

years, the New Jersey Board of Public Utilities ("Board") determined to review its policies with respect to the development of the New Jersey solar¹ market. The Board noted that since EDECA was enacted in 1999, the solar industry in the State had grown into a multi-million dollar industry with thriving, diverse businesses supplying services in a variety of different competitive market segments.²

In light of the significant changes in the technology and the installation practices, and to the economics and the financial models of the solar industry, the Board established a generic proceeding to evaluate all the segments of the New Jersey solar market ("Generic Solar Proceeding") by soliciting input from the many stakeholders in all of these segments. Staff was directed to develop a list of topic areas and questions upon which stakeholders might provide comment and to convene public hearings in different regions of the State. The Board also directed Staff that, with one exception, all existing programs would continue to operate in accordance with their implementing statute, regulations, and/or Board Orders.

Subsection r Rules

The Board ordered that the above directive should not apply to the rules it had recently adopted to implement N.J.S.A. 48:3-87(r) and had codified at N.J.A.C. 14:8-2.4(g) ("Subsection (r) Rules"). The Subsection (r) Rules provided a public process for determination of the maximum number of grid supply megawatts to be designated as "connected to the distribution system" during the following energy year. At its July 26, 2017 Agenda Meeting, the Board had directed Staff to conduct an analysis concerning the market impacts of designating new solar grid supply capacity as "connected to the distribution system serving New Jersey."³

Upon its initiation of the Generic Solar Proceeding, to avoid confusion and to further administrative efficiency, the Board ordered that Staff's analysis should be encompassed in that proceeding. In addition, the Board suspended implementation of N.J.A.C. 14:8-2.4(g) until such time as the generic proceeding shall be concluded and the Board should end the suspension.

The Clean Energy Act

On May 23, 2018, P.L. 2018, c.17 (the "Clean Energy Act") was signed into law. The Clean Energy Act makes several substantial alterations to the operation of the New Jersey solar market. Among these is a directive to the Board to terminate the Solar Renewable Energy Certificate ("SREC") program once 5.1% of the State's retail energy supply is obtained from solar generation connected to New Jersey's distribution system. Specifically, the statute requires that:

¹ The use of the term "solar" throughout this Order refers to electricity-producing solar photovoltaic systems. The subject of this generic proceeding is focused on state policies designed to promote the market for solar electric power generation facilities connected to the distribution system serving New Jersey. There are no known applications of solar thermal electricity-producing systems in New Jersey. Solar domestic hot water and space heating technologies do not produce electricity nor are connected to the distribution system serving New Jersey.

² The first solar projects in New Jersey, totaling 8 kilowatts, were provided incentive through the Societal Benefits Charge in 2000. When the Board opened the Generic Solar Proceeding in September 2017, nearly 79,000 solar projects, totaling more than 2,230 MWdc or 2.23 gigawatts ("GW") dc had been installed and reported operational.

³ I/M/O Implementation of Designating Grid-Supply Projects as Connected to the Distribution System - Order Implementing Certain Provisions of N.J.A.C. 14:8-2.4(g) For Energy Year 2018, BPU Dkt. No. QO16020130, Order dated July 26, 2017 ("July 26 Order").

No later than 180 days after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall adopt rules and regulations to close the SREC program to new applications upon the attainment of 5.1 percent of the kilowatt-hours sold in the State by each electric power supplier and each basic generation provider from solar electric power generators connected to the distribution system. The board shall continue to consider any application filed before the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.). The board shall provide for an orderly and transparent mechanism that will result in the closing of the existing SREC program on a date certain but no later than June 1, 2021.

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

The statute further requires that:

No later than 24 months after the date of enactment of P.L.2018, c.17 (C.48:3-87.8 et al.), the board shall complete a study that evaluates how to modify or replace the SREC program to encourage the continued efficient and orderly development of solar renewable energy generating sources throughout the State. The board shall submit the written report thereon to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature. The board shall consult with public utilities, industry experts, regional grid operators, solar power providers and financiers, and other State agencies to determine whether the board can modify the SREC program such that the program will:

- continually reduce, where feasible, the cost of achieving the solar energy goals set forth in this subsection;
- provide an orderly transition from the SREC program to a new or modified program;
- develop megawatt targets for grid connected and distribution systems, including residential and small commercial rooftop systems, community solar systems, and large scale behind the meter systems, as a share of the overall solar energy requirement, which targets the board may modify periodically based on the cost, feasibility, or social impacts of different types of projects;
- establish and update market-based maximum incentive payment caps periodically for each of the above categories of solar electric power generation facilities;
- encourage and facilitate market-based cost recovery through long-term contracts and energy market sales; and
- where cost recovery is needed for any portion of an efficient solar electric power generation facility when costs are not recoverable through wholesale market sales and direct payments from customers, utilize competitive processes such as competitive procurement and long-term contracts where possible to ensure such recovery, without exceeding the maximum incentive payment cap for that category of facility.

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

Additionally, the Clean Energy Act increased the threshold capacity, from 2.9 percent to 5.8 percent of total annual kilowatt-hour sales, after which the Board may authorize third party electric suppliers or basic generation service providers to cease offering net metering.

