



Agenda Date: 6/22/18
Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE IMPLEMENTATION OF <u>L. 2012, C. 24</u> , THE SOLAR ACT OF 2012)	ORDER
)	
IN THE MATTER OF THE IMPLEMENTATION OF <u>L. 2012, C. 24</u> , N.J.S.A. 48:3-87(T) – A PROCEEDING TO ESTABLISH A PROGRAM TO PROVIDE SRECS TO CERTIFIED BROWNFIELD, HISTORIC FILL AND LANDFILL FACILITIES)	DOCKET NO. EO12090832V
)	
)	DOCKET NO. EO12090862V
)	
PUBLIC SERVICE ELECTRIC & GAS CINNAMINSON LANDFILL)	DOCKET NO. QO17121311

Party of Record:

Robert Pollock, Public Service Electric and Gas

BY THE BOARD:¹

This Order concerns an application by Public Service Electric & Gas (“PSE&G” or “Applicant”) for certification pursuant to L. 2012, c. 24 (“Solar Act”), codified at N.J.S.A. 48:3-87(t) (“Subsection (t)”). PSE&G seeks certification for eligibility to generate Solar Renewable Energy Certificates (“SRECs”) for the proposed solar electric generation facility to be located in Cinnaminson Township, Burlington County, New Jersey. PSE&G alleges that the proposed site is a properly closed sanitary landfill facility as defined in the Solar Act.

BACKGROUND

On July 23, 2012, the Solar Act was signed into law. The Solar Act amends certain aspects of the statute governing generation, interconnection, and financing of renewable energy. Among other actions, the Solar Act requires the New Jersey Board of Public Utilities (“Board”) to

¹ Commissioner Robert M. Gordon recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

conduct proceedings to establish new standards and to develop new programs to implement the statute's directives. By Order dated October 10, 2012, the Board directed Board staff ("Staff") to initiate proceedings and convene a public stakeholder process to fulfill the directives of the Solar Act.²

The Solar Act – specifically, Subsection (t) – provides that:

No more than 180 days after [July 23, 2012], the board shall, in consultation with the Department of Environmental Protection and the New Jersey Economic Development Authority, and, after notice and opportunity for public comment and public hearing, complete a proceeding to establish a program to provide SRECs to owners of solar electric power generation facility projects 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. . . . Projects certified under this subsection shall be considered "connected to the distribution system" [and] shall not require such designation by the board[.]

[N.J.S.A. 48:3-87(t).]

The Solar Act defines the terms "brownfield," "area of historic fill," and "properly closed sanitary landfill facility." A "brownfield" is "any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of a contaminant." N.J.S.A. 48:3-51. "Historic fill" is "generally large volumes of non-indigenous material, no matter what date they were placed on the site, used to raise the topographic elevation of a site" Ibid. A "properly closed sanitary landfill facility" means "a sanitary landfill facility, or a portion of a sanitary landfill facility, for which performance is complete with respect to all activities associated with the design, installation, purchase, or construction of all measures, structures, or equipment required by the Department of Environmental Protection" Ibid.

The October 10, 2012 Order directed Staff to initiate a proceeding to fulfill the mandate of the Solar Act. Staff met with staff of the New Jersey Economic Development Authority and the New Jersey Department of Environmental Protection ("NJDEP"). On November 9, 2012, consistent with the requirements of the Solar Act, the Board held a public hearing presided over by Commissioner Joseph L. Fiordaliso. In addition, the public was invited to submit written comments through November 23, 2012.

² I/M/O the Implementation of L. 2012, C. 24, The Solar Act of 2012; I/M/O the Implementation of L. 2012, C. 24, N.J.S.A 48:3-87(d)(3)(b) – A Proceeding to Investigate Approaches to Mitigate Solar Development Volatility; I/M/O the Implementation of L. 2012, C. 24, N.J.S.A 48:3-87(e)(4) – Net Metering Aggregation Standards; 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; I/M/O the Implementation of L. 2012, C. 24, N.J.S.A 48:3-87(T) – A Proceeding to Establish a Program to Provide Solar Renewable Energy Certificates to Certified Brownfield, Historic Fill and Landfill Facilities; and I/M/O the Implementation of L. 2012, C. 24, N.J.S.A 48:3-87(W) – A Proceeding to Consider the Need for a Program to Provide a Financial Incentive to Supplement Solar Renewable Energy Certificates for Net Metered Projects Greater than Three Megawatts, 2012 N.J. PUC LEXIS 286 (Oct. 10, 2012).

