



Agenda Date: 6/15/11
Agenda Item: 8E

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF)
JED HOROVITZ REGARDING INTERCONNECTION)
OF COMPLETED SOLAR GENERATING SYSTEM BY)
ATLANTIC CITY ELECTRIC COMPANY - APPEAL)
ABILITY TO ENERGIZE SOLAR SYSTEM)

ORDER

DOCKET NO. EO10100759V

Parties of Record:

Jed Horovitz, Petitioner
Philip J. Passanante, Esq., Atlantic City Electric Company

BY THE BOARD:

This Order memorializes actions taken by the New Jersey Board of Public Utilities ("Board") during the June 15, 2011 public agenda meeting. By this Order, the Board considers and renders its decision regarding a utility customer's petition for a formal hearing involving an appeal of an electric distribution company's ("EDC") denial to interconnect a customer-sited solar project, an appeal of the New Jersey Clean Energy Program's ("NJCEP") denial of a rebate check at this time, and an appeal of the NJCEP's denial of a New Jersey Identification Number for that solar project.

On October 14, 2010, Mr. Jed Horovitz ("Petitioner" or "Mr. Horovitz"), a utility customer who completed installation of a thirty kilowatt ("kW") residential solar project, filed a petition requesting that the Board order Atlantic City Electric Company ("ACE"), Petitioner's EDC, to allow the installed project to energize by approving Mr. Horowitz's request for final interconnection with ACE's distribution system. Petitioner additionally requests that the Board direct its Office of Clean Energy ("OCE") to order Conservation Services Group, a sub-contractor for the Board's renewable energy market manager, Honeywell International (collectively, "Program Staff"), to process the rebate check and to issue a New Jersey Identification Number for the project. Mr. Horovitz also seeks a Board clarification on what he characterized as "new laws and their intent of stimulating personal private investment in solar energy generation in excess of user capacity," and he requests that this position be made known to the public. On May 16, 2011, ACE filed an answer, responding that the solar project did not meet final interconnection requirements at that time because Petitioner had not yet completed construction of his residential dwelling; therefore, he had failed to establish an existing electrical load to be consumed at the customer-sited solar project against which generation could be offset. At the request of the parties, the Board maintained jurisdiction over

this matter pursuant to N.J.S.A. 52:14F-7(a), which authorizes the Board to determine whether a case is contested and then to decide the merits of the case. The Board considered this petition at its public meeting on June 15, 2011.

Background

The NJCEP, administered through the OCE, was established to advance and promote renewable energy and energy efficiency programs designed to provide environmental, economic, and energy benefits to New Jersey residents. See Order dated December 22, 2003, Docket No. E02120955. In 2009, the NJCEP instituted the Renewable Energy Incentive Program (“REIP”) ¹ to offer direct incentives by way of rebates to New Jersey property owners to install renewable energy projects in New Jersey. REIP rebates were designed to support the sustained and orderly development of the renewable energy market for electric generation by reducing a portion of the customer’s upfront costs related to installation of a small-scale renewable energy project. Program Staff administer the REIP. All REIP applicants are noticed of and subject to administrative processes and procedures, as well as the technical requirements, listed within the REIP Guidebook (“Guidebook”) relevant for this matter dated July, 2009, version 2.0.

Under the REIP, all customer-sited² renewable energy solar project applicants must be subject to net metering. “Net metering” is defined as a system of metering electricity in which the EDC: “(1) credits a customer-generator at the full retail rate for each kilowatt-hour produced by a class I renewable energy³ system installed on the customer-generator’s side of the electric revenue grade meter, up to the total amount of electricity used by that customer during an annualized period; and (2) compensates the customer-generator at the end of the annualized period for any remaining credits, at a rate equal to the supplier/provider’s avoided costs of wholesale power.” N.J.A.C. 14:8-1.2. REIP eligible applicants were additionally notified that the total expected output of the expanded system could not be greater than the site’s annual electric consumption. (Guidebook at 23).

