



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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[www.nj.gov/bpu/](http://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 2015 (EY15) )  
 ) DOCKET QO15060740

**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.**, Bevan Mosca Giuditta & Zarillo PC, Retail Electric Supply Association, on behalf of third party suppliers

**BY THE BOARD:**

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”)<sup>1</sup>, 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.<sup>2</sup> The Solar Act of 2012, L. 2012, c. 24 (“Solar Act”), returned the calculation to a percentage of kilowatt hours sold for EY2014 and beyond.

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 1st. 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

<sup>1</sup> 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.

<sup>2</sup> These requirements were in force for EY2011, EY2012 and EY2013 but were superseded by the provisions of the Solar Act.

October 1st demonstrating that it has complied with the RPS for the relevant EY for Class I, Class II and solar renewable energy. The Annual Reports for Energy Year 2015 (“EY15”) are therefore due on October 1, 2015.<sup>3</sup> The Annual Reports must demonstrate how compliance with the RPS was achieved, including in the report 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, with compliance documentation specific to the load served in that territory. The EDCs, in turn, submit an aggregated compliance report on behalf of the BGS providers supplying energy for delivery by the EDCs to end users of retail electricity within their territories. Each EDC compiles and summarizes the reports provided by the BGS providers serving load in its market, and submits this information under one cover to the Office of Clean Energy (“OCE”). Suppliers submit their own reports.

The Solar Act, codified at N.J.S.A. 48:3-51-87, further brought about many changes to the legal and regulatory framework for solar development. Among these were an increase in the solar portion of the RPS beginning in EY14, and a change in the way each provider and supplier was to calculate its obligations under the solar portion of the RPS from EY14 forward. Specifically, the Solar Act provides:

“[T]he board shall . . . adopt . . . renewable energy standards that shall require . . . (3) that the board establish a multi-year schedule, applicable to each electric power supplier or basic generation service provider in this State . . . the following number or percentage, as the case may be, of kilowatt-hours sold in this State by each electric power supplier and each basic generation service provider to be from solar electric power generators connected to the distribution system in this State:

EY 2013	596 GWhrs
EY 2014	2.050%
EY 2015	2.450%
EY 2016	2.750%
EY 2017	3.000%
EY 2018	3.200%
EY 2019	3.290%
EY 2020	3.380%
EY 2021	3.470%
EY 2022	3.560%
EY 2023	3.650%
EY 2024	3.740%
EY 2025	3.830%
EY 2026	3.920%
EY 2027	4.010%
EY 2028	+> 4.010%

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

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<sup>3</sup> 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. Staff will be proposing amendments to the current rules to implement this directive for future Energy Years.

The statute further provides that:

(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)]

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

The EDCs, on March 6, 2015, requested an extension of the deadline for filing the Annual Report with respect to Class I and Class II RECs and SRECs from October 1, 2015 to December 1, 2015, citing a number of reasons for their request, primarily the changes to the solar RPS made by SEAFCA and the Solar Act. The EDCs also assert that the setting of the true-up period at October 1st, the same day the Annual Reports are due, means that they do not have the numbers they need to perform the necessary calculations in a timely fashion. The Retail Energy Supply Association ("RESA") submitted a similar request on behalf of its members on April 28, 2015.

To put the timeline into perspective, reconciliation of the retail electricity sales data begins with the PJM financial settlement markets where the data originates; typically sixty (60) days elapse from the end of the Energy Year until PJM provides preliminary reconciled data. PJM provides this data to the EDCs and PJM-EIS GATS. PJM-EIS uses this basic data on load served to populate the accounts of each supplier/provider with a preliminary amount of load served for the relevant compliance period. The EDCs reconcile the data on load served for each of the BGS providers in their respective territories.

The EDCs maintain that they will not be able to verify individual TPS and BGS provider retail electricity supply numbers for OCE in the short time which will be available. They assert that suppliers/providers will not be able to determine their final solar generation obligations for EY2015 in the time allowed by the rules. Their inability to do so, they assert, will in turn delay the ability of the EDCs and TPS to complete and submit the Annual Reports to the Board.<sup>5</sup> Similarly, RESA asserts that its members will need the additional sixty (60) days to review the

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<sup>4</sup> This is the final year in which that exemption applies.

<sup>5</sup> The EDCs maintain that they will not be able to give OCE final reconciled data for individual TPS in sufficient time to process compliance reports; however, they have pledged to give this data several months after the end of the true up period, well after compliance reports are submitted.

