and (t), (some EDC financing programs, by program design, delay the timing of the SRECs available in the market);
- The additional MWs required under law for that given EY year;
- Current and forecasted demand and supply in the SREC market and the level of forecasted surplus (or shortfall) **after giving full consideration of the potential for net metered and section (t) development;**
- External factors, such as panel pricing declines, and the scheduled reduction in the Federal ITC in mid-EY17.

**Subsection (r) applicants should be permitted to propose a project for review in an “open season,” similar to what was done for subsection (q), offered one time during the Energy Year.**

This is process that BPU has experience with and that may be handled more efficiently with respect to staffing resources then if projects were submitted on a rolling basis over the entire energy year. For the amount of capacity the BPU will consider in any given Energy Year, applications will be accepted for consideration for compliance with the other three criteria, up to the amount of capacity announced.

**Required information for a project to submit should include information that addresses additional criteria developed for Subsection (s) projects as well as best estimate of project completion (when SRECs will be available in the market).**

The statute requires that any project submitting an application for consideration under Subsection r must include the following information:

- Nameplate capacity;
- Estimated energy and number of SRECs to be produced and sold per year;
- Estimated annual rate impact on ratepayers;
- Estimated capacity of the generator as defined by PJM for sale in PJM capacity market;
- Point of interconnection;
- Total project acreage and location;
- Current land use designation of the property;

- Type of solar technology to be used;
- and such other information as the board shall require.

Additionally, the Board should consider including the additional criteria developed for consideration of Subsection (s) project's SREC eligibility.

A timing estimate for when a specific project begins to generate SRECs for sale in the SREC market should also be part of information required for consideration, providing transparency for the market.

In conclusion, it will be crucial continuing to improve the transparency in the SREC market, as required by the Solar Act, that the BPU send a clear and unambiguous signal into the market for its willingness to consider specific amounts of capacity in each Energy Year for grid supply projects. With a project receiving Subsection (r) approval for SREC eligibility, that project will be required to submit into the SREC Registration Program (SRP) have two energy years to complete construction (the Energy Year in which it was approved plus the following energy year). In this way, and as was done with Subsection (s) and Subsection (q), market transparency is maintained, and there are no surprises on sudden and large capacity additions from grid supply projects to the New Jersey SREC pipeline. Last, the implementation of Subsections q provides experience and a good platform for an "open season" approach as outlined in these comments, to the Subsection (r) process.



**COMMENTS OF THE SOLAR ENERGY INDUSTRIES ASSOCIATION (SEIA)  
ON THE DEVELOPMENT OF REGULATIONS TO IMPLEMENT SUBSECTION (R)  
OF THE SOLAR ENERGY ADVANCEMENT AND FAIR COMPETITION ACT**

April 30, 2015

Dear Mr. Hunter,

SEIA appreciates the opportunity to provide comments on the development of regulations for implementing Subsection r of the Solar Advancement Act of 2012. Since the Solar Advancement Act passed in 2012, SEIA has been a very active participant in the stakeholder discussions around the implementation of the various subsections.

SEIA is the national trade association for the U.S. solar industry and is a broad-based voice of the solar industry in New Jersey. SEIA member companies have installed over 60% of all MWs currently under operation in New Jersey and work in all market segments – residential, commercial, and utility-scale. In addition, SEIA member companies provide solar panels and equipment, financing and other services to a large portion of New Jersey solar projects. When establishing its policy positions, SEIA must balance diverse needs of its membership.

The legislation amending the SEAFCA (S.1925/A.2966) laid out four avenues for approval of grid-connect projects post-EY14. The Board has previously implemented Subsections (q), (s), and (t). Subsection (r) is the point of entry for those grid-supply projects seeking designation as “connected to the distribution system” that do not qualify under Section (q), (s), or (t).

The legislation lays out four criteria that the Board must use when considering whether to approve a project that has applied under this subsection. The first criterion laid out by the legislation is as follows: ***the SRECs forecasted to be produced by the facility do not have a detrimental impact on the SREC market or on the appropriate development of solar power in the State.*** While the Board must determine that a project meets all four of the criteria in order to approve a project, SEIA believes that this first criteria – a finding of no detrimental impact on the SREC market – should be the threshold criteria before other criteria are reviewed.

SEIA urges the BPU to establish a clear and transparent process for determining the impact on the SREC market of a grid-connect project applying under this section, including a transparent and rigorous analysis and forecast of SREC market supply and demand.