Customer-sited renewable energy solar projects subject to both net metering regulations set forth at N.J.A.C. 14:8-4.1 to 4.5 and interconnection regulations set forth at N.J.A.C. 14:8-5.1 to 5.9 are eligible to earn solar renewable energy certificates (SRECs) upon satisfaction of REIP criteria. A SREC is defined in N.J.S.A. 48:3-51 as a certificate issued by the Board or its designee, representing one megawatt hour (MWh) of solar energy that is generated by a facility connected to the distribution system in New Jersey. The SREC value is based upon and driven by the energy market. N.J.S.A. 48:3-51, N.J.A.C. 14:8-2.2. Solar electric generation is the creation of electricity using a system or technology that employs solar radiation to produce energy to power. N.J.A.C. 14:8-1.2. After a project is completed and final documentation is

¹ The Board closed the REIP to new solar applicants at the conclusion of the third REIP funding cycle in 2010.

² The REIP Guidebook defines “customer-sited” as a renewable generation system that is interconnected with the electric distribution system, but which is located on the customer’s side of the retail electric meter and exists primarily to serve the customer’s load. (Guidebook at 6).

³ “Class 1 renewable energy” means electric energy produced from specified renewable energy sources, including solar technologies. N.J.A.C. 14:8-1.2.

submitted, the project receives a New Jersey Identification Number for processing with the PJM Environmental Information Services Generation Attributes Tracking System (“PJM-EIS GATS” or “GATS”) system⁴, which enables the project to earn SRECs associated with the amount of electric generation. N.J.A.C. 14:8-2.2.

Under REIP, final interconnection approval requires the applicant to apply for and successfully complete all interconnection requirements set forth at N.J.A.C. 14:8-5 et seq., further described below. Proof of final interconnection approval is a prerequisite to the release of a rebate check or the issuance of a New Jersey Identification Number, which enables a solar generator to participate in the SREC market. (Guidebook at 6, 10, 14).

On December 16, 2009, Corbin Solar Solutions, Inc., the installer of Petitioner’s solar system, submitted a REIP rebate application on Petitioner’s behalf. Mr. Horovitz certified that the approximately 30 kW net-metered solar project would be installed upon an existing barn on Petitioner’s property and that its usage would be offset by consumption at a residence he planned to construct on the same property. Mr. Horovitz’s REIP application package included a REIP application form dated December 10, 2009, a Technical Worksheet-Solar Electric Equipment Information dated December 16, 2009, and a Residential Consumption Calculator (“Calculator”)⁵ dated December 18, 2009, and all of these documents were signed, dated and certified by Mr. Horovitz as to the accuracy of their content. The Calculator was submitted in lieu of a valid electric bill; as there was no residence at the property at the time the application was submitted, Petitioner was permitted to submit the Calculator to show the estimated anticipated electrical usage once the house would be built and would be using electricity. See Horovitz application, #REIPR-06335.

Petitioner sought approval of his installation as a “net-metered” solar project as required under REIP. For electric customers who generate their own electricity, net metering allows for the flow of electricity both to and from the customer, typically through a single, bi-directional meter. When customer generation exceeds the customer’s use, electricity from the customer flows back to the grid, offsetting electricity consumed by the customer at a different time during the same billing cycle. In effect, the customer uses excess generation in one period to offset electricity that the customer otherwise would have to purchase at the utility’s full retail rate in another period.

On January 28, 2010, Program Staff sent a rebate commitment letter to Mr. Horovitz notifying him that NJCEP had given initial approval of installation of the solar system project with a rated capacity of 29.4 kW for a REIP incentive in the amount of \$17,500. The notice also stated that the one-year rebate commitment period would expire on January 28, 2011.⁶ The commitment

⁴ The Board has defined GATS as an environmental and emissions attributes tracking system for electric generation that is administered by PJM Environmental Information Services. N.J.A.C. 14:8-2.2.

⁵ The Residential Consumption Calculator allows the applicant to provide NJCEP with an estimate of anticipated usage prior to the required submission of a utility bill for interconnection. In the REIP application, Mr. Horovitz certified to anticipated usage of approximately 29,400 kilowatt hours (kWh), calculated by listing his planned electrical appliances, their number and their monthly electrical usage, and multiplying that amount by the number of months per year. These amounts were then added to produce an estimated, anticipated yearly total electric consumption for the residence.