As the above-quoted language indicates, the Legislature has acted on the issue of future regulation of the New Jersey solar market and specifically upon the SREC market. Since the Clean Energy Act became law, the Board has taken various steps to fulfill the directives given it by the Legislature. On August 6, 2018, the Board's rule proposal to allow for the closing of the program was published in the New Jersey register for public comment. Staff held a stakeholder meeting on October 17, 2018 and issued a straw proposal on December 26, 2018 seeking stakeholder comment on issues related to closure of the existing SREC program, treatment of projects currently in the SREC Registration Program ("SRP") pipeline and future projects. On November 5, 2018, the Board also approved awarding a contract to conduct the study required by statute which is to evaluate how to modify or replace the SREC program in a manner that encourages the continued efficient and orderly development of solar throughout the State. At its December 18, 2018 agenda meeting, the Board voted to approve adoption of a rule amendment closing the SRP to new registrations upon the attainment of 5.1% of the kilowatt hours sold in the state being provided by solar electric power generation.⁴

In light of the significant changes wrought by the Clean Energy Act, and in particular the ongoing implementation of the directive to close the SREC program to new applicants upon the attainment of 5.1% of kilowatt hours sold being from solar generation, the directive to modify or replace the existing SREC program, and the extension of time provided before the Board may authorize the cessation of net metering, the Board **FINDS** that the Generic Solar Proceeding is no longer necessary. The Board now **CLOSES** the Generic Solar Proceeding. The Board **FURTHER FINDS** that it requires additional information and stakeholder input prior to lifting the suspension of the Subsection (r) Rules. The Board **HEREBY DIRECTS** Staff to seek comment from all interested parties on the further steps to be taken with respect to the suspended Subsection (r) Rules and the Expressions of Interest received pursuant to those rules prior to their suspension. The Board **FURTHER DIRECTS** Staff to determine the appropriate procedures for Subsection (r) applications.

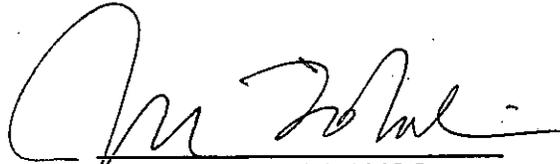
The Board **FURTHER DIRECTS** Staff to distribute this Order to the Renewable Energy Listserv and to post a copy upon the New Jersey Clean Energy website.

⁴ I/M/O Rulemaking to Implement Certain Sections of P.L. 2018, Chapter 17, Regarding Closing the SREC Program to New Registrations following the Attainment of 5.1 Percent of Total Kilowatt-hours Sold in the State from Solar Electric Power Generators Connected to the State's Electric Distribution System, Dkt. No. QO18060647. The rule is anticipated to be published in the January 28, 2019 New Jersey Register.

The effective date of this Order is January 27, 2019.

DATED: 1/17/19

BOARD OF PUBLIC UTILITIES
BY:

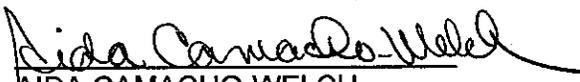

JOSEPH L. FIORDALISO
PRESIDENT


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER


ROBERT M. GORDON
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 BOARD'S ESTABLISHING A GENERIC PROCEEDING TO
REVIEW THE STATE OF THE SOLAR MARKET - ORDER CLOSING GENERIC
PROCEEDING

DOCKET NO. QX17090949

SERVICE LIST

Stefanie A. Brand, Esq., Director
Division of Rate Counsel
Post Office Box 003
Trenton, NJ 08625-0003
sbrand@rpa.nj.gov

Philip J. Passanante, Esq.
Atlantic City Electric Company
500 N. Wakefield Drive
Post Office Box 6066
Newark, DE 1971406066
Philip.Passanante@pepcoholdings.com

Margaret Comes, Esq.
Rockland Electric Company
Customer Energy Services
390 West Route 59
Spring Valley, NY 01977
COMESM@coned.com

Gregory Eisenstark, Esq.
Windels Marx Lane & Mittendorf, LLP
One Giralda Farms
Madison, NJ 07940
geisenstark@windelsmarx.com

Matthew Weissman, Esq.
Public Service Electric and Gas Company
80 Park Plaza
T5, P.O. Box 570
Newark, NJ 07101
Matthew.weissman@pseg.com

Board of Public Utilities
Post Office Box 350
Trenton, NJ 08625-0350

Sara Bluhm Gibson, Director
Division of Clean Energy
sara.bluhm@bpu.nj.gov

Paul Flanagan, Executive Director
Paul.flanagan@bpu.nj.gov

Sherri Jones, Assistant Director
Sherri.jones@bpu.nj.gov

Benjamin Hunter
Benjamin.hunter@bpu.nj.gov

Rachel Boylan
Counsel's Office
rachel.boylan@bpu.nj.gov

Stacy Ho Richardson
Counsel's Office
stacy.richardson@bpu.nj.gov

Department of Law & Public Safety
Division of Law
Post Office Box 45029
Newark, NJ 07101-45029

Caroline Vachier
caroline.vachier@law.njoag.gov

Emma Yao Xiao
emma.xiao@law.njoag.gov