



STATE OF NEW JERSEY
Board of Public Utilities
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www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE NEW JERSEY RENEWABLE) ORDER
PORTFOLIO STANDARD – (NJ RPS) REQUEST FOR)
BOARD ACTION EXTENDING NJ RPS COMPLIANCE)
DEADLINE FOR ENERGY YEAR 2016) DOCKET No. QO16080781

Parties of Record:

Stefanie A. Brand, Esq., Director, New Jersey Division of Rate Counsel
Margaret Comes, Esq., Rockland Electric Company, on behalf of the Electric Distribution Companies
Murray E. Bevan, Esq., Retail Electric Supply Association (RESA), on behalf of third party suppliers

BY THE BOARD:

BACKGROUND

On February 9, 1999, the Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 to -109 (“EDECA”) was signed into law. EDECA requires compliance with New Jersey’s Renewable Portfolio Standards (“RPS”) by electric power suppliers, commonly referred to as third party suppliers (“TPS” or “suppliers”), and basic generation service (“BGS”) providers (“providers”). N.J.S.A. 48:3-87(d). On January 18, 2010, the Solar Energy Advancement and Fair Competition Act, L. 2009, c. 289 (“SEAFCA”) was signed into law. SEAFCA amended several provisions of EDECA, among them the manner in which suppliers/providers were to comply with the solar portion of the RPS. SEAFCA, beginning Energy Year 2011 (“EY11”),¹ set out a specific requirement for solar energy generation; this requirement is expressed as an absolute number of gigawatt-hours instead of as a percentage of kilowatt hours sold, and included a directive for dividing this requirement among the State’s suppliers/providers.² The Solar Act of 2012, L. 2012, c. 24 (“Solar Act”), returned the calculation to a percentage of kilowatt hours sold for EY14 and beyond.

¹ An Energy Year or EY is defined as the period beginning on June 1 and ending on May 31 of the next year, numbered according to the calendar year in which it ends. N.J.S.A. 48:3-51.
² These requirements were in force for EY11, EY12 and EY13 but were superseded by the provisions of the Solar Act.

Specific reporting requirements are set out at N.J.A.C. 14:8-2.11. The compliance true-up period commences immediately after the end of the energy year (May 31), and ends on October 1. N.J.A.C. 14:8-2.2. Each electric supplier and BGS provider with retail sales in New Jersey during the EY must submit an annual compliance report ("Annual Report") to the Board by October 1 of each year, demonstrating that it has complied with the RPS for Class I, Class II, and solar renewable energy. The Annual Reports for Energy Year 2016 ("EY16") are therefore due on October 1, 2016.³ The Annual Reports must demonstrate how compliance with the RPS was achieved by including the total number of megawatt-hours ("MWh") of electricity sold to retail customers, Solar Renewable Energy Certificates ("SREC") and Renewable Energy Certificates ("REC") retired, and Solar Alternative Compliance Payments ("SACP") and Alternative Compliance Payments ("ACP") paid.

Providers comply with the regulatory requirements with the assistance of the respective electric distribution companies ("EDCs") for which they serve load. They provide each EDC they serve with compliance documentation specific to the load served in that EDC's service territory. Each EDC then aggregates, compiles, and summarizes the reports provided by the BGS providers and submits this information to the Office of Clean Energy ("OCE") as the Annual Report. Suppliers submit their own Annual Reports.

The Solar Act, codified at N.J.S.A. 48:3-51-87, made many changes to the legal and regulatory framework for solar development. Among these was an increase in the solar portion of the RPS and a change in the way each provider and supplier was to calculate its obligations under the solar portion of the RPS. Both changes took effect in EY14. Specifically, the Solar Act accelerated the RPS obligation in the near term, beginning in 2014. In addition, the Solar Act defined the RPS obligation as a percentage of total sales rather than as an absolute number of gigawatt-hours ("GWh"). N.J.S.A. 48:3-87(d)(3). At the same time, it exempted certain BGS provider load from the new, higher RPS requirement, as follows:

(c) The solar renewable portfolio standards requirements in this paragraph shall exempt those existing supply contracts which are effective prior to the date of enactment of [the Solar Act] from any increase beyond the number of SRECs mandated by the solar renewable portfolio standards requirements that were in effect on the date that the providers executed their existing supply contracts. This limited exemption for providers' existing supply contracts shall not be construed to lower the Statewide solar sourcing requirements set forth in this paragraph. Such incremental requirements that would have otherwise been imposed on exempt providers shall be distributed over the providers not subject to the existing supply contract exemption[.]
[N.J.S.A. 48:87(d)(3)(c).]

³ The Solar Act also directs the Board to determine an appropriate period of no less than 120 days following the end of the energy year for a provider or supplier to demonstrate compliance for that energy year with the annual RPS requirements. The Board has proposed amendments to the current rules to implement this directive for future Energy Years.