In an Order dated January 24, 2013, the Board approved Staff's proposed process for certifying solar generation projects as being located on brownfields, areas of historic fill, and properly closed sanitary landfill facilities.³ The certification process for projects seeking approval pursuant to Subsection (t) provides three (3) potential recommendations from Staff to the Board: full certification, conditional certification, or denial of certification. Conditional certification may be granted for projects located on sites which the NJDEP has determined require further remedial action or, in the case of properly closed sanitary landfill facilities, additional protective measures, and full certification may be granted for projects located on sites for which the NJDEP has determined no further remedial or protective action is necessary. The process incorporates the expertise of the NJDEP to confirm a potential project's land use classification for eligibility and to account for the state of remediation of the project site. 2013 N.J. PUC LEXIS 27 at 31-33.

The January 24, 2013 Order states that certification would be limited to those areas delineated by the NJDEP. In compliance with this directive, applicants are required to delineate the precise section(s) of the location where the solar facility is proposed to be sited, and the NJDEP reviews this material in making its recommendation.

The Board found that an application for solar projects located on brownfields, areas of historic fill, or properly closed sanitary landfill facilities was necessary to initiate the certification process and directed Staff to work with NJDEP to develop an application. *Id.* at 33. On or about April 10, 2013, Staff distributed, via the public renewable energy stakeholder email distribution list and posted to the NJCEP and BPU websites, a Subsection (t) application form.

Projects certified under Subsection (t) of the Solar Act are subject to all of the Board's rules; the statutory language exempts such projects from the need for further Board designation as "connected to the distribution system" but does not remove any of the Board's oversight authority. For example, projects must comply with the rules at N.J.A.C. 14:8-2.4 and applicable Board orders concerning registration with the SREC Registration Program ("SRP"). The size and location of the subject project will then be reflected in the public reporting of solar development pipeline data.

STAFF RECOMMENDATIONS

Project Description

As stated above, at issue is the request by PSE&G that its proposed solar facility, to be located in Cinnaminson Township, New Jersey, be certified as eligible for SRECs pursuant to Subsection (t). PSE&G filed an application with supporting documentation to enable a NJDEP determination as to whether the proposed site is a brownfield, area of historic fill, or properly closed sanitary landfill facility. NJDEP reviewed the application and supplied an advisory

³ I/M/O the Implementation of L. 2012, C. 24, The Solar Act of 2012; I/M/O the Implementation of L.2012, C.24, N.J.S.A 48:3-87(T) – A Proceeding to Establish a Program to Provide SRECS to Certified Brownfield, Historic Fill and Landfill Facilities; and I/M/O the Implementation of L.2012, C.24, N.J.S.A 48:3-87(U) – A Proceeding to Establish a Registration Program for Solar Power Generation Facilities, 2013 N.J. PUC LEXIS 27 (Jan. 24, 2013).

memorandum to Staff on the land use classification and the closure or remediation status of the proposed site. On the basis of the NJDEP's determination, the information certified by PSE&G in its application, and the January 24, 2013 Order, Staff recommends that the Board grant conditional certification, as explained further below.

