



Agenda Date: 4/15/15
Agenda Item: 8C

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION FOR WAIVER OF)
N.J.A.C. 14:8-2.9(c) – WILLIAM R. WARREN)
)

ORDER

DOCKET NO. QW14101269

Parties of Record:

William R. Warren, pro se

BY THE BOARD:

By this order, the Board considers a waiver of the Renewable Portfolio Standards rules at N.J.A.C. 14:8-2.1 et seq. pursuant to its authority under N.J.A.C. 14:1-1.2(b). Specifically, a customer-generator requested to waive the December 31, 2012 compliance deadline to install a revenue grade meter on a solar system. The Board further considers a request by customer-generator to be credited with Solar Renewable Energy Credits ("SRECs") for unrecorded estimates of energy output from December, 2012 through May, 2014 due to a non-conforming meter, rather than actual metered solar generation from a conforming revenue grade meter.

BACKGROUND

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. EDECA established requirements to advance renewable energy and energy efficiency goals in New Jersey. The New Jersey Board of Public Utilities ("Board") adopted Renewable Portfolio Standards ("RPS") rules, N.J.A.C. 14:8-2.1 et seq., to implement those provisions of EDECA that encourage alternative energy development from renewable resources. N.J.S.A. 48:3-87 and the RPS rules require entities that sell electricity at retail in this State, electric power suppliers and basic generation service providers, to include minimum percentages of qualified renewable energy in the electricity they sell; those minimum percentages increased over time. The rules specify separate minimum percentages for solar electric generation,¹ for Class I renewable energy, and for Class II renewable energy as each of these categories of renewable energy is defined by N.J.S.A. 48:3-51 and N.J.A.C. 14:8-1.2.

¹ "Solar electric generation" means creation of electricity using a system that employs solar radiation to produce energy that powers an electric generator. N.J.A.C. 14:8-1.2.

To comply with the RPS requirement that certain amounts of renewable energy be purchased annually by utilities, third party suppliers and energy providers obtain and use Renewable Energy Certificates (“RECs”) to reflect value; one REC represents the environmental attributes of one megawatt-hour (“MWh”) of renewable energy. N.J.A.C. 14:8-2.8. To comply with the solar electric generation portion of the RPS, these suppliers and providers obtain and use SRECs. N.J.S.A.48:3-87.

RECs and SRECs have a monetary value in the public market; over the course of their useful lives, they are bought, sold, and ultimately retired by utilities to satisfy their RPS obligations in New Jersey. N.J.A.C. 14:8-2.9 describes the conditions that must be satisfied for energy generated by a solar facility in this State to qualify for the issuance of RECs and SRECs.

N.J.A.C. 14:8-2.9 sets forth REC or SREC issuance requirements, including how to measure generation to determine the number of RECs or SRECs that may be issued. The Board shall accept only readings of a meter that records kilowatt-hour production of electrical energy, for which the electrical energy must be verified by the Board consistent with the American National Standards Institute (“ANSI”) standard for electric metering and PJM-EIS Generation Attribute Tracking System operating rules. N.J.A.C. 14:8-2.9(b)(c). Thus, all RECs and SRECs must be based upon actual metered data from a revenue grade meter. Installation of a conforming revenue grade meter is the only acceptable measurement equipment upon which the Board may determine the appropriate amount of SRECs created.

By order dated January 23, 2013, the Board modified certain 2012-2013 renewable energy program rules following the impact of Super Storm Sandy on solar systems.² For all customer-generators submitting adverse impact certifications under RPS rules, the Board approved a ten-day expansion of the submission period for SREC registration consistent with the Board’s authority to administer the process under N.J.A.C. 14:8-2.4(c)(1)(i)³. The Board also approved a compliance period extension, from December 4, 2012 to December 31, 2012, for installation of revenue grade meters under N.J.A.C. 14:8-2.9(c). For all customer-generators submitting the required adverse impact certification and providing an electricity bill demonstrating solar system operations during the month of December 2012, a notification was made to credit affected customer accounts for December 2012 based on estimates.

STAFF RECOMMENDATION

The letter petition dated October 3, 2014 by Mr. William R. Warren (“Petitioner”) requests a hardship waiver of the December 31, 2012 compliance deadline to install a revenue grade meter. Petitioner also seeks to be credited with SRECs for unrecorded estimates of energy output rather than actual metered solar generation. Petitioner, providing a FEMA No., explains he was unable to install a revenue grade meter during the compliance period due to Hurricane

² In the Matter of Comprehensive Energy Efficiency and Renewable Energy Resource Analysis for the 2009-2012 Clean Energy Program: Revised 2012-2013 Programs and Budgets: Storm Response Program Modifications, Jan. 23, 2013, BPU Dkt Nos. EO07030203 & EO1110621V.

³ The owner/operator of a renewable energy system is responsible for the proper installation and maintenance of its equipment. The Board’s rules define “customer-generator facility” as “the equipment used by a customer-generator to generate, manage and/or/monitor electricity.” N.J.A.C. 14:8-4.2 (emphasis added). A customer-generator that seeks the benefits of the rules must assume the responsibility to comply with those rules.

Sandy property repairs.⁴ Petitioner did not submit an adverse impact certification or an electricity bill reflecting production estimates for the month of December 2012. No SRECs were generated from December 12, 2012 to May 2014.

Petitioner installed a revenue grade meter and actual meter readings on the account were verifiable as of May 13, 2014. Therefore, Staff recommends the solar system be made eligible to create SRECs as of May 13, 2014 consistent with N.J.A.C. 14:8-2.9(c).