Thus, the Solar Act exempted BGS providers' electricity supply from the new higher solar requirements if the supply was covered by a BGS contract that was executed prior to enactment of the Solar Act. The solar obligation for this exempt electricity was to be determined under the lower RPS obligation in place when the BGS contract was executed. However, the Solar Act requires that the Statewide solar target for each year must still be met. Therefore, during EY15, when some electricity supply was still exempt, the incremental solar obligation that was not met because of the exemption was distributed among the non-exempt electricity supplied by BGS providers in the energy year.⁴

Since SEAFCA, Staff has been providing guidance to TPS and BGS providers on how to comply with the solar RPS obligation. On September 3, 2015, staff issued a document titled Solar Compliance Instructions & Preliminary Retail Sales Figures ("Compliance Instructions") and posted it on the clean energy website. This document included instructions on how to comply with the solar obligation under the Solar Act. Staff found after reviewing the EY 15 RPS Compliance Reports that the total retail sales reported by certain Third Party Suppliers (TPS) were less than the retail sales numbers listed in the PJM GATS "My RPS Compliance Report." In May 2016, Staff attempted to resolve the reporting discrepancies with the relevant TPS. Resolving the reporting issues caused a delay in issuing the EY 15 RPS compliance results. On July 27, 2016, staff held a stakeholder meeting with TPS, EDCs, and BGS providers to discuss compliance issues and a process to improve consistent reporting going forward.

PETITIONS

On April 19, 2016, the EDCs requested an extension of the deadline for filing the Annual Report from October 1, 2016 to December 1, 2016. The EDCs relied primarily on their assertion that ending the true-up period on October 1, 2016, the same day that the Annual Reports are due, deprives the EDCs of the time they need to perform the necessary calculations. The EDCs maintain that BGS providers will not be able to determine their final solar generation obligations for EY16 in the time allowed by the rules and that they themselves will not be able to verify individual BGS provider retail electricity supply numbers for OCE in the short time which will be available. This in turn, they assert, will delay the submission of the Annual Reports to the Board.

In addition, some BGS providers and TPSs continue to secure RECs and SRECs through the end of the true-up period, and the EDCs report that during the development of past Annual Reports there have been difficulties in completing SREC transfers. The EDCs also state that they must sometimes remove significant numbers of reported RECs and SRECs, referred to as "data scrubbing," if they find that RECs and SRECs have been submitted that are not New Jersey certified or are otherwise defective. The EDCs claim that they will likely be unable to complete this data scrubbing, particularly for data reported on or near October 1, 2016, and submit a final report on that same date. These assertions form the basis of the EDCs' request for an extension of the due date for the Annual Reports to December 1, 2016.

On August 4, 2016, Murray Bevan, Esq., on behalf of the Retail Energy Supply Association ("RESA"), requested a one month extension of the deadline giving similar reasons as the EDCs. However, RESA contends that since the SREC calculations are much simpler (based on percentage of sales), RESA requests only a 30 day extension to November 1, 2016 for TPSs.

⁴ This was the final year in which that exemption applied.

STAFF RECOMMENDATION

Staff evaluates the EDCs' request in the context of the entire reconciliation process. Reconciliation of the retail electricity sales data begins with the PJM financial settlement markets where the data originates. Typically, sixty days elapse from the end of the Energy Year until PJM Interconnection, LLC ("PJM") provides this data to the EDCs and PJM-Environmental Information Services ("EIS") Generation Attributes Tracking System ("GATS").⁵ PJM-EIS uses this basic data on load served to populate the GATS account of each BGS provider and TPS with a preliminary number for load served. The EDCs then reconcile the data on load served for each of the BGS providers in their respective territories.

Both the EDCs and the TPS have worked cooperatively with OCE to address the issues created by the compliance requirements of the rules and the changes made first by SEAFCA and then by the Solar Act. Staff therefore recommends that the Board grant a thirty day extension for filing the Annual Report to November 1, 2016 for EY16. Staff also recommends that the Board allow the retirement of the associated RECs or SRECs until November 1, 2016. Staff notes that the market has an interest in knowing the number and price of the RECs and SRECs retired as close to the end of the true-up period as possible and that this need for timeliness must be considered as well.

Given the discrepancies found between the GATS numbers and the sales numbers of the BGS providers and TPS in EY15, Staff also recommends that, beginning in EY16, all BGS providers and TPS be given a period of time to review their PJM-EIS GATS "My RPS Compliance Report" and compare it to their EY16 retail sales amount. As of EY16, the solar requirement is a percentage of retail sales calculation for all BGS providers and TPS, and the regulated entities should no longer require an additional 60 days to complete the Annual Reports. The necessary calculation is simpler than what was required under SEAFCA and the Solar Act; therefore, Staff recommends that the extension period be thirty days rather than the sixty days.