Developer	Docket Number	Project/ Designation Address	Location Town	County	Landfill, Brownfield, or Historic Fill	Array Size (MWdc)	EDC
PSE&G	Q017121311	Sanitary Landfill, Inc	Block 702, Lot 34 Union Landing Rd Cinnaminson, NJ 08077	Burlington	Landfill	13	PSE&G

Sanitary Landfill, Inc. – (Cinnaminson) – Docket. No. Q017121311

On December 19, 2017, PSE&G submitted its application to the Board to have its project certified as being located on a properly closed sanitary landfill facility pursuant to Subsection (t) of the Solar Act. Applicant's thirteen (13) MWdc project is proposed to be constructed on 24.76 acres of land at the Sanitary Landfill, Inc., or Cinnaminson Landfill, which is owned by SC Holdings, Inc. The landfill is located at Union Landing Road, in Cinnaminson, Burlington County, New Jersey. It is an approximately 97-acre lot that is bounded by Union Landing Road to the southwest and Taylors Lane to the east.

Staff forwarded the application to NJDEP for review and a recommendation as described above. NJDEP indicated that the Cinnaminson Landfill is a former mining site that began landfilling activities in the late 1950s when municipal and solid waste was deposited into old mining pits. NJDEP observed that, in 1980 the landfill ceased operations. In 1981, a closure plan was submitted to the NJDEP to cap the landfill with 18 inches of clay, install a landfill gas collection and venting system, and initiate a groundwater monitoring system. Review of the collected groundwater monitoring data revealed groundwater contamination. As a result, in 1986 the site was added to the National Priorities List.

NJDEP indicated that the landfill cap was completed in 1987, followed in 1996 by the gas collection, venting, and monitoring system. In 2000, the groundwater remediation system was installed, which operated until 2013. A two-year temporary shut-down test was conducted in 2015. Currently, the U.S. Environmental Protection Agency ("EPA") is evaluating whether further groundwater monitoring is needed. In 2014, the EPA issued a Record of Decision for Operable Unit 2, the landfill cap, which concluded that the existing cap is acceptable and no additional capping is required.

NJDEP advised that the solar installation will constitute the construction of improvements on a closed landfill. Accordingly, the property owner will need to obtain an approval from the NJDEP Division of Solid and Hazardous Waste and the EPA prior to construction of the solar electric power generation facility. The approval will need to address impacts on the environmental controls in place at the site. NJDEP noted that these impacts may include but are not limited to the protection/re-establishment of the final cap/cover, leachate collection, gas collection and storm water collection systems, settlement, slope stability, and erosion control, in addition to ongoing maintenance and monitoring during the post-closure period. Consistent with the above requirements, NJDEP advises that the property owner and operator of the solar facility should

ensure that all future operations continue to protect the integrity of the cap. NJDEP also indicated that the property owner and/or solar developer will need to obtain any other permits identified by the NJDEP.

Based on the information provided in the application and NJDEP's determination that the solar project is a "properly closed sanitary landfill facility" under the Solar Act, Staff recommends that the Board grant conditional certification of the proposed project.

FINDINGS AND CONCLUSIONS

The Board **FINDS** that, as required by Subsection (t), Staff transmitted the application discussed above to NJDEP for a determination of eligible land use type and status of remediation on the proposed site. NJDEP has determined that the 24.76 acres requested for Subsection (t) certification on Block 702, Lot 34 is located on land meeting the Solar Act's definition of a "properly closed sanitary landfill facility." Based on information provided by NJDEP, the Board **FINDS** that the Cinnaminson Landfill project is located on land meeting the definition of a "properly closed sanitary landfill facility."

The Board also **FINDS** that NJDEP has determined that the property owner will need to obtain an approval from the NJDEP Division of Solid and Hazardous Waste and the EPA, as well as any permits identified by NJDEP, prior to construction of the solar electric power generation facility. The Board also **FINDS** that "environmental controls in place at the site, such as the protection/ re-establishment of the final cap/cover, leachate collection, gas collection and storm water collection systems, settlement, slope stability, and control of erosion, in addition to on-going maintenance and monitoring during the post-closure period" must be addressed to construct the solar electric power generation facility. The property owner and operator of the solar electric power generation facility should ensure that all future operations continue to protect the integrity of the cap for Cinnaminson Landfill.