Board's estimate of load to review the accuracy of Board staff's solar load data and complete transactions related to SRECs and SACPs.

A provider or supplier may secure SRECS to comply with its RPS obligation through the end of the true-up period. The EDCs report that during the development of past Annual Reports, there have been difficulties in completing transfers, particularly during peak periods of use on the GATS system. In addition, the EDCs state that the removal of significant numbers of reported RECs and SRECs, or "data scrubbing," can be required if the RECs and SRECs submitted by suppliers are not New Jersey certified or are otherwise defective.<sup>6</sup> The EDCs claim that they will likely be unable to complete this data scrubbing, particularly for data reported close to or on October 1, 2015, for submittal of a final report on that same date. As previously stated, the EDCs and RESA have requested that the due date for the Annual Reports be extended to December 1, 2015.

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 requirements of SEAFCA and the Solar Act. Staff therefore recommends that the Board grant a sixty (60) day extension in the time for filing of the solar portion of the RPS Annual Report to December 1, 2015 for EY 2015.

Staff notes that the increased complexity caused by SEAFCA and the Solar Act does not affect reporting compliance with the Class I and Class II portions of the RPS. However, due to the recent change in the law concerning Class II RECs, L. 2015, c. 51, Staff is also recommending that this 60 day reporting extension to December 1 2015 be applied to all supplier/provider's Class I and Class II Annual Reports.

## **DISCUSSION AND FINDING**

The Board acknowledges the increased complexity of compliance with the solar portion of the RPS which began with the energy years covered by SEAFCA and now continues with the exemptions provided through the Solar Act. SEAFCA changed both the solar energy generation requirements and the SREC reporting requirements for the TPS and the EDCs, with the changes requiring more complex calculations to determine the EDC and TPS solar generation requirements. The Solar Act increased the solar obligation of all retail electricity suppliers and those BGS providers with contracts executed after the effective date of the law. As previously described, an exemption to the Solar Act's increase was provided to BGS providers with electric supply contracts executed prior to the effective date of the law which requires additional calculations to spread the differential over the remaining providers. As a result, and as stated above, final supply numbers are not expected to be posted by Staff as required by N.J.A.C. 14:8-2.(k) until later in September 2015, and the timeframe for the data availability results in an extremely abbreviated time period for the EDCs and TPS to generate accurate and timely reports by October 1, 2015. Under the current circumstances, the Board **FINDS** that extending the time for submission of those portions of EY15 Annual Reports which cover solar energy obligations to December 1, 2015 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 EY15. As requested, given the recent change in the definition of Class II renewable energy, the date for reporting compliance with Class I and Class II RPS requirements will also be extended to December 1, 2015.

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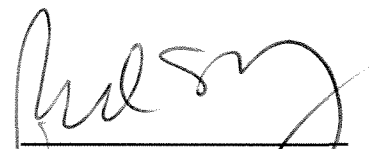
<sup>6</sup> Although the EDCs reference data scrubbing as a problem with respect to "suppliers," it is the BGS providers that submit RECs to the EDCs, so that any data scrubbing issues for the EDCs would appear to originate with provider data.

Under its authority to relax its procedural rules for good cause under N.J.A.C. 14:1-1.2, the Board **HEREBY APPROVES** an extension of sixty (60) days to December 1, 2015 for the EDCs and the TPS to comply with the reporting requirements of New Jersey's Renewable Portfolio Standards by submitting their Annual Reports at that time.

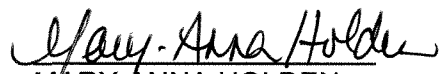
The effective date of this Order shall be August 29, 2015.

DATED: 8/19/15

BOARD OF PUBLIC UTILITIES  
BY:

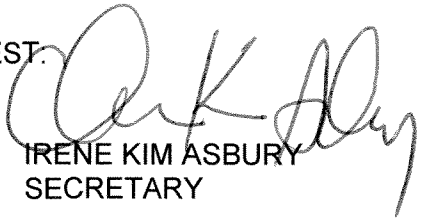
  
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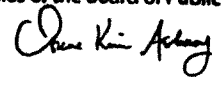
  
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IRENE KIM ASBURY  
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I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



IN THE MATTER OF THE NEW JERSEY RENEWABLE PORTFOLIO STANDARD (NJ RPS) –  
REQUEST FOR BOARD ACTION EXTENDING NJ RPS COMPLIANCE DEADLINE FOR  
ENERGY YEAR 2015

DOCKET NO. EO QO15060740

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