Concerning reconciliation of sales data, Staff also recommends a new process for providers and suppliers to make adjustments to their retail sales numbers with GATS. When PJM-EIS posts the "My RPS Compliance Report" (typically on September 1 each year), Staff proposes that the BGS providers and suppliers be allowed the month of September to work with Staff to reconcile the two numbers if necessary. If the BGS provider or TPS believes that the amount in the "My RPS Compliance Report" is inaccurate, the provider or TPS should be required to report its final retail sales amount to OCE along with a written explanation for the difference. If verification documentation is needed to support the number and/or the explanation, the BGS provider or TPS must provide that as well. The Board should also direct the BGS providers and TPS to enter the adjusted retail sales number on the GATS "My RPS Compliance Report" in the column entitled "RPS Load" no later than October 1. If the Board adopts this recommendation, as of October 1, 2016, these RPS load numbers will be considered final and no other adjustments will be allowed. All REC and SREC obligation calculations must be based on the final sales numbers in the "My RPS Compliance Report" as of October 1.

⁵ Sixty days elapse because PJM performs its own reconciliation process before releasing its data.

Finally, Staff recommends the Board order the EDCs and their BGS providers to work with Staff to develop a more efficient and timely process to transfer, verify, and retire RECs and SRECs by the October 1 date as mandated in the rules.

DISCUSSION AND FINDING

The Board acknowledges the increased complexity of compliance with the solar portion of the RPS during the last several years, beginning in the energy years covered by SEAFCA and continuing through EY16 as a result of the exemptions provided through the Solar Act. As noted above, both laws changed the solar generation requirements of the RPS and the way in which the obligation was determined. As a result, both laws resulted in more complex calculations for the BGS providers, the TPS, and the EDCs.

The Board **FINDS** that under these circumstances, it is reasonable to extend the time for submission of those portions of EY16 Annual Reports that cover solar energy obligations to November 1, 2016. The Board **FINDS** that the thirty day extension (from October 1 to November 1) is reasonable and will provide the EDCs and the TPS with sufficient time to comply with the solar portion of the RPS reporting requirements, while not unduly delaying the completion of transactions for EY16. The Board also **FINDS** that extending the date for reporting compliance with Class I and Class II RPS requirements to November 1, 2016 will further administrative efficiency and eliminate needless duplication of effort. In addition, the Board **FINDS** that extending the retirement deadline for EY16 RECs and SRECs to November 1, 2016 is reasonable in this context.

Concerning the process for BGS providers and suppliers to make retail sales adjustments with GATS, the Board **FINDS** that it is prudent to implement a process that will ensure consistent reporting. The Board therefore **FINDS** that the thirty day period recommended by Staff for the BGS providers and the TPS to review the numbers in GATS "My RPS Compliance Report" is reasonable. As necessary, BGS providers and TPS must enter the adjusted retail sales number on the GATS "My RPS Compliance Report" in the column entitled "RPS Load" no later than October 1. If the BGS provider or TPS enters an adjustment in the "My RPS Compliance Report", the provider or TPS must also report its final retail sales amount to OCE along with a written explanation for the difference and supporting documentation.

Under its authority to relax its procedural rules for good cause under N.J.A.C. 14:1-1.2, the Board **HEREBY APPROVES** Staff's recommended timeline for compiling and submitting the Annual Reports beginning with EY16. Finally, the Board **HEREBY DIRECTS** the BGS providers and TPSs to work with Staff to make the reporting process faster and more efficient. The Board hopes that such a process will make it unnecessary for the providers and TPSs to request extensions in future Energy Years.

The effective date of this Order shall be September 3, 2016.

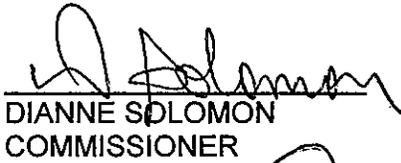
DATED: 8/24/16

BOARD OF PUBLIC UTILITIES
BY:


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PRESIDENT

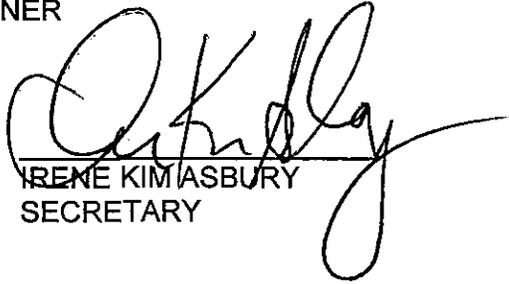

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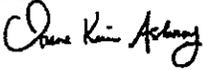

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ATTEST:


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SECRETARY

I HEREBY CERTIFY that the within
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