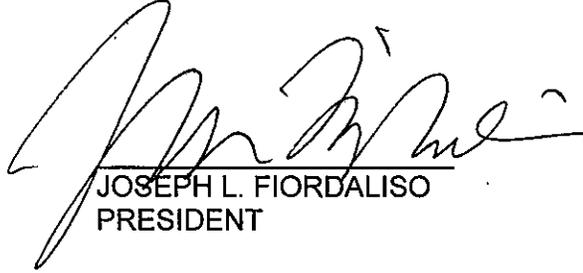
The Board **FINDS** that the NJDEP requirements must be addressed and thus **GRANTS** conditional certification. To obtain full certification, the Board **DIRECTS** the Applicant to demonstrate to Staff that all NJDEP requirements for landfill disruption have been satisfied and that there are no outstanding requirements under the Closure and Post-Closure Plan Approval. To obtain full certification, the Board **ALSO DIRECTS** PSE&G to submit an initial SRP registration package within fourteen (14) days of the effective date of this order in accordance with N.J.A.C. 14:8-2.4(c) and to complete construction within two (2) years in accordance with N.J.A.C. 14:8-2.4 (h) 4 ii. The Board **DIRECTS** Staff to issue full certification to the project upon the Applicant's demonstration that all requirements for full certification have been satisfied. After the Applicant has received full certification and satisfied all SRP requirements, the Board **DIRECTS** Staff to issue a New Jersey Certification Number to the project for purposes of SREC creation, provided that all requirements of N.J.A.C. 14:8-2.4 are met.

This Order is issued in reliance on the information certified in the application and does not grant any rights in connection with construction of the proposed project beyond certification under Subsection (t), provided that the facilities are constructed in accordance with NJDEP requirements, the plans as represented in the application, and the SRP registration.

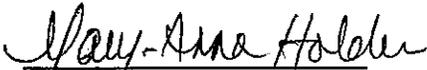
This Order shall be effective on July 2, 2018.

DATED: 6/22/18

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

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

**In the Matter of the Implementation of L. 2012, C. 24, the Solar Act of 2012;
In the Matter of the Implementation of L. 2012, C. 24, N.J.S.A. 48:3-87(t) – A Proceeding to
Establish a Program to Provide SRECs to Certified Brownfields, Historic Fill and Landfill
Facilities; EPP Renewable Energy, LLC – Pennsauken Township Landfill**

Docket Nos. EO12090832V, EO12090862V, and QO16100958

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December 13, 2017

Solar Act Subsection t. Application Package
New Jersey Board of Public Utilities
44 South Clinton Avenue, 7th Floor
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Re: PUBLIC SERVICE ELECTRIC AND GAS COMPANY (PSE&G)
SOLAR ACT SUBSECTION t. APPLICATION PACKAGE
CINNAMINSON LANDFILL SOLAR PROJECT
Union Landing Road
Cinnaminson Township, Burlington County, New Jersey
BPU Docket No. EO16050412

To Whom It May Concern:

Public Service Electric and Gas Company (PSE&G) is pleased to submit an original and four (4) copies of the Solar Act Subsection t. Application Package to develop an eleven (13) megawatt-direct current (MWdc) solar photovoltaic project on the existing Cinnaminson Landfill, Cinnaminson Township, New Jersey. As directed, with the completion of each section of the application A. through F., the following attachments have been affixed to the application:

- Project Description Narrative
- New Jersey Landfill Location/Status Search Results
- USGS Quad Sheet of Project Location
- Parcel Map
- Conceptual Solar Layout
- Mounting System Details
- Phase I Environmental Site Assessment Report

PSE&G acknowledges notice on behalf of all the project participants that the information included in the application is subject to disclosure under the Open Public Records Act, N.J.S.A. 47:1A-1et seq. Thank you in advance for your assistance and we look forward to the review by the Board Staff in consultation with NJDEP.

New Jersey Board of Public Utilities

Please feel free to contact me at (973) 430-6163 or email Justin.Incardone@pseg.com should you require anything further.

Respectfully submitted,

Justin B. Incardone
Justin B. Incardone

ENCLOSURES

cc: Project File

Scott Hunter, Administrator
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