⁶ Petitioner completed his solar project installation within the one-year time frame and submitted his “as-

letter stated that the approved rebate “is based upon the information that you supplied with your rebate application and technical worksheet.” The commitment letter further stated that “[t]he project must be installed in compliance with all applicable local, state and/or federal regulations, and in compliance with all program guidelines and requirements.”

The Guidebook provides, in part, that systems installed with REIP funding require three independent review and approval processes: (1) the utility must receive and approve the Interconnection Application and a copy of the signed Interconnection Application must be provided as a condition of processing the rebate check; (2) a REIP final inspection may be scheduled; and (3) the local electrical code inspection/UCC certificate must be issued by a local code official and a copy of the UCC certificate must be provided to the REIP as a condition of rebate processing. (Guidebook at 35-36).

Petitioner’s project is also subject to the Board’s interconnection rules, located at N.J.A.C. 14:8-5 et seq. N.J.A.C. 14:8-5.2 regulates general interconnection for customer-generators. These rules contain site, technology and distribution system specific technical criteria which limit the size and operational characteristics of the customer-generator facility. In the rules, each EDC is directed to adopt an interconnection review procedure and standard forms. Interconnection review utilizes a two-step process. There are established criteria for preliminary, conditional approval based upon prospective application materials; the second step, final authorization to energize, is based upon actual installation parameters.

On or about January 2010, ACE granted preliminary interconnection approval to the solar project. Preliminary approval indicates that the proposed project appears acceptable and that ACE has determined that sufficient capacity exists on the local distribution system to handle the proposed installation. According to his petition, Mr. Horovitz completed installation of the solar project upon the barn in July 2010, investing approximately \$200,000. According to the petition, on or about August 19, 2010, the local building inspector issued a permit and a signed electrical code inspection/UCC certificate for the solar installation on the non-residential barn. Program Staff received a Certificate of Approval, dated August 19, 2010, as notice of the solar project installation upon the non-residential barn. Program Staff issued a Waiver of Inspection notice under REIP.

However, as of the date of this Order, Mr. Horovitz has yet to provide a copy of a signed Interconnection Application approved by the EDC, as required by REIP. Nor has he produced documentation reflecting that he has obtained either a signed electrical code inspection/UCC certificate or a certificate of occupancy for the residence that he certified would be constructed and against whose electrical usage the generation of the net-metered solar project would be offset or “netted.”

On August 25, 2010, an ACE agent denied Mr. Horovitz’s request for final interconnection of the installed solar project because, according to ACE, new home construction had neither been completed nor even begun. ACE determined that Mr. Horovitz had failed to establish a base level of electricity usage on the meter, which ACE maintains is required before interconnection of a net-metered project.

built” certification to Program Staff. Under REIP guidelines, his \$17,500 rebate continues to be reserved for him until he fulfills all REIP requirements for the check to be released.

On September 27, 2010, Program Staff denied Mr. Horovitz's request to process the rebate check. Also on September 27, 2010, Program Staff denied Mr. Horovitz's request to issue a New Jersey Identification Number for use in the PJM-EIS GATS system. Both Program Staff determinations were made because no residence had been built; therefore no home meter could be connected to the system so that electricity consumption in the residence would exist against which the electric generation to be produced by the solar project could be offset.

As previously stated, on October 14, 2010, Mr. Horovitz filed a petition requesting that the Board order ACE to allow the installed project to energize by approving Mr. Horowitz's request for final interconnection with the distribution system. Petitioner additionally requests that the Board direct its Office of Clean Energy ("OCE") to order Program Staff to process the rebate check and to issue a New Jersey Identification Number for the project in PJM-EIS Generation Attributes Tracking System such that the project will be enabled to begin generating SRECs. Mr. Horovitz also asks that what he characterized as "the new laws and their intent of stimulating personal private investment in solar energy generation in excess of user capacity" be made known to the public.