For the benefit of all participants in the NJ solar market, the BPU should send as clear of a signal as possible on the amount of grid-supply MWs that they might consider approving in any one given Energy Year. By signaling at the beginning of a given Energy Year the upper bound of how many MWs the BPU may consider as meeting the first criteria, the Board can improve the transparency of the project pipeline, something that is critical to the developers of both grid-supply and net metered projects.



In its presentation at the April RE Committee meeting where Staff solicited written comments from stakeholders, Staff put forward the definition of 'solar development volatility' as a potential reference point in determining whether or not a project meets this criteria. 'Solar development volatility' as defined here is based on 'significant and rapid changes in the rate of market capacity additions over time'. This is explicitly *not* based on impact on the SREC market nor on 'appropriate development' as required per law. As described below, 'appropriate' development is governed by the incremental growth in SRECs required under law. Therefore, this definition should not be used in determining whether a project meets the first criteria.

In determining whether or not a project meets the first criteria of no detrimental impact on the SREC market, the Board should consider a number of factors:

- The Board should consider the likelihood of MWs in the pipeline being placed in service and generating SRECs from the EDC SREC finance programs, Solar4All, Subsection s, Subsection q, and Subsection t, as well as development outside of these pathways.
- The number of additional MWs required to meet the legislated SREC requirement is governed both by the MWs currently under operation and the year-on-year growth in the SREC requirement. Assuming the previous year's supply and demand of SRECs was roughly in balance, the legislated growth in SREC demand in EY16 would require approximately 200MW of additional development; EY17 – 175MW; EY18 – 150MW; and EY19 – 80MW.
- The Board should consider the current supply/demand balance in the SREC market.
- The Board should take into account external factors such as the scheduled expiration/reduction in the Federal ITC in mid-EY17. If history has anything to teach us, it is that development will speed up in the final year to two years before the scheduled reduction in the Federal Investment Tax Credit from 30% to 10% for commercial projects and from 30% to zero for residential projects, as the window o.

In an effort to increase the transparency of the pipeline, upon receiving approval under Subsection r, projects should will be required to submit into the SREC Registration Program (SRP) and have no more than two years in which to complete construction.

SEIA appreciates the opportunity to provide comment on the development of Subsection (r) regulations. We look forward to continuing to work with Staff and other stakeholders to maintain a strong and vibrant solar industry in New Jersey.

Sincerely,



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April 30, 2015

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Re: Solar Act Rulemaking Update for Subsection r.

Dear Mr. Hunter:

On behalf of New Jersey Conservation Foundation, I am pleased to offer our comments regarding the New Jersey Board of Public Utilities' (BPU) Solar Act Rulemaking Update for Subsection r.

New Jersey Conservation has been preserving land and natural resources throughout the state for over 50 years. We support the growth of the solar industry in appropriate locations in New Jersey, including brownfields, rooftops, parking lots and garages, and other previously developed sites rather than on open space, forests and farmland. This is an important issue for land use policy and natural resource protection in our state.

New Jersey Conservation supports the BPU's requirements for Subsection r. regarding obtaining Board approval. It is appropriate for the Board to require that all proposed solar projects as described at r. (1)... may be considered "connected to the distribution system" by the Board after notice has been given to the public with an opportunity for public comment or hearing.

We also support the language stating that an applicant include in Criteria b) "*... the total project acreage and location; the current land use designation of the property; the type of solar to be used; and such other information as the board shall require.*" It is critical that solar projects impose no significant impact on open space preservation.

We support the language regarding Open Space Preservation included in this update for Subsection r. as follows:

"Accordingly, the Board THEREBY FINDS that the deferred Subsection s projects shall be evaluated using the following criteria: ...the impact upon the preservation of open space, with special attention to the State's farmland preservation programs..."

We recommend that the language "and Green Acres program" be added to the sentence above so that all preserved open space is permanently protected.

We also support the following: "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;...”

To reiterate concerns we provided in an earlier letter to the BPU regarding solar development, it is important that no solar development create disturbances to soils, forests, waterways, habitat, and local ecosystems in general, nor farm productivity. We urge the BPU to take into consideration concerns for vital food production and carbon sequestration, preservation of water quality, compaction of hydric soils and recreation opportunities and deny large-scale solar development on farmland or open space.

By ensuring that solar installations are appropriately located, the BPU will uphold the intent of the 2011 Energy Master Plan (EMP) and the Solar Act; both plans discourage the use of farmland and open space for solar development.

Thank you for the opportunity to comment. We greatly appreciate the BPU staff’s work to protect New Jersey’s farmland and open space in perpetuity. Please contact me with any questions you may have at [908-234-1225 ext 108](tel:908-234-1225) or [amy@njconservation.org](mailto:amy@njconservation.org).

Sincerely,

Amy

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