The request for waiver of the December 31, 2012 compliance deadline to install a revenue grade meter on a customer-generator solar system presents as a request to waive the Board's RPS actual metered generation rule. Any waiver of that rule would allow for estimated metered generation as a measurement and for the customer-generator to be credited with SRECs for the December 31, 2012 to May, 12, 2014 period where no revenue grade meter was installed until May 13, 2014.

Staff does not view Petitioner's proposed measurement methodology as consistent with the intent of EDECA to advance renewable energy goals and the RPS rules requiring specific amounts of purchased renewable energy annually; therefore, a waiver of N.J.A.C. 14:8-4.1(b)(2) is inappropriate pursuant to the Board's authority under N.J.A.C. 14:1-1.2(b). The compliance period extension to install a revenue grade meter due to natural disaster was approximately thirty (30) days. Petitioner was responsible for proper installation and maintenance of its equipment, but failed to certify its reason for not installing for a period of one-and-a-half years. As no reading from a revenue grade meter for the period December 12, 2012 to May 12, 2014 was made available by the customer-generator, there is no accurate measurement of the generation amount purchased or sold to fulfill the RPS. By the express terms of the January 23, 2013 Order, the use of estimates ceased as of December 31, 2012. Staff, therefore, recommends that no SRECs be issued from December 12, 2012 to May 12, 2014.

DISCUSSION AND FINDINGS

The Board has the power to relax, or effectively waive, its administrative rules if doing so is in the public interest. N.J.A.C. 14:1-1-2. The Board may, in special cases and for good cause shown, permit deviation from its rules by a two-part test. The Board shall, in accordance with the general purposes and intent of its rules, waive a section of a rule or a rule if full compliance with the rule would adversely affect the ratepayers of a utility, the ability of said utility to continue to render safe, adequate and proper service, or the interests of the general public. N.J.A.C. 14:1-1.2(b)(1).

Under the first prong of the waiver test, the Board considers whether the request supports the general purpose and intent of the rules. As noted above, the Board's RPS rules are designed to promote and secure maximum accuracy in measuring energy output as the basis for SREC creation. The Board is explicit in its measurement standards; the actual metered generation measurement standard is at N.J.A.C. 14:8-9.9(b)(c) and the unit used to convert energy output to value a SREC is at N.J.A.C. 14:8-2.8. Allowing Petitioner to obtain SRECs for unrecorded estimates of energy output with a non-conforming meter would not support the purpose and intent of the RPS rules because the SRECs would be issued on the basis of inaccurate solar generation measurements. Any deviation from these rules for the one-and-a-half-year length of

⁴ Petitioner states Solar Solutions, Inc., the company chosen to install the meter on his solar system, went out of business.

time Petitioner requested would negatively affect the RPS. Energy generated for the purchase and sale by utilities to meet RPS obligations would be unverified, and the subsequent over-or-under crediting SRECs to customer-generators based on the one-and-a-half-year estimates, for any reason, would potentially disrupt the solar market.

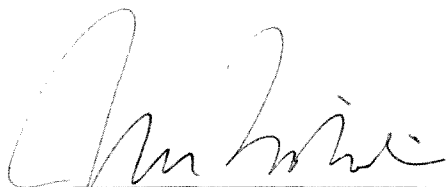
The second prong of the waiver test evaluates whether full compliance with the rules would adversely affect the public interest. EDECA requires the State to promote clean solar generation and the Board implemented that mandate through its RPS rules. Thus, full compliance with the actual metered generation rule to account for all energy output serves the public interest. Use of less accurate metering standards does not serve the public interest, as ratepayers bear the costs of SRECs based upon that generation.

The Board is not persuaded that the public interest is served by waiving the rule. Absent an adverse impact certification or an electricity bill reflecting production estimates for the month of December 2012, the Board **HEREBY FINDS** no SRECs may issue based upon estimates from December 12, 2012 to December 31, 2012. The Board **FURTHER FINDS** that a Petitioner does not meet the requisite criteria to waive actual metered solar generation from a conforming revenue grade meter as required by N.J.A.C. 14:8-2.9(c), and therefore, no SRECs may issue or be credited to Petitioner from December 31, 2012 to May 12, 2014.

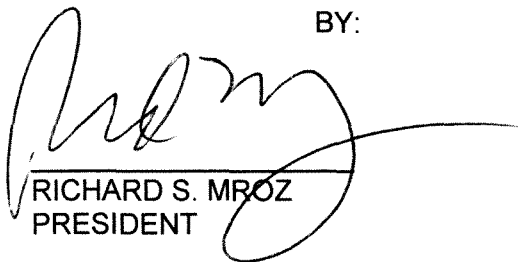
Additionally, Petitioner sought to be reimbursed for SRECs by the Board. However, the price of an SREC is set by the solar market not the Board. Thus, the SREC reimbursement request is relief that is not available to Petitioner. Accordingly, all requests by Petitioner are **HEREBY DENIED**.

DATED: 4/15/15

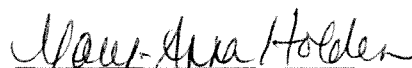
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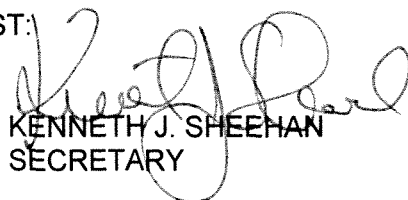


DIANNE SOLOMON
COMMISSIONER



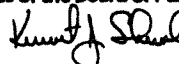
UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



KENNETH J. SHEEHAN
SECRETARY

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



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