Petitioner states that his 30 kW system passed inspection in August 2010 and argues that it should have been energized at that time. However, Petitioner has not yet completed construction of the residence; as of December 2010 he admitted that construction was barely started. On or about February 14, 2011, he acknowledged that a residential dwelling did not exist on the property, and he further acknowledged that no one had been living on the property for a decade.

As previously stated, on or about May 16, 2011, ACE filed an Answer, asserting that Petitioner did not meet the requirements for interconnection because Petitioner had not yet completed construction of his home and therefore had insufficient energy consumption to offset the solar electric generation to be produced by his project if energized. ACE avers that the number of rooftop solar panels requiring interconnection is not appropriate to the existing foundation because there is no residence on the property so there would be no increase in electricity consumption to match the increase in generation.

Discussion and Findings

On February 9, 1999, the New Jersey Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq. was enacted. L. 1999, c. 23, 66, eff. Feb. 9, 1999. EDECA legislation established requirements to advance renewable energy and energy efficiency goals in New Jersey, funded by ratepayers through its Societal Benefits Charge ("SBC") at N.J.S.A. 48:3-60(a)(3).

Both EDECA's net metering language and the Board's net metering rules provide that a customer-generator shall receive credit from its EDC, electric power supplier, or basic generation provider at the full retail rate for each kilowatt-hour produced by a class I renewable energy system installed on the customer-generator's side of the meter, up to the total amount of energy used by that customer during an annualized period. N.J.S.A. 48:3-87(e)(1), N.J.A.C. 14:8-1.2, N.J.A.C. 14:8-4.1. Under the net metering subchapter of the rules, the "annualized period" is defined as a period of twelve consecutive monthly billing periods with the first annualized period beginning on the first day of any single monthly billing period. N.J.A.C. 14:8-4.2. Industry practice has been that the annualized period commences following energizing of the system. EDECA and the Board rules additionally provide that the annualized period is the

basis for valuing the electricity produced; electricity is valued at the retail rate as a credit against month-to-month electric charges within the annualized period, but excess electricity remaining at the end of the annualized period is valued at the wholesale rate and the customer is compensated at the wholesale rate for any excess remaining at that time. N.J.S.A. 48:3-87(e)(1); N.J.A.C. 14:8-4.3(e).

The Board has historically interpreted its net metering rules as interrelated with its interconnection rules. On January 4, 2010, the Board's previously singular subchapter of regulations related to the treatment of Class I renewable energy sources was amended and the result disaggregated the rules into two subchapters of interrelated regulations: the net metering requirements, set forth at N.J.A.C. 14:8-4.1 et seq., which cover the financial aspects of solar energy projects, such as billing, meters, metering, and reporting, and the interconnection requirements, set forth at N.J.A.C. 14:8-5.1 et seq., which cover the physical aspects of interconnection of the generator behind the customer's meter. Net metering eligibility criteria are set forth in N.J.A.C. 14:8-4.3. Together, these net metering and interconnection regulations govern solar projects.

The Solar Energy Advancement and Fair Competition Act ("SEAFCA"), L. 2009, c. 289 §2 enacted on January 17, 2010 and made effective on July 1, 2010, amended the EDECA language contained in N.J.S.A. 48:3-87(e)(1) providing, in reference to new solar energy generation requirements, "systems of any sized capacity, as measured in watts, are eligible for net metering." By this language, SEAFCA removed the two megawatt ("mW") cap on net-metered generation. L. 2009, c. 289 §1. The Board additionally amended its net-metering rules effective July 6, 2010. 42 N.J.R. 1402(a). In publishing the adopted rule, the Board commented that the intent of net metering rules, and the interpretation that had consistently been applied since the beginning of the net metering program, is that the customer-generator facility's capacity must not exceed the amount of electricity that the customer-generator used during the previous year. Id. The Board's position on net-metered capacity of solar electric generation facilities has not changed.

In considering Petitioner's request, the Board has applied N.J.A.C. 1:1-12.5, the rule governing motions for summary disposition of issues in an administrative context, which states, in part, that

summary decision is appropriate where the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law. [N.J.A.C. 1:1-12.5(b)].

The instant matter may be so analyzed. When the absence of a hearing would not affect the ultimate outcome of the decision, a party may properly be denied the right to be heard. Contini v. Board of Education of Newark, 286 N.J. Super. 106, 120-21 (App. Div. 1995), certif. denied, 145 N.J. 372 (1996), citing In re Farmers' Mutual Fire Assurance Association of New Jersey, 256 N.J. Super. 607, 618 (App. Div. 1992). Under N.J.A.C. 1:1-12.5(b), the Board may summarily dispose of a petition upon review of competent, material evidence showing that there are no genuine issues of material fact challenged, and showing that the movant is entitled to prevail as a matter of law, and provided no rational fact-finder would conclude otherwise even when viewed in the light most favorable to the petitioner.

Here, there are no genuine issues of material fact in dispute. Mr. Horovitz certifies and acknowledges that he applied to construct a net-metered solar project pursuant to NJCEP REIP guidelines. Although Petitioner contends that he was never placed on notice that prior to final interconnection he must complete construction of his house and have online loads equal to those which he certified in his Calculator approval, consumption of electricity must first exist before generation may be offset against that consumption. That is what net metering means. REIP requirements provide that existing electrical load online must be used on the customer's side of the meter in order for the customer to net meter.

As to the rebate request, Petitioner also contends that he was unaware that he must fulfill these requirements and have his final interconnection approval prior to receiving final approval of his REIP application so that he would be granted a New Jersey Identification Number and be issued his \$17,500 rebate. Petitioner relies on the rules' reference to usage over an annualized period to support his claim that he lacked notice of a need to document load prior to receiving final approval. He also argues that the January 28, 2010 rebate commitment letter did not contain this information. However, the commitment letter expressly stated that the project must be installed in compliance with all applicable rules as well as "all program guidelines and requirements." The Guidebook offers several indications that actual electrical load is required prior to final approval of system. "Customer-sited" is defined as a renewable generation system that is interconnected with the electric distribution system, but which is located on the customer's side of the retail electric meter and exists primarily to serve the customer's load." (Guidebook at 6)(Emphasis added). Elsewhere, the Guidebook states that REIP rebates "are intended to support renewable electric systems that offset the customer's onsite consumption but do not produce net excess generation from the site on an annual basis. These are typically net-metered systems." (Guidebook at 14). Moreover, the Guidebook explicitly requires that an applicant "apply and receive utility interconnection" prior to receiving payment of an incentive or having its REC account established. (Guidebook at 10). The REIP criteria for net-metered solar projects are explicit. Mr. Horovitz applied for an incentive under REIP, and to qualify for the REIP incentive he must meet all REIP requirements. Mr. Horovitz is not entitled to the rebate check until he satisfies program requirements for customer consumption as well as for completion of the solar project. The petition provides no basis for waiving the well-established requirements of the program. Having been placed on notice that he was bound by all applicable rules and program guidelines, it was Petitioner's responsibility to abide by those rules and guidelines.

Moreover, even if Petitioner's contention that he need not show actual load but need only provide documentation of anticipated annualized load were acceptable, he could not demonstrate expected annualized load equal to his proposed generation. Petitioner states that his 30 kW system passed inspection in August 2010 and argues that it should have been energized at that time. However, Petitioner has not yet completed construction of the residence; as of December 2010 he admitted that construction was "barely started." To date, Petitioner has not indicated that construction has significantly progressed, much less been completed. Had Petitioner received final interconnection approval at the time he claims entitlement to that final approval, he would have been acting as a net exporter of energy to the grid for the past ten months. Additionally as to the reliability and integrity of the grid, the potential risks inherent in permitting Petitioner's system to be energized in the absence of offsetting load cannot be overlooked. Permitting Petitioner to export power has the potential to negatively affect the reliability and integrity of the electrical grid. The Board has previously taken note of the EDC's concern regarding the potential for system reliability failures that could occur if significant numbers of small generators were linked to the system without the proper

oversight. I/M/O Aggregated Net Metering – Expansion of the Pilot to other Small Generators in Atlantic City Electric (ACE) Territory, Dkt. No. EX08060410 (June 23, 2010) (“June 23 Order”). The June 23 Order involved the expansion of a pilot program for aggregated net metering of behind-the-meter solar facilities. ACE specifically referenced the potential for challenges to maintaining distribution system voltage levels, causing problems for feeders and transformers, if excess renewable generation were to become concentrated in any one area. The Board referenced these concerns as potentially valid cause for Board action in other circumstances. The instant matter, where load equal to system generation does not exist, might present such a circumstance.

Petitioner’s claims also fail under an analysis under the interconnection rules at N.J.A.C. 14:8-5 et seq. As noted above, interconnection review utilizes a two-step process. There are established criteria for preliminary, conditional approval based upon prospective application materials; the second step, final authorization to energize, is based upon actual installation parameters. N.J.A.C. 14:8-5.5(r) (approval of interconnected operation of the customer-generator facility shall be conditioned on approval by the electric code official with jurisdiction over the interconnection) (emphasis added).

Petitioner has received a Certificate of Approval dated August 19, 2010 for installation of the solar project. Petitioner has not yet produced a copy of the Certificate of Occupancy for the residential dwelling because Petitioner himself acknowledges that he has not yet completed construction of the residence. Thus, it is impossible for an electrical inspection to verify that the residential dwelling is in compliance with “applicable national, state, and local construction and safety codes,” including the National Electrical Code. For these reasons, Petitioner has not yet satisfied the safety requirements of the Board’s own rules. See also, e.g., June 23 Order, supra, at 8 (conditioning approval of petition to net meter “upon a determination by ACE that the request meets all the technical standards for Level 2 interconnection in the Board’s rules at N.J.A.C. 14:8-5.5.”) ACE’s interpretation of the Board’s net metering and interconnection regulations as applied to Mr. Horovitz’s solar project is consistent with the historic implementation of these rules by EDCs and by Program Staff. To interpret these rules as proposed by Petitioner to allow for final interconnection approval as a net-metered solar project without load at least equal to projected generation would contravene existing statutory and regulatory law and practice.

Petitioner also contends that SEAFCA, as well as state and federal policy, supports his position that a net-metered solar project may be approved to energize where no load exists.

SEAFCA, L. 2009, c. 289 §2 enacted on January 17, 2010 and made effective on July 1, 2010, amended the EDECA language contained in N.J.S.A. 48:3-87(e)(1) providing, in reference to new solar energy generation requirements, “systems of any sized capacity, as measured in watts, are eligible for net metering.” By this language, SEAFCA removed the two megawatt (“mW”) cap on net-metered generation. L. 2009, c. 289 §1. The Board additionally amended its net-metering rules effective July 6, 2010. 42 N.J.R. 1402(a).

SEAFCA does not change the long-standing requirement that for a net-metered customer, generating capacity, of whatever size, must be matched to existing consumption. The fact remains that Petitioner has not established any customer-sited electrical consumption required to net meter. As such, Petitioner’s net-metered solar project fails to abide by the critical REIP requirements of establishing existing electrical load on the customer’s side of the meter prior to energizing a renewable energy installation. Because the statutory and program requirements

have not been met, the Board will not order ACE to approve final interconnection of Petitioner's solar installation.

Petitioner also points to state and federal policy promoting investment in renewable energy. The REIP program advances the Board's support of renewable energy by promoting the orderly introduction of new generation while maintaining grid reliability. Mr. Horovitz has neither lost his rebate nor lost his ability to obtain SRECs in future. He must, however, first comply with REIP requirements and the Board's rules by demonstrating existing electrical load sufficient to match or exceed his anticipated 30 kW generation output.

Based upon the above, the Board **FINDS** that the statute, rules, and program guidelines place program applicants on notice that actual load is required prior to energizing a net-metered solar project.

The Board **FINDS** that Petitioner and his contractor submitted a REIP application for a net-metered solar project, and that the application as well as all of the supporting documents submitted were signed, dated and certified by Mr. Horovitz as to the accuracy of their content. The Board **FINDS** that Petitioner certified that generation would be offset by anticipated estimated annual usage of approximately 29,400 kWh at a residential dwelling that he intended to construct in conjunction with the net-metered solar project.

The Board **FINDS** that on or about August 19, 2010, Petitioner received a Certificate of Approval for the installation of a solar system of approximately 30 kW on the existing barn upon his property.

The Board **FINDS** that preliminary interconnection approval was granted to the project on the basis of the anticipated, estimated electrical load which Petitioner certified would be established by the construction of a residential dwelling as a part of the net-metered solar project. The Board further **FINDS** that the residential structure included in Mr. Horovitz's application as a part of the net-metered solar project was not completed at the time of ACE's inspection of the solar installation for final interconnection approval. The Board further **FINDS** that the net metering and interconnection rules, in conjunction with the REIP guidelines setting forth administrative and technical requirements, placed Petitioner on notice that final interconnection would not be approved and the net-metered solar project would not be considered as finally approved until Mr. Horovitz had existing electrical load on line at his property equal to or exceeding that projected in his application. The Board further **FINDS** that as of this date, Petitioner has not demonstrated the existence of customer electrical load at least equal to that amount certified to within his application.

Finally, the Board **FINDS** that Petitioner's interpretation of EDECA, as amended by SEAFCA, is not supported by the plain wording of the statute. While SEAFCA contains provisions designed to spur investment in accordance with the Board's rules and program requirements, the Act provides no support for Petitioner's position that renewable energy installations may be energized as net-metered projects in the absence of existing electrical load because to do so absent strict adherence to existing interconnection processes creates the potential to cause grid-reliability issues to the public.

The above-referenced facts were presented to the Board and there remains no genuine issue as to any of these material facts at this time. Therefore, Petitioner's request to be formally

heard by the Board is **DENIED**. Petitioner's request that the Board order the Atlantic City Electric Company to approve final interconnection of the customer-sited renewable energy project and to energize the system is **DENIED**. Petitioner's request to direct Program Staff to issue a REIP rebate check at this time is **DENIED**. Petitioner's request to direct Staff to issue a New Jersey Identification Number at this time is **DENIED**.

Notwithstanding its finding that the statute, rules, and program guidelines place program applicants on notice that actual load is required prior to energizing a net-metered solar project by final interconnection approval, the Board **DIRECTS** Program Staff to add an explicit statement within the REIP Guidebook providing that load at least equal to project generation must exist before a system may be energized or final program approval is issued. The Board further **DIRECTS** the Secretary of the Board to issue a letter to all participating contractors instructing them to inform their customers of this requirement.

DATED: 7/11/11

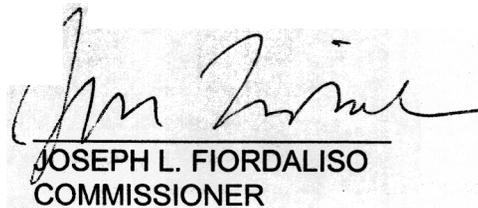
BOARD OF PUBLIC UTILITIES
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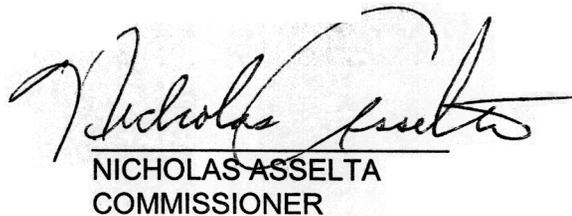
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JOSEPH L. FIORDALISO
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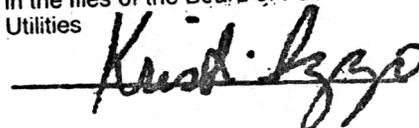
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ATTEST:



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 THE PETITION OF
JED HOROVITZ REGARDING INTERCONNECTION OF
COMPLETED SOLAR GENERATING SYSTEM BY
ATLANTIC CITY ELECTRIC COMPANY –
APPEAL ABILITY TO ENERGIZE SOLAR SYSTEM

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